

**SECTION 3.38 ASHLEY LAKE**

**3.38.010 Definition:**

This development code is designed to implement the Ashley Lake Neighborhood Plan by protecting the quality, character and openness of Ashley Lake and the surrounding neighborhood and by providing guidance for future development.

**3.38.020 Permitted Uses**

1. Agriculture/silviculture
2. Manufactured homes Class A and B
3. Dwelling, single-family
4. Home occupation.
5. Public service utility installations

**3.38.030 Conditional Uses**

1. Bed and Breakfast (Maximum 4 bedrooms for rent)
2. Cellular towers.\*
3. Cluster housing.
4. Dwelling, multi-family.
5. Guest house or caretaker's facility.
6. Home-based business.
7. Homeowners park.
8. Publicly owned parks and recreational facilities.
9. Recreational vehicles\*

\* Administrative Conditional Use Permit (See Section 2.06.045)

**3.38.040 PUD Uses**

1. Commercial lodge, similar resort recreational accommodations and related recreational amenities.
2. Campground.
3. Free standing commercial marina.
4. Restaurant.

**3.38.050 Bulk and Dimensional Requirements**

1. Minimum Lot Size: 1/2 acre
2. Maximum Density:
  - a. Lakefront property: 1 lot/residence per 5 acres.
  - b. Lake View property: 1 lot/residence per 10 acres.
3. Average Lakeshore Frontage: Lakefront lots shall have an average lake frontage of 150 feet per dwelling unit as measured at the average high water line.
4. Minimum Lakeshore Frontage: Lakefront lots shall have a minimum lake frontage of 100 feet measured along the average high water line.

5. Maximum Height: 35 feet
6. Minimum Setback Requirements

The following setbacks shall apply on all properties in the Ashley Lake Planning Area:

- a. Property lines: 10-foot setbacks from all property lines, in addition;
- b. Lake/Stream: 20-foot setback for all structures landward of the average high water line

3.38.060

#### Exceptions to Setbacks, Lake Frontage and Density Standards for Existing Lots

1. Setbacks:
  - a. When a structure which 1) existed at the time of adoption of these regulations and 2) exceeded one or more setbacks, is replaced, the new structure may be constructed within the same setback areas. It shall not be allowed to be placed closer than the existing structure was to the lake or other property line setbacks that it exceeded.
  - b. When a structure that existed at the time of adoption of these regulations is expanded or modified, no variance is needed if the expansion does not reduce the setback further than exists.
2. Lake frontage and density standards:
  - a. A lot or tract of land existing at the time of adoption of these regulations which contains either inadequate land area or lake frontage to allow the creation of one additional lot or tract may be subdivided to allow the creation of one additional lot or tract if either or both the land area or lake frontage of the proposed lot/tract are within 75% of the required density or lake frontage.
  - b. Where existing lots/tracts contain less than 75% of the required minimum lot area or lake frontage, this would not preclude the owner from applying for a variance to these standards through the Flathead County Board of Adjustment. Factors supporting the granting of the variance would include presence of suitable access and building site and compatibility with adjoining land use and development practices.

3.38.065

#### Recreational Vehicles

The placement of recreational vehicle(s) on a parcel of land, which may or may not contain a residence, for private use of the owner or guest and not as a permanent residence shall be regulated as follows:

1. An owner of undeveloped property that intends to place their recreational vehicle on the undeveloped property is required to apply for an Administrative Conditional Use Permit as soon as the recreational vehicle is placed upon the property.

2. Owners of undeveloped property are given a 30-day grace period during which the recreational vehicle may be placed and utilized on the property while the Administrative Conditional Use Permit application is being processed.
3. All recreational vehicles shall be located in accordance with the minimum setback standards of the District regulations. Front, 10 feet; Side, 10 feet each; Side Corner, 10 feet; and Rear, 10 feet. (A 20-foot setback is required from the lake or stream)
4. There shall not be more than two (2) recreational vehicles on any developed tract, except as provided by numbers 7 and 8 below.
5. The permit requirements do not apply to developed properties.
6. Use of a recreational vehicle on an undeveloped property shall be subject to the following limitations and permit requirements:
  - a. Must have "adequate facilities" for the treatment of wastewater as defined in the Flathead County Regulations for sewage treatment.
  - b. Administrative Conditional Use Permit shall be applied for within 30 days of the placement of the recreational vehicle on the undeveloped property.
  - c. There may be a maximum of two (2) recreational vehicles on an undeveloped tract. **THE PROVISIONS OF NUMBERS 7 AND 8 BELOW DO NOT APPLY TO UNDEVELOPED TRACTS.**
7. It is the intent of these regulations to allow for family gatherings for special events and holidays on an infrequent basis. These regulations should not be construed as to allow for the creation of a recreational vehicle park de facto or otherwise.
8. These regulations shall not be construed as to limit, regulate or prevent the owner of property from storing their recreational vehicle on their developed property within the district, but rather to regulate the use/occupancy of recreational vehicles within the District.

3.38.070

#### Special Open Space Development Standards

- a. When new lots are created and the owner proposes to utilize lots less than the maximum density required for lakefront or view lots with the resulting land to be maintained in common open space, this open space shall be maintained within the overall bounds of the single contiguous ownership proposed to be developed. The open space must exhibit a beneficial relationship to the lots to be created and it must further the overall concepts of good design. In particular, the open space shall be contiguous and shall be used to provide a buffer between lakefront lots and view lots when both are proposed within a development so as to both discourage and mitigate the practice of shifting view lot densities into the immediate vicinity of the lakeshore. When an owner proposes to develop property in a phased program, the overall open space plan shall be submitted with the first application.
- b. The overall open space may be held in common ownership by the homeowners association or it may be maintained or sold by the original owner. In either

case the designated open space tract shall carry with it a deed restriction limiting its future use to open space activities/uses.

- c. The open space areas may be utilized for agriculture, timber management, homeowner recreation, natural areas, etc. The areas may contain accessory buildings necessary to carry these things out such as agricultural buildings, homeowner association community buildings, parking areas, gazebos, tennis courts, well houses, etc.

3.38.080

#### Homeowners Park Design Standards

1. Homeowners parks shall be designed and developed to serve only those properties within the adjoining residential subdivision. They shall not serve properties outside of the Ashley Lake Neighborhood.
2. Activities shall be limited to day-use-only in nature and be single-family residential in scale and intensity. Commercial use and use by clubs or other private or semi-private organizations other than the specific residential homeowners association is prohibited.
3. Restroom facilities as recommended and approved by the Flathead City-County Health Department are required to serve each homeowners park.
4. Homeowners parks with lake frontage shall be sized as follows:  
  
Minimum lake frontage: 150 feet for the first lot/residential housing unit and 25 feet for each additional lot/residential housing unit in the subdivision accessing the park.
5. All development in the lake, on the lakeshore or 20 feet landward of the average high water line of Ashley Lake shall comply with the Flathead County Lake and Lakeshore Protection Regulations.

3.38.090

#### Cluster Housing Provisions

1. Single, duplex, triplex and larger units allowed
2. Density shall not exceed that which is allowed in the underlying zone.
3. All setbacks as provided for in these regulations shall be adhered to.
4. Lakeshore frontage per development, as specified in Section D(3) above, shall be maintained at an average of 150 feet per primary dwelling unit.

3.38.100

#### Campground Standards

Where a campground proposes direct lake access, the minimum amount of lake frontage that the campground must have shall be 250 feet or 25 feet for each campsite in the entire campground, whichever is greater. Note: A campground with the minimum 250 feet of lake frontage would accommodate a maximum of 10 campsites.

3.38.110

#### Special PUD Provisions for Commercial Lodge and Related Recreational Amenities

1. No single lodge development shall exceed a maximum of 50 sleeping rooms offered for overnight accommodations.
2. The minimum land area for a lodge shall be based on a ratio of 5 acres for every room offering overnight accommodations in the lodge. This land area may be incorporated into the overall site design or may be provided elsewhere in the District. If some or all of the land area set aside is not adjacent to the proposed lodge and accessory uses and is to be provided for elsewhere in the District, such land must be subject to review and approval and the setting aside of such lands in permanent open space must achieve significant goals of the plan.
3. Lodges developed on lakelfront lots shall be required to have 25 feet of lakeshore frontage for every room offering overnight accommodations.
4. Lodges may provide eating facilities as well as related recreational amenities such as trail rides, dock facilities, etc., as long as all uses are developed as an integrated project.

3.38.120

#### Ashley Lake Land Use Advisory Committee

There is hereby created the Ashley Lake Land Use Advisory Committee. This shall be a citizen's advisory committee formed to serve as the neighborhood voice for all issues affected by the Ashley Lake Neighborhood Plan or these Ashley Lake Land Development Regulations. The Committee shall contain seven (7) individuals representing the varied interests of the Neighborhood. Specifically, the Committee shall be composed of 1 representative from the timber/agricultural owners, 4 members from lake front properties, and 2 members from lake view properties. Initially, members of the Committee shall be appointed by the County Commissioners, and by-laws shall be prepared by the Committee and adopted by the Commissioners to govern the Committee. The Committee shall be advisory to the Flathead County Planning Board, Flathead County Board of Adjustment and the County Commissioners. The Committee shall review all applications for variances, conditional uses permits, PUDs and amendments to these regulations as well as major and minor subdivision applications.

3.38.130

#### Conditional Use Preview Process

1. A special expedited local review process is created for the processing of conditional uses as listed in Section 3.38.030 above because of their minor impacts to the surrounding neighborhood.
2. A Conditional Use Permit application and filing fee (available at the Flathead County Planning & Zoning Office) shall be submitted to the Flathead County Planning & Zoning Office as provided for in Section 2.4 of the Flathead County Zoning Ordinance. Flathead County Planning & Zoning Office shall forward the application to all members of the Ashley Lake Land Use Advisory Committee and to all adjoining property owners within 150 feet of the site. The Committee shall hold a public hearing concerning the request using the same notification procedures of the Board of Adjustment as provided for in Section 2.4, Flathead County Zoning Ordinance.
3. The Committee shall approve or deny an application based on the criteria enumerated in Section 2.06.080 of the Flathead County Zoning Ordinance.

Criteria include site suitability, appropriateness of design, availability of public services and immediate neighborhood impact.

4. The Committee's action is final. However, any party aggrieved by the decision of the Committee may, within 30 days of the Committee's decision, appeal the action to the Flathead County Board of Adjustment who will hear the issue and make a decision concerning the appeal.

3.38.140

#### Variance Review Process

Where the application of these regulations creates an undue hardship, a variance to these regulations may be applied for as provided for in Section 2.05 of the Flathead County Zoning Ordinance. Prior to action on the variance request by the Flathead County Board of Adjustment, the request shall be submitted to the Ashley Lake Land Use Advisory Committee for review and comment. The Committee shall hold a public meeting on the issue and make a recommendation based on findings as provided for in Section 2.05.030 of the Flathead County Zoning Ordinance. Said findings include among other things that reasonable use of the property is limited without the variance, the hardship is caused by lot size, shape, topography, etc. which the owner has no control over, the hardship was not self created, it is not an economic hardship, it will not adversely affect neighboring properties and will not confer a special privilege to the owner if granted.

3.38.150

#### Mandatory Review of Plan and Regulations

1. These regulations shall be reviewed for effectiveness and appropriateness on a regular basis.
2. A review committee consisting of the Ashley Lake Land Use Advisory Committee, as provided for in the Ashley Lake Neighborhood Plan, shall convene, at a minimum, within one year, three years and five years from the date of adoption of these regulations by the County Commissioners.
3. The committee shall review the regulations and neighborhood plan in light of development activity that has occurred to date and forward a report to the Flathead County Planning Board and County Commissioners recommending changes as deemed appropriate to:
  - a. ensure the smooth administration of the plan and regulations;
  - b. ensure that the regulations are meeting the desired goals of the plan; and,
  - c. address any unforeseen issues or circumstances not originally or adequately addressed by the existing plan and regulations.
4. The special annual and biennial reviews shall not preclude the convening of a special review where need warrants or for action on a specific amendment during the interim periods.

3.38.160

#### Relationship of These Regulations to other Regulations in the County

The Ashley Lake Development Standards are intended to be adopted as a zoning district, either by reference, or by direct insert, into the Flathead County Zoning

Regulations. As such, the existing administrative structure, the Flathead County Planning Board, Flathead County Board of Adjustment and Board of County Commissioners shall have established responsibilities for ensuring the proper administration of these regulations.

The Ashley Lake Development Code is based on the Ashley Lake Neighborhood Plan, which has been adopted as an addendum to the Flathead County Master Plan. The Neighborhood Plan and the Ashley Lake Development Code provide the more specific detail and guidance for the Ashley Lake Neighborhood. They are considered the more restrictive and therefore shall control when areas of conflict with other provisions of the County Master Plan or Zoning Regulations arise as provided for under Section 1.04, Flathead County Zoning Regulations.

3.38.170

#### Definitions Particular to this District

1. **DEVELOPED PROPERTY:** Any lot, tract, parcel or other ownership that has a domestic water supply, sewage disposal system and a manufactured or site built home located in accordance with these regulations and the applicable rules of the Flathead City-County Health Department and the Montana Department of Environmental Quality. For the purposes of these regulations, recreational vehicles do not qualify as manufactured homes and shall not be used as permanent residences.
2. **HOME-BASED BUSINESS:** A home occupation that proposes any of the following: employs more than one non-resident employee; uses outbuildings (detached garage, shed, barn, shop, etc.) for principal business activity; or, in the case of a home-based service business, the business sells products that are directly related to the service provided (for example, a small engine repair business that sells spark plugs, filters, oil or other parts associated with a repair). (See Home Occupation definition below.)
3. **HOME OCCUPATION:** Any business conducted entirely within a dwelling and carried on by the members of the family and up to one non-resident employee, which is clearly incidental and secondary to the dwelling for dwelling purposes, does not utilize unscreened outdoor storage and does not change the character of the dwelling or neighborhood.
4. **HOMEOWNERS PARK:** A park which has been dedicated as part of a subdivision for the exclusive use by the property owners within that subdivision, and is maintained through private funds provided from annual fees paid to the homeowners association. (See Section 3.38.080 above).
5. **LAKEFRONT PROPERTY:** Land which has deeded direct access to the lakeshore.
6. **LAKE VIEW PROPERTY:** Land which lies near or within the general vicinity of a lake but which does not have deeded direct access to the lakeshore. Lake View Property may have access to the lakeshore via an approved homeowners park.
7. **OPEN SPACE:** A contiguous portion of land in a development set aside to remain open in character while building density is shifted to another part of the development site, typically through a residential cluster or planned

unit development process. Permitted primary uses, which are considered to be open in character, are limited to agricultural/horticultural/silvicultural uses, recreational space, a single-family dwelling on open space area 20 acres or larger, with density limitations and utilities. Accessory uses to these primary uses are also permitted. Examples of permitted structures or uses include barns, corrals, stables, mint stills, granaries, hay sheds, farm or logging machinery storage buildings, golf courses, playgrounds, swimming pools, and courtyards. Open space calculation shall exclude road easements and road rights-of-way.

8. **RECREATIONAL VEHICLE:** Travel trailer or camping trailer designed to be towed, motorized homes, pickup campers, or coaches, designed and constructed for human habitation, which can be operated independently of utility connections and designed to be used principally as a temporary dwelling for travel, recreation and vacation.