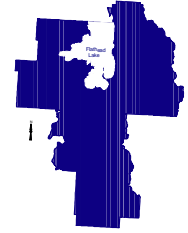


LAKE COUNTY, MT
SWAN SITES ZONING DISTRICT & REGULATIONS



Effective April 7, 1994
Created 1994 Resolution # 967, Amended 6/00
Amended 6/06 Resolution # 06-40
Amended 9/19 Resolution # 19-27

I. Purpose:

The purpose of the zoning is to help guide growth and development in the area, to maintain the rural, residential, and recreational character, to allow for development that is consistent and compatible with the existing pattern of growth, to protect and enhance property values & amenities, the natural environment, water quality and wildlife habitat, to secure properties from fire and other dangers, and to encourage activities that promote public health, safety, and general welfare.

II. Boundary:

The district consists of Swan Sites Subdivisions, Numbers 1, 2, 3, 4, and 7 and Swan Sites No. 5 as shown on Certificate of Survey 3835 and described on Document #291795 on file with Lake County, 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 and lands added to parcels or lots within the district under the jurisdiction of Lake County. In the event that any adjoining properties are added to parcels within the district, such annexation shall not increase the density of annexed land, whether zoned or unzoned.

III. Permit Requirements:

A. Zoning Conformance Permit

Prior to construction of any structure, modification, change or expansion of any use of a structure or property within the zoning district, the landowner shall obtain a Zoning Conformance Permit from the Lake County Planning Department to assure compliance with the Zoning Regulations. Failure to obtain a permit or failure to comply with the standards of the zoning district or any term, limit, or condition imposed by any order or permit issued pursuant to these regulations shall constitute violation of the zoning and may be punishable under the violation section of these regulations. Construction in the area between 20 feet and 50 feet of the high water elevation of Swan Lake must be lake related and shall adhere to the development guidelines of the Lakeshore Protection Regulations. Any development within the vegetative buffer along Swan Lake, Swan River, and/or Johnson Creek requires review and approval from Lake County.

No permit shall be required for structures 120 square feet or less in size and for temporary dwellings with a maximum occupancy of 14 days within any 30-day period, provided they are not located within 50 feet of the high water elevation of a waterway and meet all requirements for land development and structures in these regulations.

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 and Floodplain Development 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, it is the applicant's responsibility to comply with any covenants, conditions, and/or restrictions and will hold the county harmless if the covenants are more restrictive.

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. To meet the purpose of these regulations the degree of non-conformity should be reduced where possible.

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 reasonable variance 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 stormwater management is implemented.

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. Impervious surface areas covering up to 29% of the buildable area of the lot.
5. Accessory dwelling unit (ADU).

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 approval, 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, commercial uses may be allowed if determined to be compatible with the purpose of these regulations and after obtaining conditional use approval from the Lake County Board of Adjustment. 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, occupancy exceeding a maximum of 14 days within a 30-day period
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. Impervious surface areas covering between 30 – 49% of the buildable area on each lot.
8. Disturbance of more than 500 square feet of slopes greater than 25% within 300 feet of the high water elevation on waterfront lots.
9. Disturbance of more than 2,000 square feet of slopes greater than 25% further than 300 feet from the high water elevation of the waterway.
10. 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. 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.
 - e. Vehicle or equipment repair shall be conducted only in enclosed buildings.
 - f. A home occupation shall not have any employees beyond the owners of the residence.
 - g. 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. Rentals for less than a period of 30 days.
12. Rental of a guest house (unless allowed as an accessory dwelling unit).
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:
 - a. Lions, tigers, leopards, cheetahs, jaguars, ocelots, cougars (pumas or mountain lions), grizzly or brown bears, black bears, wolves, coyotes, wolverines, badgers, bobcats, or lynx.
 - b. 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
 - c. 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-Districts:

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

Independent rental or habitation of more than one dwelling unit on a property within the district, shall only take place if the property possesses sufficient density and complies with these regulations, the Lake County Buildings for Lease or Rent Regulations, and/or the Lake County Subdivision Regulations for subdivision created by rent or lease. On properties that do not allow for a division, independent rental or habitation of more than one dwelling unit is not allowed.

All land divisions shall conform to the requirements of the Swan Sites Zoning Regulations, the Lake County Buildings for Lease or Rent Regulations and/or the Lake County Subdivision Regulations, the Lake County Growth Policy and any requirements of the Lake County Environmental Health Department.

A. Sub-District A - 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.
 - c. Lots 1-5 of Swan Sites No. 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, Lots 172-180, Lots 60-100 and Lots 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-District B - 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 VII: 50 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-District C - 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:
 - a. 20 feet from any property line.

D. Sub-District D - 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-District E - Swan Sites No. 5

1. Land Division:
 - a. All land development within this sub-district 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.

VI. Lot Development and Structures:

- A. Structures shall not be located on slopes that exceed 25%. However, decks, stairways, walkways, and other access related structures are allowed on slopes greater than 25% and are included in the impervious surface coverage calculation.
- B. Accessory structures shall meet all setback requirements, with the exception of lake related structures (which are regulated under Lakeshore Protection Regulations).
- C. No structure shall exceed an average building height of 30 feet (see average building height definition and example calculation).
- D. The required setbacks for buildings shall be measured from the projection of the structure, including foundation walls, eaves, overhangs, and attached decks, walkways and patios that ends closest to the applicable property line, right-of-way, road surface or waterway.
- E. 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.

- F. 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.
- G. All structures erected within this district shall have the exterior construction completed within two years from the date such construction commences only after obtaining any necessary approvals, permitting, and any necessary extensions.
- H. No travel trailer, recreational vehicle or other similar structure shall be placed on a lot for the purposes of renting, leasing or bartering.
- I. Fire safe protection measures shall be incorporated as recommended by the local Rural Fire District and/or the Montana Department of Natural Resources. This includes, but is not limited to, providing a defensible space around structures in compliance with the local District standards.
- J. Prior to or concurrent with development of a property, lot owners shall have a county approved approach off of any county road, obtain a county-issued address, and prominently display the physical address at a location on the property that will allow visibility from the primary access to the property for emergency vehicles.
- K. Lot owners are required to manage and control weeds within their lot boundaries in accordance with the local and State weed laws and any existing weed management plans for the subject lot.
- L. If cultural materials are inadvertently discovered during any development of the parcel the appropriate Cultural Preservation Office shall be contacted.

VII. Vegetative Buffer Strip:

A. Intent

The intent of this section is to provide for the development of shoreline properties while maintaining the chemical, physical, and biological integrity of Swan Lake, Swan River, and Johnson Creek. This section is intended to complement the Lake County Lakeshore Protection Regulations, which govern development from the high water elevation of Swan Lake to 20 horizontal feet inland, and any applicable regulations that apply to Swan River and Johnson Creek.

B. Rationale

Because vegetative buffer strips have been shown to minimize the soil erosion that results from residential development, contribute organic matter that is a source of food and energy for the aquatic ecosystem, enhance scenic and recreational resources, provide riparian wildlife habitat, and remove pollutants delivered from stormwater runoff, the following regulation has been added to the Swan Sites Zoning Regulations: A vegetated buffer strip at least 50-foot wide is required of all newly developed and subdivided lakefront properties effective upon the adoption of this document. The buffer strip shall be located between the high water elevation of the waterway and all impervious surfaces except those governed by the Lake County Lakeshore Protection Regulations.

C. Procedure

A buffer strip design plan, including the different types of vegetation, stormwater runoff control measures, and scaled sketches, shall be reviewed as part of the Zoning

Conformance Permit process.

D. Design

1. Buffers shall consist of a mixture of trees, shrubs, native 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 understory has been modified. (Note: Native vegetation is typically better adapted to area soils, rainfall and temperatures and will require no fertilization and less long-term maintenance than non-native vegetation. It also provides high quality habitat to native wildlife species.)
2. A diversity of tree species and size classes 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 and branches.
 - 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 and to minimize fire danger provided that at least 75% of the trees $\geq 8''$ 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, defensible space around a home, boat access or to remove noxious weeds and plants such as poison ivy.
 - 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% or greater are too steep to be effective as a treatment buffer and shall be left undisturbed if fully vegetated. If the area has been modified, restoration of the area by the creation of a buffer strip is encouraged.
5. Impervious surface coverage located within the area between 20 and 50 feet from the high water elevation of the lake shall not exceed the amount of coverage allowed over land within the Lakeshore Protection Zone. The landowner may give up some of the allowed square feet of coverage in the Lakeshore Protection Zone so as to increase impervious surfaces within the area located between 20 and 50 feet from the lake, however, the total impervious surfaces within the 50-foot vegetative buffer strip shall not exceed 2 times the amount of coverage allowed over land within the Lakeshore Protection Zone by the Lakeshore Construction Regulations for the subject property.

E. Lake Access

1. Footpaths shall not exceed six feet in width.
2. Footpaths shall not run in a straight line directly to the water. Instead, they should meander and be designed to avoid the channelization of runoff.
3. Footpaths and boat access ways must include features (e.g., shallow stone trenches) that spread runoff from the hard surface into the vegetated buffer strip without channelizing the runoff, which causes the ground surface to erode.
4. Boat access shall be seeded or mulched (using an erosion control mix) to reduce erosion.

F. 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 is permitted and shall

incorporate every feasible step to minimize erosion. Restoring an altered area to a vegetative buffer is encouraged. The clearing of vegetation, as described above, is also permitted. Any development within the vegetative buffer requires review and approval from Lake County.

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

G. 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 these regulations and 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.
5. Fencing within the 50-foot buffer is allowed so long as any solid fencing is a maximum of 4 feet in height and outside the Lakeshore Protection Zone.

H. 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 (using an erosion control mix).
3. Fertilizers, pesticides and herbicides shall not be used in the buffer strip to prevent nutrients and other chemicals from entering Swan Lake, Swan River, or Johnson Creek.

VIII. Stormwater Management:

- A. For each new structure or impervious surface area, it is the landowner's responsibility to manage all storm run-off without causing damage or harm to the natural environment, water quality, or adjacent property.
- B. All applications for a zoning conformance permit shall contain a stormwater management plan. **Note: many properties have Montana DEQ and/or Lake County Environmental Health Department approvals, which outline specific requirements of the stormwater management plan. Stormwater management plans previously approved by these agencies may be adequate for these requirements. All stormwater management plans shall be reviewed for substantial compliance with any existing approval or the adopted standards of the State of Montana Department of Environmental Quality.
- C. The total impervious surface coverage (the area of the roof including the eaves and overhangs, attached decking, paved driveways and walkways, etc.) shall be calculated to design the appropriate stormwater management technique, and the required size of collection tanks/infiltration chambers.
- D. Potential stormwater management techniques include but are not limited to: rain gutters, down spouts and associated discharge pipes, perforated pipes, infiltration

trenches/chambers, dry wells, and retention swales. The system shall use the best methods for managing stormwater based upon soil types and the degree and amount of slopes and vegetation.

- E. All discharge of stormwater must be outside the 50-foot setback from Swan Lake, Swan River, Johnson Creek and/or other surface waters. A buffer strip along the high water elevation of the waterways must be maintained in compliance with these regulations.

The storm water management plan may be required by the zoning administrator to be written by a registered professional engineer or other qualified professional, prior to the granting of a permit or approval. 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 an engineered management plan is required and in assessing a plan's adequacy.

IX. Administration:

A. Interpretation

The Zoning Administrator is tasked 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 Lake County Board of Adjustments by any landowner within the district.

B. Permit Requirements

A permit shall be required for any land development and building construction of structures greater than 120 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 shall be completed 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 to the applicant.
2. Conditional Use Approval: A conditional use approval 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 requests shall be completed 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 no less than 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 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 request.
 - d. In addition to the application, the following information shall be submitted:

- i. A dimensional plan of the proposed site with a scale of 1inch 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, rendering of building exteriors, a stormwater management plan, a letter of review and comment from the local fire department regarding the proposal when applicable, and such other information as the Zoning Administrator may require.
 - ii. 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 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. Constitute a conditional use as established for the applicable zoning district;
 - ii. Is in accordance with the general objectives or with any specific objective of the Zoning District;
 - iii. Is 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. Is not hazardous or disruptive to existing or future neighboring uses;
 - v. 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;
 - vi. 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;
 - vii. 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 or safety hazards; and
 - viii. 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 notify all landowners adjoining the property to which the conditional use is proposed no less than fifteen (15) days prior to the public hearing held by the Board of Adjustment.

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 a variance is proposed no less than twenty-eight (28) days prior to a regularly scheduled meeting of the Board of

Adjustment. The applications shall be accompanied by the fee in the amount set by the Lake County Board of County Commissioners.

1. Appeal: Any person may file an appeal when aggrieved by a decision or interpretation of the zoning administrator by delivering notice of the appeal to the zoning administrator within twenty-eight (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 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. Per 76-2-227 MCA, any person, persons, applicant, or opponent aggrieved by a decision of the board of adjustment may appeal the decision to the County Commissioners for review as follows:
 - i. Within thirty (30) days after filing the notice of decision and sending notice to the applicant and opponents, either party may appeal the board's decision to the Board of Commissioners. Appeals may be made by any person or persons aggrieved by the Board of Adjustment decision.
 - ii. The appeal is commenced by filing a verified petition with the County Commissioner's office, addressing the following items:
 1. A description of why the decision is illegal in whole or in part;
 2. A description of the reasons or grounds why the decision is illegal;
 3. A description of the party or parties appealing including an address and description of the parties affected by the appeal and their address if different than the party who is appealing.
 - iii. The Board of Commissioners will upon receipt of an appeal:
 1. Schedule a hearing before the Board of Commissioners within 30 days of the receipt of the appeal;
 2. Provide notice to the appellant and appellees identified or known no less than fifteen (15) days prior to the scheduled hearing.
 - iv. The Board of Commissioners will issue a decision within thirty (30) days after the hearing and may:
 1. Remand the matter to the Board of Adjustment;
 2. Reverse or affirm, in whole or part, the decision of the Board of Adjustment;
 3. Modify the decision of the Board of Adjustment;
 4. Send notice to the parties appearing in the proceeding in person or by comments.
 - v. The Commissioners will make a final decision within sixty (60) days of receipt of a verified appeal petition.
 - vi. Pursuant to 76-2-227 any person or persons may appeal a Board of Adjustment or Commissioner decision to a court of record, within thirty (30) days after a decision has been issued 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, refuse and service areas, utilities, water

and sewer services, signs, stormwater management plan, and such other information as the Zoning Administrator may require. A letter of review and comment from the local fire department regarding the proposal may be required when applicable.

- b. A narrative statement discussing the proposed use, the hardship peculiar to the property, and how the request is the minimum action 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
 - i. 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.
 - ii. 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, location or other circumstances over which the applicant has no control;
 - c. The hardship is peculiar to the applicant's property and circumstances;
 - d. The hardship was not created by the applicant after the adoption of zoning;
 - e. The hardship is not economic only (when a reasonable or viable alternative exists);
 - f. Granting the variance will not adversely affect the neighboring properties or the public or frustrate the purpose of zoning; and
 - g. The variance requested is the minimum variance which will alleviate the hardship.
 - iii. Hearing Notices: The Zoning Administrator shall place notice of the conditional use, variance proposal, or appeal in the local newspaper and written notice shall be sent by first class mail to all landowners adjoining the property no less than fifteen (15) days prior to the public hearing held by the Board of Adjustment.

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 the Board of County Commissioners provided that the appeal is filed within thirty (30) days of the issuance of a decision.

E. Violation

Where the administrator finds any building or structure is erected, constructed, reconstructed, altered, or converted, or any building, structure, and/or land is used in violation of this Regulation, or a person is violating any of the provisions within the

zoning district regulations, the following shall take place:

1. A notice of violation shall be issued in writing to the person responsible for such violations, as well as the property owner.
 - a. The notice of violations shall indicate the nature of the violation and order the action necessary to correct it.
 - b. The notice shall also order discontinuance of illegal building activities or structures or of illegal additions, alterations, structural changes, or uses.
 - c. The Zoning Administrator may assess an administrative penalty to be paid by the landowner and/or the party responsible for violating the zoning regulations. The penalty fee may be up to \$500 per violation but not in excess of a cumulative total of \$1,000 per event as determined by the Zoning Administrator. The administrative penalty may be assessed for each separate and distinct violation and event and does not replace the landowner's responsibility to correct the zoning violation.
 - d. If the person in violation chooses to appeal the notice of violation, they may file an appeal with the Board of Adjustment as set forth in this section. If the party in violation does not comply with the notice within twenty (20) days, the Administrator may file a complaint with the Board of Adjustment.
 - e. If the party in violation does not comply with the notice of violation within thirty (30) days or file an appeal with the Board of Adjustment within such a period, the Administrator shall forward the notice of violation to the Lake County Attorney's Office.

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 six (6) months or both, and costs of prosecution and restitution.

X. Amendment:

A. Mandatory Review

The zoning shall be reviewed by the Lake County Planning Board as needed or when amendments are proposed by Lake County, the Planning Board, or landowners within the District. 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.

B. Amendment Procedure

The zoning regulations may be amended in whole or in part by the affirmative vote of the Board of Commissioners after a public hearing is held. However, prior to taking any action to amend the regulations the Commissioners shall solicit a recommendation on the proposed action from the Lake County Planning Board. Amendment procedures shall be conducted as described in 76-2-205 MCA.

XI. Definitions:

A. Accessory Building

A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal structure or use.

B. Accessory dwelling unit

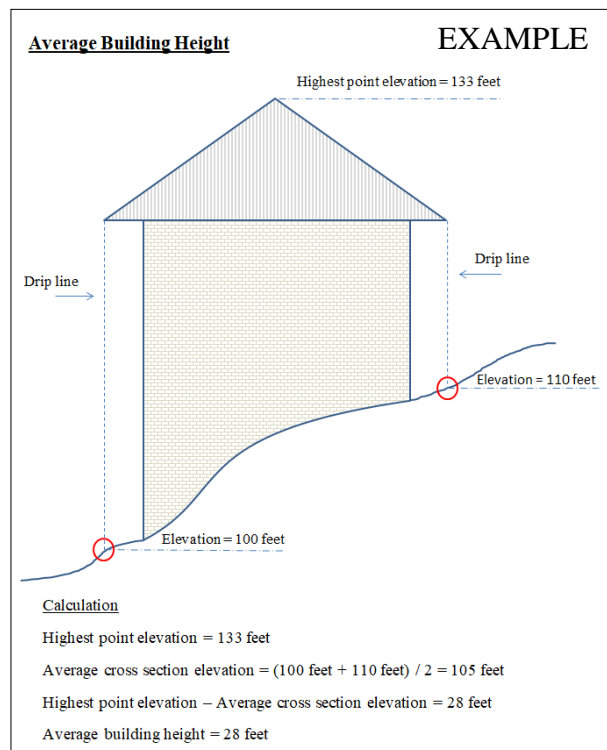
An accessory dwelling unit or detached accessory dwelling unit is a separate living space within a house or on the same property as an existing house. The property owner must live on the same property in either the house or the attached or detached accessory dwelling unit.

C. 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.

D. Average Building Height

Average building height is measured by calculating the average cross section of the proposed building site from drip line to drip line of the proposed structure to the elevation of the highest point of the structure. If an extension (e.g. deck) extends beyond 5-feet from the structure, its dripline shall be used for calculation purposes rather than the eave drip line. The highest point does not include typical extensions above a roofline such as chimneys or antennas. The ground level 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.



E. Bed and Breakfast

A 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.

F. Buildable Area

That portion of a lot upon which impervious surfaces may lawfully be constructed according to these regulations, and has less than a 25% slope.

G. Commercial Kennels

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

- H. 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 may be allowed as a conditional use.
- I. 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 may condition the approval so as to mitigate any potential adverse impacts resulting from the proposed use.
- J. Destroyed
A building/structure or nonconforming use is considered destroyed if greater than 60% of the structure that existed at the time of damage is deteriorated by the destructive action.
- K. 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. A garage/shop with a bathroom is not considered an additional unit.
- L. 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.
- M. 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 unless approved and permitted as an accessory dwelling unit. 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.
- N. 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. The high water mark is also described as the high water line and/or the high water elevation.
- O. 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.
- P. Impervious Surface Area
The part of the buildable 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.

Q. 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.

R. 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.

S. 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.

T. 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. Properties where leasing or renting are taking place may require review and approval as subdivisions created by rent or lease, or as buildings for lease or rent.

U. 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.

V. 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.

W. 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.

X. 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.

Y. 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.

Z. Primary Residence

The permanent or main residential dwelling on a property zoned for single family residential use.

AA. Prohibited Use

A use that is not permitted within the zoning district. An individual cannot be granted a variance for a prohibited use.

BB. 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.

CC. 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.

DD. 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.

EE. Short term basis

On a basis less than 30-days.

FF. 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.

GG. Structure

A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Examples of a structure include but are not limited to, buildings, storage sheds, temporary dwellings, patios and decks. For the purposes of these regulations, fences are not typically considered a structure.

HH. Temporary Dwelling

A recreational type vehicle or structure without a foundation or footings that may be removed when the designated time period, activity, or use for which the temporary structure was allowed ceases. Use of a temporary dwelling may be:

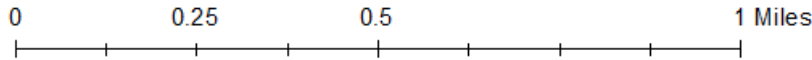
1. for a maximum occupancy of 14 days within any 30-day period without a permit, or after conditional use approval
2. for a construction period not to exceed two (2) calendar years, or
3. on a seasonal basis provided that the structure is not occupied for more than six (6) months. The temporary dwelling must be unoccupied for at least 30 days to reactivate a new 6 month period.

II. 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.

Section XII. Zoning District Map:

SWAN SITES ZONING DISTRICT MAP



September 2019

Subdistricts	
	A
	B
	C
	D
	E

