

APPENDIX C

LAKE COUNTY DENSITY MAP AND TEXT

I. Purpose

The purpose of the Lake County Density Map and Text is to provide direction to the Lake County Planning Board and the Lake County Planning Department when making decisions related to questions from residents about potential development of property under their ownership. MCA 76-1-601 grants planning boards the ability to propose, and the governing body to adopt, additional elements of a growth policy in order to fulfill the purpose of a growth policy. The Density Map and Text included as an appendix of this policy are viewed to be such an additional element.

The Density Map and Text are to be considered in conjunction with the Lake County subdivision review process, buildings for lease or rent review, capital improvement planning and the goals of conservation development or planning and to provide a framework for parcel creation and development in the County. The map and text have also been designed to help maintain the rural character of agricultural and timber production areas and to protect important wildlife habitat, water quality and natural resources in Lake County and to encourage infrastructure improvements and/or expansion. It is also a purpose of the recommendations and map to direct growth where public services such as fire and police protection, school bus transportation and road maintenance can be provided in a cost effective manner, thereby reducing public expenditures.

The Density Map and Text are intended to find a balance between the Constitutional property rights of individuals, sound public fiscal policy, and good long-range community planning based on the *2018 Growth Policy*.

II. Authority

This Density Map and Text are intended to be in agreement with and supportive of the *2018 Lake County Growth Policy*. As a component of the growth policy, the Density Map and Text are not regulatory and do not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law (e.g. Subdivision Regulations, Buildings for Lease or Rent Regulations, etc.). The governing body within the area covered by the *2018 Growth Policy* must be guided by and give consideration to the general policy and pattern of development set out in this document [76-1-605, MCA]. These recommendations in no way inhibit the type of land use, development, or recovery of any mineral, forest, or agricultural resources by the owner thereof.

III. Applicability

This Density Map and Text apply to the creation of parcels of land that did not exist at the time of the adoption of the Lake County Density Map on August 24, 2005, and that fall under the jurisdiction of Lake County, Montana. The Density Map and Text in no way prohibits the use of

parcels of land that existed at the time of adoption (8/24/05), whether conforming or not conforming to the recommendations contained herein.

IV. Rationale and Methodology for the Creation of Density Map and Text

In order to develop the Density Map itself, Lake County Planning Department and Geographic Information Systems Staff first reviewed the applicable goals and objectives of the *2003 Lake County Growth Policy*. They then compiled maps showing population density, parcel size, wildlife habitat, land use, prime soils, wetlands, vegetation, irrigated lands, zoning districts and municipal and water and sewer district boundaries. Staff then took into consideration population growth projections and provided substantial build-out and transition areas abutting existing population centers. Once a draft map was complete, Staff drove the roads of Lake County and reviewed visible criteria such as road infrastructure, land uses, distances from service centers and a host of other factors and modified the map accordingly.

Planning Department Staff developed this appendix by combining goals and objectives from the *2018 Lake County Growth Policy* and the Density Map. The Lake County Planning Board, Board of County Commissioners, and interested parties provided guidance and this appendix was modified based on comments received.

Throughout the development of the Density Map and Text, Lake County has weighed the goals of the *2018 Growth Policy* with current economic issues, natural resource values, the character and development potential of various areas of Lake County and property rights concerns.

The Density Map and Text are intended to find a balance between the rights of individuals, sound public fiscal policy and good long-range community planning based on the *2018 Growth Policy*. The most appropriate use of land in the various density areas is based on the wishes of the landowners and any other rules and regulations that are in effect (e.g. Buildings for Lease or Rent Regulations, Subdivision Regulations, Floodplain Regulations, Lakeshore Protection Regulations, etc.).

V. Development Recommendations

1. On individual properties, the height and bulk of future buildings, the area of front yards, courts or other open spaces, the future uses of the lands or buildings and setback distances from all lots lines are limited only by the desires of the landowners and by all rules, regulations and covenants in effect at the time of local government review of development. Where zoning district-specific regulations are in effect, they take precedent over the Lake County Density Map and Text.
2. All parcel creation in Lake County's jurisdictional area must be guided by and give consideration to the development densities established in the Density Map and Text. Where the Density Map shows an area of Lake County with a recommended density, parcels should not be created with an average density greater than the number shown except as provided herein (see Section VI).

The Staff and decision making body will propose and adopt findings and conclusions that demonstrate consideration of these guidelines in reviewing subdivisions and other development proposals. This may include strict compliance, deviation from, or significant ramping up or ramping down of the guidelines discussed herein based upon the circumstances of particular situations in accordance with Section VI below.

3. In the Arlee, Ravalli, St. Ignatius, Charlo, Ronan, Pablo, Big Arm, Elmo, Dayton and Woods Bay community growth areas shown in brown on the Density Map, the recommended development density depends on the types of water supply and sewage disposal facilities as shown on Table 1 (below). In all cases, stricter, adopted State or local sanitation regulations take precedent over the densities shown below when applicable.

The provisions of subsections 4. and 5. below apply to development in community growth areas and around public water supplies and conformance of a proposal with these provisions will be evaluated during the subdivision review process.

4. When new development is proposed in a community growth area, the development should wherever possible be compatible with the already established pattern of development by continuing existing rights-of-way and travel corridors and providing for municipal or public utilities to be extended either in conjunction with the proposed development or in the future. When development is proposed in the Ronan and St. Ignatius community growth Areas but is not annexed into those municipalities, the developers should waive the right to protest future annexation of the lots, provide for off-street parking, pedestrian travel and snow removal sufficient to serve the homes and businesses and should design the rights-of-way and building setback distances with sufficient space for future municipal utility installation, walkway and roadway expansion. The placement of living and business units and other improvements on the lots should also be designed for future land division by locating buildings toward a property edge, while allowing appropriate setbacks, and should provide for more intensive land use and annexation in the future.
5. Where new parcels are created within a 1,000-foot radius of a public water supply including the Ronan, Pablo, Charlo, St. Ignatius and Tribal systems, the units should either connect to a public or municipal sewage disposal system or include at least two barriers to ensure the public water supply is not impacted. In all cases, stricter, adopted Tribal, State or local sanitation regulations take precedent. The following are considered barriers for the purposes of this appendix:
 - a. Level II (nutrient reduction) or advanced treatment technology for individual or multiple user sewage disposal systems.
 - b. An established operation and maintenance plan with required pumping schedule including annual inspection by an independent qualified party as approved by the appropriate jurisdiction.
 - c. Pressure-dosed distribution systems.

- d. A soils investigation with soil boring(s) demonstrating a confining unit at least 20 feet in thickness.

Table 1, Recommended Development Densities for Community Growth Areas

Water Supply System	Sewage Disposal System			
	Municipal (includes Lake County water and sewer districts)	Public (15+ units or 25+ users)	Multiple User (3-14 units or up to 24 users)	Individual or shared (1-2 units)
Municipal (includes Lake County water and sewer districts)	If annexed, comply with municipal zoning (if applicable). If not annexed, up to 12 units per acre.	If annexed, comply with municipal zoning. If not annexed, up to 12 units per acre.	If annexed, comply with municipal zoning. If not annexed, up to 4 units per acre or the highest allowed by law, whichever is greater.	If annexed, comply with municipal zoning. If not annexed, up to 2 units per acre or the highest allowed by law, whichever is greater.
Public (15+ units or 25+ users)	If annexed, comply with municipal zoning (if applicable). If not annexed, up to 12 units per acre.	Up to 4 units per acre or the highest allowed by law, whichever is greater.	Up to 4 units per acre or the highest allowed by law, whichever is greater.	Up to 2 units per acre or the highest allowed by law, whichever is greater.
Multiple User (3-14 units or up to 24 users)	If annexed, comply with existing zoning (if applicable). If not annexed, up to 4 units per acre.	Up to 4 units per acre or the highest allowed by law, whichever is greater.	Up to 4 units per acre or the highest allowed by law, whichever is greater.	Up to 2 units per acre or the highest allowed by law, whichever is greater.
Individual or shared (1-2 units)	If annexed, comply with municipal zoning (if applicable). If not annexed, the highest allowed by law.	Up to 2 units per acre or the highest allowed by law, whichever is greater.	Up to 2 units per acre or the highest allowed by law, whichever is greater.	Up to 2 units per acre or the highest allowed by law, whichever is greater.

VI. Standards of Evaluation for development in consideration of the Density Map and Text

The Planning Department and Board of Commissioners may allow development density other than that described on the Density Map when findings and conclusions for each proposed development are adequately demonstrated showing that such use:

1. Will observe the purpose, goals, and objectives of the *2018 Lake County Growth Policy*,
2. Is 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,
3. Is not hazardous or disturbing to existing or future neighboring properties,
4. Is served adequately by essential public facilities and services such as roadways, 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,
5. 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,
6. Does not facilitate or promote 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, air pollution, or safety hazards; and
7. Provides vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares.

Development proposals that could result in a density other than that described on the Density Map for a specific property that could be considered include but are not limited to, cluster communities, additional unit(s) for the landowner's family members, farm, ranch or orchard workers, accessory dwelling units, conservation development, etc.

Recommendations made based on the Density Map and Text will consist of both day to day review of proposed development, and decisions related to subdivision review and other regulated review processes. When development is proposed involving day to day decisions, the Board of Commissioners grants the Planning Department authority to make recommendations regarding whether the proposed development meets the recommended density. When a proposal involves development that is regulated by adopted regulations, the Board of Commissioners will review the proposal using the Density Map and Text including the standards of evaluation listed in this section in making a determination, in addition to any adopted regulations.

VII. Separability

If any section or provision of these recommendations is declared unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Density Map and Text, or any part thereof other than the part declared to be unconstitutional or invalid.

VIII. Review and Amendments

The Density Map and Text are a component of the *2018 Lake County Growth Policy*. For further information regarding the review and amendment process, see the Updates/Revisions section of Chapter 3 of this Growth Policy on pages 13 - 15.

IX. Administration and Appeals

Lake County Planning Department Staff shall interpret and apply the Lake County Density Map and Text. Staff decisions may be appealed or commented upon to the Lake County Planning Board and/or the Lake County Commissioners as part of the review process and should include an application letter describing the aggrieved party's position as well as a fee established by the Board of Lake County Commissioners.

X. Definitions

Accessory dwelling unit (ADU)

An accessory dwelling unit or detached accessory dwelling unit is a separate living space within a house or on the same property as an existing house. The property owner must live in either the house or the attached or detached accessory dwelling unit.

Agriculture

The historic or current use of land for the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops, grains and seed crops, dairy animals and products, livestock of all kinds, bees and apiary products, trees and forest products and fruits of all kinds. This does not include land used for mineral extraction.

Capital Improvements Plan (CIP)

Also known as a Community Infrastructure Plan. A five year plan, which identifies capital projects and equipment purchases, provides a planning schedule and identifies options for financing the plan. This plan, although flexible, will be updated periodically to respond to changing circumstances. A capital improvement is a substantial, nonrecurring expenditure for a physical improvement with a long useful life.

Cluster Development

A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped [76-3-103(2), MCA].

Commercial

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.

Conservation development

A subdivision designed to either concentrate building sites on a specific portion of a larger property in order to reduce capital and maintenance costs for infrastructure development or to create smaller, separated lots located on the least productive or environmentally sensitive areas of a landowner's property. In both cases the productive and environmentally sensitive lands remain undeveloped.

Creation of parcels

The creation of parcels specifically includes lots created through subdivision review (76-3-101, et. seq, MCA) and as defined in 76-3-103, MCA, court order (76-3-201[1][a], MCA), condominium declaration (76-3-203, MCA), lease or rent as defined in this appendix, family transfer exemption, agricultural exemption (76-3-207[1][c], MCA), including lots that had been created through the use of agricultural exemptions at the time of adoption of this document whose owners seek to have those exemptions lifted, and lots converted to fee status from Tribal and Individual Trust status. In general terms, for an additional parcel to be created from an existing parcel in conformance with the Density Map and Text, a landowner must possess within 10 percent of the acreage or development rights amounting to twice the average density, shown on the Lake County Density Map.

In the case where a lot or lots exist at the time of adoption of the Density Map and do not comply with the standards contained in the Density Map and Text, the boundaries may be relocated in non-conformance with the terms of this appendix so long as no additional parcels are created.

Density

The average number of residential, commercial or industrial units allowed per acre. Density is distinct from minimum lot size. A land division may create lots that are smaller than the required density, provided that the overall average density does not exceed the maximum number of units per acre. The maximum allowed density is not a right, but could be approved through subdivision review or other review processes.

Guest house

An attached or detached accessory building designed for occupancy on a short term basis by guests of the occupants of the primary residence. Guest houses shall not be used for rental purposes and shall not be independently rented or offered for rent.

Home occupation

Any activity carried out for gain by a resident and conducted within the resident's "unit" as defined in this appendix. A home occupation is subordinate to the primary residential use and

may be conducted within the residence or an accessory structure. The residential appearance of the structure/property should be maintained.

Land use

See "Use"

Lease or Rent

The act of a landowner providing for or otherwise allowing another party to occupy either 1) a building or portion of a building, or 2) a property or portion of a property in exchange for financial or other consideration.

Multiple user wastewater treatment system

A non-public wastewater treatment system that serves or is intended to serve three through 14 units or up to 24 persons daily.

Multiple user water supply system

A non-public potable water system that serves or is intended to serve three through 14 units or commercial businesses or up to 24 persons daily.

Municipal

Pertaining to an incorporated city or town or a Lake County water and/or sewer district.

Planned Unit Development

A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use [76-3-103(11),MCA].

Public wastewater system

A system for collection, transportation, treatment or disposal of wastewater that serves 15 or more units or 25 or more persons daily for a period of at least 60 days in a calendar year.

Public water supply system

A potable water system that serves 15 or more units or 25 or more persons daily for a period of at least 60 days in a calendar year

Service area

A geographic area where services such as water, sewerage, and/or utilities are available for utilization by construction projects or other land development.

Subdivision

A division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means

an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

Unit

Any structure, building or portion thereof, including businesses and businesses within a larger structure, which is intended or designed for human occupancy and/or use and is supplied with water by a piped system. All units shall comply with local and state sanitation requirements.

Examples of a unit* include:

- 1) 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.
- 2) A bed and breakfast is one unit if contiguous internally.
- 3) A single-family residence with a home occupation is considered one unit.
- 4) A single business enterprise is considered one unit. The business may have one structure with a water supply unless allowed under Section VI.
- 5) Office buildings with multiple offices sharing a common water/wastewater facility is one unit.
- 6) Other development not having a piped water supply but that may result in significant impacts to adjacent properties, public services, and/or local infrastructure may be considered by Planning Staff to be a unit (e.g. wedding venue, etc.).

*A garage or shop with a bathroom is not considered an additional unit.

Examples of multiple units include:

- 1) Multifamily structures containing multiple units, for example, a duplex contains two units.
- 2) Office buildings with multiple offices having individual water supplies consist of multiple units. Each office with a water supply is a unit.
- 3) A single-family residence and an accessory dwelling unit consists of two units.
- 4) A single-family residence with an additional unit for a family member or worker consists of two units.

Use (or land use)

The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied and maintained. Examples of types of land uses include residential, commercial, industrial, etc.

Zoning district

An area established under the authority of Title 76, Chapter 2 MCA that includes regulations governing the use, placement, spacing and size of land and buildings.

Lake County Density Map

