

LAKESHORE PROTECTION REGULATIONS

LINCOLN COUNTY, MONTANA

*Adopted by the Lincoln County Board of Commissioners
March 3, 1976*

Amended December 8, 2010

Amended February 18, 2014

I. General Provisions

76.10.101 TITLE

These regulations shall be known and may be cited as “The Lakeshore Protection Regulations of Lincoln County”.

76.10.102 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. The perimeter of the lake is defined as the mean annual high water elevation (see Definitions for establishing this feature).

76.10.103 PURPOSE

The purpose of these regulations is to maintain:

- (1) Public health, safety, and general welfare.
- (2) High scenic and resource values of the natural lakes.
- (3) Conservation and protection to continue the value of lakeshore property.
- (4) Conservation and protection of the character of Lincoln County lakes in recognition that the ecosystem of these lakes are inseparably intertwined with the adjacent lakeshore and associated wetland areas.

76.10.104 JURISDICTION

The Montana legislature has declared that local governments should play the primary role in establishing policies to conserve and protect lakes and the state has conferred such powers to local governments through 75-7-201 M.C.A.

- (1) These regulations govern any work which would alter or diminish the course, current, or cross-sectional area of a lake, or its lakeshore, within the boundaries of Lincoln County, Montana.
- (2) These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply.

76.10.105 SEVERABILITY

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

76.10.106 INTERPRETATION

These regulations supplement all other regulations, and the permit issued hereunder does not supersede or negate the necessity for obtaining other permits as may be required by other governmental units having jurisdictional responsibilities over a lake or its lakeshore. Where any provision of these regulations imposes more stringent regulations, requirements, or limitations than imposed or required by any other regulation, resolution, ordinance, or statute, the provisions of these regulations shall govern.

76.10.107 **DEFINITIONS**

Whenever the following words or phrases appear in this text, they shall have the meaning assigned to them by this subchapter. When not consistent 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 the use of discretion in making decisions.

NOTE: Additional definitions as referenced in Appendix A, General Standards, can be found in Appendix B.

- (1) *Applicant:* the person submitting the application and requesting approval from the governing body for the lakeshore permit.
- (2) *Governing Body:* the Board of County Commissioners of Lincoln County, Montana.
- (3) *Lake:* a body of standing water 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 20 acres for at least 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. (The governing body by resolution has changed the minimum size in the definition of a lake to 20 acres in accordance with 76-7-203 M.C.A.). In addition, it must meet the following two criteria:
 - a. The lake must be accessible to the public (i.e., have a public boat launch or public ownership adjacent to the lake)
 - b. The lake must support fisheries.

These lakes include:

Alvord Lake	Dickey Lake	Lower Thompson Lake	Savage Lake
Bull Lake	Frank Lake	Middle Thompson Lake	Sophie Lake
Crystal Lake	Glen Lake	Milnor Lake	Tetrault Lake
	Island Lake	Othorp Lake	Upper Thompson Lake

- (4) *Lakeshore:* the perimeter of a lake when the lake is at mean annual high-water elevation, including the land within 20 horizontal feet from that high-water elevation.
- (5) *Mean annual high-water elevation:* the mean average of the highest elevation of a lake in each of at least 5 consecutive years, excluding any high levels caused by erratic or unusual weather or hydrological conditions. In the absence of readily available data the mean annual high water elevation is considered to be the point at which typical aquatic vegetation meets typical terrestrial vegetation. In the event where the location is disputed an on-site visit with the applicant or a professional third-party assessment may be requested.
- (6) *Permit:* a document issued by the governing body verifying compliance with the requirements and provisions of these regulations.
- (7) *Person:* any individual, firm, corporation, partnership, institution, entity, or governmental department or political subdivision.
- (8) *Planning Staff:* professional planners in the employ of Lincoln County.

76.10.108 ELIGIBILITY

- (1) Easement holders (individuals or groups who have easement access or easement rights within the lakeshore protection zone) may apply for a Lakeshore Construction Permit to perform work within the Lakeshore Protection Zone. By making application, the easement holder(s) represent that the easement holder is entitled, under the terms of the easement, to perform the work for which application is made. Should it be determined by the governing body or by a court of competent jurisdiction that the easement granted is not of sufficient scope to permit the work for which application was made, the application shall be considered a nullity and any approval given shall be rescinded. Any improvements made pursuant to the nullified application shall be considered unauthorized work. As such, the governing body may order the improvement(s) removed and may further impose upon the applicant any applicable penalty for unauthorized work allowed by these Regulations.
- (2) The applicant(s) must legally possess the right to use a minimum of 10 feet of shoreline.
- (3) Where multiple owners or easement holders have the right to use of the property, only one (1) application may be submitted for a Lakeshore Construction Permit. Should it be determined by the governing body or by a court of competent jurisdiction that the applicant lacked the legal authority under the terms of the easement, deed, or other instrument specifying the property rights of the applicant to conduct the work, the application shall be considered a nullity and any approval given shall be rescinded. Any improvements made pursuant to the nullified application shall be considered unauthorized work. As such, the governing body may order the improvement(s) removed and may further impose upon the applicant any applicable penalty for unauthorized work allowed by these Regulations.

II. Administration Procedures

76.10.201 GENERAL

- (1) No person shall proceed with any construction, alteration, or disturbance of the lake or its lakeshore as delineated below until a permit is obtained from the governing body.
- (2) Any person who proposes to do any work which will alter or diminish the course, current, or cross-sectional area of a lake or it's lakeshore must first secure a permit for the work from the governing body. The person who is to do the actual physical work is responsible for assuring a proper permit has been issued for the work being proposed. The permit issued shall be displayed during work activity so that it is conveniently visible.
- (3) Without limitation, the following activities are, when conducted in the 20-foot Lakeshore Protection Zone or below the mean high-water elevation, examples of work for which a permit is required :
 - a. Construction of channels and ditches;
 - b. Dredging of lake bottom areas to remove muck, silt, weeds, etc.;
 - c. Lagooning, either by dredging or placing fill in the lake to create a lagoon;

- d. Filling;
 - e. Construction of breakwaters of pilings or rock;
 - f. Construction of wharves and docks.
 - g. Construction of boat service facilities, including the installation of fuel pumps or sewage pump-out facilities
 - h. Construction of retaining walls and breakwaters
 - i. Installation of shore stations, boat rail systems, boat ramps, boat houses and shelters, boat storage and parking facilities, and floating docks
 - j. Installation of water lines, sewer lines, or other utility lines or facilities, which are buried;
 - k. Construction of decks, ramps, stairways, and walkways
 - l. Development of roads, roadways, and driveways
- (4) Prohibited Uses or Activities In Lakeshore Protection Zone
- a. Creating artificial beaches
 - b. Filling of wetlands
 - c. Permanent structures
 - d. Wells
 - e. Pump houses
 - f. Sewage mains and service lines
 - g. Covering natural beach with non-native impervious material
 - h. Fuel storage tanks
 - i. Application of herbicides and fertilizers
- (5) Exemptions – the following projects are exempt from these regulations.
- a. Reconstruction/repair – permit shall not be required when either by annual maintenance or reconstruction of existing buildings, structures, or facilities when such maintenance and reconstruction projects do not increase, extend, or materially alter the design of the existing building, structure, or facility and are not a violation of the intent of these regulations.
 - b. Stockpiling brush, trees, vegetation, construction materials or debris for no more than 6 months.
 - c. Emergency work – if a condition exists where there is an imminent threat to property or improvements. The work to be done shall be only what is necessary to mitigate the immediate threat. The conditions which constitute the threat should be caused by extenuating circumstances which could not be readily anticipated and do not occur on an annual basis. The person proposing the emergency work shall notify the Planning Department and identify the nature of the work, description of the work to be done and location of the work site.

- (6) Non-conforming structures (Grandfather Clause)
 - a. Any legal non-conforming building or structure, prior to February 18, 2013 may be continued and maintained; provided there is no physical change other than necessary maintenance and repair.
 - b. A building or structure which is non-conforming shall not be added to or enlarged in any manner unless such addition and enlargements, is made to conform to the requirements of these regulations (requiring a permit.)

76.10.202 PERMISSION TO ENTER

The governing body, or their agents may conduct investigations, examinations, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations. Application for a permit is considered as implied permission by the owner of the land for which an application for a permit is filed, granting the governing body or its agent's permission to enter upon that land, with 48 hours notice, for these purposes.

76.10.203 SUMMARY PROCEDURE

- (1) Any person who proposed any activity or work that falls within the work requiring a permit as delineated in 76.10.201 of these regulations shall submit an application for permit together with the required review fee and necessary site maps and project plans, to the Planning Department.
- (2) Within five (5) working days of receipt of an application and review fee, the Planning Department shall determine if the application, as submitted, is complete. If an application is incomplete, the Planning Department shall notify the applicant and the review period shall be repeated until the application requirements are fully met.
- (3) Upon determination that the application is complete, the Planning Department shall submit the application for comment by other affected agencies.
- (4) Within fifteen (15) working days from the date the application is deemed complete, the Planning Department will notify the applicant whether the application contains sufficient information for continued review. Any required permits by other agencies will suspend review by Lincoln County until all other necessary permits have been received.
- (5) Once an application is determined to contain sufficient information, the review period shall commence. The Planning Department shall review the application to determine whether or not the proposed project will have a minimal or insignificant impact on the lake or its lakeshore. .
- (6) Adjacent property owners shall be notified in advance of the Planning Board meeting of the proposed Lakeshore Construction Application and be afforded the opportunity to comment prior to a decision by the governing body.
- (7) The findings of this review and planning staff recommendations shall be presented to the Planning Board within 30 days.
- (8) The governing body shall review the application and both planning staff and Planning Board recommendations and determine whether the information presented indicates that the proposed project will have a minimal or insignificant impact on the lake or it's lakeshore, they shall so state in the appropriate record, and shall issue a permit. If

the governing body determines that a proposed project may have a significant impact on a lake or its lakeshore, they shall notify the applicant of such and deny the application or identify conditions of approval.

- (9) The applicant who has an application denied may request a variance under 76.10.207 of these regulations.
- (10) The governing body shall favor issuance if the proposed work will not during either it's construction or it's utilization:
- a. Materially diminish water quality;
 - b. Materially diminish habitat for fish or wildlife;
 - c. Interfere with navigation or other lawful recreation;
 - d. Create a public nuisance; or
 - e. Create a visual impact discordant with natural scenic values, as determined by the governing body, where such values form the predominant landscape elements.

NOTE: The policy guidelines and standards set forth in Appendix A provide the basis for evaluating these criteria.

- (11) The governing body shall either grant approval, conditional approval, or denial of the application within 90 days of the Planning Department's acceptance of the submittal, unless the applicant agrees to an extension of the review period.

76.10.204 ADMINISTRATIVE PERMIT PROCEDURE

Certain activities and projects, by their very nature, when constructed within the approved design guidelines as found in of these regulations are likely to have an insignificant impact on the lake and lakeshore.

Therefore, the planning staff may issue an administrative lakeshore construction permit for the following activities when (a) the planning staff finds in each specific case that the proposed activity or activities will have an insignificant impact on the lake or lakeshore; and (b) said activities comply with Section I and II.A of the General Standards (Appendix A) of these regulations:

- Docks

76.10.205 LAKESHORE CONSTRUCTION PERMIT

The permit issued under the authority of these regulations is valid for one (1) calendar year from the date of issuance. The permit may be renewed if the applicant requests from the governing body an extension of time before the original permit expires and the governing body agrees that for valid reasons the time should be extended.

The applicant shall submit a Letter of Completion within 30 days upon fulfillment of the permitted work. Within 30 days of receipt of the Letter of Completion, the Planning Department shall issue a letter acknowledging whether the work performed is in conformance with the permit; or whether changes must be made.

76.10.206 WORK PERFORMED WITHOUT A PERMIT – RESTORATION

Any person who performs work in or near a lake that falls within the scope of these regulations after adoption or amendment of these regulations without a valid permit for that construction shall, if required by the governing body or the district court, restore the lake and its environs to their original condition prior to construction.

76.10.207 WORK PERFORMED IN ADVANCE OF OBTAINING A PERMIT – FINES

If a property owner is submitting an application for work that has already been performed, the applicant shall be subject to an additional processing fee (see current fee schedule) and may be subject to the provisions of 76.10.206 if the work cannot be permitted in accordance with these regulations.

76.10.208 PROPERTY RIGHTS

Work or development authorized or approved under these regulations shall not create a vested property right in the permitted development, other than in the physical structure, if any, so developed.

76.10.209 VARIANCES

- (1) Variances that deviate from the requirements of these regulations may be granted when the governing body determines that:
 - a. Due to unusual circumstances a strict enforcement of such requirements and standards would result in undue hardship
 - b. No reasonable alternatives exist which do meet the standards herein
 - c. Granting of the variance will not have adverse impacts on a lake or lakeshore.
 - d. Granting of the variance will not create potentially adverse environmental impacts.
- (2) Review Procedure
 - a. The planning staff shall indicate to the governing body as part of the staff review that a variance is needed and shall schedule a public hearing. The staff shall make a recommendation to the governing body as to the appropriateness of the variance based on the following criteria:
 - i. Description of the proposed project
 - ii. Description of and the reason for, the variance being considered
 - iii. Description of existing conditions
 - iv. Description of anticipated impacts as they relate to each of the variance items
 - v. Description of any known environmental effects, probable environmental effects, and/or unavoidable adverse environmental effects.
 - b. The governing body shall consider the planning staff recommendation and act upon the application by an approval, conditional approval, or denial of the variance request.
 - c. The review period shall be suspended forthcoming of the determination of the variance.

76.10.210 VIOLATIONS

- (1) A person who violates an order issued under these regulations, or who knowingly violates any provision(s) of these regulations is subject to a fine until the violation is corrected; and is punishable by law. (See Planning Department fee schedule for current fines)
- (2) In the event that any building or structure is erected, altered, converted, or maintained, or any building, structure, or land is used in violation of these regulations, the proper legal authorities of the Board of County Commissioners, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent an illegal act, conduct, business, or use in or about such building, structure or land.
- (3) Fines collected under this section shall be paid to the general fund of the governing body, for the purpose of administering these regulations.

76.10.211 JUDICIAL REVIEW AND ENFORCEMENT

The district court may hear and decide the following cases arising under these regulations within Lincoln County:

- (1) A complaint and petition of a governing body or an interested person for an order to restore a lake or lakeshore to its previous condition or to enjoin further work in a lake or along a lakeshore.
- (2) A petition of an interested person for review of a final action of a governing body upon an application for a permit.
- (3) A petition of an interested person for review of an action of a governing body in adopting or amending regulations.

76.10.212 AMENDMENT

These regulations may be amended from time to time. Before the governing body amends these regulations it shall hold a public hearing and shall give public notice of its intent to amend these regulations and of the public hearing by publication of notice of the time and place of the hearing in a newspaper of general circulation in Lincoln County not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing. Records of amendments to these regulations shall be maintained by the governing body in a form convenient for use.

III. Requirements

76.10.301 PROJECT PLAN REQUIREMENTS

Any person who proposes any activity or work in the Lakeshore Protection Zone shall submit to the Planning Department an application for a permit, together with an application fee and one (1) set of such drawings, sketches, plans, specifications, and other supplemental material as specified below:

- (1) Vicinity Map: A vicinity map of the site on which the proposed work will be done. Such map will clearly show:
 - a. The location of the proposed project site in relation to the nearest roads, highways, and other landmarks
 - b. All lakeshore developments (improvements, docks, boat ramps, etc.), within one hundred (100) feet on both sides of the property or site on which the proposed work shall be done
 - c. North point, scale of the map, and adjacent property owners and house numbers or lot numbers.
- (2) Sketch/Site Plan of the entire site with which the proposed work is associated. The site plan shall be drawn to a convenient and readable scale and shall show:
 - a. Dimensions and area of the property or properties on which the proposed project is located
 - b. Aerial view of project site
 - c. Profile views of the project site
 - d. Exact location of the project on, or in reference to, the property. All distances from the property line shall be indicated on the site plan
 - e. North arrow and scale of the site plan
 - f. Location of high water line on lakeshore
- (3) Project Drawings: Drawings showing plans, elevations, cross-sections, and other details of the proposed project shall be submitted. These drawings shall be drawn to a convenient scale and shall indicate:
 - a. All dimensions of the proposed construction
 - b. Materials of the proposed construction
- (4) Additional Information:
 - a. An erosion/sedimentation/storm water runoff management plan may be required. Such plan shall include;
 - i. The location and description of existing topographic features and soil characteristics of the site using the best available information
 - ii. A general description of the proposed changes to the site
 - iii. A general description of measures which shall be taken for the control of soil erosion, sedimentation and storm water runoff
 - b. Any variances requested from these regulations.
 - c. Any additional information deemed necessary for adequate review may also be required.

Appendix A

General Standards

I. GENERAL CONSTRUCTION STANDARDS

Any proposed project or action shall be in compliance with the following requirements:

A. CONSTRUCTION SEASON

- 1. Policy Considerations:** Lake levels tend to seasonally fluctuate, thus exposing more “dry shoreline area” than at other times of the year. Construction impacts associated with projects are more controllable and negative impacts such as siltation, contamination, and/or the spread of debris can be reduced, mitigated, or eliminated when work is done during low pool times and, most importantly, on dry land.
- 2. Standards:**
 - i.** All work undertaken at or within of the mean annual high water elevation shall be done when the lake level is at low pool and the construction site is dry. [Contact the Montana Department of Fish, Wildlife and Parks for determination of seasonal low pool for lakes.]
 - ii.** Exceptions to “i.” above may be granted as follows if proper precautions are followed:
 - (a)** Vegetation removal
 - (b)** Fill or excavation is involved
 - (c)** Construction debris or wheeled or tracked vehicles come in contact with the lake
 - (d)** Placement of pre-built structures such as shore stations, deck surfaces, floating docks, etc. using a barge, land mounted crane or hand placement
 - (e)** Driving of pilings by a barge, land mounted machine, or hand tools
 - (f)** Assembly of pre-cut items such as the decking of a dock or components of a shore station

B. GENERAL CONSTRUCTION MATERIALS

- 1. Policy Considerations:**
 - i.** Wood preservatives leach over time and degrade water quality.
 - ii.** While metals are generally inert except for oxidation, surface applications of some foreign material (i.e. wet paint, grease, oil, etc.) can degrade water quality.
 - iii.** Any building material 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:

- i. Wood - All wood used in the Lakeshore Protection Zone shall be untreated and left in its natural state. No preservatives including varnish, stain, paint, linseed oil, diesel fuel, creosote or any other surface or pressure-treated preservatives are allowed.
 - (a.) This prohibition shall not prohibit the application of paint or stain as a routine maintenance measure for any pre-existing structures located landward of the high-water line which has been painted or stained on a routine basis in the past.
 - (b.) Where wood is used for any project which would at sometime be in, or over the water, only solid wood shall be used. This specifically excludes plywood, particle board, chipboard, etc.
- ii. Metal - Any metal used in the Lakeshore Protection Zone may be painted or coated with an inert metal sealant (i.e. paint, plastic, rubber, enamel, etc.) which has thoroughly dried/cured prior to its use.
 - (a.) Minimal lubrication of critical metal components to allow movement is allowed.
 - (b.) However, no metal used in the Lakeshore Protection Zone may contain deposits or a surface application of any of the following:
 - 1) Paint, varnish or coatings which have not thoroughly cured or dried; or
 - 2) Any chemical or substance which will wash off or dissolve when in contact with water.
- iii. Plastic – Flotation encasements (shells) must be constructed of properly cured, virgin grade resin.
- iv. Concrete – Concrete is the least desirable construction material compared to wood and stone and should be utilized only where structural strength and location dictate no other alternative.
 - (a.) In all cases, concrete shall be aesthetically shielded by the creative use of rock or wood.
 - (b.) Wet concrete shall not be poured into or allowed to come in contact with the lake water. On a case by case basis, concrete poured within water tight forms may be approved.
- v. Rock or Stone - Rock or stone is a preferred natural material for construction.
 - (a.) All rock or stone which will come in contact with the lake shall be free of silts, sands, or fines.
 - (b.) Rock or stone from the immediate Lakeshore Protection Zone may be used for a project if its removal does not reduce the effectiveness of the existing lakeshore armament; expose silts, sands, clays, or fines; or diminish aquatic habitat.

C. EXCAVATION, DREDGING, OR FILLING OF MATERIALS

1. Policy Considerations:

- i.** The lakebed or lakeshore should be preserved in its natural condition to the greatest extent possible, in order to preserve its aesthetic value and protect fish and wildlife habitat and water quality.
- ii.** Increased sedimentation in the lake should be minimized to the greatest extent possible, as a protection for fish habitat and water quality.
- iii.** Dredging of a lakebed or lakeshore may have adverse effects due to 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.
- iv.** Filling of a portion of a lake may have adverse effects due to destruction of an aquatic environment, loss of habitat for fish and other wildlife, creation of an unnatural shoreline, creation of steep bench areas, and alteration of current flows and wave actions.
- v.** Filling of wetlands creates adverse effects by destroying aquatic environments, habitats for fish and wildlife, water storage capacities and natural storm runoff cleansing functions, and the natural nutrient entrapment functions of wetlands.

2. Standards:

- i.** Dredging for the purpose of removing accumulated silt which blocks access to a docking area; is behind an existing dock; or is within the confines of an existing structure is only permitted if the area to be dredged is less than 500 square feet.
- ii.** Dredged areas shall be stabilized with a protective armament as soon as possible after excavation.
- iii.** Dredging and/or filling are only permitted at the time of year specified on the permit.
- iv.** Fill projects for the purpose of expanding existing land areas shall not be permitted.
- v.** Discharge of fill material directly into the lake shall not be permitted.
- vi.** Any materials used for fill shall be free of fine materials (i.e., clays, silts, sands, and vegetation), unless the material is placed behind a retaining wall which will prevent introduction of the materials into the lake. Large cobbles and boulders lying on the lake bottom and not part of the lakebed armament may be handpicked, provided that such hand picking can be done without excavating any fine lakebed materials and that an armament of rock or gravel remains on the lakebed in the affected areas.
- vii.** Addition of gravel to the lakebed and Lakeshore Protection Zone is permissible activity but shall be reviewed on a case-by-case basis. where the predominant existing surface is gravel. Application of gravel is not permitted in sites subject to strong wave action or currents; sites covered predominately by vegetation; and/or below average low water.

D. EROSION, SEDIMENTATION, AND STORM RUNOFF

1. Policy Considerations:

- i.** Any construction activity which will affect the Lakeshore Protection Zone should incorporate all necessary means to prevent pollution of the lake, including erosion, sediment, and storm runoff controls.
- ii.** The proposed activity should not cause, directly or indirectly, increased sedimentation, an increase in suspended sediments, or an increased discharge of nutrients into the lake either during its construction or utilization.

2. Standards:

- i.** The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.
- ii.** Disturbance of natural slopes in excess of 30% grade may require additional information for review.
- iii.** Natural vegetation shall be preserved wherever possible.
- iv.** Natural vegetation shall be provided, if required, as a means of stabilizing erosive areas.
- v.** Mechanized equipment may be allowed in the Lakeshore Protection Zone as part of a permitted project; however, at no time shall any vehicle slice, gouge, or rut the beach or shoreline, expose silts or fines or come in contact with the lake.

E. CONSTRUCTION ACTIVITY CLEAN-UP

1. Policy Considerations:

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

2. Standards:

- i.** All construction debris shall be disposed of outside the lake and Lakeshore Protection Zone in such a manner and in such a location so as to prohibit its re-entry into the lake.

II. DESIGN STANDARDS FOR FACILITIES

Any proposed project shall meet the following design standards:

A. DOCKS

1. Policy Considerations:

- i.** Open and floating docks are encouraged as they allow complete water transfer beneath them. Such docks with large free water areas do not

impede current flows and, therefore, stagnant water conditions are not created.

- ii. Partially open docks which provide for restricted water transfer may be allowed. Partially open docks are those constructed of closely spaced piling or planking.
- iii. Solid docks, such as concrete or crib docks, or structures which essentially block the transfer of water beneath the dock will not be permitted.
- iv. Docks, wharfs, and piers have a high potential to interfere with public navigation and public recreation. The property owner has a right to lake access; the public has a right to navigation and recreation on public waters. A balance of these two rights should be arrived at by consideration of the water depth at a given location and the distance a structure extends into the public waters.
- v. Common shoreline dock facilities shared by two or more owners are encouraged, as such facilities reduce the overall environmental impacts on the lakebed and lakeshore and ease navigational congestion on the lake.

2. Standards:

- i. Docks must be placed a minimum of ten (10) feet from property lines.
- ii. Docks may not be larger than 400 square feet and must be a minimum of four (4) feet wide, inclusive of slips. Walkways and gangplanks may be three (3) feet wide.
- iii. Docks shall not exceed fifty (50) feet in length or extend more than 1/10th the width of the lake in that location, whichever is less. If the lakeshore has several docks that are significantly less than 50 feet in length (35 feet or less), then an alternate design should be considered to maintain consistent open water navigation.
- iv. The maximum lateral width of an L-shaped dock or platform shall not exceed thirty (30) feet.
- v. A dock shall not laterally cross an adjacent riparian property line.
- vi. If a dock is proposed to have a lateral mooring on a side that faces another dock, then the minimum clearance shall be thirty (30) feet.
- vii. All floating docks shall be suitably anchored to the lake bottom to avoid drift. Anchoring methods are limited to cable; galvanized chain or nylon or polypropylene rope attached to a suitable clean weight such as solid clean concrete, rock or steel blocks or a temporary pipe and post system which allows the dock sections to slide up and down.

B. BOATHOUSES, BOAT SHELTERS AND SHORE STATIONS

1. Policy Considerations:

- i.** Boathouses are essentially land-based structures and, where built within the Lakeshore 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.

2. Standards:

- i.** The shoreline and lake bottom shall not be excavated or dredged in order to provide channels and suitable water depth for boating access into a boathouse.
- ii.** Any structure which accommodates living quarters or other non-water related use, or activity in conjunction with housing boats, shall be located outside the Lakeshore Protection Zone.
- iii.** No boat house, boat shelter, or shore station shall incorporate a roof deck or other elevated deck.
- iv.** Boathouses shall not exceed twelve (12) feet in height from the natural grade adjoining the building location if located in the Lakeshore Protection Zone.
- v.** Boat shelters and shore stations shall not extend beyond the length of the dock.
- vi.** Boat shelters and shore stations shall be located no closer than fifteen (15) feet to mean annual high water elevation, except that a greater set-back distance may be required if, in the opinion of the governing body, the structure would likely infringe on the scenic view or navigation from the adjoining property.
- vii.** Boathouses and boat shelters shall be constructed with materials which are non-reflective and designed, constructed and placed with the adjacent surroundings so as to reduce any negative visual impacts.

C. BOAT RAMPS AND BOAT RAIL SYSTEMS

1. Policy Considerations:

- i.** Boat ramps have a potential to increase sedimentations in the lake, diminish water quality and alter natural shoreline characteristics.
- ii.** Boat rail systems, if properly installed, generally have an insignificant impact on the lake and its lakeshore, and are preferred over a boat ramp, shore station or shelter.

2. Standards:

- i.** Private boat ramps within one (1) lake mile or three (3) driving land miles of a public boat ramp are not allowed.
- ii.** Footings and/or the base of the boat ramp shall be constructed below the pre-existing grade of the shoreline.

- iii. Boat ramps shall be of the same elevation as the pre-construction lakebed and lakeshore elevation.
- iv. No boat ramp shall exceed six hundred (600) square feet or surface area lake ward of the mean annual water elevation.
- v. Maximum grade shall not exceed 15%.
- vi. All ramps shall be finished with a non-skid surface to insure maximum traction for vehicles launching and retrieving boats.
- vii. Concrete boat ramp edges shall be thickened to a minimum of twice the average thickness of the ramp in order to prevent erosive undercutting or breaking of ramp edges. In addition, the lake ward end of the ramp shall contain a 45° angle lip to allow tires to roll off the end as well as to dissipate wave energy as it rolls up against the ramp.
- viii. The rails of a rail launching system shall not exceed four (4) inches in height and the rail system shall lie on and follow the grade of the existing lakebed and lakeshore. No portion of the rail shall extend more than 18 inches above the immediately adjacent land.

D. RETAINING WALLS

1. Policy Considerations:

- i. Retaining walls significantly alter shoreline characteristics. They create an unnatural shoreline which causes alteration of wave actions, beach dynamics and shoreline erosion patterns.
- ii. Retaining walls which do not follow the natural contour of the shoreline have a high probability of affecting erosion of neighboring properties and may have adverse impacts to the lake and lakebed.
- iii. Other alternatives, such as vegetation, or at the least a vegetation and rock combination, should be explored first. Retaining walls should be constructed only as a last resort. When used, retaining walls should be constructed only for the purpose of stopping shoreline erosion.
- iv. Stone or wood retaining walls are preferred to concrete retaining walls. Only natural rip rap should be used.

2. Standards:

- i. Retaining walls are permitted only where active erosion is present.
- ii. The use of retaining walls solely for landscaping is not allowed.
- iii. Retaining walls designed to extend the land area into the lake shall not be permitted.
- iv. Retaining walls shall be built at or landward of the mean annual high water elevation and shall conform to the contours of the existing shoreline.
- v. Where active erosion is present and documented, an applicant may propose to regain erosion loss experienced in the past 12 months. No attempt shall be made to extend the land area into the lake any further.

- vi. Rock/boulder placement shall constitute the primary retaining wall method and shall be appropriately sized for the specific task.
- vii. Retaining walls shall include stabilization fabric behind the wall to prevent soil contamination into the lake.

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

2. Policy Considerations:

- i. The placement and maintenance of utility lines and wells, if done improperly, can have significant effects on lakes due to disturbance of the lakebed or lakeshore.
- ii. Electrical lines are unsightly, potentially dangerous in or near a water environment and generally in conflict with the natural setting of the Lakeshore Protection Zone.
- iii. Unrestricted lighting in the Lakeshore Protection Zone can be distracting, hazardous to navigation, and contribute to an unnatural setting.

3. Standards:

i. Electrical Lines and Lighting:

- (a.) No permanent overhead electrical lines are allowed in the Lakeshore Protection Zone.
- (b.) All lighting shall be designed to reflect light away from abutting or adjacent properties and the Lakeshore Protection Zone.

ii. Waterlines:

- (a.) That portion of the waterline which is not buried and does lie exposed on the bottom of the lakeshore shall be weighted to prohibit floatation or snagging.
- (b.) Waterlines using submersible pumps may incorporate an electrical line but all such work and installation shall be done in accordance with the State Uniform Plumbing and Electrical Codes.
- (c.) No waterline shall lie on top of or be attached to a floating dock or raft.
- (d.) All waterlines shall be covered or buried for safety and aesthetic purposes unless placement is temporary in nature (less than 30 days).
- (e.) The applicant shall demonstrate that the necessary water rights as required by the Department of Natural Resources and Conservation or irrigation district are in place.

iii. Utility Line Burial:

- (a.) Only the minimum amount of material necessary to lay the line shall be removed from the trench.

- (b.) All material excavated from the trench shall be replaced in the trench as backfill. Any material which is not replaced in the trench shall be completely removed from the Lakeshore Protection Zone.

F. FUEL TANKS

2. Policy Considerations:

- i. Fuel spills into the lake can create serious water quality hazards and may impair fish and wildlife habitat.
- ii. Fueling stations on or by a dock shall be located away from berthing areas in order to prevent any spread of a possible fire.

3. Standards:

- i. No bulk fuel tanks shall be placed over the water. All tanks shall be landward of the Lakeshore Protection Zone.
- ii. A pressure shut-off valve shall be located next to the bulk tank on the line, landward of the Lakeshore Protection Zone.
- iii. All fuel handling shall be outside the main berthing area unless weather or lake exposure conditions are unfavorable for such a location. Any fueling stations, other than bulk tanks, shall be located near an exit by water from the berthing area or at some location from which, in case of fire aboard an adjoining boat, the stricken craft may be quickly removed without endangering other boats.
- iv. Fuel stations shall only be allowed in a public or private marina or a public recreation site.

G. DECKS, WALKWAYS AND STAIRWAYS

1. Policy Considerations:

- i. If properly placed and constructed so as to minimize visual impact from adjoining properties and the lake said structures typically have minimal impact on the lakeshore and, in some cases, help to protect the fragile shoreline from foot traffic.
- ii. This is typically accomplished by flush or ground mounting of all decks, stairways and walkways in conjunction with wise use of the topography and landscaping. Elevated or projecting structures are typically prohibited. In addition, the cantilevering of decks and stairways to create level areas on otherwise steeply sloping, hilly or rocky properties are also typically prohibited.

2. Standards:

- i. Stairways shall follow the natural grade of the existing shoreline and should be designed and sized to provide pedestrian access only and be no wider than four (4) feet. Typically, the stairway will be mounted flush or within a few inches of the adjacent or underlying lakeshore. Should the shoreline prove to be too steep to adequately follow this standard, the applicants shall discuss alternative methods of accessing the lakeshore

or consider the lakeshore inaccessible as opposed to excavating, filling or modifying the Lakeshore Protection Zone so as to meet the standard.

- ii. Walkways shall be constructed on the existing terrain. Individual stones, gravel or imbedded wood are recommended travel surfaces as opposed to concrete.

H. OTHER PROJECTS

Other types of projects which are not specifically covered by the foregoing design standards shall be reviewed on an individual basis under the "Policy Criteria for Issuance of a Permit" contained in the "General Construction Standards"

Appendix B

Additional Definitions

APPLICANT: The person or persons applying to the governing body for a permit.

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

BOAT LIFT/ShORE STATION: A seasonal, portable, metal or wood frame carriage which is designed to hoist boats from the water and to store boats over the water.

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

BOAT RAMP: A facility consisting of a pad, driveway, or roadway extending from or across the Lakeshore Protection Zone into the lake which is designed to facilitate launching or retrieving boats.

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

CLEARANCE: With two adjacent docks, clearance is the narrowest distance between the corners of the docks when entering from open water.

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

DOCK: A platform, either non-floating or floating, which extends into, over, or across the water to provide for boat moorage, access to a moorage area, swimming facilities, or other related activities.

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 Lakeshore Protection Zone and thereby lowering the elevation of that portion of that zone.

FILLING: The process of discharging material onto a lake bottom and thereby raising the elevation of a portion of the lake bottom, eliminating 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 Lakeshore Protection Zone and thereby raising the elevation of a portion of that zone.

FLOATING DOCK: A Floating Dock is that which is not connected to the shoreline in any fashion, but rather anchored to the lake bottom with a suitable weight.

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 Lincoln County.

IMPERVIOUS: Not permeable, impenetrable by water.

LAGOONS: An artificial boat harbor created by excavating the shoreline, removing earth material and thereby extending an aquatic environment into a dry land area.

LAKE: A body of standing water, 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.

LAKESHORE PROTECTION ZONE: The land area which is within twenty (20) horizontal feet of the perimeter of the lake and 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 Lakeshore Protection Zone shall correspondingly follow these irregularities.

MAINTENANCE: Routine seasonal work or upkeep involving painting, staining, tightening, adjusting minor replacement of boards, shingles, broken windows, clean-up of debris such as branches and leaves, restacking fallen rock, etc. Typically, only hand tools would be involved. Any dredging, filling, or excavation is not considered maintenance.

MEAN ANNUAL HIGH WATER ELEVATION: The mean average of the highest elevation 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. In the absence of readily available data the mean annual high water elevation is considered to be the point at which typical aquatic vegetation meets typical terrestrial vegetation. In the event where the location is disputed an on-site visit with the applicant or a professional third-party assessment may be requested.

PERMANENT STRUCTURE: *See Structure*

PERMIT: A document issued by the governing body verifying compliance with the requirements and provisions of these requirements.

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

PLANNING DEPARTMENT: The Lincoln County Planning Department.

PLANNING STAFF: The staff planners in the employ of the Lincoln County Planning Department

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

RIPRAP: 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 contents of holding tanks onboard boats.

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 the ground.

WETLANDS: Water-land interface areas which are inundated or saturated by surface and/or ground waters at a frequency and duration of time periods sufficient to establish and, under natural conditions, support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to swamps, marshes, bogs, and similar areas. Wetland areas may be separated from the main body of water by man-made barriers or natural berms. The water elevation of a wetland area is related to the elevation of the lake water.