

Missoula County



Shoreline Regulations

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by
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TABLE OF CONTENTS

DEFINITIONS.....	3
SECTION 1 - GENERAL PROVISIONS.....	9
1.1 TITLE.....	9
1.2 AUTHORITY.....	9
1.3 PURPOSE.....	9
1.4 JURISDICTION.....	10
1.5 SEVERABILITY.....	10
1.6 INTERPRETATION.....	11
1.7 AMENDMENT OF REGULATIONS.....	11
SECTION 2 - GENERAL PROCEDURES.....	12
2.1 PERMITS REQUIRED.....	12
2.2 RESTORATION.....	12
2.3 PERMISSION TO ENTER.....	12
2.4 WORK REQUIRING A PERMIT.....	12
2.5 CONSTRUCTION OR INSTALLATIONS NOT ALLOWED IN THE LAKE OR THE SHORELINE PROTECTION ZONE.....	13
2.6 EXEMPTIONS FROM REGULATIONS.....	14
SECTION 3 - REVIEW PROCEDURE.....	16
3.1 APPLICATION SUBMITTAL REQUIREMENTS.....	18
3.2 APPLICATION PROCESS.....	18
3.3 REVIEW PERIOD.....	20
3.4 PERMIT VALIDITY.....	20
3.5 LARGE OR COMPLEX PROJECTS - EXTENDED TIMEFRAMES.....	21
3.6 VIOLATIONS.....	21
3.7 JUDICIAL REVIEW AND ENFORCEMENT.....	22
3.8 NON-CONFORMING USES.....	22
SECTION 4 - CRITERIA FOR ISSUANCE OF A PERMIT.....	23
4.1 POLICY CRITERIA FOR ISSUANCE OF A PERMIT.....	23
4.2 GENERAL CONSTRUCTION STANDARDS.....	23
A. CONSTRUCTION MATERIALS.....	23
B. EXCAVATION OR FILLING - MATERIALS.....	25
C. EROSION, SEDIMENTATION AND STORMWATER RUNOFF.....	25
D. IMPERVIOUS COVER (Constructed Area).....	26
E. REMOVAL OF DEBRIS.....	27
F. SETBACK REQUIREMENTS.....	27
4.3 DESIGN STANDARDS FOR FACILITIES.....	28
A. DOCKS.....	28
B. SWIMMING RAFTS.....	29
C. MARINAS.....	30
D. BOATHOUSES, BOAT SHELTERS AND SHORE STATIONS.....	31
E. BOAT RAMPS AND BOAT RAIL SYSTEMS.....	32
F. RETAINING WALLS AND RIP RAP.....	32
G. DREDGE, FILL AND PUBLIC SWIM BEACH CREATION.....	34
H. UTILITY LINES (Electrical, Sewer, Water, Wells).....	35
I. WATER PUMPS AND WATER PUMP ENCLOSURES.....	37
J. FUEL TANKS.....	37
K. BUOYS.....	38
L. DWELLING UNITS.....	39

M. FENCES AND HEDGES.....39
N. LAKE ACCESS TRAILS AND STAIRWAYS.....39
O. OTHER PROJECTS.....41
APPENDIX I - AGENCY REVIEW42
APPENDIX II - PERMIT REQUIREMENTS OF OTHER AGENCIES43
APPENDIX III - PROJECT IMPACT ASSESSMENT REQUIREMENTS46

DEFINITIONS

Whenever the following words or phrases appear in this ordinance, they shall be given meaning attributed to them by this Section. When not inconsistent with the context, words used in the present tense shall include the future, the singular shall include the plural and the plural the singular, the word “shall” is always mandatory, and the word “may” indicates a use of discretion in making a decision. When not defined herein, the words used in this resolution shall have their common and customary meanings.

Administrative Review: A summary procedure allowing the designated agent to permit work which the local governing body has determined to have a minimal or insignificant impact on a lakeshore.

Appeal - A request for review by the Local Governing Body of the Designated Agent’s interpretation of any provision of these Regulations or permit decision.

APPLICANT: The person or persons, making application(s) to the governing body for a Shoreline Protection Permit.

AVERAGE WATER LINE: Half the elevation between mean annual high water and the mean annual low water.

BOATHOUSE: A permanent structure which provides housing and shelter for boats and accoutrements which has more than ten (10) percent of any side or end wall area enclosed.

BOAT RAIL SYSTEM: A facility consisting of tracks extending from or across the Shoreline Protection Zone into the lake which is designed to facilitate launching or retrieving boats.

BOAT RAMP: A facility consisting of a pad or pads, two-track, wire surface driveway or roadway extending from or across the Shoreline Protection Zone into the lake which is designed to facilitate launching or retrieving boats.

BOAT SHELTER: A structure which provides shelter for boats and which does not have more than ten (10) percent of any side or end wall area enclosed.

BREAKWATER: A structure which protects a shore area from wave action.

BUILDABLE LOT: A unit of ownership or legally permissible use of sufficient size and quality to meet local, state and federal requirements, regulations, ordinances or laws for a permit to build a residential dwelling.

BUOY: A float, especially a floating object moored to the bottom of a lake, used to moor boats and mark channels, hazards, areas of high use, and critical habitats, etc.

Amended April 22, 2015

CONCRETE: Whenever concrete is used in these regulations, the definition shall be: Concrete is composed of sand, gravel, crushed rock, or other aggregates held together by a hardened paste of hydraulic cement and water. The thoroughly mixed ingredients, when properly proportioned, make a plastic mass which can be cast or molded into a pre-determined size and shape. Upon hydration of the cement by the water, concrete becomes stonelike in strength and hardness with utility for many purposes.

CONSTRUCTED AREA: That portion of the lake and Shoreline Protection Zone covered by any constructed structure such as a dock, deck, walkway, boathouse, boat shelter, roofed shore station or covered by any non-native material or substance that would not naturally occur at this point such as concrete, asphalt, washed gravel for swimming areas, etc.

CONTAMINATION: The presence of any substance (chemical, radiological, or biological) or any condition (temperature, pH, taste, color, odor, turbidity) in soil or water which may create or threaten to create a hazard to human health or the environment, or impair the usefulness of the soil or water.

CRIB DOCK: A type of permanent dock consisting of wood boxes filled with ballast material such as rock on which a dock is constructed.

DECK: A platform, free standing or attached to a structure.

DESIGNATED AGENT: An appointed representative of a governing body. In the case of these shoreline regulations, the designated agent is Missoula County Community and Planning Services.

DOCK: A platform, either non-floating or floating, which extends into, over or across the water to provide for boat moorage, swimming facilities, or other related activities. Wharves and piers are considered docks for the purpose of these regulations

DOCK LENGTH: The length of that portion of the dock which extends lakeward over water as measured from the average water line.

DOCK WING: That portion of a dock and deck which lies generally parallel to the shoreline with its main function as a wave break or to provide a boat slip or sheltered area as opposed to primarily providing access out to deep water.

DREDGING: The process of excavating material from the lake bottom and thereby lowering the elevation of a portion of the lake bottom. The term shall include the process of extending the lake area landward by excavating material from the Shoreline Protection Zone and thereby lowering the elevation of that portion of that zone.

DWELLING UNIT: All permanent, semi-permanent, and temporary buildings, guest quarters, cabins, apartments, mobile homes, campers, trailers, motor homes, or similar facilities, including relative structures, which provide sleeping and/or cooking facilities.

EMBAYMENT - A bay or having a conformation resembling a bay.

FILLING: The process of discharging material onto a lake bottom and thereby raising the elevation of a portion of the lake bottom including the elimination of an aquatic environment or a wetland environment by extending the dry land area into such aquatic or wetland area. The term shall include the process of discharging material onto the Shoreline Protection Zone and thereby raising the elevation of a portion of that zone.

FREE WATER AREA: The open area beneath a dock, wharf, pier, breakwater, or other structure which is totally free of any obstruction to water transfer under the structure.

GOVERNING BODY: The Board of County Commissioners of Missoula County.

GROUND SOURCE HEAT PUMP: An electrically powered device that uses the natural heat stored in the earth and transfers this heat in the winter into a structure. This process may be reversed in the summer months, taking the heat out of the structure and returning it to the earth for cooler indoor temperatures.

IMPERVIOUS: Not permeable; impenetrable by water.

IN-LAKE DEVELOPMENT LINE: Where the property boundary meets the low water line.

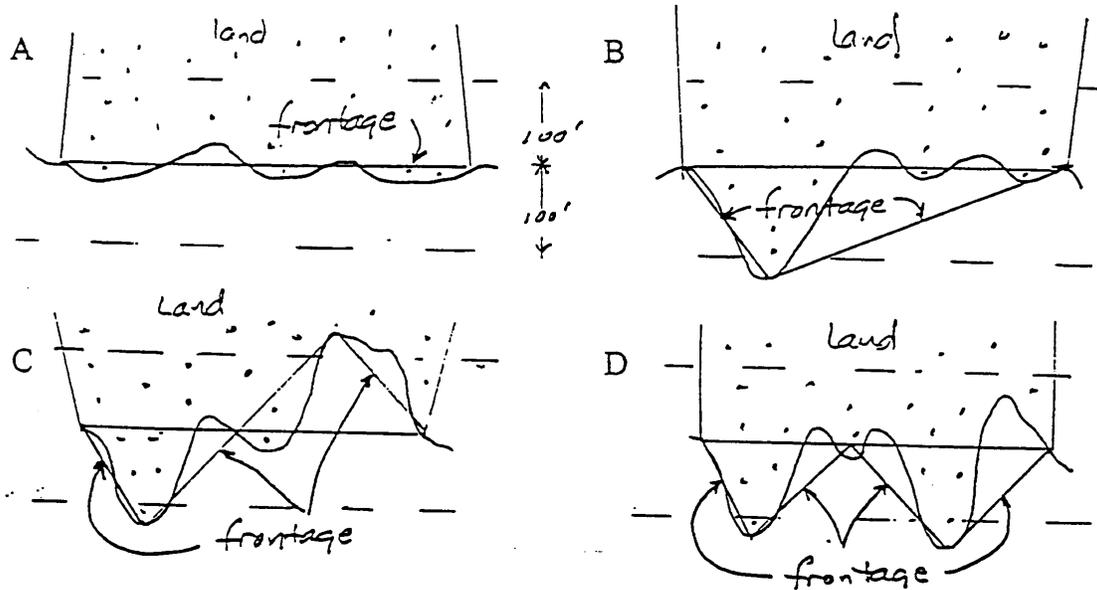
JETTIES: Structures, usually in pairs, which extend from the shoreline into the lake at the mouth of rivers or at the entrance to lagoons which are designed to confine the flow of water to a narrow zone.

LAGOON: Generally a body of water separated from the lake by a barrier or bar. They are generally elongated and lie parallel to the shoreline.

LAKE: A body of standing water, including the lakebed, and the area within its lakeshore, occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area), having a water surface area of at least twenty (20) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States Geological Survey, not used exclusively for agricultural purposes, and navigable by canoes and small boats. Lake also includes the navigable waters, inlets and outlets, which allow access to the lake itself by watercraft.

LAKE FRONTAGE: That portion of the property which borders on the lakeshore. For the purpose of measurement, lake frontage shall be the straight distance between side property lines at the mean annual low water mark (A), except where the mean annual low water mark deviates by 100 feet or more along a line perpendicular to the straight distance. In cases of deviation of 100 feet or more the lake frontage shall be determined by straight lines drawn from side line intersection with the mean annual low water mark

to the furthest point on the perpendicular intersecting mean annual low water line (B). Where more than one deviation of 100 feet or more is present, the lines shall be drawn as shown in C and D below.



Where more than one buildable lot is owned by a person, frontage shall be determined from an acceptable plat map or survey describing the location and dimensions of each buildable lot using this method. Owners of lakefront property may designate and record common areas for use by multiple lot owners on the lakeshore and may transfer development potential for their single lots under these regulations to the common area.

LAKEBED: The bottom of the lake at mean annual low water elevation.

LAKESHORE or SHORELINE: The perimeter of the lake when it is at its mean high water elevation.

MAINTENANCE: Routine or seasonal work or upkeep involving tightening, adjusting, minor replacement of boards, shingles, broken windows, cleanup of debris such as branches and leaves, restacking and repositioning of rock and other natural materials, etc. Typically, only hand tools are required for maintenance. Dredging, filling or excavation is not considered maintenance.

MARINA: A waterfront facility which provides for recreational boating and other water related activities and which provides dock slips or moorage for five (5) or more boats is considered a marina.

MEAN ANNUAL HIGH WATER ELEVATION: The mean (average) of the highest elevation(s) of a lake in each of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrologic conditions. A highest elevation

caused by operation of a dam or other impoundment counts towards the establishment of the mean annual high water elevation.

PERMIT: A document issued by the governing body or its designated agent verifying compliance with the requirements and provisions of these requirements, also known as a Shoreline Construction Permit.

PERSON: Any individual, firm, corporation, partnership, institution, or entity; the state and its departments and any political subdivision of the state.

PLANNING BOARD: The Missoula Consolidated Planning Board

PLANNING OFFICE: Missoula County Community and Planning Services.

RECONSTRUCTION: Reconstruction in excess of 50% of the value or size of an existing facility excluding foundation.

RECREATIONAL CAMPFIRE: A small, attended fire of untreated wood that does not exceed two feet in diameter. If the primary purpose of the fire is to dispose of the material being burned, it is not considered a recreational fire, regardless of size.

REPAIR: Restore an existing facility to sound condition by replacing component parts of the facility utilizing the same or similar construction materials and maintaining the exact design, size and configuration. Repair work shall not exceed fifty percent (50%) of the replacement cost, materials or size of the structures (excluding foundation).

RETAINING WALL: Any structure built parallel and contiguous to the shoreline of a lake designed to protect the land mass inland from the structure from erosion or wave action and to protect the lake from siltation.

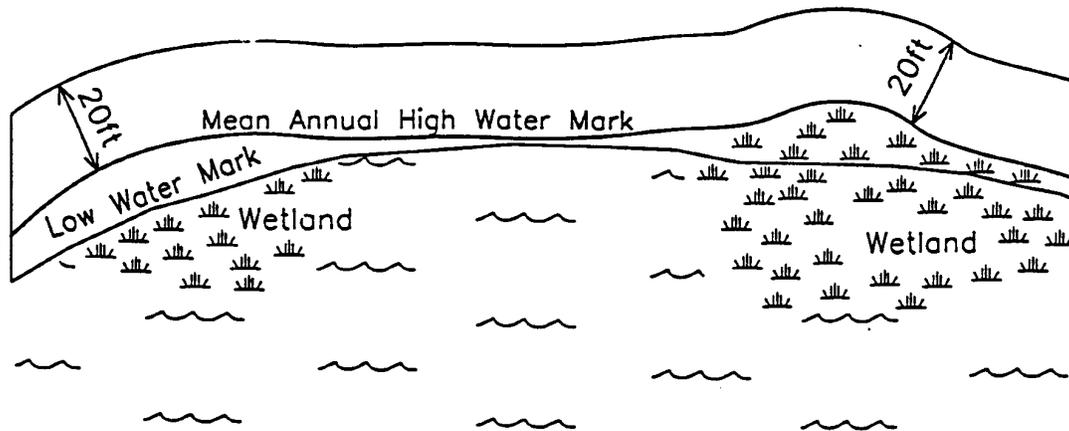
RIP RAP: A layer, facing, or protective mound of stones, or rock or other materials randomly placed to prevent erosion, scour, or sloughing of a structure or embankment.

SEWAGE PUMP OUT FACILITY: A facility specifically provided to pump out and receive the content of holding tanks aboard boats. Holding tanks are understood to mean any retention system on a boat which is designed to hold sewage and which must be emptied from time to time.

SHORE STATION: A metal or wood frame carriage which is designed to hoist boats from the water and to store boats over the water. Also known as a "Boat Lift".

SHORELINE CONSTRUCTION PERMIT: A document issued by the governing body or its agent signifying that project plans together with any specified "Conditions of Approval" are in compliance with the Shoreline Regulations.

SHORELINE PROTECTION ZONE: The land area which is within twenty (20) horizontal feet of the perimeter of the lake and any adjacent wetlands when the lake is at the mean annual high water elevation. Where a shoreline is irregular or erratic or a channel or gorge of a lake juts landward, the Shoreline Protection Zone shall correspondingly follow these irregularities.



SIDE WALL AREA (of a dock): The side wall of that portion of a dock which is generally perpendicular to the shoreline.

STRUCTURE: That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and attached to or placed upon the ground.

VARIANCE: A grant of relief from the requirements of these Regulations which would permit construction in a manner that would otherwise be prohibited by these Regulations.

SECTION 1 - GENERAL PROVISIONS

1.1 TITLE

These regulations shall be known and referred to as the “Missoula County Shoreline Regulations.”

1.2 AUTHORITY

These regulations are adopted under the authority of the State of Montana, 75-7-207, M.C.A., which requires local governing bodies to adopt regulations regarding the issuance or denial of permits for work in lakes within their jurisdiction, including land which is within twenty (20) horizontal feet of the perimeter of the lake. The perimeter of the lake is defined as the mean annual high water elevation.

1.3 PURPOSE

The purpose of these regulations is to conserve, protect and restore: natural lakes, ponds, wildlife, fisheries, riparian habitat, wetlands and shorelines because of their high scenic and resource values; the value of lakeshore property; the water quality of these lakes; and the scenic and recreational value of these lakes for the state’s residents and visitors.

The people of Missoula County recognize the value and importance of a clean and healthy environment in its various forms as a vital part of life in the county. It creates the scenic landscape and the natural beauty of the area; is part of the lifestyle of the people living here; and is one reason many people choose to live here. The natural environment cannot be created; it can be protected from detrimental uses. To this end it shall be the policy of Missoula County to provide shoreline education and to require future growth and development to be environmentally sound and to conform to the following objectives:

- A. Prevent accelerated nutrient enrichment of a body of water due to human activities, also known as cultural eutrophication;
- B. Minimize alterations of topography, soils and vegetation so that accelerated erosion and land slippage around bodies of water is prevented;
- C. Preserve the ecological value of wetlands;
- D. Maintain and enhance desirable natural, physical, biological, and aesthetic characteristics of the shoreline of lakes, ponds, and wetlands; preserve and enhance the aesthetic qualities of the landscape and its environs; preserve the scenic qualities of views from land and water;
- E. Maintain and enhance the recreational qualities of lakes and shorelines for all the citizens of Missoula County.
- F. Retain and protect natural surface water drainage patterns and flow characteristics;

- G. Maintain, preserve and enhance desirable natural, physical, chemical and biological water quality aspects of lakes, ponds, rivers, streams and wetlands;
- H. Protect desirable natural aquatic plant and animal communities;
- I. Preserve fish spawning areas, water fowl nesting and rearing areas and rare and endangered plant and animal species and their necessary habitat;
- J. Restore to its natural condition any land area disturbed by loss of vegetation, grading, or erosion;
- K. Maintain, preserve and enhance the high quality of surface and groundwater; and
- L. Protect public health, welfare and safety.

1.4 JURISDICTION

These regulations govern alteration of the character of any lake, lakebed, or lakeshore, having a water surface area of at least twenty (20) acres and the area within the Shoreline Protection Zone, within the boundaries of Missoula County, Montana, excluding the portion of Missoula County which lies within the jurisdictional area of the City of Missoula, Montana.

These regulations supplement all other regulations required by other governmental entities or regulatory agencies having jurisdictional responsibilities over a lake, lakebed, lakeshore, pond, or wetland. These regulations govern the private improvements installed whether on private land or on public land leased to a private individual, that alter the lake, lakebed, or lakeshore.

Existing lakes in Missoula County that are over 20 acres, not in a designated wilderness area or Tribal Primitive area, include but are not limited to:

Lake Alva	Lindbergh Lake
Beaver Lake	Loon Lake
Big Sky Lake	Marshall Lake
Blanchard Lake	Pierce Lake
Clearwater Lake	Placid Lake
Cott Lake	Rainy Lake
Cygnets Lake	Salmon Lake
Dinah Lake	Seeley Lake
Hidden Lake	Stoner Lake
Holland Lake	Summit Lake
Inez Lake	Tote Road ("Emerald") Lake
Jim Lake	

1.5 SEVERABILITY

Where any word, phrase, clause, sentence, paragraph, section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

1.6 INTERPRETATION

Where any provision of these regulations is more or less stringent than other applicable regulations, the more stringent regulation, restriction, or requirement shall govern.

In accordance with the Americans With Disabilities Act (ADA), these regulations may be interpreted more liberally in instances where a private property owner is attempting to provide access through the Shoreline Protection Zone for a physically challenged person. Variances shall not be required when small deviations are made from these regulations to accommodate those with special needs. Examples of work that may need the flexibility include lake access trails, docks and level areas near the lakeshore. The Variance Criteria shall be consulted in reviewing these permits. The deviation allowed shall be the minimum necessary to achieve the result or accommodate special needs.

1.7 AMENDMENT OF REGULATIONS

These regulations may be amended by the governing body after notice and public hearing. The governing body shall first seek the recommendations of the Planning Board as to the proposed amendments. After receiving recommendations from the Planning Board, the governing body or its designated agent shall give notice of the time and place of the public hearing by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing. Following the public hearing, the governing body may adopt proposed amendments, including modifications.

SECTION 2 - GENERAL PROCEDURES

2.1 PERMITS REQUIRED

A Shoreline Construction Permit issued by the governing body is required prior to any work or landscape modification which alters or disturbs a lake, lakebed, or lakeshore, as outlined in Section 2.5 of these regulations.

2.2 RESTORATION

A person who performs work in a lake or the Shoreline Protection Zone without a permit for that work shall, if required by the governing body, restore the lake and Shoreline Protection Zone to its condition before being disturbed. The permit for restoration work shall follow the procedure outlined in Section 3.

2.3 PERMISSION TO ENTER

The governing body or its designated agent may conduct necessary investigations, examinations, and site evaluations to verify information supplied as a requirement of these regulations; to evaluate a proposed project for compliance with the “Criteria for Issuance of a Permit” contained in Section 4.1; to observe and monitor construction; and, to evaluate completed projects for compliance with approved plans, these regulations, and any specific conditions of approval.

The filing of an application for a “Shoreline Construction Permit”, see Appendix IV, with the governing body, or its designated agent, by a landowner shall constitute a grant by the landowner to the governing body, or its designated agent, permission to enter upon the subject property for review and evaluation under these regulations after notice to the property owner of the date and time of the proposed visit.

2.4 WORK REQUIRING A PERMIT

Multiple permits are not necessary for activities if proposed for the same property and if requested in one application. The following activities, when conducted within the lake or Shoreline Protection Zone, require a permit:

- A. Construction of channels or ditches;
- B. Excavation;
- C. Dredging, including the removal of muck, silt, sediment, rock or vegetation;
- D. Filling, including artificial beach creation;
- E. Clearing or removal of natural vegetation in preparation for other activities that require a permit;
- F. Construction, reconstruction or alteration of building(s) or other impervious surfaces;
- G. Construction of boat service facilities, including the installation of fuel delivery systems or sewage pump out facilities;
- H. Construction of aerial structures, including extensions into the air space;

- I. Construction of retaining walls and rip rap;
- J. Construction of docks;
- K. Installation of boat rail systems including boat roller systems, boat ramps, boat shelters, boat storage, and pilings;
- L. Installation of new floating docks, swim rafts, movable docks and shore stations;
- M. Installation of water lines, drain lines, lighting, water withdrawal systems, or other utility lines or facilities;
- N. The construction of ramps, stairways, trails and walkways;
- O. The construction of boat ramps;
- P. Any other work that may have an impact on a lake, lakebed, or lakeshore;
- Q. Water Pumps and Water Pump Enclosures; and
- R. Satellite dishes twenty-four inches (24") or less in diameter provided they are the original color or a neutral color.

2.5 CONSTRUCTION OR INSTALLATIONS NOT ALLOWED IN THE LAKE OR THE SHORELINE PROTECTION ZONE

The following are prohibited:

- A. Wells;
- B. Sewage mains and sewage service lines;
- C. Ground Source Heat Pumps;
- D. Storage buildings;
- E. Elevated or cantilevered decks either free-standing or extending from a house or other structure;
- F. Covering Shoreline Protection Zone with impervious non-native material (material which does not allow water absorption);
- G. Satellite dishes greater than twenty four inches (24") in diameter;
- H. Permanent or temporary living quarters;
- I. Hot tubs and saunas;
- J. Stockpiling or burning of brush, trees, vegetation, construction materials or debris excluding recreational campfires;
- K. Permanent barbecue pits;
- L. Any asphalt application on the ground or in the water;
- M. Fuel storage tanks;
- N. Roads or driveways except to serve boat ramps;
- O. Filling for the purpose of expanding existing land areas;
- P. Fill directly in a lake;
- Q. Parking areas;
- R. Breakwaters;
- S. Crib docks, except where physical conditions make pilings and float docks unfeasible. In those situations, individual cribs must not exceed twenty square feet, must allow at least 10 feet of open water from an adjacent crib, must occupy no more than 50% of the lineal footage of the dock, and must be placed in a straight line.
- T. Jetties;

- U. Boat houses;
- V. Overhead power lines; and
- W. Major clearing of vegetation.

2.6 EXEMPTIONS FROM REGULATIONS

The following types of work are exempt from the permit provisions of these regulations:

- A. Repair work, provided that ALL of the following conditions are met (See definitions for Repair and Maintenance):
 - 1. The maintenance work does not involve dredging, filling, or excavation;
 - 2. The existing structure is not expanded or relocated;
 - 3. The existing structure is not changed in size, bulk, shape or use;
 - 4. The new materials conform to the requirements of these regulations;
 - 5. The repair work does not exceed fifty (50) percent of either the replacement cost or size of the structure; and,
 - 6. Native riparian vegetation within the shoreline protection zone is not removed.

- B. Normal maintenance work for existing facilities which has insignificant or minimal disturbance to the lake, lakebed or shoreline.

C. Emergency Work

If a condition exists where there is an eminent threat to people, the environment, property or improvements; the work is only what is necessary to mitigate the immediate threat; and, the conditions which constitute an emergency could not be readily anticipated and does not re-occur on an annual basis. The following procedures shall be followed where emergency work is involved:

- 1. The person proposing to do emergency work shall notify Community and Planning Services of the nature of the emergency including a description of the work required and the location of the site. Notification may be verbal and shall proceed in the following manner: if the work date falls on a normal working day (Monday through Friday, excluding holidays), notification must be accomplished prior to beginning work; and, if the work date falls on a non-working day (Saturday, Sunday and holidays) notification shall be accomplished on the next working day.
- 2. Written notification is also required which describes the nature of the emergency, description of the work required and the location of the site. Notification shall be made prior to beginning work, if possible, but under no circumstances later than seven (7) days after the work is started.

3. Community and Planning Services shall review the written notification. If accepted as bona-fide emergency work, the governing body shall sign the notification, outline any temporary inconsistencies with these regulations and send a copy of it to the applicant.
4. If work goes beyond the minimum necessary to mitigate the danger, or if an emergency condition did not exist, the person shall apply for a Shoreline Construction Permit, or may be considered in violation of these regulations.

SECTION 3 - REVIEW PROCEDURE

3.1 APPLICATION SUBMITTAL REQUIREMENTS

Any person who proposes any activity or work, as outlined in Section 2.5, shall submit to Community and Planning Services, an application for a Shoreline Construction Permit, accompanied by an application fee and drawings, plans, specifications and other supplemental material depending on the complexity of the project. A permit or variance request may cover multiple projects as long as the projects are located on the same site and review is requested at the same time.

The following shall be submitted, if applicable, based on the size and complexity of the project(s) or if a variance is being requested.

A. Application

The application can be obtained at Community and Planning Services.

B. Fees and Costs

Permit fees and costs shall be paid at the time of application and are non-refundable. Construction begun without a permit is a violation and the applicant will be assessed additional costs associated with obtaining a permit and bringing the project into compliance. Fees are determined by the governing body and specified on the Missoula County Community and Planning Services fee schedule.

C. Vicinity Map

A vicinity map of the site which will clearly show:

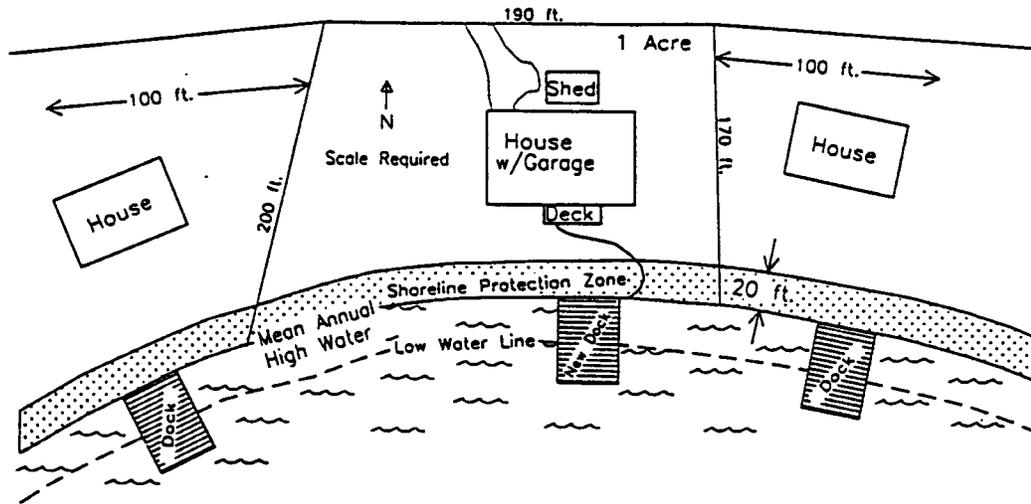
1. The location of the proposed project site in relation to the nearest road, highways and other landmarks;
2. North arrow, scale of the map, and adjacent property owners and addresses.

D. Site Plan

A site plan shall be drawn to scale and shall show:

1. Dimensions and area of the property or properties upon which the proposed project is located;
2. Location of the project indicating distance from the property lines;
3. General location of existing structures and improvements on the site within the Shoreline Protection Zone;
4. Mean annual high water line;
5. North arrow and scale of the site plan;
6. Topography and/or photographs of the side profile of the Shoreline Protection Zone affected.
7. Neighboring shoreline developments such as houses, improvements, docks, boat ramps and buoys within one hundred (100) feet on either side of the applicant's property line(s);
8. Any natural features, e.g. streams, drainages.

Example Site Plan



E. Project Drawings

Drawings showing plans, elevations, cross-sections and other necessary details of the proposed project as determined by the staff shall be submitted. These drawings shall be drawn to a convenient scale and shall indicate:

1. All dimensions of the proposed construction, setbacks and distances;
2. Materials of the proposed construction;
3. Any proposed treatment (preservative, paint, etc.) and the color, to be applied to any portion of the structure.

F. Additional Information

1. An erosion/sedimentation/vegetation/stormwater runoff management plan shall be submitted. The plan shall include:
 - a. The location and description of soil characteristics of the site using the best available information;
 - b. A description of the proposed changes to the site, such as the amount of cut and fill; and,
 - c. A general description of measures proposed for the control of soil erosion, sedimentation and stormwater runoff. A vegetation management plan shall be submitted if vegetation is proposed as a measure to control soil erosion, sedimentation and stormwater runoff. Temporary measures may be required until proposed vegetation is well established.
2. If a variance is requested for the proposed project, the variance information required shall be submitted with the permit application. The facts and any mitigating measures which support the request shall also be described.

A Project Impact Assessment from the applicant is required for projects needing a variance (see Appendix III).

3. Large or complex projects to be completed in phases, with long-term completion dates, shall include a proposed schedule of the phasing plan and a timeframe as required in Section 3.5, Large or Complex Projects - Extended Timeframes.
4. A discussion related to the purpose of the project and whether it serves to conserve, protect or restore the shoreline protection zone.
5. Additional information deemed necessary for adequate review may also be required.

3.2 APPLICATION PROCEDURES

- A. The applicant shall confer with Community and Planning Services prior to submitting an application through a pre-application meeting. A permit application is accepted when it has been determined to be complete and is accompanied by the appropriate fee. Staff will certify a complete application within five (5) working days. An incomplete application will be returned to the applicant detailing the deficiencies and information needed to complete the review.
- B. After review of the application and other information for compliance with the requirements of these regulations, the following procedure shall apply:
 1. Projects will receive administrative review if it meets the requirements of these regulations or if proper design modifications and necessary conditions can be incorporated into the project to bring it into compliance or to satisfy the Policy Criteria.
 2. Projects requiring a variance from the standards or Policy Criteria shall be reviewed by the Staff, as the Planning Board's designated agent, for completeness. The Planning Board shall hear the variance request and forward a recommendation to the governing body for consideration at a public hearing.
- C. **ADMINISTRATIVE SUMMARY REVIEW PERMIT PROCEDURE**

A completed application shall be processed as follows:

 1. Application materials submitted to appropriate reviewing agencies as determined by Staff (See Appendix I).
 2. Staff conducts a site visit. If the site is snowcovered or otherwise inaccessible, the application will be held until the site is available for viewing.
 3. Staff shall approve, approve with conditions or deny the permit for the work.
 3. The decision, and Shoreline Construction Permit, if approved, shall be sent to the applicant.

4. Appeals from any permitting decision made by the Designated Agent may be made to the local governing body within 30 days of such decision by an aggrieved person or persons, jointly or separately aggrieved.

D. REVIEW PROCEDURE FOR PROJECTS REQUIRING VARIANCES

1. Application materials submitted to appropriate reviewing agencies (See Appendix I).
2. Staff conducts a site visit. If the site is snowcovered or otherwise inaccessible, application will be held until the site is available for viewing.
3. The property shall be posted with information including the availability of the Project Impact Assessment for review and the date of the Planning Board and governing body public hearings. The notice shall be posted at least fifteen (15) days prior to the Planning Board public hearing date.
4. Notice of the public hearings shall also be placed in a newspaper of general circulation in the County briefly outlining the proposal and specifying the following: legal description of the property; the availability of the Project Impact Assessment for review; and the date, time and location of the hearing. The notices shall be published at least fifteen (15) days prior to the public hearing dates.
5. Staff shall prepare a report and recommendation to the Planning Board
6. **Planning Board Consideration** The Planning Board shall hold a public hearing. In recommending approval, conditional approval or denial of the shoreline variance request, the Planning Board may consider the following items:
 - a. These shoreline regulations.
 - b. The provisions of the Montana Lakeshore Protection Act 75-7-200 MCA.
 - c. The shoreline variance application.
 - d. The Project Impact Assessment;
 - e. The Missoula County Growth Policy;
 - f. Comments, evidence and discussions at the public hearing(s);
 - g. The planning staff report and recommendation; and
 - h. Any additional information authorized by law.
7. The Planning Board shall submit a recommendation to the governing body.
8. The governing body shall hold a public hearing on the proposal and shall approve, approve with conditions, or deny the variance. The decision, and if approved, a Shoreline Construction Permit, shall be sent to the applicant. Written findings shall be made on the permit and on the variance request.

VARIANCE CRITERIA

In considering a variance request the governing body shall consider the following criteria and make findings based upon the evidence presented in each specific case:

- a. Compliance with Policy Criteria for Issuance of a Permit (See Section 4.1);
- b. Existence of unusual circumstance where strict enforcement of these requirements and standards would result in undue hardship;
- c. Whether reasonable alternatives exist which meet these standards;
- d. The Planning Board's recommendation;
- e. The planning staff report and recommendation; and
- f. Whether granting of the variance results in a threat to the public safety, health, or welfare, or is injurious to other persons or property.
- g. **New Information** If new information, not previously submitted as evidence or considered by the Planning Board is heard by the governing body, the governing body may require a subsequent public hearing if it determines the new information to be relevant and credible. If the public has had a reasonable opportunity to examine and comment on information heard by the governing body or if any new evidence presented is not relevant and credible, the governing body will decide whether to approve, conditionally approve, or deny the proposed variance without a subsequent public hearing.

Appeals from any decision of the local governing body may be taken within 30 days of such decision by an aggrieved person or persons, jointly or separately aggrieved, to a court of record.

3.3 REVIEW PERIOD

- a. Provided the proposed location is available for viewing, a permit shall be approved, conditionally approved or denied within ninety (90) days of acceptance of a permit application. The ninety (90) days shall commence upon certification that the application is complete and review fees have been submitted. (Projects that are in compliance with these Regulations should be reviewed by staff within thirty (30) days).
- b. The applicant and governing body or its designated agent may agree in writing to an extension of the review period.

3.4 PERMIT VALIDITY

- A. A permit issued under the authority of these regulations is valid for a period of twelve (12) months from the date of issuance and construction shall be completed within this period. The permit, and subsequent construction, may be renewed for one additional twelve (12) month period without submission of a new application

or plans. Requests for an extension shall be submitted before the original permit expires.

- B. All work done pursuant to a permit or variance must receive final inspection and approval within one year from Community and Planning Services in order for the permit to remain valid. A project constructed inconsistent with the permit shall be treated as an invalid permit.
- C. The permit issued pursuant to these regulations shall document findings that the proposed project is in compliance with the “Policy Criteria for Issuance of a Permit” contained in Section 4.1 of these regulations or the conditions of approval of a variance. The issuance of a permit shall not be construed as assurance that the project is structurally sound, that the project will withstand environmental forces acting upon it, that the project will accomplish its intended purpose or any other warranty or guarantee of workmanship.

3.5 LARGE OR COMPLEX PROJECTS - EXTENDED TIMEFRAMES

The applicant may submit a phasing plan and proposed timeframe for large or complex projects for approval by the governing body.

The governing body may require periodic site visits during various phases of the project and assessment of additional costs associated with monitoring a long term project. Requests for deviation from the approved plans and permit require a new application, submission of a new application fee and shall comply with the regulations in place at that time.

3.6 VIOLATIONS

- A. Community and Planning Services shall bring any violation of these Regulations to the attention of the Governing Body and the County Attorney.
- B. Each violation constitutes a separate offense and occurs if an individual:
 - 1. Does or authorizes work on or alters a lake or the Shoreline Protection Zone without first obtaining a Shoreline Construction Permit for such work; or
 - 2. Does work in excess of that authorized by or inconsistent with the issued Shoreline Construction Permit.
- C. Each violation is a misdemeanor and, upon conviction, an individual may be sentenced to 30 days in the County jail, or fined \$500.00, or both per violation. Fines collected under this section shall be paid to the General Fund of Missoula County for the purpose of administering these regulations.
- D. The governing body may also order corrective measures to mitigate damage caused by a violation. Failure to comply with all requirements of the order may result in the County taking action under Section 3.6(B). A Shoreline Construction

Permit issued to mitigate impacts of violations shall be subject to fees as described in Section 3.1(B) Fees and Costs, and Section 3.2, Application Process.

3.7 JUDICIAL REVIEW AND ENFORCEMENT

- A. The District Court may hear and decide any complaint and petition of a governing body, the applicant, or an interested person for an order to restore a lake, lakebed or shoreline, to its previous condition or to enjoin further work in a lake.
- B. The District Court may hear and decide any petition of an applicant or interested person for review of final action of the governing body on an application for a Shoreline Construction Permit.

3.8 NON-CONFORMING USES

- A. Any non-conforming building or structure in existence prior to the effective date of the Missoula County Shoreline Regulations may be continued and maintained, provided there is no physical change other than necessary maintenance and repair (See Section 2.6A and 2.6B).
- B. A non-conforming building or structure damaged or partially destroyed by some calamity to an extent not exceeding fifty percent (50%) of its replacement cost exclusive of foundations, may be restored to the use at the time of partial destruction. Whenever a non-conforming building or structure is damaged more than fifty percent (50%), the new construction shall conform to the requirements of these regulations and requires a Shoreline Construction Permit.
- C. A building or structure which is non-conforming shall not be added to or enlarged in any manner unless the building or structure conforms with the requirements of these regulations.
- D. Any non-conforming use or structure which is eliminated, or relocated by a means other than natural disaster or calamity may only be replaced, re-established or enlarged in compliance with these regulations and after obtaining a Shoreline Construction Permit.

SECTION 4 - CRITERIA FOR ISSUANCE OF A PERMIT

4.1 POLICY CRITERIA FOR ISSUANCE OF A PERMIT

- A. The regulations shall favor issuance if the proposed work will not during either its construction or its utilization:
1. Materially diminish water quality;
 2. Materially diminish habitat for fish or wildlife;
 3. Interfere with navigation or other lawful recreation;
 4. Create a public nuisance;
 5. Create a visual impact discordant with natural scenic values, as determined by the governing body, where such values form the predominant landscape elements; or
 6. Significantly impact the natural characteristics of the shoreline.

4.2 GENERAL CONSTRUCTION STANDARDS

A. CONSTRUCTION MATERIALS

1. Policy Considerations

The construction material used on shorelines should not result in a degradation of water quality nor should it detract from the natural landscape. Building materials should be stable and free of silts, sands, fines, chemical preservatives, grease, oil or any surface application which could immediately or eventually contaminate water quality.

2. Standards

a. Wood

1. Wood preservatives or treatments shall meet all of the following:

- a. Must be water based if applied on improvements while in the lake or Shoreline Protection Zone;
- b. Must not be toxic to fish;
- c. Must not be flammable;
- d. Preparation work for treatment does not require any action that would place pollutants in the lake or in the Shoreline Protection Zone;
- e. Must not contain:
 - i. diesel fuel
 - ii. creosote
 - iii. pentachlorophenol
 - iv. chromated copper arsenate (CCA)
 - v. ammoniacal copper arsenate (ACA)
 - vi. ammoniacal copper zinc arsenate (ACZA)
 - vii. copper naphthanate

- viii. any substance which may cause contamination of the lake or Shoreline Protection Zone

* A List of Approved Products is Available from Community and Planning Services

2. Only solid wood or trex (recycled plastic with wood fibers) shall be used for any project. Plywood, particle board and chipboard are specifically prohibited within the Shoreline Protection Zone.

b. Metal

1. Metal used in the Shoreline Protection Zone may be painted or coated with an inert metal sealant such as paint, plastic, rubber, and enamel which has thoroughly dried or cured prior to its use.
2. Minimal lubrication to allow movement of critical metal components is allowed.
3. No pre-treated or pre-assembled products used in the Shoreline Protection Zone may contain deposits or a surface application of any of the following:
 - a. Grease or oil (other than #2 above);
 - b. Paint, varnish or coatings which have not thoroughly cured or dried;
 - c. Any chemical or substance which will wash off or dissolve when in contact with water; or
 - d. Any substance which may cause contamination of the lake or Shoreline Protection Zone.

c. Foam Flotation Logs

1. Styrofoam logs, as a method of flotation are prohibited.
2. Extruded polystyrene (e.g. blue logs) or similar single cell foam is allowed if completely encased in metal or solid wood. Drain holes or 1/2 inch spacing between wood boards is allowed.

d. Asphalt

Asphalt or similar petroleum based products shall not be used for a travel or walking surface within the Shoreline Protection Zone.

e. Concrete (see definition of concrete)

1. Use of concrete shall be aesthetically shielded by the creative use of rock or wood. Concrete may also be used if it is colored and textured to appear like wood or stone.

2. Wet concrete shall not be poured into or allowed to come in contact with the lake water unless poured within water tight forms approved by the permit process.
 3. Broken concrete shall not be used as weighting materials on the lakebed or as rip rap.
- f. Rock or Stone
1. Rock or stone which will come in contact with the lake shall be free of silts, clays and debris.
 2. Rock or stone from the immediate Shoreline Protection Zone may be used for a project if its removal does not reduce the effectiveness of the existing shoreline armament or expose silts, sands, clays or fines.

B. EXCAVATION OR FILLING - MATERIALS

1. Policy Considerations

Preservation of a lake, lakebed, or shoreline in its natural condition will result in preservation of its aesthetic values, and will protect fish and wildlife habitat and water quality. Limiting sedimentation in the lake serves as a protection for fish habitat and water quality.

2. Standards

- a. Material which is excavated from a lake, lakebed, or shoreline and not used as backfill shall be removed entirely from the lake and Shoreline Protection Zone and deposited so that it will not re-enter the lake. The finished elevation of any backfill area situated waterward of the shoreline shall closely approximate the natural contour of the bottom of the lake before disturbance.
- b. Temporary stockpiling of excavated materials anywhere in the Shoreline Protection Zone is prohibited, unless the excavated material is completely covered with waterproof material and removed within two weeks.
- c. Any materials used for fill shall be free of fine materials (i.e., clays, silts and sands). Large cobbles and boulders lying on the bottom of a lake and not part of the bed armament of a lake may be handpicked, provided that it can be accomplished without excavating any fine lakebed materials and that an armament of rock or gravel remains on the bed of the lake in the affected areas.
- d. All disturbed vegetation shall be revegetated with native riparian plantings appropriate for the lake.

C. EROSION, SEDIMENTATION AND STORMWATER RUNOFF

1. Policy Considerations

Any construction activity regulated by these regulations should incorporate means to prevent pollution of the lake. The proposed activity should not cause, directly or indirectly, erosion, increased sedimentation, an increase in suspended sediments, or an increased discharge of nutrients into the lake

during construction or later utilization of the improvement. Pesticides, herbicides and fertilizers entering the water through erosion and stormwater runoff results in an adverse impact on water quality and therefore should not be used in the Shoreline Protection Zone. For example, fertilizers can increase nutrient content in water and cause algae blooms.

2. Standards

- a. The interface of fill materials, such as rip rap, with the lake water shall be sloped at an average 2:1 ratio in order to dissipate wave energy. The face of the slope shall be covered with rocks to discourage soil erosion and slumping of banks.
- b. The natural protective armament of the lakebed and shoreline, and native vegetation in the Shoreline Protection Zone shall be preserved. Removal of noxious weeds or non-native vegetation is not prohibited provided appropriate measures are taken to prevent erosion.
- c. The work within the Shoreline Protection Zone shall incorporate erosion controls and a re-vegetation plan which is consistent with the surrounding native vegetation.
- d. Mechanized equipment may be allowed in the Shoreline Protection Zone as part of a permitted project as long as it does not slice, gouge, or rut the beach or shoreline, expose silts or fines or come in contact with the lake, or shoreline except as otherwise permitted in these regulations.
- e. The application of fertilizers shall be prohibited in the lake and Shoreline Protection Zone.

D. IMPERVIOUS COVER (Constructed Area)

1. Policy Considerations

The use of excessive impervious cover effects water quality, detracts from the aesthetic values of the shoreline and alters the natural shoreline characteristics. Porous or permeable materials are preferred to reduce the intensity and amount of runoff channeled to adjoining areas.

2. Standards

- a. The total of all constructed impervious areas within the Shoreline Protection Zone shall not exceed five (5) square feet per lineal foot of shoreline within the parcel.
- b. Marinas within the lake and the Shoreline Protection Zone shall not exceed ten (10) square feet per each lineal foot of shoreline and shall not exceed 3000 square feet total.
- c. Impervious surface shall not be connected to paved areas outside the Shoreline Protection Zone.

E. REMOVAL OF DEBRIS

1. Policy Considerations

Construction debris that remains in the lake or Shoreline Protection Zone may affect the quality of the water, cause safety problems or detract from the aesthetic value of the shoreline.

2. Standards

- a. All construction debris (including but not limited to, excess backfill, cleared vegetation, concrete, old construction materials, and waste materials from new construction) shall be disposed of outside the lake and Shoreline Protection Zone in such a manner and in such a location so as to prohibit its re-entry into the lake.
- b. Burning weeds, grass, shrubs, brush, trees, old construction materials, waste from new construction, or similar materials within the Shoreline Protection Zone is prohibited.

F. SETBACK REQUIREMENTS

1. Policy Considerations

Structures setback from side property lines prevents overcrowding and maintains the aesthetic and riparian resource values of the shoreline. Properties which lack adequate frontage to provide side lot line setbacks may not be suitable for shoreline improvements. Common facilities, constructed and shared by two or more property owners reduce the number of facilities on the lake reducing potential impacts. Where such a situation exists a reduction in setback requirements encourages the use of common structures. Stream and spring inlets and outlets on shorelines are valuable aquatic and aesthetic resources. They provide spawning and rearing habitat for numerous fish species, as well as a variety of food organisms. Structures setback from inlets and outlets protects fish habitat.

2. Standards

- a. Boat ramps, boat shelters, docks, aerial structures, and boat service facilities shall be located in the middle of the property ownership or at least twenty (20) feet from each side property line.
- b. Setback requirements may be reduced if common facilities are to be shared by two or more shoreline property owners, evidenced by a mutual easement agreement granting shared access to and use of the facility.
- c. Structures shall be setback twenty-five feet (25') from the ordinary high water line of streams and springs entering the lake and a minimum of fifty feet (50') from streams or springs determined to be important fishery resources.

4.3 DESIGN STANDARDS FOR FACILITIES

A. DOCKS

(for the purpose of these regulations, docks includes wharves and piers)

1. Policy Considerations

Open and floating docks allow complete water transfer beneath them, do not impede current flows and therefore, stagnant water conditions are not created. Partially open docks constructed of closely spaced piling or planking, concrete or crib docks restrict water transfer. Solid docks or structures essentially block the transfer of water beneath the dock.

Docks have a high potential to interfere with public navigation and public recreation. The property owner's right to lake access is balanced with the public's right to navigation and recreation on public waters. Consideration of the water depth at a given location and the distance a structure extends into the public waters will enable a balance to be achieved. Docks on rivers or streams may significantly obstruct the natural flow of waters, resulting in erosion of shorelines. Common shoreline dock facilities shared by two or more owners reduces the overall environmental impacts on the lakebed and shoreline and ease navigational congestion on the lake. Properties adjacent to extremely shallow lake conditions are generally not suitable for dock construction and alternative methods of boat access to the lake should be considered.

2. Standards

a. All Facilities

1. One dock is allowed on each waterfront property regardless of lake frontage. Larger properties may have additional dock(s) with a maximum of one dock for each one hundred (100) feet of lake frontage.
2. All docks shall be open. Solid concrete, piling, plank or crib docks which essentially block the transfer of water beneath the dock are not permitted.
3. Docks shall not exceed forty feet (40') in length and the total area of docks shall not exceed six hundred (600) square feet.
4. Fixed docks (i.e. not floating or movable) shall not exceed forty feet (40') in length from the average water line.
5. If a fixed dock ends at a water depth insufficient for bottom clearance, the dock shall be allowed to extend an additional length not to exceed sixty feet (60') and shall not exceed six hundred (600) square feet in total area.

b. Additional Standards - Floating/Removable Docks

1. Foam logs or similar easily damaged floatation systems shall be completely wrapped and secured by galvanized mesh wiring with a maximum one (1) inch opening. The material shall be completely wrapped and secured by expanded metal or be completely encased in solid wood or a suitable impervious,

non-corrosive material such as aluminum or galvanized metal with drainage provided by boards spaced up to one-half inch (1/2") apart on the bottom or drain holes incorporated into other materials. All foam encased floating docks shall be continually maintained according to these standards or be subject to removal.

2. Floating docks shall be suitably anchored to the lake bottom using cable, galvanized chain, nylon or polypropylene rope attached to a clean weight such as solid clean concrete, rock or steel blocks. Pipe and post systems allowing the dock sections to slide are also allowed.
3. Permits are required initially for floating docks or removable docks. Once a floating dock is in existence it may be removed from or replaced in the water or relocated on the property on a seasonal basis without requiring a permit. If a floating dock is removed seasonally, wood skids shall be incorporated into the bottom of the dock to protect the wood bottom during annual installation and removal. When docks are removed, care should be taken so as to limit the amount of disturbance to shoreline vegetation.
4. Floating or removable docks shall not exceed forty feet (40') in length from the low water line. If a floating or removable dock ends at a water depth insufficient for bottom clearance, the dock shall be allowed to extend an additional length not to exceed sixty feet (60') and shall not exceed six hundred (600) square feet in total area.

B. SWIMMING RAFTS

1. Policy Considerations

Swimming rafts allow lakefront property owners that have vegetative lakebeds an opportunity to use the water for purposes many other lakefront property owners enjoy from the shoreline. They are intended to allow for swimming and temporary mooring of boats.

Swimming rafts also have a high potential to interfere with public navigation and public recreation. The property owner's right to lake access is balanced with the public's right to navigation and recreation on public waters. Consideration of the water depth at a given location, the distance a structure is located into the public waters and the amount and distance the vegetation extends into open water will enable a balance to be achieved.

2. Standards

- a. One swim raft per property will be allowed where safe navigation is maintained.
- b. A swimming raft shall not exceed one hundred (100) square feet in area.

- c. Swim rafts shall not be located further than one hundred feet (100') lakeward from the mean annual high water elevation.

C. MARINAS

1. Policy Consideration

Marinas have a high potential to impact the lake and lakeshore and may not be appropriate on some lakes. Marinas also have the potential to be areas of higher use with various activities (swimmers, rental craft, gas dispensing, retail, etc.) than most private dock areas. Additional space is necessary to accommodate all users. A marina should be designed to accommodate only its anticipated sizing and capacity needs, to protect the navigational rights and safety of neighboring property owners and recreational users of the lake. It should insure general compatibility with the character of the area so as not to create an unwarranted disturbance or nuisance, and to protect the quality of the water and fish and wildlife habitat.

2. Standards

- a. Docks within a marina shall be placed one hundred feet (100') from the side property line which generally runs perpendicular to the lakeshore.
- b. A maximum of one dock is allowed.
- c. Marinas (the following apply):
 1. The design standards for docks shall be limited by and must comply with Section 4.3(A) unless otherwise modified below.
 2. The maximum length of each individual wing dock forming a boat slip shall not exceed 20 feet.
 3. The overall density shall not exceed one boat/boatslip per twenty (20) lineal feet of lakeshore frontage per property ownership.
 4. Marinas may incorporate a boat ramp. Ramps shall not be connected with impervious surfaces outside the Shoreline Protection Zone.
 5. Sewage facilities shall be located outside of the Shoreline Protection Zone.
 6. One shoreside fuel station per marina may be constructed.
 7. Except for rental watercraft, rental services and retail sales of water related merchandise such as boat fuel, oil and lubricants, fishing equipment and personal items shall be located outside of the Shoreline Protection Zone.
 8. Parking facilities shall be located outside of the Shoreline Protection Zone. No vehicles may be parked in the Shoreline Protection Zone.
 9. Proper measures shall be taken to prevent surface runoff into the Shoreline Protection Zone and the lake.

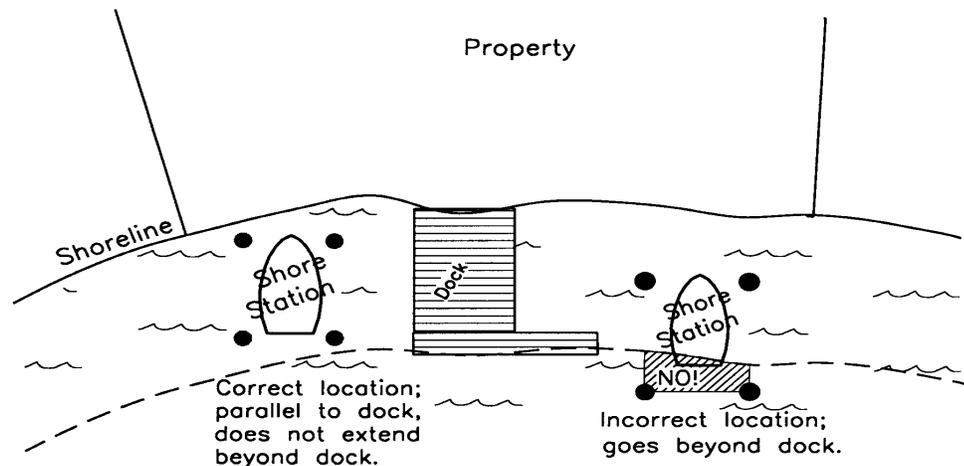
D. BOATHOUSES, BOAT SHELTERS AND SHORE STATIONS

1. Policy Considerations

Boathouses built within the Shoreline Protection Zone have a high potential to detract from the aesthetic values of the shoreline, block scenic views from neighboring properties, significantly alter the natural characteristics of the shoreline and diminish water quality. Boat shelters and shore stations may also detract from or block scenic views from neighboring properties.

2. Standards

- a. Permanent boathouses are prohibited.
- b. The shoreline and lake bottom shall not be excavated or dredged in order to provide channels or suitable water depth for boating access into existing boathouses.
- c. Boathouses and other structures which accommodate living quarters or other non-water related use activity in conjunction with housing boats shall be located outside the Shoreline Protection Zone and lake.
- d. No boat shelter or shore station shall incorporate a roof deck or other elevated deck.
- e. The location of shore stations shall generally be parallel to a dock and shall not extend beyond the dock's length on a given property.



- f. Boat shelters and shore stations shall be located no closer than twenty feet (20') from the side property line and a greater setback distance may be required if the governing body finds the structure would infringe on the scenic view or navigation from the adjoining property.
- g. The highest point on a boat shelter or shore station shall not exceed ten feet (10') above the high water elevation of the lake.
- h. The total amount of impervious cover created by a boat shelter or shore station, or any combination thereof, shall not exceed three hundred (300) square feet.
- i. Boat shelters and shore stations shall be constructed with materials which are non-reflective. They shall be designed, constructed and

placed so as to reduce any negative visual impacts to adjoining properties.

E. BOAT RAMPS AND BOAT RAIL SYSTEMS

1. Policy Considerations

Boat ramps potentially increase sedimentation in the lake, diminish water quality and alter natural shoreline characteristics. Facilities designed for removal of boats from a lake, such as rail systems, are preferred to a dock, shore station, or boat shelter for protection of boats, as the overall impacts are generally insignificant.

2. Standards

- a. Private individual boat ramps within one (1) lake mile or three (3) driving land miles of a public boat ramp are prohibited.
- b. Boat ramps shall be of the same elevation as the pre-construction lakebed and shoreline elevation.
- c. Footings and the base of the boat ramp shall be constructed below the pre-existing grade of the shoreline.
- d. Maximum grade shall not exceed 15% and no natural slope in excess of 15% grade shall be disturbed by construction of a boat ramp.
- e. All material excavated from the shoreline to construct the boat ramp and not used as the ramp foundation material shall be immediately and completely removed from the Shoreline Protection Zone and deposited in such a manner as to prohibit its re-entry into the lake.
- f. No boat ramp shall exceed three hundred (300) square feet of surface area waterward of the mean annual water elevation.
- g. All ramps shall be finished with non-skid surface.
- h. Concrete boat ramp edges shall be thickened to a minimum of twice the average thickness of the ramp.
- i. Launching rails shall be suitably anchored to the lake bottom. The rails of the rail launching system shall not exceed four inches (4") in height and the rail system shall follow the grade of the existing lakebed and shoreline. No portion of the rail shall extend more than eighteen inches (18") above the immediately adjacent land.

F. RETAINING WALLS AND RIP RAP

1. Policy Considerations

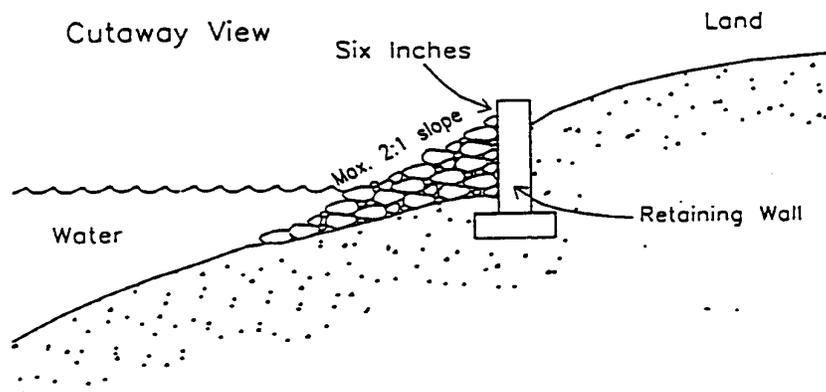
Retaining walls significantly alter shoreline characteristics. They create an unnatural shoreline which causes alteration of wave actions, beach dynamics and shoreline erosion patterns. Retaining walls should be used only when extreme erosion is occurring and should only be installed when the water is below the mean annual high water elevation.

Retaining walls which do not follow the natural contour of the shoreline have a high probability of affecting erosion and accretion of neighboring properties and may have adverse impacts to the lake and lakebed.

Stone or wood retaining walls are preferred to concrete retaining walls. Only rock rip rap should be used.

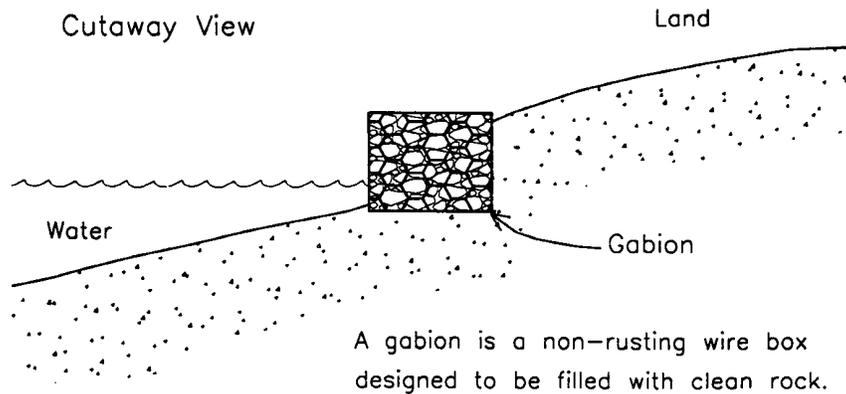
2. Standards

- a. Retaining walls and rip rapping are permitted only to prevent active erosion and when no other reasonable alternative exists. Rip rap shall be explored by the applicant first and retaining walls shall be constructed only as a last resort.
- b. Retaining walls shall be built at or landward of the mean annual high water elevation and shall conform to the contour of the existing shoreline.
- c. Rip rap standards are as follows:
 1. Rip rap rock shall be angular and sized properly for the specific task and shall be free of silts, clays and debris.
 2. Rip rap rock shall be placed at a maximum slope of 2:1.
 3. Filter fabric may be incorporated into the rip rap design where required to inhibit erosion and the washing of fines through the rip rap.
- d. If rip rap will not suitably address the erosion the following materials, in order of preference, are allowed: stone wall, wood wall, or concrete wall. The following standards shall apply to the use of any of these materials:
 1. If more than twelve inches (as") of retaining wall is exposed in the lakeward side of the wall, rip rap shall be placed so that the rock extends to within six inches (6") of the top of the wall, at a maximum slope of 2:1.



2. The landward side of the retaining wall shall extend between two inches (2") and eight inches (8") above the level of backfill.
3. Backfill shall extend five feet (5') landward of any retaining wall and consist of easily drained gravel, rock, stone, sand or a combination of the above. Drain or weep holes shall be provided.

4. All material excavated for placement of the footings may be used as backfill behind the wall or shall be deposited outside of the Shoreline Protection Zone. Backfill shall be limited to that amount necessary to re-establish the pre-existing slope and contours of the landward side.
 5. Replacement of an existing wall shall require that the existing wall be completely removed from the Shoreline Protection Zone and that the replacement wall be constructed in essentially the same location as the existing wall. If removal of the wall will cause environmental hazards such as sedimentation or bank failure, a new wall may be constructed within three feet (3') lakeward of the existing wall, measured from the existing wall to the lakeward side of the new wall. Typically one such extension into the lake is allowed.
- e. Gabions may be used in place of rip rap or retaining walls to provide bank protection. Gabions shall generally conform to retaining walls in application but do not need the rip rap facing.



G. DREDGE, FILL AND PUBLIC SWIM BEACH CREATION

1. Policy Consideration

Dredging a bed of a lake or shoreline may cause suspension of fine materials, re-suspension of nutrients and toxic materials, exposure of stable lakebed sediments to unstable conditions, removal of lakebed armament and creation of steep bench areas.

Filling a portion of a lake may cause destruction of an aquatic environment, loss of habitat for fish and wildlife, creation of an unnatural shoreline, creation of steep bench areas and alteration of current flows and wave actions.

Filling of wetlands also causes destruction of an aquatic environment and loss of habitat for fish and wildlife. Additionally, loss of water storage capacity, the natural storm runoff cleansing functions, and the natural nutrient entrapment functions of wetlands is experienced.

2. Standards

- a. Dredging for the purpose of creating an artificial harbor or lagoon or embayment or increasing the water depth of an area is not permitted except as part of an approved aquatic weed control plan or lake restoration plan.
- b. Dredging for the purpose of removing accumulated silt, sand or gravel which blocks access to a docking area and to create a boat ramp, or is within the confines of an existing structure is limited to five hundred (500) cubic feet. All excavated materials shall be removed from the lake and Shoreline Protection Zone and deposited outside these areas.
- c. Dredging and/or filling is only permitted at the time of year specified on the permit.
- d. The shoreline and lake bottom shall not be excavated or dredged in order to provide channels or suitable water depth for boating access into existing boathouses.
- e. Fill for the purpose of expanding existing land areas, discharge of fill into a body of water and filling wetlands adjacent to a lake is prohibited.
- f. Filling to create a public swimming beach is allowed in some cases. Sites experiencing strong wind and wave action or subject to currents are not appropriate. All fill shall be clean, washed material free of silts, clays and debris and shall not be placed below low water. The area of fill shall be calculated as part of the maximum allowable constructed area as prescribed in 4.2(D)(2)(a).
- g. Applicable permits required for filling and dredging by the Montana Department of Environmental Quality and U.S. Army Corps of Engineers shall be obtained by the applicant prior to the issuance of a shoreline construction permit.

H. UTILITY LINES (Electrical, Sewer, Water, Wells)

1. Policy Considerations

The placement and maintenance of utility lines and wells can result in disturbance of the lakebed or shoreline.

Above ground utility lines are unsightly, potentially dangerous in or near the water and generally in conflict with the natural setting of the Shoreline Protection Zone.

Unrestricted lighting in the Shoreline Protection Zone distracts navigation and contributes to an unnatural setting.

2. Standards

- a. Electrical Lines and Lighting:
 1. No overhead lines are allowed in the Shoreline Protection Zone.
 2. Lighting shall be designed to reflect light away from the lake and abutting or adjacent properties.
- b. Sewer lines/Disposal facilities:

Domestic, municipal/community sewer lines, lift stations, sewer pump out and other associated facilities are prohibited in the Shoreline Protection Zone.
- c. Waterlines:
 1. All water use shall comply with all applicable county and state regulations.
 2. That portion of the waterline which is not buried and lies exposed on the bottom of a lake shall be weighted.
 3. Waterlines using submersible pumps may incorporate an electrical line if installation is done in accordance with the State Plumbing and Electrical Codes.
 4. Any antifreeze contained within a line shall be non-toxic, non-corrosive and non-flammable.
 5. Buried waterlines shall meet the requirements under “e” of this section.
- d. Wells:
 1. No well shall be drilled or developed in the Shoreline Protection Zone.
 2. When developing and pumping wells located outside of the Shoreline Protection Zone silt laden water shall not be allowed to flow into the Shoreline Protection Zone and lake.
- e. Utility Line Burial:
 1. Only the minimum amount of material necessary to lay the line shall be removed from the trench.
 2. All material excavated from the trench shall be replaced back into the trench as backfill. Any material which is not replaced back into the trench shall be completely removed from the Shoreline Protection Zone.
 3. In areas where available, the layer on the surface of the bed of a lake or shoreline shall be removed and replaced as a protective layer.
 4. In areas where no rock layer exists, the replaced material shall be compacted and consolidated in order to prevent erosion. Additional cover, such as gravel, a rock layer or vegetation, is required when appropriate.
 5. Following installation, the bed of a lake or shoreline shall be returned to its prior condition or improved.

6. A trenching machine may extend its bucket or digger into the lake to extend the trench below the low water line of the lake.

I. WATER PUMPS AND WATER PUMP ENCLOSURES

1. Policy Considerations

Water pumps are necessary for many lake users where lake water is their main or only source of water. These systems may also assist as an added protection from wildfire. Pumps and enclosures to protect the pump are often necessary. Enclosures may detract from the aesthetic values of the shoreline. Pump enclosures may be suitable in the Shoreline Protection Zone if properly designed and screened from neighbors and lake users view. Water pumps and enclosures should not be located between the lake and the mean annual high water line where they are susceptible to being impacted by high water.

2. Standards

- a. Water pumps used on a temporary basis, moved when not in use, may be located within the Shoreline Protection Zone.
- b. Water Pump Enclosure or house may be located in the Shoreline Protection Zone provided the following standards are met:
 1. Water Pump Enclosures shall be located above the Mean Annual High Water Elevation.
 2. The size of the water pump enclosure shall not be greater than four feet (4') by four feet (4') by four feet (4').
 3. The water pump enclosure shall be screened with vegetation or through the application of earth-tone color(s).

J. FUEL TANKS

1. Policy Considerations

Fuel spills into a lake creates serious water quality hazards and threatens fish and wildlife habitat.

Fueling stations located near berthing areas pose the additional hazard of a possible fire.

2. Standards

- a. Fuel stations shall only be allowed in a commercial marina.
- b. Bulk fuel tanks are prohibited over the water and within the Shoreline Protection Zone. All tanks shall be landward of the Shoreline Protection Zone. A pressure shut-off valve shall be located next to the bulk tank on the line, landward of the Shoreline Protection Zone.
- c. Fuel tanks shall be equipped with secondary containment including a cell with an impermeable floor and walls designed to contain 110% of the tank capacity.

- d. Fuel tanks systems shall be equipped with double walled product piping from the tank to the dispenser.
- e. Secondary containment must be provided for all ancillary equipment from the tank to the dispenser(s). Catch basins should be used beneath dispenser(s) on docks over lakes.
- f. Berthing areas shall be designed to allow a safe exit in the event of a fire on a boat.

K. BUOYS

1. Policy Considerations

The safety hazard created by buoys require careful site selection. Buoys can create a navigational hazard. Buoys should only be used for bird nesting protection, mooring, to mark hazards and to protect health, safety and welfare. The impact to the lake environment is minimized by the careful placement and use of appropriate material. Unregulated buoy placement and the associated attachment of watercrafts creates visual pollution, obstruction of open space, and, when done by non-lakeshore owners, an infringement on property owners usable space.

2. Standards

- a. A fixed buoy-boat anchor may only be permitted if placement will not cause a potential safety hazard or interfere with navigation and recreation as determined by the governing body or its designated agent. Buoys used for mooring shall be located as close to the existing dock or shoreline as possible. Mooring buoys shall be located no further than seventy-five feet (75') from the Average Water Line.
- b. Buoys placed in a lake on a temporary basis, not exceeding ten (10) days in a calendar year, do not require a permit.
- c. Buoys shall be clearly marked with flags and reflective material devices.
- d. Buoys and anchors shall be of clean, solid non-polluting materials.
- e. The lines between the buoy and the anchor and the buoy and the boat shall be weighted or made of non-floatable material.
- f. The distance from the buoy to a moored boat shall not exceed fifteen feet (15').
- g. A moored boat shall swing no closer than 20' to a side property line.
- h. Property owners may use buoys to mark hazards within one hundred feet (100') of the average water line without a permit.
- i. The user of the buoy boat anchor shall be the lakeshore property owner immediately landward and adjacent to the site or an individual who has the owners specific permission.
- j. Any boat attached or anchored to a buoy shall maintain at all times between sunset and sunrise a light visible from all directions for a 360 degree field of vision.

L. DWELLING UNITS

1. Policy Consideration

The presence of dwelling units concentrates human activities which are essentially land based.

2. Standards

- a. No permanent or temporary dwelling units or part of any dwelling unit shall be constructed within the Shoreline Protection Zone. A part of any dwelling unit includes roof overhangs, drip lines, balconies, bay windows, chimneys and decks.
- b. Existing dwelling units situated in the Shoreline Protection Zone may be remodeled and maintained, provided that the building height is limited to twenty-five (25) feet as measured from the finished grade nearest the shoreline to the highest point on the building, or the existing height, if the structure exceeds twenty-five (25) feet in height.
- c. Construction materials shall meet section 4.2 of these regulations and be of a non-reflective nature. If paint is used, it shall be of earth toned colors.

M. FENCES, VEGETATION AND HEDGES

1. Policy Considerations

Fences or hedges within the lake or Shoreline Protection Zone may restrict the free movement of people and wildlife and may detract from the aesthetic value of the lakeshore. Fences may be permitted within the Shoreline Protection Zone to fence out livestock or keep domestic pets contained. Non-native trees, shrubs, and hedges detract from the native flora of the area and require different care and watering needs. This may alter the stability of the shoreline that native vegetation can provide.

2. Standards

- a. Planting and landscaping with non-native trees, shrubs and groundcover is prohibited in the Shoreline Protection Zone.
- b. No fence shall exceed four feet five inches (4'5") in height within the Shoreline Protection Zone.
- c. All fences shall maintain at least seventy-five percent (75%) open space in their design so visibility of neighboring properties is not restricted. Solid fences are prohibited.
- d. Barbed wire fencing is prohibited.
- e. Fences shall not extend waterward of the mean annual low water elevation except to prevent intrusion of livestock.

N. LAKE ACCESS TRAILS, WALKWAYS AND STAIRWAYS

1. Policy Considerations

Trails, walkways and stairways extend human activity into the Shoreline Protection Zone and provide access to the lakeshore. Improvements

properly placed and constructed minimize visual impact from adjoining properties and the lake, minimize erosion and limit disruption of the natural topography while protecting the fragile shoreline from foot traffic. Examples of recommended construction include flush or ground mounting lake access trails, walkways and stairways that follow the natural topography. Designs discouraged include elevated or projecting improvements and cantilevering of stairways to create level areas on otherwise steeply sloping, hilly or rocky properties.

2. Standards

- a. One lake access trail, walkway or stairway is permitted on each waterfront property regardless of lake frontage. Additional lake access trails or stairways are allowed for every one hundred feet (100') of lake frontage.
- b. Lake access trails, walkways or stairways shall be located in the least sloping areas on a lot and shall substantially follow the natural topography.
- c. Lake access stairways shall be used in those cases when application of the standards minimizes their visibility from the lake. They shall be constructed in lengths up to thirty feet (30') within a lake access trail. All stairways shall be earth tone colors.
- d. Stairways shall follow the natural grade of the existing shoreline and shall be designed and sized to provide adequate access and be no wider than four feet (4'). The stairway shall be mounted flush or less than six inches (6") from the adjacent or underlying Shoreline Protection Zone. Excavating, filling or modifying the Shoreline Protection Zone to meet this standard is prohibited.
- e. Lake access walkways or trails shall not exceed thirty inches (30") in width and may not exceed a maximum grade fifteen percent (15%) with small deviations of ten (10) lineal feet allowed at up to twenty percent (20%). The grade shall decrease as the walkway or trail approaches the lake.
- f. Longer cross slope walkway or trail segments shall be used to reduce the visual impact of walkways or trails visible from the lake. Switchbacks shall be used when deemed necessary by the staff. The upper leg shall be in-sloped and a small water diversion shall be placed to drain the water off the trail at the top of the switchback.
- g. Trail design shall incorporate methods to manage drainage. Rolling the trail grade or developing dips in the trail are recommended.
- h. Wooden steps or flagstones are an alternative to stairways and switchbacks. They must follow the natural topography and drainage measures must be incorporated into their design.

O. OTHER PROJECTS

Types of projects not specifically addressed by the design standards shall be reviewed on an individual basis under the “Policy Criteria for Issuance of a Permit” contained in Section 4.1 and the “Construction Standards” contained in Section 4.2 of these regulations.

APPENDIX I - Agency Review

The following agencies, including but not limited to, will receive the proposed Shoreline Construction Permit, if applicable:

Missoula City/County Health Department

Missoula Conservation District

Missoula County Floodplain Administrator

Missoula County Public Works

Missoula County Weed District

Montana Department of Fish, Wildlife and Parks

Montana Department of Natural Resources and Conservation

United States Army Corps of Engineers

United States Forest Service

Seeley Lake Community Council

Property Owner's Association

Appendix II - Permit Requirements of Other Agencies

Other agencies may require permits for work done in and around lakes. Those agencies who may have jurisdiction in or near surface water and their various permitting requirements are listed below. NOTE: This list may not be all inclusive. You are responsible to check if other permits are required.

1. Missoula County Department of Public Works

Building Division
6089 Training Drive
Missoula, MT 59808
(406) 258-4753

The Building Division issues electrical, mechanical, plumbing and building permits throughout Missoula County.

2. Missoula Conservation District

3550 Mullan Rd, Suite 106
Missoula, MT 59808
(406)829-3395

The Missoula Conservation District issues 310 Permits. These permits review any modifications to the bed or bank of inlets, outlets or channels that may be considered perennial streams. Work performed on lake inlets and outlets may be subject to the 310 Permit requirements.

3. Community and Planning Services

200 W. Broadway
Missoula, MT 59802
(406) 258-4657

In addition to administering the Shoreline Regulations, Community and Planning Services also administers Zoning and the Missoula County Floodplain regulations. Lakes in Missoula County that are zoned include Cygnet, Inez, Lindbergh and Placid. In designated floodplains, permits are needed for all new construction and additions. Permits are also required for activities in the floodplain including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, and excavation. Check with this office to determine if your project is located in a zoned area or designated floodplain and if an additional permit will be required.

4. **Montana Department of Agriculture**
2681 Palmer Rd, Suite G
Missoula, MT 59808
(406) 329-1346

The MT Department of Agriculture serves as a resource agency for the use of pesticides and the regulating of pesticides. The County Weed Board and the MT State University Extension Office are agencies that may assist with questions about weeds and weed control.

5. **Montana Department of Environmental Quality (DEQ)**
Permitting and Compliance Division
Water Protection Bureau, Box
200901, Helena MT 59620-0901
(406) 444-3080

The MT DEQ issues Water Quality Standard Exemptions, Discharge Permits, and certifies certain U.S. Army Corps of Engineers permits. Water Quality Standard Exemptions are temporary exemptions from the state water quality standards for dredging, rip rapping and construction work in the water. It is an authorization for activity that causes unavoidable short-term violations of turbidity surface water quality standards.

Discharge Permits regulate treatment of water or de-watering of a site, such as a cofferdam. If the de-vegetated area exceeds one acre, or is part of a larger common plan of development that will ultimately disturb more than one acre, a storm water discharge permit is required. Pesticide application into or onto water will also need a permit.

Under Section 401 of the Clean Water Act, states have the authority to review any federal permit or license that may result in a discharge to wetlands and other waters under state jurisdiction, in order to ensure that the actions are consistent with the state's water quality standards. MT DEQ can deny certification or condition the certification of certain U.S. Army Corps of Engineers permits to provide for greater wetland/aquatic resource protection.

6. **Montana Department of Natural Resources and Conservation**
Water Resources Regional Office
P.O. Box 5004
Missoula MT 59806
(406) 721-4284
Location: 2705 Spurgin Road, Bldg C

Diversion of surface water, from a lake, pond, wetland, stream, or river requires a water right from the Department of Natural Resources.

7. U.S. Army Corp of Engineers – Omaha District

Montana Regulatory Program

10 West 15th Street, Suite 2200

Helena, MT 59626-9705

Phone: (406) 441-1375

Fax: (406)441-1380

www.nwo.usace.army.mil/Missions/RegulatoryProgram/Montana.aspx

Any activity that will result in the discharge of dredged or fill material into waters of the United States, including their adjacent wetlands may require a permit from the U.S. Army Corp of Engineers.

8. Other

Any proposed action shall meet criteria in order to be in compliance with Montana's policy of non-degradation of existing high water quality as described in the water quality act, Section 75-5-303 M.C.A. and water quality and non-degradation standards, ARM Title 16, chapter 20, subchapters 6, 7, 9, and 10.

Appendix III - Project Impact Assessment Requirements

The Project Impact Assessment shall contain the following information:

- a) description of the proposed project,
- b) description of the variance being requested,
- c) description of existing conditions (i.e. physical, ecological, water quality, land uses, etc.),
- d) description of
 - i. known environmental effects,
 - ii. probable environmental effects, and
 - iii. any unavoidable environmental effects, and
- e) alternatives to the proposed project including an analysis of the impacts on the environment and neighboring properties for each alternative.