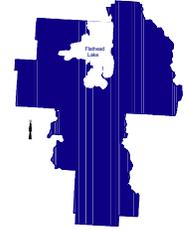


LAKE COUNTY
SWAN SITES ZONING DISTRICT & REGULATIONS



Created April 7, 1994, Resolution # 967 Amended 6/00,
Amended 6/06 Resolution # 06-40

I. Purpose

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

II. Boundary

The district consists of Swan Sites Subdivisions, Numbers 1, 2, 3, 4, 5 and 7 that are contained in portions of Sections 10, 11, 12, 13 and 14, Township 26 North, Range 19 West, P.M.M., Lake County, Montana.

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

Property owners should be aware that other local and state laws may apply to the use and/or development of their property. It is the responsibility of the property owner and their hired contractors to obtain all required state and local permits. For information about permit requirements, the property owners should contact:

1. The Lake County Environmental Health department for compliance with septic, well, and stormwater management rules and regulations.
2. The Lake County Planning Department for compliance with the Lakeshore Protection and Zoning District Regulations.
3. The Montana Department of Commerce for compliance with state building, electrical, plumbing and mechanical codes.

III. Permit Requirements

A. Zoning Conformance Permit

Prior to construction or expansion of any impervious surface area in the zoning district, the landowner shall obtain a zoning conformance permit from the Lake County Planning Department to assure compliance with the zoning regulations. No permit shall be required for structures less than 100 square feet in size, provided that they meet all applicable standards of Section V for structures and adhere to the development guidelines of the Lakeshore Protection Regulations. Permits issued under this section are valid for a maximum of two years from the date of issuance. Any construction within 20 feet of the high water mark of Swan Lake is regulated by the Lakeshore Protection Regulations. Construction in the area between 20 feet and 50 feet of the high water mark must be lake related and shall adhere to the development guidelines of the Lakeshore Protection Regulations. No permit shall be required for structures less than 100 square feet in size, provided they are not located

within 50 feet of the high water line of Swan Lake, and provided they meet all requirements of the Zoning District.

B. Applicability

1. Property owners should be aware that other local and state laws may apply to the use and/or development of their property. It is the responsibility of the property owner and their hired contractors to obtain all required state and local permits. For information about permit requirements, the property owners should contact:
 - a. The Lake County Environmental Health department for compliance with septic, well, and stormwater management rules and regulations.
 - b. The Lake County Planning Department for compliance with the Lakeshore Protection Regulations.
 - c. The Montana Department of Commerce for compliance with state building, electrical, plumbing and mechanical codes.
2. Covenants for individual properties may provide more restrictive development and use requirements. In the event that covenants are more restrictive than the zoning requirements, the property owner/developer shall demonstrate the governing homeowners association, or a majority of the landowners, have approved of the proposed plans and the covenants shall be updated to meet the proposal, prior to the issuance of a Zoning Conformance or similar permit.

C. Existing Uses

Nothing in this regulation shall be construed to prevent or prohibit the use of any legally existing building, structure, lot, or premises in use at the time of adoption of such ordinance. An existing use of property is a specific use of a building, structure or premises which was ongoing at the time of adoption of these regulations (April 7, 1994). Such a use is permitted, however it is considered a nonconforming use if it does not comply with these regulations and therefore, the degree of non-conformity shall not be expanded.

The right to such a use shall terminate upon the cessation of the legally existing use (voluntary or otherwise) for a period of eighteen months, or at the time the structure(s) housing such use is destroyed. **If fire or other natural disaster destroys a non-conforming structure or use, the replacing structure must meet the terms of these zoning regulations.** The Board of Adjustment may grant a variance if a literal enforcement of this regulation will result in unnecessary hardship.

D. Conditional Use

In order to protect the public welfare and guarantee conformance with the intended purpose of the Zoning Regulations, permits are required for all conditional uses listed in Section IV.B. of this document upon review and approval by the Lake County Board of Adjustment, which may condition approval of any use subject to reasonable measures deemed to mitigate associated negative impacts. In addition to the development standards defined in this document, the Board of Adjustment shall review and evaluate each conditional use request for the unique and special

characteristics of the proposed use with respect to their location, design, size, method of operation, traffic circulation and requirements for public facilities.

IV. District Regulations

A. Permitted Uses

1. Single family residential housing, including manufactured housing.
2. One guest house per individual lot, which is not less than 200 square feet or more than 1,000 square feet of living area.
3. Accessory buildings customary to a single-family residence.
4. Coverage of 29% or less of the buildable area of the lot with impervious surface area.
5. Rental of a primary residence for more than one month (long-term).

B. Conditional Uses

The following uses may be allowed after public review and approval of the Lake County Board of Adjustment. Prior to granting a conditional use permit, the Board must determine that the use is compatible with the purpose of these regulations.

1. On Lots 1, 2, 3, and 4, Swan Sites No. 3, customer service type businesses such as grocery stores, gas and service stations, gift shops, restaurants, professional offices or other similar type businesses, but excluding manufacturing type businesses. As a portion of this section, the applicant may ask for one business sign -detached from the structure- that is: minimally lighted, unanimated, 64 square feet in size (or less) and of natural non-reflective colors. Development of businesses on any of these lots shall utilize techniques to reduce impacts on adjoining lots.
2. Temporary dwellings
3. One guest house per individual lot, more than 1,000 square feet of living area but not more than 1,000 square feet of total floor area (footprint).
4. Single-wide mobile houses older than 10 years on non-water front lots.
5. Double-wide mobile homes older than 10 years on all lots.
6. Single family residential structures from 500 to 999 square feet of ground floor area.
7. Coverage of 30 to 49 percent of the buildable area of any lot with impervious surface area.
8. Home Occupations that meet the following guidelines
 - a. The use of the residential property for home occupations must be clearly incidental to its use for residential purposes.
 - b. The home occupation may be conducted within the residence or an accessory structure, but the total floor area used for the home occupation shall not exceed 1,200 square feet.
 - c. The outside appearance of the structure or premises used for the home occupation shall be substantially similar to the appearance of other residential properties in the area.
 - d.

- e. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property.
- f. Vehicle or equipment repair shall be conducted only in enclosed buildings.
- g. A home occupation shall not require any employees beyond the owners of the residence.
- h. The intent is to prevent the commercialization of a residential area by limiting the floor area and potential impact resulting from an occasional commercial transaction.

C. Prohibited Uses

- 1. Industrial.
- 2. Commercial - unless otherwise noted.
- 3. Multi-family dwellings.
- 4. Campgrounds.
- 5. Recreational vehicle campgrounds.
- 6. Gravel mining.
- 7. Bed and Breakfasts.
- 8. Single-family residential structures less than 500 square feet of ground floor area.
- 9. Coverage of more than 49% of the buildable area of any lot with impervious surface area.
- 10. Single-wide mobile homes on waterfront lots.
- 11. Rental of the primary residence for less than a period of one month.
- 12. Rental of a guest house.
- 13. Development or construction in areas designated as being subject to a flood of 100 year frequency or as a Federally recognized wetland.
- 14. Commercial kennels.
- 15. Housing, raising, breeding, and/or keeping of the following animals:
 - Lions, tigers, leopards, cheetahs, jaguars, ocelots, cougars (pumas or mountain lions), grizzly or brown bears, black bears, wolves, coyotes, wolverines, badgers, bobcats, or lynx.
 - Any endangered species or any species for which possession or ownership thereof requires a license or permit from any agency of the United States government or from any governmental agency of the State of Montana
 - Any mammalian or reptilian species which is not indigenous to the continents of North or South America
- 16. Sewage disposal and/or treatment facilities which serve residences or subdivisions which are located outside of the zoning district. This does not prohibit sewage treatment infrastructure needed for transport to an out of district location on County or State easements or right of ways.
- 17. Funneling (see definition)

V. Sub-Units

Because of the variation in the existing land-use patterns within the district, the area is divided into sub-units to allow for variations in such elements as setbacks and densities. Outlined below are the sub-unit-specific regulations.

- A. Sub-Unit One - Swan Sites No. 1 & 7
 - 1. Land Division:
 - a. The original Lots 36-59 may be subdivided one time, upon review and approval by State and local government.
 - b. No further subdivision of Lots 1-35 and Lots 60-180.
 - a. Lots 1-5 of Swan Sites #7 (Amended Plat of the Airport on Swan Sites #1) may be subdivided one time, into lots of not less than 2 acres each, upon review and approval by State and local government
 - 2. Setbacks:
 - a. From the lake, river or stream in compliance with Section VI:
50 feet for Lots 1-35, Lots 128-165, and Lots 172-180
20 feet for Lots 60-100 and 166-171.
 - b. From the front property line, other than lake lots: 20 feet.
 - c. From side property line: 10 feet.
 - d. From rear property line: 20 feet.
- B. Sub-Unit Two - Swan Sites No. 2
 - 1. Land Division:
 - a. No lot within this unit may be further divided.
 - 2. Setbacks:
 - a. From Swan Lake, Swan River and Loon Lake in compliance with Section VI::
70 feet.
 - b. From side lot line: 10 feet.
 - c. From any other lot line not bordering the lake or side boundary: 20 feet.
- C. Sub-Unit Three - Swan Sites No. 3
 - 1. Land division:
 - a. The original lots 1-26 may be subdivided one time, upon review and approval by State and local government.
 - 2. Setback: 20 feet from any property line.
- D. Sub-Unit Four - Swan Sites No. 4
 - 1. Land Division:
 - a. All original lots may be subdivided one time, upon review and approval by State and local government.
 - 2. Setback:
 - a. 20 feet from any property line.
- E. Sub-Unit Five - Swan Sites No. 5
 - 1. Land Division:
 - a. All land development within this sub-unit shall not exceed one dwelling unit per 5 ½ acres. The density requirement shall not be construed as a minimum lot size requirement. Development that provides for lot sizes to be less than the density limitation may be allowed provided that the overall (average) density of the subject parcel shall not exceed the required density per acre.
 - 2. Setback:

- a. 20 feet from any property line.

V. Property Construction Guidelines

A. Structures

1. Structures shall not be located on slopes that exceed 25 percent.
2. Accessory structures shall meet all setback requirements, with the exception of lake related structures (which are regulated under Lakeshore Protection Regulations).
3. Satellite dish antennae shall meet the setback criteria for structures and shall be of black mesh construction.
4. New structures shall not exceed 25 feet in average heights as measured from the natural grade. This may be varied to 30 feet if the adjacent landowners, when contacted by Planning Department staff, voice no objection.
5. Wood shake roofing shall be prohibited on construction of new structures. Once the wood shakes decay and need replacement they shall be replaced with fire retardant roofing materials. This does not include treated wood shake roofing materials.
6. Existing residential structures that do not meet setback or size requirements may:
 - a. Be rebuilt in their present location in the event of being destroyed by fire or other natural disaster provided that:
 1. The degree of non-conformity is not expanded.
 2. No portion of the structure shall extend closer than the existing structure to any non-conforming setback requirement (as measured from the closest extension of the structure to the high water line of a lake, stream or a property line; and
 3. The impervious surface limits of these regulations are complied with.
7. A reasonable variance may be granted to allow construction of a residence on lots that exist at the time zoning is adopted which cannot meet the setbacks in these regulations, provided that no residence shall be closer than 20 feet to the lake and that adequate storm drainage is assured.
8. All structures erected within this district shall have the exterior construction completed within two years from the date such construction commences.
9. No travel trailer, recreational vehicle or other similar structure shall be placed on a lot for the purposes of renting, leasing or bartering.
10. Only lake related structures are permitted within the Lakeshore Protection Zone, which is defined as the area within 20 feet landward from the high water mark.

All work in this Zone is governed by the Lake County Lakeshore Protection Regulations.

B. Storm Drainage

All development (including driveways) shall demonstrate that any storm water runoff that results from the physical improvement of the property will be removed without causing damage or harm to the natural environment and water quality or to property adjacent to the subject property.

A storm water management plan, written by a registered professional engineer, may be required by the Zoning Administrator prior to the granting of a zoning conformance permit, conditional use permit, or variance in order to demonstrate that the development will not result in the deterioration of water quality or effect the properties adjacent to the subject property. The zoning administrator will consider such factors as slope, soil type, vegetative cover, the percentage of impervious surface area, and the intensity of the proposed development project when determining if a management plan is required and assessing a plan's adequacy.

C. Outdoor Lighting

All nighttime outdoor lighting must be directed downward and be side-shielded to prevent glare beyond the boundary of the subject property. Outdoor fixtures shall not be placed higher than the ridgeline of any structure on that property. .

VI. Vegetative Buffer Strips

A. Intent

The intent of this section is to provide for the development of lake and stream front properties while maintaining the chemical, physical, and biological integrity of Swan Lake, Loon Lake, Johnson Creek and the Swan River. This section is intended to complement the Lake County Lakeshore Protection Regulations, which govern development from the high water mark of Swan Lake to 20 horizontal feet inland.

B. Rationale

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

A vegetative buffer strip is required of all newly developed and/or subdivided lake and stream front properties as of June 21, 2000. The buffer strip shall be located on the waterward side of all impervious surfaces except those governed by the Lake County Lakeshore Protection Regulations. The buffer strip shall be measured from the high watermark of a water body to the closest applicable impervious surface (one that is not covered by the Lakeshore Protection Regulations).

C. The width of the buffer strip shall be the following:

1. Sub Unit 1(A) setbacks:
30 feet for Lots 1-35, 128-165, and 172-180
10 feet for Lots 60-100 and 166-171
- Sub Unit 2 (B) setbacks:
 - a. 50 feet

D. Enforcement

A buffer strip design plan, including the different types of vegetation, storm water runoff control measures, approximate slopes and sketches shall be reviewed as part of the Zoning Conformance Permit process.

E. Design

Vegetation

1. Buffers shall consist of a mixture of trees, shrubs, tall grasses and forest duff/leaf litter. Examples of areas that do not qualify as buffer strips include grass lawns, orchards or landscaped areas where the under story has been modified. (NOTE: Native vegetation is typically better adapted to area soils, rainfall and temperatures and will require no fertilization and less long-term maintenance than non-native vegetation. It also provides high quality habitat to native wildlife species.)
2. A diversity of tree species and sizes that are representative of undisturbed forest stands shall be maintained.
3. In order to promote a healthy and effective buffer strip, the clearing of vegetation shall be limited to the following:
 - a. Removal of dead, windblown, damaged or diseased trees provided that they are replaced by planting two trees within the buffer strip for every tree removed.
 - b. Replacement of lawns or other modified landscaping with a variety of species and sizes to increase the buffering capacity of the area.
 - c. Removal of up to one-half of the live trees to improve the scenic view, provided that at least 75 percent of the trees are greater than or equal to 8" in diameter at breast height are maintained.
 - d. Removal of vegetation less than four feet in height is limited to that necessary to create a winding footpath or boat access, or to remove noxious weeds and poisonous plants.
 - e. Pruning of live tree branches is permitted, provided that at least the top two-thirds of an individual tree's canopy is maintained.
4. Areas with a slope of 25 percent or greater are too steep to be effective as a treatment buffer and shall be left undisturbed if vegetative. If the area has been modified, restoration of the area by the creation of a buffer strip is encouraged.

F. Lake and River Access

1. Footpaths shall be a maximum of six feet wide
2. Footpaths shall not run in a straight line directly to the water. Instead, they should meander in an “S” shape to avoid the channelization of runoff.
3. Footpaths and boat access ways must include features that spread runoff from the hard surface into the vegetative buffer strip without channelizing the runoff, which causes the ground surface to erode.
4. Boat accesses shall be seeded or mulched to reduce erosion.

G. Permitted Features and Activities

Within the buffer strip, permitted features include walking paths, boathouses, boat ramps and boat rail systems, as governed by the Lake County Lakeshore Protection Regulations. Landscaping and the planting of vegetation in the buffer strip are permitted and shall incorporate every feasible step to minimize erosion. Restoring an altered area to vegetative buffer is encouraged.

All vegetative buffers that exist within 50 feet of the high water mark at the time of the adoption of these regulations shall be managed as vegetative buffers according to these regulations.

H. Prohibited Activities

1. Except as necessary to access boat ramps and maintain docks and other recreational facilities, all driving of motorized vehicles in the buffer zone is prohibited to prevent soil compaction and erosion.
2. Except as permitted under the Lake County Lakeshore Protection Regulations, the construction of impervious surfaces is prohibited.
3. Removing a buffer strip that exists at the time of adoption of this regulation is prohibited.
4. Removing vegetation that exceeds the stipulations described above is prohibited.

I. Long-Term Maintenance

1. Buffer strips must be maintained so that channelization of storm water runoff does not occur.
2. All foot paths and boat ramp accesses must be maintained to minimize erosion. Eroded areas or areas with bare soil shall be seeded or mulched.
3. Fertilizers, pesticides and herbicides shall not be used in the buffer strip to prevent nutrients and other chemicals from entering the water.

J. Variance

For those lots either created prior to the adoption of this regulation (April 7, 1994) or where a buffer strip is infeasible due to the physical conditions present on the lot (including the wishes of the homeowner to increase fire safety), a reasonable variance may be granted by the Lake County Board of Adjustment.

VII. Land Division

All land divisions shall conform to the requirements of the Swan Sites Zoning Regulations, Lake County Subdivision Regulations, Lake County Growth Policy and the Lake County

Sanitation Regulations.

VIII. Administration

A. Interpretation

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

B. Permit Requirements

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

1. Zoning Conformance Permit: A permit shall be required for any land use or building activity listed as “permitted” in these regulations prior to any work on the property to develop the proposed use.
 - a. An application for all zoning conformance permits must be complete and submitted with the established review fee to the Lake County Planning Department by the owner or one owner of interest of the subject property.
 - b. The applicant shall stake the exterior boundaries of any proposed structure at the time the application is submitted.
 - c. Incomplete applications will be returned.
2. Conditional Use Permit: A conditional use permit shall be required for any land use or building activity listed as a “conditional use” in these regulations prior to any work on the property to develop the proposed use.
 - a. An application for all conditional use permits must be complete and shall be submitted with the established review fee to the Lake County Planning Department by the owner or one owner of interest of the subject property twenty eight (28) days prior to a regularly scheduled meeting of the Board of Adjustment.
 - b. At the Administrator's discretion, based on appropriate findings, a conditional use permit application may be referred to a technical expert for review. The technical expert shall be a party agreed upon by the Zoning Administrator and the applicant. Such review shall be at the applicant's expense.
 - c. The applicant shall stake the exterior boundaries of any proposed structure. This staking shall be performed two (2) weeks prior to the public hearing for the conditional use permit.
 - d. In addition to the application, the following information shall be submitted:
 1. A dimensional plan of the proposed site with a scale of 1 inch equal to 20 feet showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, landscaping, utilities, water and sewer services, signs, a rendering of building exteriors, a stormwater management plan, a letter of review and comment from the local fire department

- regarding the proposal, and such other information as the Zoning Administrator may require.
2. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district and the relationship of the proposed use to the intent of the Zoning District.
- e. Standards for evaluation: The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use according to the following standards and shall find adequate evidence showing that such use at the proposed location:
1. Constitutes a conditional use as established for the applicable zoning district;
 2. Is in accordance with the general objectives or with any specific objective of the Zoning District;
 3. Is designed, constructed, operated and maintained to be harmonious with the existing or intended character of the general vicinity and will not change the essential character of the same area;
 4. Is not hazardous or disturbing to existing or future neighboring uses;
 5. Is served adequately by existing or proposed public facilities and services such as roadways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer; or the persons responsible for the proposed use shall be able to provide any such services adequately;
 6. Does not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
 7. Does not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water pollution, hazardous materials or safety hazards; and
 8. Provides vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares.
3. Hearing Notices: The Zoning Administrator shall place notice of the proposal in the local newspaper and shall notify by mail all adjoining property owners within fourteen (14) days of the Board of Adjustment Hearing on the application.

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 owner of interest of the subject property not later than 28 days prior to a regularly scheduled meeting of the Board of Adjustment. The applications shall be accompanied by a fee in the amount set by the Lake County Board of County Commissioners.

1. Appeal: A person may file an appeal when aggrieved by a decision or interpretation of the zoning administrator by delivering a notice of the appeal to the zoning administrator within 28 days of the date of the decision being challenged.
 - a. The Zoning Administrator shall notify the Board of Adjustment of the appeal and deliver the case file to the board of adjustment at least seven (7) calendar days prior to the next regularly scheduled meeting.
 - b. The Board shall either affirm or reverse the decision of the administrator. The decision shall be in writing and contain the basis for the decision on each appeal, and a detailed summary of the facts and basis supporting the determination.
 - c. A person aggrieved by a decision of the board of adjustment may file an appeal with a court of record as provided by law within thirty (30) days of date of the decision by the board.
2. Variance: In addition to the application, the following information shall be submitted:
 - a. A plan of the site for the variance proposal addressing all elements necessary to evaluate the request. These may include location of buildings, parking and loading area, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, landscaping, 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 means to alleviate the hardship. It should also evaluate the effects of the proposal on neighboring properties and the public, which includes consideration of the compatibility of the proposal with other properties in the district and the relationship of the proposed use to the intent of the Zoning District.
 - c. Standards for evaluation
 1. Hardship: Certain circumstances exist or arise wherein an unnecessary hardship is created through strict adherence to the provisions of these regulations. There is hereinafter provided provisions for the granting of a variance from the provisions of these regulations, so that the public welfare is secured and substantial justice can be done to those so affected.
 2. Review: The Board shall review the particular facts and circumstances of each proposed variance. Findings are required to be made by the board for approval of a variance. No variance shall be granted unless the board finds all the following conditions are met or found to be not pertinent to the particular case:
 - a. Strict compliance with the terms of these regulations will limit the reasonable use of the property; and deprive the applicant of rights enjoyed by other properties similarly situated in the district.
 - b. The hardship is the result of lot size, shape, topography or other circumstances over which the applicant has no control.

- c. The hardship is peculiar to the applicant's property.
- d. The hardship was not created by the applicant.
- e. The hardship is not economic (when a reasonable or viable alternative exists).
- f. Granting the variance will not adversely affect the neighboring properties or the public.
- g. The variance requested is the minimum variance which will alleviate the hardship.

3. Hearing Notices

The Zoning Administrator shall place notice of the variance proposal or appeal in the local newspaper and written notice shall be sent by regular mail to all landowners adjoining the property to which the conditional use is proposed within 14 days of the Board of Adjustment hearing.

D. Grievance

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

E. Violation

Where the administrator finds any building or structure is erected, constructed, reconstructed, altered, or converted, or any building or structure of land is used in violation of this Regulation, or a person is violating any of the provisions within the zoning district regulations, a notice of non-compliance shall be issued in writing to the person responsible for such violations, as well as the property owner. The notice of violations shall indicate the nature of the violation and ordering the action necessary to correct it. The notices shall also order discontinuance of illegal buildings or structures or of illegal additions, alterations, or structural changes.

If the person in violation chooses to appeal the notice of non-compliance he may file an appeal with the Board of Adjustment as set forth in this Section C. If the party in violation does not comply with the notice within 20 days, the Administrator shall file a complaint with the Board of Adjustment. If the party in violation does not comply with the notice within thirty days or file an appeal with the Board of Adjustment within such a period, the Administrator shall forward the notice of non-compliance to the Lake County Attorney.

The County Attorney may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, or use to restrain, correct, or abate such violation, to prevent occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. A violation of the Zoning Regulations is a misdemeanor and shall be punishable by a fine not exceeding \$500.00 or imprisonment in the county jail not exceeding 6 months or both.

IX. Amendment

A. Mandatory Review

The Zoning Regulations shall be reviewed by the Lake County Planning Board in the fifth and tenth year of each decade. The Planning Board shall conduct a public hearing and submit a written finding to the Board of Commissioners which addresses the applicability of the zoning regulations to the current land use, development, social, economic, and environmental situation in the district. The Planning Board may propose amendments to the zoning regulations.

B. Amendment Procedure

The zoning regulations may be amended in whole or in part by the affirmative vote of the Board of Commissioners after a public hearing is held in accordance with 76-2-205 MCA. A proposal to amend the zoning may be initiated by any landowner within the district, the Lake County Planning Board or Planning Department staff. However, prior to taking any action to amend the regulations the Commissioners shall solicit a recommendation on the proposed action from the Lake County Planning Board. When considering an application for amendment to the provisions of these regulations or the official zoning map, the planning board and the board of commissioners shall be guided by and consider the criteria identified in state law Title 76, Chapter 2 MCA.

1. Procedures:

- a. Requests to amend the text of these regulations may be initiated by providing the Zoning Administrator with the proposed amendment and the applicable review fee.
- b. An owner of record or his authorized agent shall sign the application for amendment. 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, before the application will be accepted for processing, a petition in favor of the request signed by the real property owners representing at least sixty five percent (65%) of the land area to be included in the application must be submitted. The petition shall bear the property owners signatures and addresses, the legal description and land area of each property represented in the petition, the total land area represented by the petition and the total land area of individual properties included in the application.
- c. After acceptance by the zoning administrator, the completed application shall be transmitted to the planning board for their review and evaluation at a public hearing.
- d. The planning staff shall set a public hearing date and publish a public notice in compliance with state law.
- e. The planning board shall consider the application and make a recommendation to the Board of Commissioners to grant, amend or deny the application.
- f. Upon receipt of the recommendation of the Planning Board, the Board of Commissioners shall render a decision to grant, amend or deny the requested amendment based on the results of the public input, the staff report and findings of the Planning Board.

- g. Should the proposed amendment be adopted by resolution in compliance with state law, the Zoning Administrator shall incorporate the amendment into the appropriate section or paragraph of these regulations.
 - h. In the event that an application to amend these regulations is denied by the Board of Commissioners or the application for amendment is withdrawn after the hearing of the Planning Board, the Zoning Administrator shall have the authority to refuse to accept another application for any similar amendment within one year from the date of hearing of the previous application before the board.
2. Amendments To Official Zoning Map (Rezoning): An amendment proposing changes in the official zoning map shall follow substantially the same procedures as provided for above, with the following additional requirements to be adhered to:
- a. 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, 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.
 - b. If property outside the zoning district is to be annexed into the district, it shall be adjoining and all proposals shall expand or compliment the existing subunit of the zoned property.
 - c. 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.
 - d. 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.

X. Definitions

A. Agricultural Use

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

B. Average Building Height

The vertical distance of a structure is computed by determining the average of the highest point of each major side of a structure. The highest point on each major side shall be measured from the average ground elevation to the highest point of the structure. For the purposes of these regulations, all structures will have a maximum of four sides. The highest point does not include typical extensions above a roofline such as chimneys or antennas. The ground elevation for this purpose shall be measured from the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of building the structure.

C. Bed and Breakfast

A home single family dwelling containing individual sleeping rooms without kitchen facilities operated for the purpose of providing accommodations to short term travelers accommodations in which not more than a maximum of five (5) guest rooms are may be provided.

D. Buildable Area

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

E. Commercial Kennels

Establishments where greater than six dogs or domestic animals more than one year old are housed, groomed, boarded, trained or sold.

F. Commercial Use

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

G. 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 surrounding land uses and complies with the standards and the purpose of these regulations. The Board of Adjustment may prescribe conditions for such use.

H. Dwelling Unit

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

I. Funneling

Buying a lot within swan sites zoning district for the purpose of allowing property owners in another subdivision access to Swan Lake or Swan River from either the Swan Sites Common Areas or any lakefront or riverfront lot within Swan Sites.

J. Guest House

An accessory building designed for use and occupancy on a short term basis by the guests of the occupants of the primary residence. A guesthouse shall not be utilized for sale or rental purposes. Guest houses shall not exceed one per tract and shall not be less than 200 square feet or more than 1,000 square feet of living area.

K. High Water Mark

For the purposes of these regulations, the Zoning Administrator shall determine the approximate location of the high water mark by a visual identification of coloration and debris along the shoreline, caused by standing water.

L. Home Occupation

Any occupation carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character thereof, is conducted in such a manner as to not give any outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, and does not infringe upon the rights of neighboring residents to enjoy a peaceful occupancy of their homes.

M. Impervious Surface Area

The part of the build able portion of a lot that is covered with manmade improvements. This includes but is not limited to such items as a house, garage, shed, decks and hard surfaced driveways and parking areas.

N. Industrial Use

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

O. Lake Frontage

For the purpose of administering these regulations, lake frontage shall be based on the linear feet of lake frontage of the lot or tract to be developed as well as any adjoining undeveloped lots under the same ownership. Lot ownership is measured at the high water mark.

P. Lakeshore Protection Zone

The lake, lakebed and the land area which is within twenty (20) horizontal feet of the parameter of the lake and adjacent wetlands when the lake is at the mean annual high water elevation, all work in this area requires a Lakeshore Construction Permit.

Q. Legally Existing

A use of property in full compliance with all applicable laws, rules, and regulations, including but not limited to, possession of and compliance with any permit, license, or other approval required under Federal, State or local regulations.

- R. 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.
- S. Mobile Home Parks
Any parcel of land under single or undivided ownership that is designed and improved for the placement of two or more mobile home units.
- T. Natural Grade
The elevation of the ground surface in its natural state before man made alterations including but not limited to stripping, cutting, and filling.
- U. Nonconforming Use
A lawful use of a building, other structure or land, which predated the adoption of the zoning use regulations now in effect, and which would not be a use authorized in the district designation currently applied to that site.
- V. Primary Residence
The permanent or main residential dwelling on a property zoned for single family residential use.
- W. Prohibited Use
A use that is not permitted within the zoning district. An individual cannot be granted a variance for a prohibited use.
- X. Residential Single-Family
Any detached building containing one dwelling unit containing facilities for cooking, living, and sleeping and designed for permanent occupancy by one family.
- Y. Residential Multi-Family
Any apartment, townhouse, condominium, or similar building including the conversion of an existing single-family dwelling, designed for occupancy in separate living quarters by more than one family.
- Z. Recreational Vehicle Campground
A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motor homes, travel trailers, or automobiles for transient dwelling purposes.
- AA. Slope
The degree of deviation of a surface from horizontal measured from the natural grade. For the purposes of these regulations slope or grade is expressed in percent (rise over run). Slope can be calculated in percent by dividing the vertical distance by the horizontal distance of the natural grade beneath the improvements proposed.

BB. Short Term Basis

On a basis less than 30-days

CC. Temporary Dwelling

- a. Establishment of travel type or single wide mobile home for a construction period not to exceed two calendar years.
- b. A temporary structure that may be used on seasonal basis provided that the structure shall not remain on the lot for more than five consecutive months. The travel trailer shall be removed from the lot for a period of at least 30 days in order to activate a new five-month period. The number of travel trailers, used as dwellings, shall not exceed two per single lot. These structures may not be rented.

DD. Vacation Rental

Rental of the property and associated living units to one entity. All short term rentals must obtain a public accommodation license from the State of Montana.

EE. Waterfront Lot

Those lots within the district that border Swan River, Swan Lake or Loon Lake. Those lots that border Johnson Creek do not qualify as waterfront lots.

Swan Sites Zoning District

Sub-Units 1, 2, 3, 4, and 5

