

Stone Ridge Estates Zoning District Regulations

**Created 2004, Resolution 04-38
Amended May, 2007, Resolution 07-13**

Lake County Board of Commissioners

Mike Hutchin, Paddy Trusler, Chuck Whitson

Lake County Planning Board

**Clarence Brazil, John Fleming, Lisa Dumontier, Joyce Funda, Steve Hughes,
Bob Kormann, Jack Meuli, Ken Miller, Fred Mueller, Brad Trospen**

I) Purpose

The purpose of this zoning district is to provide for a combination of moderate density residential development intermixed with resort type properties and adjacent moderate intensity office, retail, and light manufacturing. The zoning district relies on landscaping and buffering requirements, limitations on the intensity of nonresidential development, and other development standards to achieve compatibility between the mixed land uses and to minimize safety hazards.

It is further intended that this district will be served by public water and individual or community septic systems. Cluster and multi-residential development options shall provide significant areas of open space in this district in order to fit into the suburban character of this Zoning District.

II) Authority

These rules and the attached map are made in accordance with the *Lake County Growth Policy, August 2003*. These rules are created under the authority granted by 76-2-201, MCA and have been adopted in accordance with the provisions of 76-2-205, MCA. In no way shall these rules inhibit the complete use, development or recovery of any mineral, forest, or agricultural resources by the owner thereof.

III) Boundary

The District consists of all the land within Section 31 of Township 23 North, Range 20 West, P.M.M., Lake County, Montana, except for the NE ¼ NW ¼, the E½ SE ¼ and the NE ¼ NE ¼ of the Section. In general terms, the border on the north is Tower Road. The east boundary is adjacent to the 1994 Polson City County Planning Area Boundary and the west and south boundaries are the Section 31 boundaries. See Appendix E for Official Map.

IV) Establishment of Zoning Districts

Due to the variation in existing land use patterns and in order to establish desirable future land use patterns, the area is divided into Sub-Districts to allow for variable uses.

a) Sub District A: Residential District

This area includes all the land not referenced in Sub District B.

i) **Permitted Uses:** Uses shall comply with all development standards of Sections VI and the applicable performance standards of Section VII, of this zoning district.

(1) Single family residential.

(2) Daycare (5 to 12 individuals)

(3) Multifamily Dwellings that meet the density requirements of Sections V of this document and are on property created as a subdivision specific to the proposed use (i.e. condominium or subdivision created by rent or lease).

(4) Duplexes and Triplexes that meet the density requirements of Section V of this document and are on property created as a subdivision specific to the proposed use (i.e. condominium or subdivision created by rent or lease).

(5) Agricultural.

- (6) Impervious surface area covering up to 25 percent of the buildable area of a lot. Impervious surface area can be increased to up to 100 percent of the buildable area on lots in which it was contemplated during subdivision review and if off-site easements are recorded for stormwater management purposes specific to that lot.
- (7) Parks and other public recreation areas.
- ii) **Conditional Uses:** All conditional uses shall comply with all applicable performance standards of this zoning district, Section VII. Additional development requirements specific to each use can be found in Sections V, VI and IX.
 - (1) Home occupation
 - (2) Bed & Breakfast
 - (3) One Guest house if approved by Home Owners Association
 - (4) Family Hardship Dwelling
 - (5) Impervious surface area covering greater than 26 percent of the buildable area of a lot. Impervious surface area can be increased to up to 100 percent of the buildable area without a conditional use permit on lots in which it was contemplated during subdivision review and if off-site easements are recorded for stormwater management purposes specific to that lot.
 - (6) Recreational vehicle park
 - (7) Daycare with greater than 13 children
 - (8) Structures on slopes greater than 25%
- iii) **Prohibited Uses:** No variance is allowed for prohibited uses.
 - (1) Heavy and light Industrial
 - (2) Commercial (except as provided by Sub District C)
 - (3) Mobile home park
 - (4) Mobile homes
 - (5) Sexually Oriented Business

b) Sub District B: Tower Road Commercial/Industrial District.

This area includes 20 acres south of Tower Road more specifically described as the N ½ NW ¼ NE ¼ of Section 31. All development in this district also requires a State Building Permit.

- i) **Permitted Uses:** Uses shall comply with all applicable performance standards of this zoning district.
 - (1) Agricultural
 - (2) Impervious surface area covering up to 50 percent of the buildable area of a lot.
 - (3) Parks and other public recreation areas
 - (4) Commercial
 - (5) Industrial, Light
- ii) **Conditional Uses:** All conditional uses shall comply with all applicable performance standards of this zoning district, Section VII. Development requirements specific to each use will be based on the potential impacts of the proposed use including traffic generation, parking availability and needs, impact on surrounding uses, landscaping, noise generation, and accessibility. The Board of Adjustment must find that the mitigation strategies proposed will reasonably address all possible impacts. This may require the developer to obtain professional assistance in developing an impact study as described in Section X

- (1) Impervious surface area covering greater than 51 percent of the buildable area of a lot.
- (2) One Caretaker Residence

iii) **Prohibited Uses:** No variance is allowed for prohibited uses.

- (1) Single Family Residence except as provided for Caretaker Residence under Conditional Uses, above
- (2) Mobile home park
- (3) Industrial, Heavy
- (4) Residential multi-family dwellings
- (5) Pre-1990 Manufactured Homes
- (6) Single wide mobile homes
- (7) Junkyards
- (8) Onsite Solid or Hazardous Waste Disposal
- (9) Animal Feed Lots
- (10) Sexually Oriented Business

c) **Sub District C: Overlay District.**

This District applies to the entire zoning district, and allows golf courses, tennis clubs, fitness centers, similar commercial uses as well as neighborhood commercial uses to be integrated into residential developments throughout the zoning district.

i) **Conditional Uses:** All conditional uses shall comply with all applicable performance standards of this zoning district. Due to the diverse nature of the potential recreational facilities that may be proposed or developed in the planning jurisdiction, specific development standards have not been established. However, proposed uses shall be reviewed under the commercial performance standards as well as additional criteria. These criteria may include, but are not limited to, traffic generation, parking availability and needs, impact on surrounding uses, landscaping, noise generation, and accessibility. The Board of Adjustment must find that the mitigation strategies proposed will reasonably address all possible impacts. This may require the developer to obtain professional assistance in developing an impact study as described in Section X.

- (1) Campground
- (2) Church
- (3) Elderly Housing Project
- (4) Equestrian Stable and Arena
- (5) Golf Course
- (6) Health Club
- (7) Incidental retail sales associated with approved existing uses
- (8) Neighborhood Commercial
- (9) Other commercial recreational uses
- (10) Recreational vehicle park
- (11) Restaurants associated with the approved existing uses
- (12) Retreat Center
- (13) Riding Academy
- (14) Tennis Court

(15)Community Swimming Pool

ii) **Prohibited Uses:** No variance is allowed for prohibited uses.

(1) Sexually Oriented Business

V) Subdivision and Development Density Guidelines:

a) Density:

The average density for the entire zoning district shall be one unit (residential or commercial) per two acres, except as provided in this section. The density requirement shall not be construed as a minimum lot size requirement, and does not include guest houses. Property development which provides for lot sizes to be less than the density limitation may be allowed provided that the overall average density of all subdivisions does not exceed the required density per acre, excluding bonus lots created by utilizing one of the items detailed in Section V.b. All subdivisions shall be reviewed for compliance with these regulations as well as the Lake County Subdivision Regulations. The overall density of a division of land depends on the review criteria of the subdivision regulations, sanitation requirements and state law, which may result in the developer not being able to obtain the stated density.

b) **Density Bonus:** A density bonus allocation may be given for clustering development and committing land in open space, resource use, common area, or parkland, or for condominium, townhouse, or multifamily development as stated below. All land division that utilizes density clustering shall be subject to subdivision review by the governing body at which time it shall be determined whether the proposed development is compatible with surrounding land uses, these regulations and the neighborhood character. Only one bonus can be used per subdivision. Any calculations that result in a fraction shall be rounded to the nearest whole number. (i.e. 1.5 shall be rounded to 2)

i) **Density clustering:** The bonus 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>
% Increase in units/acre	<u>05</u>	<u>10</u>	<u>15</u>	<u>20</u>	<u>25</u>

ii) **Multifamily Density Bonus:** The bonus allocation shall be based upon the number of dwelling units per condominium building, townhouse cluster or multifamily housing unit. For purposes of density determination, a .33 bonus for every 1 dwelling unit in a condominium building, townhouse cluster or multifamily housing shall be added to the total number of units allowed.

c) **Density Transfers:** Landowners in the zoning district may transfer rights for the allowable units per acre to other lands within the zoning district, provided that the overall density between the parcels included in the transfers does not exceed the two acre overall density as allowed in the Zoning District. All density bonus allocations shall be applied after the transfer occurs. Density transfers between and within Sub-Districts are permissible.

i) In order to utilize this provision, the landowner of the parcel from which density units are transferred (the sending parcel) must sign and file with the Lake County Clerk and Recorder a deed restriction describing both parcels and restricting the sending parcel from future development in accordance with these regulations. The deed restriction

may only be revoked by mutual consent of the present or future landowner and the governing body.

VI) Development Specifications

Covenants for individual subdivisions may provide more restrictive development requirements. In the event that covenants are more restrictive than the zoning requirement, the developer shall demonstrate the governing homeowners association has approved of the proposed plans and updated the covenants to meet the proposal, prior to the issuance of a Zoning Conformance or similar permit.

a) Single family Residential Properties:

- i) Permitted housing types:
 - (a) Site built home
 - (b) Manufactured home
- ii) Setbacks: The minimum required setback for structures (foundation walls or decks) shall be:
 - (1) 30 feet from any public or subdivision road right-of-way (excluding driveways).
 - (2) 15 feet from property lines, except for lots with an average width less than 150 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.
 - (3) Accessory structures shall meet all setback requirements.
- iii) Height: No structure shall exceed 30 feet in average height. See average height definition.
- iv) All other performance standards as defined in Section VII.

b) Guest houses provided that this use:

- i) Is limited to no less than 200 square feet and no more than 1200 square feet of floor space;
- ii) Shall not exceed one per tract;
- iii) Complies with all other standards for principal residences;
- iv) Shall only be located on Single Family Residential parcels,
- v) Requires no additional road approach,
- vi) Requires an approval from the governing Homeowners Association Architectural Review Committee,
- vii) Requires no additional water or sewer (if applicable) service connection from the public system, and
- viii) A restriction shall be placed on the deed and shall be recorded with the property which states:

The structure shall be used on a temporary basis by landowners guests and it shall not be rented or utilized for compensation

c) Duplex/triplex (two or three family attached dwelling) Residential Properties:

This dwelling type may be either an attached or semi-attached dwelling where not more than three individual family or dwelling units are entirely separated by vertical walls or horizontal floors, un-pierced except for access to the outside or to a common cellar. An approval for a subdivision (rent or lease/condominium) must be obtained prior to issuance of a Zoning Conformance Permit.

- i) Permitted housing types:
 - (a) Site built home

- ii) Setbacks: The minimum required setback for structures (foundation walls or decks) shall be:
 - (1) 30 feet from any public or subdivision road (right-of-way or driving surface, excluding driveways).
 - (2) 20 feet from property lines.
 - (3) Accessory structures shall meet all setback requirements.
 - iii) Height: No structure shall exceed 30 feet in average height. See average height definition.
 - iv) Landscape buffers as required in Section VII.
 - v) Parking Improvements and Traffic Access: All units shall share an access onto a public street, and provide for off street parking that meets the performance standards of Section VII. All new streets, access drives and parking areas shall be designed and constructed in accordance with applicable performance standards of Section VII.C.
 - vi) All other performance standards as defined in Section VII.
- d) Commercial/Industrial Properties:**
- Each lot is allowed a single commercial use or business, unless it was created through a subdivision for rent or lease or a condominium subdivision. It is the responsibility of the property owner and any contractors retained to improve the property to obtain all required local and State Permits for building, plumbing, electrical, and/or mechanical work.
- i) Setbacks: The minimum required setback for structures (foundation walls or other exterior structures such as decks) shall be:
 - (1) 30 feet from any public or subdivision road right-of-way (excluding driveways).
 - (2) 20 feet from property lines, except for lots with an average width less than 150 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.
 - (3) Accessory structures shall meet all setback requirements.
 - (4) Required parking and landscape buffers are permitted within required setbacks.
 - ii) Height: No structure shall exceed 30 feet in average height. See average height definition.
 - iii) Sewage Treatment and Water Supply: Adequate sewer and water facilities must be provided by the developer. The preferred method of sewage disposal shall be by public or community facilities. However, if the applicant can obtain the appropriate on-site disposal system permit(s), then this method of treatment may be permitted. Approvals for proposed systems must be presented to the Zoning Administrator by the applicant prior to issuance of a Zoning Conformance Permit.
 - iv) Landscape buffers as required in Section VII.
 - v) Parking and access improvements as required in Section VII.
 - vi) All other performance standards as defined in Section VII.
 - vii) An approval from the governing Homeowners Association or Architectural Review Committee must be presented at the time of application to insure that the proposal meets all covenants applicable to the property.
- e) Multifamily Residential Properties**
- The multi-family units may be arranged in a variety of configurations, including back-to-back, side-to-side, or vertically; however, no fewer than four (4) and no more than eight

- (8) units shall be attached in any single building. An approval for a subdivision (rent or lease/condominium) must be obtained prior to issuance of a Zoning Conformance Permit.
- i) Building Setbacks:
 - (1) 40 feet between buildings on the same lot.
 - (2) 40 feet from all surrounding property boundaries
 - (3) 55 feet from all buildings on surrounding properties
 - ii) Height: No structure shall exceed 45 feet in average height. See average height definition.
 - iii) Buildings higher than thirty-five feet (35') shall adhere to the following:
 - (a) No portion of a building above thirty five feet (35') height, or two (2) stories, whichever is less, shall be closer than forty (40) horizontal feet from the street right of way, in order to mitigate the aesthetic impact of additional height from the street.
 - (b) The maximum diagonal horizontal dimension of any portion of a building in excess of thirty five feet (35') in height shall be one hundred twenty feet (120') measured to the outside of the building face, in order to limit excessive massiveness in taller buildings. A minimum separation of thirty feet (30') shall be maintained between those portions of structures exceeding thirty-five feet (35') height, except for uninhabited architectural extensions. (see Appendix D for calculation information)
 - iv) Parking and Traffic Access. All contiguous units shall be located on a cul-de-sac or on an internal parking lot, which accesses onto a public or subdivision street. All new streets, access drives and parking areas shall be designed and constructed in accordance with applicable performance standards of Section VII, and Appendices B & C.
 - v) Sewage Treatment and Water Supply. Adequate sewer and water facilities must be provided by the developer. The preferred method of sewage disposal shall be by public or community facilities. However, if the applicant can obtain the appropriate on-site disposal system permit(s), then this method of treatment may be permitted. The proposed systems must be presented to the Zoning Administrator by the applicant at the time of application for a Conditional Use Permit and the approval for the system shall be obtained prior to issuance of a Zoning Conformance Permit.
 - vi) Arrangement of Buildings. Provisions must be made for light, air, access, and privacy in the arrangement of the buildings to each other. Each unit must take direct access to a private yard or access point, or units may share yards and access. Each dwelling unit shall have a minimum of one exterior exposure, and the open space maintained between buildings shall comply with the building setbacks required in this section.
 - vii) Recreation Space. A minimum of ten (10) percent of the gross area of the development or 1,000 square feet per dwelling unit, whichever is greater, shall be provided for recreation space. The recreation space shall be suitable for outdoor recreational activity and shall be easily accessible to all units. The applicant shall show how such recreation space shall be maintained permanently and shall present implementing documents to ensure such maintenance.
 - viii) Solid Waste Storage Collection and Disposal. The developer shall present information to the Zoning Administrator explaining the proposed method of solid

waste storage collection or disposal. If such method is not deemed sufficient, then the applicant must present an alternate means.

- ix) Post Office. The developer shall present information to the Zoning Administrator explaining the proposed method of mail delivery to the units. Evidence that the proposed method is deemed sufficient by the local post office will be submitted at the time of application for a Conditional Use Permit.
- x) School Bus Access. The developer shall present information to the Zoning Administrator explaining the proposed method of school bus collection and delivery. Evidence that the proposed method is deemed sufficient by the local school district will be submitted at the time of application for a Conditional Use Permit.
- xi) Landscape Buffers. At the time of application for a Conditional Use Permit, the developer shall present a detailed plan to screen the area as required in Section VII.b. This plan shall include information regarding the types of vegetation proposed, the location of the buffer, irrigation and future maintenance.
- xii) Maintenance. A homeowners association shall be created for the maintenance of all shared facilities; including areas designated as open space, recreation areas, streets, sewage disposal and water supply systems, and solid waste collection.
- xiii) All other performance standards as defined in Section VII.

VII) Performance Standards required for all subunits

a) Landscape Buffers

Landscaping requirements are an essential element in mitigating potential land use conflicts and enhancing the visual appeal of the zoning districts. The purpose of this section is to assure that the landscaped buffers required by these zoning regulations fulfill those goals.

- i) Subdistrict A – Single family Residential
 - (1) No landscaping or landscape buffers are specified for Subdistrict A excepting duplex/triplex and multifamily/condominium/townhouse development.
- ii) Subdistrict A – as listed above, and Subdistrict B -Tower Road Business District and Subdistrict C - Resort Residential Overlay
 - (1) Landscaping shall be provided for that portion of the developed area according to the following schedule:
 - (a) Use of Existing Vegetation: Mature functional existing vegetation should be retained to serve buffering functions wherever possible.
 - (2) Landscaping materials: At least seventy five percent (75%) of the ground area within the required buffer width shall contain vegetation covering that shall include a minimum of 4 major trees per 100 lineal feet. All deciduous trees must have a caliper of at least 1 inch measured one foot above grade, and coniferous trees must have a height of at least three feet.
 - (3) Basic Buffer Width: The width of required buffers shall vary with the nature of the uses being separated, the height of the buildings buffered, and the design of the buffer. Appendix A shows the minimum width required where the buffer consists of a level or gently sloping area of sod or ground cover and four major trees in each hundred lineal feet of buffer. Additional landscaping may be required to provide for adequate protection of surrounding residential property

from the high impact development allowed under conditional uses in the Subunit (ie. RV Park).

- (4) Height Adjustment: The minimum buffer width shall be increased by the height Adjustment factor, where one is established. That factor is a ratio expressing the number of feet that must be added to minimum buffer width for each foot in height over 30 feet of the building being buffered. At no time shall landscaping and buffering requirements be allowed to limit or reduce the view of Flathead Lake and surrounding mountains of developed parcels in Subdistrict A – Residential. If the Zoning Administrator determines that views may be damaged alternative landscaping is allowable. For instance, shorter under story trees may be substituted for major trees in order to preserve the view or adjacent properties.
- (5) Buffer Width Reduction:
 - (a) Berms: The minimum buffer width requirements may be reduced where a berm is included in the buffer. The width reduction shall be twice the height of the berm, but the maximum permitted reduction shall be 10 feet. No berm shall have a slope of more than 3:1 except where it incorporates a retaining wall. Such walls may be used only on the side opposite the use being buffered.
 - (b) Additional Plantings: The minimum width requirements may be reduced where a greater density and diversity of plantings is included in the buffer. The buffer width reductions permitted this section are cumulative and may result in a total reduction of 30%. The buffer width reductions are cumulative as permitted here although no required buffer shall be less than half the minimum buffer width established by Appendix A or less than 10 feet in width, regardless of any reductions permitted.
 - (i) Major Trees: The required buffer width shall be reduced by 10% where five or more major trees are planted or retained in each 100 lineal feet of buffer.
 - (ii) Understory Trees: The required buffer width shall be reduced by 20% where five or more understory trees are planted or retained in each 100 lineal feet of buffer in addition to the major trees required.
 - (iii) Shrubs: The required buffer width shall be reduced by 20% where twenty or more shrubs are planted or retained in each 100 lineal feet of buffer in addition to the major trees required.
- (6) Headlight Screen: Appendix A requires the installation of a headlight screen on the outer perimeter of parking and loading areas in certain situations. A headlight screen consists of a minimum 3.5-foot high screening fence or wall, earth berm, or dense hedge. It adds no width to the required buffer.
- (7) Screening Fence or Wall: Appendix A requires the installation of a screening fence or wall in certain situations. A screening fence or wall is a minimum six-foot high wood fence, chain link fence with slats, or masonry wall installed on the interior side of a landscaped buffer.
- (8) Buffer Crossing/Inclusions: Buffers may be crossed by driveways, utility lines, sidewalks, and pedestrian trails, A sidewalk or pedestrian trail may run along the length of a buffer, with its width, up to a maximum ten feet, included in the

required buffer width, provided that a minimum width of 10 feet of landscaped area is still provided. Buffers may also include permitted freestanding signs.

- (9) Plant material Specifications: All plant materials used shall comply with the American Standard for Nursery Stock, and be in good condition. The buffer shall achieve a fifty percent (50%) visual screen at a height of 5 feet within three (3) years after planting.
- (10) Maintenance: Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings. Required landscaped areas shall be provided with a permanent watering or sprinkling system that shall consist of piped water lines terminating in an appropriate number of sprinklers or hose bibs to ensure a sufficient amount of water for plants within the landscaped area. Where the water system consists of hose bibs alone, these bibs shall be located not more than one hundred fifty feet (150') apart.
- (11) Site Plan Required:
 - (a) A site plan showing required landscaping shall be submitted to the Zoning Administrator for review and approval as a part of the application for a permit. A site plan shall be approved if it meets the requirements and intent of this chapter. A site plan shall include, but not be limited to, the following:
 - (i) Location of proposed landscaping drawn to scale, which scale shall be appropriate to the size of the project and agreed upon by the applicant and the Zoning Administrator.
 - (ii) Location, size, type and condition of proposed vegetation and natural or manmade materials, including benches, walks, lighting, etc.
 - (iii) Irrigation system
 - (iv) Description of the proposed maintenance plan.
 - (v) Estimated date of completion of the installation of plantings and finish materials.
 - (vi) The approved landscape and maintenance plans shall not be changed or altered without review and approval by the Zoning Administrator. All landscaping shown on the approved plan shall be installed and maintained.
- (12) Temporary Waiver: If, due to seasonal, climatic or weather conditions, installation of landscaping is impractical, the Zoning Administrator may waive such installation for a reasonable time. If such a waiver is granted, the Zoning Administrator shall establish a time schedule for the installation of all required landscaping in accordance with the approved plan. In such a case, the owner or developer of the property shall, upon request, provide the Zoning Administrator with an approved financial guarantee, in the amount of the estimated cost of landscaping plus ten percent (10%), which shall be forfeited if all required landscaping is not installed within the time provided.

b) Parking and Loading Area

- i) **Parking in all zoning districts shall be provided off-street.** All uses and buildings shall provide the minimum number of off-street parking required by Appendix B. The Zoning Administrator shall determine off-street Parking Requirements for uses not listed in Appendix B. Any person who disputes a decision of the administrator

may request a review of that decision using the appeals procedure within this document.

- (1) Off-street parking shall be provided on the same lot, under the same ownership as the use it serves, but two or more uses may share parking where: a. the total number of spaces provided is not less than the sum of spaces required for all buildings or uses served, and b. a contract providing for shared parking for a period of at least 20 years is executed before approval of the proposed use and issuance of a permit.
- (2) Parking areas shall have properly graded and drained gravel or paved surfaces. A runoff management plan created by a certified engineer will be prepared and submitted for any parking area of more than 20,000 square feet in size.
 - (a) Loading Areas: The following shall be created to provide off street passenger loading areas.
 - (i) Passenger: Day care center, schools, and places for public assembly located on arterial roads shall provide at least one safe, properly signed off-street passenger loading area.
 - (ii) Freight: Commercial and industrial buildings and uses shall provide on a safe, properly signed off-street freight loading area for each 10,000 square feet of gross floor and/or outdoor storage area.
 - (b) No vehicle parked in an off-street loading area shall extend into a public right-of-way. Off-street freight loading areas shall be on the same lot or parcel and under the same ownership as the building or use they serve, be designed to accommodate the largest vehicle that may reasonably be anticipated, and have the following minimum dimensions:
 - (i) Vertical Clearance - 14.5 feet
 - (ii) Width -12 feet
 - (iii)Depth or Length -35 feet
- ii) **Access Streets and roadways:** Properly graded and drained gravel or paved driveways shall be provided for safe access to off-street parking and loading areas, including the off-street parking for single-family dwellings. All properties requiring motor vehicle access shall meet the requirements, as hereinafter provided, or as prescribed by approach standards for local or state roadways, whichever requirements are greater.
 - (1) No commercial development shall have its principal access through residential properties.
 - (2) No parking or loading area shall create a situation in which vehicles are required to back onto a public street. Parking areas for single-family dwellings with access to local and collector streets are exempt from this requirement.
 - (3) Continuous curb cuts shall be prohibited. All access to public streets shall be via driveways that comply with these performance standards.
 - (4) Driveways for single-family dwellings shall be a minimum of 10 feet wide and a maximum of twenty-two feet (22') wide, with a minimum curb radius of five feet, and a maximum grade of 3% for a least 20 feet before the driveway intersects the street.
 - (5) The multifamily residential subdivisions and commercial driveways access width shall be twenty feet (20') for one-way traffic and twenty -six feet (26') for two-

way traffic, excluding the minimum necessary curb return radius located in the public right of way. Minimum curb radius for a one way access is fifteen feet (15') and twenty five feet (25') for two way traffic. Driveways for other uses shall be designed to accommodate the anticipated level of traffic.

- (6) On a corner lot, no driveway or roadway shall be closer than twenty feet (20') to the point of intersection of two (2) property lines at any corner as measured along the property line, and no driveway or roadway shall extend across such extended property line.
 - (7) Each parcel shall be allowed one driveway access. Each parcel shall be allowed one driveway access and one additional driveway access every 200 feet (200') of frontage. For local and collector streets, the minimum distances between accesses on the same side of the access road shall be 75 feet (75') as measured at and along right-of-way. For arterial streets, the minimum distances between accesses on the same side of the access road shall be one hundred feet (100') as measured at and along right-of-way. These requirements do not preclude allowance of shared driveways at a common lot boundary, or accesses that are directly opposed on each side of the access road. Directly opposed accesses are encouraged.
 - (8) Clear vision triangles shall be provided on both sides of driveways. A clear vision triangle is defined as the triangular area at the intersection of two (2) roads or a road and driveway created by extending the curb lines (where there are no curb lines the edge of the travel surface is used) back from the point of intersection a distance of fifteen (15'), then drawing a line across both ends to close the triangle. For arterial roads and driveways expected to carry 300 or more Average Daily Trips the triangle dimensions shall be thirty feet (30') on each side.
 - (9) No parking and no solid fence or wall, planter, hedge, shrub or other visual obstruction more than 2.5 feet in height above grade shall be permitted in a clear vision triangle. Trees may be permitted in clear vision triangles, but only where all branches are pruned to a height of at least eight feet above grade.
 - (10) Where required for drainage, driveways shall be constructed over a minimum 12-inch culvert capable of supporting a load of 40,000 pounds.
- iii) **Circulation in Off-Street Parking Areas:** The pattern of circulation within parking areas shall be designed to provide safe and efficient access to individual parking spaces, protect pedestrians moving through the parking area, and facilitate safe access to public streets.
- (1) Minimum aisle widths, parking space size and turning clearance guidelines can be found in Appendix C.
 - (2) Where one-way circulation is used, directional signs shall be installed at all access points to the parking area.
 - (3) There shall be safe pedestrian access around or through all parking and loading areas.
- iv) **Landscaping and Screening of Parking Areas:** All parking areas for over five (5) vehicles, vehicle sales areas and service drives shall meet the following conditions as well as parking lot design standards found in Appendix C and landscape requirements in Appendix A:
- (1) Parking and driveway areas shall be landscaped, with a minimum five-foot (5') wide landscaped buffer (7 feet wide if curb stops are not used and the car bumper

hang over the landscaped area) abutting a street. The percentage of parking lot landscaping is called out below:

<u>No. Of Parking Spaces</u>	<u>% Gross Area To Be Landscaped</u>
5 to 50 spaces	8%
51 to 99 spaces	10%
100 and above	12%

- (2) The perimeter landscape buffer along the street shall consist of planting materials or planting materials and manmade features to create, at minimum a three foot (3') high visual relief screen in the form of a hedge, fence, planter box, berm, dividers, shrubbery or trees, or a combination of the above. All landscaping to form such visual relief shall create a two-foot (2') tall minimum screen at planting.
- (3) There shall be a landscaped buffer (at least 50 percent sight obscuring) when a parking lot borders, or is adjacent to a residential zone. The landscaped buffer shall be a minimum 25 feet wide, 27 feet wide if curb stops are not used and the car bumper hang over the landscaped area.
- (4) Clear vision triangles as defined in this document, shall be observed regarding all landscaping or screens. The clear vision area shall contain no trees, shrubs or other plantings, nor any fences, walls, signs or other temporary or permanent sight obstructions of any nature exceeding thirty inches (30") in height above the existing centerline elevation of the adjacent roadway, except that trees exceeding thirty inches (30") in height may be permitted if all branches and foliage be removed to a height of nine feet (9') above the existing center line of the adjacent roadway.

c) Outdoor Lighting

The intent of this section is the enhancement of the visual integrity of the natural environs of the community, particularly pertaining to the unwarranted and/or unwanted intrusion of artificial lighting in areas not desiring such light which detracts from the beauty and naturalness of the hours of normal darkness. It applies to all outdoor lighting including security and yard.

- i) All outdoor lighting for commercial and residential developments shall be shielded so that the light is directed downward and confined to the site so it illuminates only the parcel on which it is located as to not be obtrusive to adjacent land owners.
- ii) Any lights provided to illuminate any public or private parking area or outdoor sales area shall be shielded so that the light is directed downward and not obtrusive to adjacent landowners.
- iii) Any nonconforming lighting situation shall be brought into compliance ninety (90) days after official notice by the Zoning Administrator that a nonconforming situation exists.

d) Outdoor Storage

The keeping, stockpiling, or storing materials for any reason (it need not be for commercial use), including the long term storage of construction materials and inoperative machinery or vehicles, that is not enclosed in a building and is visible from a public street shall be permitted anywhere it is fully screened from public view and adjoining properties.

- i) Outdoor storage shall be screened from public view by any effective combination of the placement of buildings, landscaped buffers, and screening fences or walls. Temporary storage of construction materials and equipment being used for work in progress is exempted from this screening requirement. Outdoor storage of commercial and industrial solid waste shall not create a fire, health, or safety hazard, or constitute an attractive nuisance.
 - ii) Outdoor storage that is not fully screened shall be permitted on residential properties in rear yards, but not in front or required side yards (this permits storage to the side of a dwelling that has a larger than required side yard), except that:
 - (1) construction equipment and materials may be stored in front and required side yards during the course of work for which a permit has been approved in compliance with these regulations. This exception expires with the permit or upon issuance of a certificate of compliance.
 - (2) Vehicles and watercraft with current registrations may be parked in front and required side yards. Parked vehicles or watercraft shall not block vision at intersections or where driveways enter public streets.
- e) Sanitation: Sewage Disposal and Water Supply**
 All properties will demonstrate compliance with an approval for water and sewer services specific to the development of that parcel. Adequate sewer and water facilities must be provided by the developer, approvals for proposed systems must be presented to the Zoning Administrator by the applicant.
- f) Signage**
- i) Signs permitted in all districts (exempt signs):
 - (1) Signs advertising the sale, lease, or rental of the premises upon which the sign is located, and not exceeding thirty-two (32) square feet in area.
 - (2) Signs bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
 - (3) Flags and insignias of any government except when displayed in connection with commercial promotion.
 - (4) Signs advertising the initial sale of property by the developer of the premises upon which the sign is located and not exceeding sixteen (16) square feet in area.
 - (5) Signs advertising the initial sale of property by the developer of the premises located at the entrance to the development and not exceeding sixteen (16) square feet in area.
 - ii) **Freestanding or Ground signs.**
 - (1) Prohibited in Sub district A unless approved as part of a conditional use.
 - (2) A single sign may be permitted on a lot having at least 100 feet of frontage along a public road, except up to two (2) signs may be permitted when the frontage of the lot along a single road exceeds 500 feet. A corner lot with frontage along two public roads is eligible for a single sign along each frontage.
 - (3) A freestanding or monument sign may consist of more than one sign panel provided all such sign panels are consolidated into one common integrated sign structure. In the event a sign is installed that does not utilize the maximum sign area permitted, any supplemental additions shall conform within, and be compatible with the existing sign structure.
 - (4) Freestanding, ground signs shall not exceed 50 ft² in size.

- (5) No sign shall exceed 16 feet in height. The height of free-standing signs and ground signs shall be measured from the grade at the lowest point of the sign structure to the highest point of the sign or its supporting structure. The height of a free-standing or ground sign shall be measured from the grade at the lowest point of the sign structure to the highest point of the sign or its supporting structure.
- (6) No free-standing or ground sign may be erected or placed closer than 25 feet from a side or rear lot line. The outermost edge on any freestanding or monument sign shall be set back so that such sign will not obstruct traffic visibility thereby creating a traffic hazard.
- (7) When electrical service is provided to freestanding signs or ground signs, all such electrical service shall be underground and shall be in accordance with the National Electrical Code.

iii) **Wall Signs:**

- (1) Prohibited in Sub district A unless approved as part of a conditional use.
- (2) Building mounted signs include signs that are flush mounted on a building and signs which are attached to the building in some other manner. Building mounted signs would include, but not be limited to, Banners, Projecting Signs, Awning/Marquee Signs, Wall Signs and Under Canopy Signs, Painted wall signs, etc.
- (3) The allowable square footage of building mounted signs is calculated on the basis of the length of the building frontage, which is most nearly parallel to the street it faces. The size of the sign shall be limited to 35% of the visible building surface area, but not to exceed 35% of the surface area of two sides of the building structure. In the event a building does not have frontage on a dedicated public street, the owner of a building may designate the one building frontage, which shall be used for the purpose of calculating the sign allowance.
- (4) All projecting signs shall be erected at right angles to the building face and be at least nine (9) feet above grade and shall not extend over any vehicular right-of-way. Projection of wall signs shall not exceed one (1) foot measured from the face of the building. No wall sign may project above the highest point of roof structure of the building to which it is attached.

iv) **General Standards:**

- (1) **Sign area:** The area of a sign shall have only one face [the largest one] of any double or multi-faced sign counted in calculating its area unless the thickness between the two faces of the sign(s) exceeds 36 inches in which case the area of the sign face(s) will be calculated separately.
 - (a) The area around and enclosing the entire perimeter of all advertising copy, design, and lighting within a single, continuous geometric figure shall be the area of the sign. Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy, design, or lighting.
- (2) **Animation:** Signs shall not rotate, move, flash, change or blink, except if utilized by a government agency for public safety or information. An electronic message center may display changing information but shall not flash or blink the message or picture display. (See Manual Changeable Copy.)

- (3) **Roof Signs:** No signs shall be permitted on the roof or project above the roofline.
- (4) **Rotating Signs:** No rotating signs shall be permitted.
- (5) **Illumination:** Signs, if illuminated, shall be lighted by continuous, stationary, shielded external light sources, directed solely at the sign. (Internal illumination and neon are not permitted.)
- (6) **Changeable Copy Sign:** Any permitted sign may include manually changeable copy in up to seventy (70%) percent of its area. Portable or moveable reader boards (no flashing lighting allowed) may be displayed on-premise to advertise special events or grand openings in commercial or industrial districts for a period not to exceed 10 calendar days within any three month period subject to written approval of the Zoning Administrator. (See Animation)
- (7) **Billboard Signs:** No billboard signs shall be allowed in the zoning district.
- (8) **Maintenance:** All signs shall be kept in a neat, clean, and attractive condition. This includes the periodic cleaning, painting, repairing, and/or general maintenance of the sign. This maintenance shall be the responsibility of the sign owner. Any sign that is not properly maintained shall be deemed to be an illegal non-conforming use. Maintenance shall also include the updating of the information provided by signs such as:
 - (a) Goods and prices
 - (b) Change of ownership/occupant
 - (c) Name change

v) **Non-Conforming Signs**

- (a) Existing signs which do not conform to the specific provisions of these regulations and which were legally constructed prior to the adoption of these regulations are designated as legal non-conforming signs.
- (b) All legal non-conforming signs shall be removed or brought into compliance with these regulations upon the earlier of the following events:
 - (i) The sign is relocated or replaced, except when the sign is displaced for right-of-way or utility easement condemnation.
 - (ii) The structure or size of the sign is altered in any way except toward compliance with these regulations. This does not refer to change of copy or normal maintenance.
 - (iii) The sign suffers more than 50% appraised damage or deterioration except in the case of vandalism.

g) **Slope**

Structures shall not be located on slopes that exceed 25 percent unless the property owner obtains a conditional use permit. Structures, for the purpose of this restriction, shall not include stairways, walkways, or other access related improvements.

h) **Stormwater Management**

The developer shall demonstrate that all stormwater management for the proposed development of the property is properly managed and controlled. All drainage systems for structures and impervious surfaces shall be designed by a certified engineer and constructed in accordance with the standards required by the Montana Department of Environmental Quality Stormwater Management regulations. All plans for stormwater drainage facilities must be presented to the Zoning Administrator by the applicant.

VIII) Standards for Conditional Uses:

In addition to the development standards as defined in Sections VII, conditional use requests shall meet the following performance standards as applicable. It is recognized that certain uses possess unique and special characteristics with respect to their location, design, size, method of operation, traffic circulation and requirements for public facilities. In order to protect the public welfare and guarantee conformance with the intended spirit of the Zoning Regulations, permits are required for such uses upon review and approval by the Lake County Board of Adjustment, which may condition approval of any use subject to reasonable measures deemed to mitigate associated negative impacts.

a) Bed and Breakfasts provided that the use conforms to the following:

- i) The operation of a bed and breakfast shall be limited to single-family houses;
- ii) The residential structure shall not be significantly modified to provide additional sleeping rooms or exhibit a nonresidential appearance;
- iii) Signage shall be limited to one sign not exceeding 12 square feet and shall be architecturally compatible to the residence and shall not flash, rotate or blink;
- iv) A family or manager must be in permanent residence and maintain full use of the kitchen and at least one bedroom;
- v) Sleeping quarters and breakfast facilities shall not be allowed in an accessory building;
- vi) Overnight lodgers shall not have direct access to cooking facilities although the permanent residents of the dwelling may provide breakfast service to the guests;
- vii) Use of the residential structure shall be limited to the exclusive use of the resident dwellers and their overnight guests. No other use such as a restaurant, bar, or other use which attracts non-Boarding customers is permitted. No alcoholic beverages will be sold on the premises; and
- viii) All Bed and Breakfast establishments shall be licensed with the State of Montana.

b) Caretaker Residences provided that this use:

- i) Takes place on a commercial property which requires 24hours service or security;
- ii) Is subordinate to the primary use of the property;
- iii) Is inhabited by the property owner, manager or guard;
- iv) Requires no additional road approach; and
- v) A restriction shall be placed on the deed and shall be recorded with the property which;
 - (1) Prohibits the use of the caretaker's facility as a rental unit
 - (2) Prohibits further subdivision

c) Daycare centers providing for thirteen (13) or more individuals shall:

- i) Provide a suitable drop off and pickup facility. This shall be based on the maximum number of individuals cared for at a single time. There shall be twenty feet (20') of signed loading area for each eight (8) individuals;
- ii) Where outside play facilities are provided, there shall be maintained a six foot (6') sight-obscuring fence around the play yard and the play yard shall be situated on the rear one-half (1/2) of the property;
- iii) Existing residential structures shall not be significantly modified so as to exhibit a nonresidential appearance;

- iv) Signage shall be architecturally compatible to the primary building and shall not flash, rotate or blink;
- v) Preference is given to daycare facilities located on collector or arterial streets; and
- vi) Signage shall be limited to one attached or detached sign not to exceed 12 square feet in size.

d) Equestrian Facilities/Riding Academy

- i) A lot area of not less than five (5) acres shall be required;
- ii) Livestock areas shall be adequately fenced and maintained at the expense of the developer so as to prohibit livestock from leaving the site; and
- iii) Public stables shall be permitted in accordance with the following requirements.
 - (1) Accessory Farm Buildings: All buildings associated with the use, i.e., barns, sheds, silos, etc. shall be permitted provided that animal shed, manure storage, or like use shall not be located any closer than two hundred (200) feet from any property line or public road or dwelling.
 - (2) Manure Management: Manure shall be removed from corrals and other areas in which livestock are confined as frequently as necessary that its accumulation constitutes a nuisance because odor, flies, etc. are adversely effecting neighboring properties. The property owners shall create and maintain a process to direct and filter surface runoff from corrals and other areas in which livestock are kept. The diverted surface water shall be retained on the property.
 - (3)

e) Home Occupation provided that this use:

- i) Utilizes a floor area no larger than one-third of the floor area of the dwelling to which it is accessory;
- ii) Has no more than one full-time equivalent on-premise employee who is not a member of the resident family;
- iii) Provides off-street parking equal to one space per employee and one space per 1000 square feet of area;
- iv) Outdoor storage associated with a home occupation shall be subject to the same performance standard governing other outdoor storage in the zoning district, and the other applicable performance standards of these regulations; and
- v) Home occupations may display one sign, not to exceed 2 square feet in total sign area and with no internal or external lighting.

f) Impervious Surface Area that exceeds the amount permitted within the district provided that the developer demonstrates:

- i) All stormwater associated with the impervious surface area will be adequately collected and controlled; and
- ii) Impacts (visual, heat, odor, dust, glare) associated with the property development will be limited and adequately mitigated.

g) Structures located on slopes that exceed twenty five percent (25%) provided that the developer:

- i) Submits a slope map and a cross sectional view of the building site that shows areas where the depth to bedrock is less than ten feet (10');
- ii) Provides an adequate slope stabilization and revegetation plan;
- iii) Provides a grading plan containing existing and finish contours that addresses storm drainage;

- iv) Demonstrates the compatibility of the development with the topography, soils, geology, hydrology and other physical conditions at the proposed site;
- v) The orientation of structure siting so that grading and site preparation can be kept to a minimum; and
- vi) Provides plans that mitigate concerns regarding fire protection and access.

IX) Administration

a) Reviewing authority

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

b) Permit Requirements

A permit shall be required for any commercial or residential land development, building construction of permanent structures greater than 100 square feet, and the change use of any lot. These regulations establish two kinds of permits.

- i) Zoning Conformance Permit: A permit shall be required for any land use or building activity listed as “permitted” in these regulations.

- (1) An application for all zoning conformance permits shall be obtained from the Lake County Planning Department, completed and submitted by at least one holder of an interest in the real property of the land on which the development is proposed. The applications shall be accompanied by the fee associated with its review as determined by the Lake County Board of County Commissioners. The applicant shall stake the exterior boundaries of any proposed structure at the time the application is submitted.

- ii) 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.

- (1) General Requirements: An application for all conditional use permits 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 the conditional use is proposed within 28 days of a regularly scheduled meeting of the Board of Adjustment. The applications shall be accompanied by the fee associated with its review as determined by the Lake County Board of County Commissioners. 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.

- (a) In addition to the application, the following information shall be submitted:

- (i) A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, landscaping, refuse and service areas, utilities, water and sewer services, signs, rendering of building exteriors, stormwater management plan, and such other information as the Zoning Administrator may require to

determine if the proposed conditional use meets the intent and requirements of the Zoning District.

- (ii) A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration 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.
- (iii) Letter of review and comment from agencies with interest in the proposed land use (i.e. the local fire department, the Water Users Association, the Road Users Association, Montana Department of Transportation, Lake County Sheriff)
- (iv) At the Administrator's discretion 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 and shall be paid by the applicant prior to public hearing.

(2) Standards for evaluation

- (a) Review: 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:
 - (i) Will, in fact, constitute a conditional use as established for the zoning district involved;
 - (ii) Will be harmonious with and in accordance with the general objectives or with any specific objectives of this Zoning District;
 - (iii) Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
 - (iv) Will not be hazardous or disturbing to existing or future neighboring uses;
 - (v) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - (vi) Will 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;
 - (vii) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water pollution or safety hazards; and
 - (viii) Will have vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares.

(ix) Has been granted approval by the governing Homeowners Association or Architectural Review Committee.

(3) Hearing Notices

(a) 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 Variances

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 associated with its review as determined by the Lake County Board of County Commissioners.

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

(1) General procedures:

(a) An appeal under the terms of these regulations stays all proceedings in the matter appealed from unless the Zoning Administrator certifies to the Board of Adjustment hearing the application that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board hearing the appeal or by a court of record on application and notice to the Zoning Administrator from whom the appeal was taken and on due cause shown.

(b) Decisions of the Board of Adjustment shall be by motion. The basis for the decision on each appeal, and a detailed summary of the facts and basis supporting the determination, shall be recorded in the decision and shall constitute a part of the record thereof.

(c) Any person aggrieved by a decision of the Board of Adjustment may file an appeal with a court of record within thirty (30) days of the filing of the decision by the Board.

ii) Variance:

(1) 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.

(2) Standards for evaluation

- (a) 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.
- (b) 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:
 - (i) Strict compliance with the terms of these regulations will:
 - 1. Limit the reasonable use of the property; and
 - 2. (2) Deprive the applicant of rights enjoyed by other properties similarly situated in the district.
 - (ii) The hardship is the result of lot size, shape, topography or other circumstances over which the applicant has no control.
 - (iii) The hardship is peculiar to the applicant's property.
 - (iv) The hardship was not created by the applicant.
 - (v) The hardship is not economic (when a reasonable or viable alternative exists).
 - (vi) Granting the variance will not adversely affect the neighboring properties or the public.
 - (vii) The variance requested is the minimum variance which will alleviate the hardship.
 - (viii) Granting the variance will not confer a special privilege that is denied other similar properties in the district.

iii) Hearing Notices

- (1) 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 party 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 the decision to be contested.

e) Violation

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. In case 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, 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.

f) Board Review

The Lake County Planning Board shall review the Zoning Regulations 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.

g) 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. 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.

i) Procedures:

- (1) Requests to amend the text of these regulations may be initiated by any affected party or entity on a form provided by the Zoning Administrator.
- (2) After acceptance by the Zoning Administrator, the completed application shall be transmitted to the planning Board for their review and evaluation.
- (3) The planning staff shall set a public hearing date and publish a public notice which jointly advertises the public hearing before the planning Board and the public hearing before the Board of commissioners at least once in a newspaper of general circulation in the community at least fourteen (14) calendar days prior to the meeting of the planning Board at which the application is to be considered.
- (4) The planning Board shall consider the application at its next regular meeting following the public notice process. The Board shall make a recommendation to the Board of commissioners to grant, amend or deny the application.
- (5) Upon receipt of the recommendation of the planning Board, the Board of commissioners shall hold a public hearing. Based on the results of this hearing, other public input, the staff report, and findings of the planning Board, the Board of commissioners shall render a decision to grant, amend or deny the requested amendment.
- (6) Should the proposed amendment be adopted, the Zoning Administrator shall incorporate the amendment into the appropriate article, chapter, section or paragraph of these regulations.
- (7) Should a decision not be rendered by the Board of commissioners within ninety (90) days after acceptance of the completed application by the Zoning Administrator and the payment of the appropriate fee, the application shall be deemed approved unless the time limit has been extended by an agreement between the Zoning Administrator and the applicant.
- (8) In the event that an application to amend these regulations is denied by the Board of commissioners or that 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.

ii) Amendments To Official Zoning Map (Rezoning):

(1) 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 the existing subunit of the zoned property.

(b) The applicant shall provide the names and addresses of all property owners within one hundred fifty feet (150') of the proposed amendment area.

(c) The application for amendment shall be signed by an owner of record, or his authorized agent, in the area included in the application.

(d) In the event that an application filed by a real property owner in the area involved includes any property other than 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.

(e) The planning staff shall mail a notice to all property owners included in the proposed amendment area, and all property owners adjacent and within one hundred fifty feet (150') of the boundary of the proposed amendment area. Where the subject property abuts a public right of way, the one hundred fifty foot (150') measurement shall be in addition to the right of way along the abutting side. The notice shall be made no less than fourteen (14) calendar days prior to the planning Board hearing date.

(f) In the event that the Board of commissioners grants the application to amend or rezone, they shall notify the Zoning Administrator of their action and he shall be responsible for updating the official zoning map. The updating shall include the posting on the face of the official zoning map the date and the number of the resolution or ordinance amending the map.

(g) In the event that an application to amend (rezone) is denied by the Board of commissioners or that the application is withdrawn after the planning Board hearing, the Zoning Administrator shall have the authority to refuse to accept another application for any similar amendment within one year from the date of the hearing of the previous application before the Board.

iii) Considerations: When considering an application for amendment to the provisions of these regulations or the official zoning map, the planning Board and the Board of commissioners shall be guided by and in consideration of the criteria identified in state law Title 76, Chapter 2 MCA.

X) Definitions

Accessory Use or Structure

A structure detached from a principal building or use on the same lot and customarily incidental and subordinate to the principal building or use. A use or structure that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves a principal building or a principal use; c) is subordinate in area, extent, or purpose to the principal building or principal use served; d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and e) is located on the same lot as the principal building or use served.

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 (by way of a fruit or produce stand on the property): and including the construction, alteration or maintenance of agricultural buildings, roads, drainage systems, irrigation systems, farm ponds, and fish ponds.

Architectural Review Committee(ARC)

The ARC is a committee appointed by the governing homeowners association for Stone Ridge Estates Subdivision. The covenants for the Stone Ridge Estates Subdivision will provide the methodology for establishment of the ARC and dictate the bylaws associated with it's responsibilities. The ARC must review all building development plans for compliance with the requirements of the covenants and provide property owners comments to be incorporated with all zoning applications.

Animated Sign

Any sign that uses movement or change of lighting to depict action or to create a special effect or scene.

Awning

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid or rigid materials on a supporting framework.

Awning Sign

A sign painted on, printed on, or attached flat against the surface of an awning.

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 shall be measured from the top of the highest component of each 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 shall be measured from the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the structure.

Average Density

The number of commercial or residential units divided by the total acres in the subdivision. This may include open space set aside that is not contiguous to the subdivision but within the zoning district.

Banner Sign

A sign made of fabric or any non-rigid material with no enclosing framework. [**Compare “Wall Sign”**]

Bed & Breakfast

A single-family detached dwelling containing, in addition to living accommodations for a resident-manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only. A maximum of five (5) guest rooms may be provided.

BillBoard

Off-Premise sign with a surface area of any one side exceeding 128 square feet in area. This type of sign is not permitted.

Buildable Area

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

Campground

Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents, camping trailers, recreation vehicles or other camping outfits.

Changeable Copy Sign (Automatic)

A sign on which the copy changes automatically on a lampbank or through mechanical means, e.g., electrical or electronic time and temperature units.

Changeable Copy Sign (Manual)

A sign, on which copy is changed manually in the field, e.g., reader Boards with changeable letters.

Church

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Clear Vision Triangle

The triangular area at the intersection of two (2) roads or a road and railroad tracks created by extending the curb lines (where there are no curb lines the edge of the travel surface is used) back from the point of intersection a distance of fifteen or thirty feet (15' or 30'), then drawing a line across both ends to close the triangle.

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. These may include all the uses cited in Appendix B.

Common Area

Land held in common and/or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner.

Conditional Use

A use that may be allowed by the Board of Adjustment, after a public hearing, and upon finding that it is compatible with the purpose of these regulations. The Board of Adjustment may prescribe conditions for such use.

Condominium

Ownership in common with others of a parcel of land and certain parts of a building, together with individual ownership in fee of a particular unit or apartment in the building.

Daycare

A use which provides daily care and supervision of five (5) or more children or handicapped, disabled or elderly adults not related by blood or marriage and not the legal ward of the attendant adult. Centers (13 or more individuals) must be approved by the Board of Adjustments.

Driveway

A private or commercial, vehicular approach for entry to or exit from property connecting a house, carport, parking area, garage, loading area or other building with the street.

Duplex/Triplex

An attached or semi-attached dwelling where not more than three individual family or dwelling units are entirely separated by vertical walls or horizontal floors, un-pierced except for access to the outside or to a common cellar. Normally used for rental purposes. These are not multifamily dwelling units for the purposes of these regulations.

Dwelling Unit

A structure or portion of which is used exclusively for human habitation.

Family

A family is a) An individual, or two (2) or more persons related by blood, marriage or adoption, and usual servants, living together as a single housekeeping unit in a dwelling

unit; or b) A group of not more than four (4) persons, who need not be related, living together as a single housekeeping unit in a dwelling unit.

Flashing Sign

A sign that contains an intermittent or sequential flashing light source used primarily to attract attention. Does not include changeable copy signs, animated signs, or signs which, through reflection or other means, create an illusion of flashing or intermittent light [compare “**Animated Sign,**” “**Changeable Copy Sign**”].

Freestanding Sign

A sign supported upon the ground by poles or braces and not attached to any building

Ground Mounted Sign (Monument)

Any sign attached to or supported directly on the surface below by masonry, wood, or similar materials.

Guest House

An additional separate dwelling on a single family residential lot used as an accessory building and used for occupancy on a temporary basis by the landowner’s guests. A guesthouse shall not be utilized for home occupation purposes, rented or leased. Guesthouses shall meet all requirements listed in Section VI b.

Height (of a sign)

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of the public street or the grade of the land at the principal entrance to the principal structure on the premises, whichever is lower.

Home Occupation

A home occupation is any occupation, profession, activity or use which is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Illuminated Sign

A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

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, and hard or gravel surfaced driveways and parking areas.

Industrial, Heavy

Industrial uses and services that include the processing of raw materials (timber, wood chips, minerals, gravel, etc.) and use yards or out buildings for the storage and manipulation of the raw materials. Uses include, but are not limited to, mills, refineries, crushing facilities, stamping facilities, etc. These uses are often but not always associated with byproducts.

Industrial, Light

Industrial uses and services that typically do not create any objectionable byproducts (such as dirt, glare, heat, odor, smoke, waste material, etc.) which extend beyond the lot lines. The work occurs primarily indoors to control the byproducts. Examples include, but are not limited to, printing shops, binderies, sheet metal fabrication, electronic manufacture, etc.

Landscaped Area

A plot of land which has been decoratively or functionally altered by contouring and planting shrubs, trees and/or vines, and with a living or nonliving ground cover.

Landscaped buffer

A landscaped area that is at least fifty percent (50%) sight obscuring and serves to physically and/or visually separate land uses having incompatible facilities, activities or differing intensities of use.

Landscaping Material

Vegetation covering at least seventy five percent (75%) of the ground area with a combination of planted material such as: living trees, shrubs, hedges, vines, ground cover and flowers suitable for the climate, exposure and site condition. In addition, the combination or design may include earth sculpture, cobble, bark, mulch, edgers, flower tubs, rock and structural features such as foundations, pools, art works, screens, walls, fences or benches, but such objects alone shall not meet the requirements of this provision. The selected combination of objects and plants for landscaping purposes shall be arranged in a harmonious manner compatible with the building and its surroundings.

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.

Manufactured Home

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.

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.

Mobile Home Park

Any parcel of land under single or undivided ownership, which is designed and improved for the placement of two or more mobile home units.

Neighborhood Commercial

Any commercial enterprise that's primary purpose is serving the population of the zoning district. For example, a small convenience store located within the development whose primary customer base is the residents of the zoning district.

Political Sign

For the purposes of this Ordinance, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign

Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building

Prohibited Use

A use that is not permitted within the Zoning District. A landowner cannot be granted a variance for a prohibited use.

Projecting Sign

A sign which is attached to, suspended from, or supported by a building and which projects more than sixteen (16) inches from the building.

Residential Single Family Dwelling

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

Residential Multi-Family Dwelling

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.

Recreational Vehicle

Vehicular type unit thirty eight feet (38') or less in length and eight feet (8') or less in width, primarily designed as a temporary living quarters for recreation, camping or travel use, which either has its own motive power or it is mounted on or drawn by another

vehicle. This vehicle may also have interior water and sewage disposal systems, but they would not be designed or intended to be connected to municipal services.

Recreational Vehicle Park

Any lot, tract or parcel of land used or offered for use, in whole or in part, with or without charge, for the parking of occupied recreational vehicles, tents or similar devices used for temporary living quarters for recreational camping or travel purposes.

Retaining Wall

A wall designed to resist the lateral displacement of soil or other material.

Riding Academy

Any establishment where horses are kept for riding, driving or stabling for compensation, or as an accessory use in the operation of a club, association, ranch or similar establishment.

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.)

Roofline

The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Roof Sign

Any sign erected upon or above any portion of a roof or parapet wall of a building and which is wholly or partially supported by said building

Rotating Sign

A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Screening

A device or materials used to conceal one element of a development from other elements, or from adjacent or contiguous development. Screening may include one or a combination of the following materials of sufficient mass to be opaque or which shall become opaque after twelve (12) months and which shall be maintained in an opaque condition: walls, berms or plantings, or a combination of fences, berms or plantings.

Sexually Oriented Business

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

Sign

Any device, structure, fixture, enclosure, or placard using graphics, symbols, lighting, and/or written copy designed specifically for the purpose of advertising, identifying, or attracting attention to any establishment, product, goods, or services

Single Family Dwelling

A single family detached dwelling designed for or occupied exclusively as a residence for one family.

Slope

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

Stable, Public

A detached accessory building in which horses and other animals are kept for hire, remuneration or sale.

Stormwater Management

The control of runoff to minimize erosion and sedimentation during and after development. Includes the means necessary for water supply preservation or prevention or alleviation of flooding. Stormwater management, sometimes referred to in terms of drainage, also includes the removal of surface water or groundwater from land by drains, grading, or other means

Street, Arterial

A major street with moderate to fast speeds and high volume, designed to provide access to the regional transportation system and move traffic through or around the county, or from one area of the county to another. Arterials may have limited access and are located approximately one mile apart. US Highway 93 and Tower Road are examples of arterials in the zoning district.

Street, Collector

Intermediate streets which collect local traffic from neighborhoods and move it to an adjacent neighborhood or transfers the traffic to the arterial system. Collectors are located approximately one-quarter (1/4) to one-half (1/2) mile apart.

Street, Local

Minor streets intended to serve individual sites, buildings or lots. Local streets feed into collectors or provide destination access off of collectors.

Townhouse

A building containing dwelling units, each of which has a primary ground floor access to the outside and is attached to each other by party walls without openings.

Trees

Major: Those with a maximum height greater than 10 feet.

Understory : Those with a maximum height less than 10 feet.

Wall Sign

A sign attached parallel to and extending not more than **16** inches from the wall of a building. This definition includes painted, individual letter, cabinet signs, and signs on a mansard. Banners with a rigid enclosed framework or attached to a solid support on three sides may be considered a wall sign.

Unit

Any structure, building or portion thereof, including businesses and businesses within a larger structure. A single-family residence and associated outbuildings with one guest house that is not used for rental purposes is an example of a residential unit. A duplex contains two units.

Yard, Front

A yard extending the full width of the lot from the lot line paralleling the public street on which the building is addressed to the principal building. Except where one of the bordering streets is an arterial or collector, corner lots shall treat the yard on the street on which the structure is addressed as "front". The yard on an arterial or collector shall, however, be the front yard, regardless of whether the structure is addressed on that street.

Yard, Rear

A yard extending the full width of the lot from the rear lot line to the principal or accessory building. The rear lot line is parallel, or more or less parallel, to the street. Corner lots have two rear yards, but may treat either as a side yard for the purposes of these regulations.

Yard, Side

A yard extending the full length of the lot in the area between a side lot line and a side building line.