

RESOLUTION NUMBER 94-053

A RESOLUTION TO AMEND ZONING DISTRICT 25A TO EXTEND THE BOUNDARIES OF THE DISTRICT. THE AFFECTED PROPERTY INCLUDES THE WEST 1/2 OF SECTION 13 AND ALL OF SECTION 23 LESS GOVERNMENT LOTS 2 AND 3 IN THE WEST 1/2, TOWNSHIP 19 NORTH, RANGE 17 WEST, PRINCIPLE MONTANA MERIDIAN AND A 200 FOOT STRIP MEASURED FROM THE SHORELINE IN SECTIONS 26, 27 AND 35, TOWNSHIP 19 NORTH, RANGE 17 WEST ON LINDBERGH LAKE, AND THE SOUTHEAST QUARTER OF SECTION 14 ON LINDBERGH LAKE. SEE EXHIBIT A FOR MAP OF THE ZONING DISTRICT.

WHEREAS, 76-2-101 M.C.A. authorizes the Board of County Commissioners to adopt zoning regulations; and,

WHEREAS, the Board of County Commissioners did adopt zoning regulations Zoning District 25A, as amended; and,

WHEREAS, 76-2-106 M.C.A. provides for the establishment and revision of zoning districts; and,

WHEREAS, such a district revision to extend the district boundaries to include the property described above has been reviewed by the Missoula Planning and Zoning Commission as required by 76-2-106 M.C.A.; and,

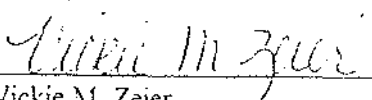
WHEREAS, a public hearing was duly advertised and opened by the Planning and Zoning Commissioners of Missoula County on April 13, 1994, in order to give the public an opportunity to be heard regarding such proposed zoning district revisions as required by 76-2-106 M.C.A.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Missoula County will adopt the extension of the boundaries of Zoning District 25A.

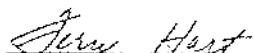
FURTHER, copies of the regulations for Zoning District 25A are available for inspection at the office of the Missoula County Clerk and Recorder.

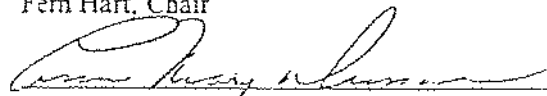
PASSED AND ADOPTED THIS 3<sup>rd</sup> DAY OF MAY, 1994.

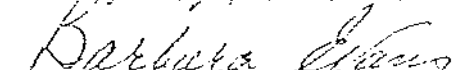
ATTEST:

  
Vickie M. Zeier  
Clerk and Recorder

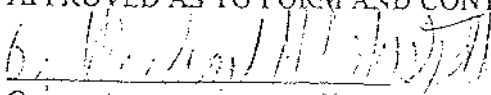
BOARD OF COUNTY COMMISSIONERS  
Missoula County, Montana

  
Fern Hart, Chair

  
Ann Mary Dussault, Commissioner

  
Barbara Evans, Commissioner

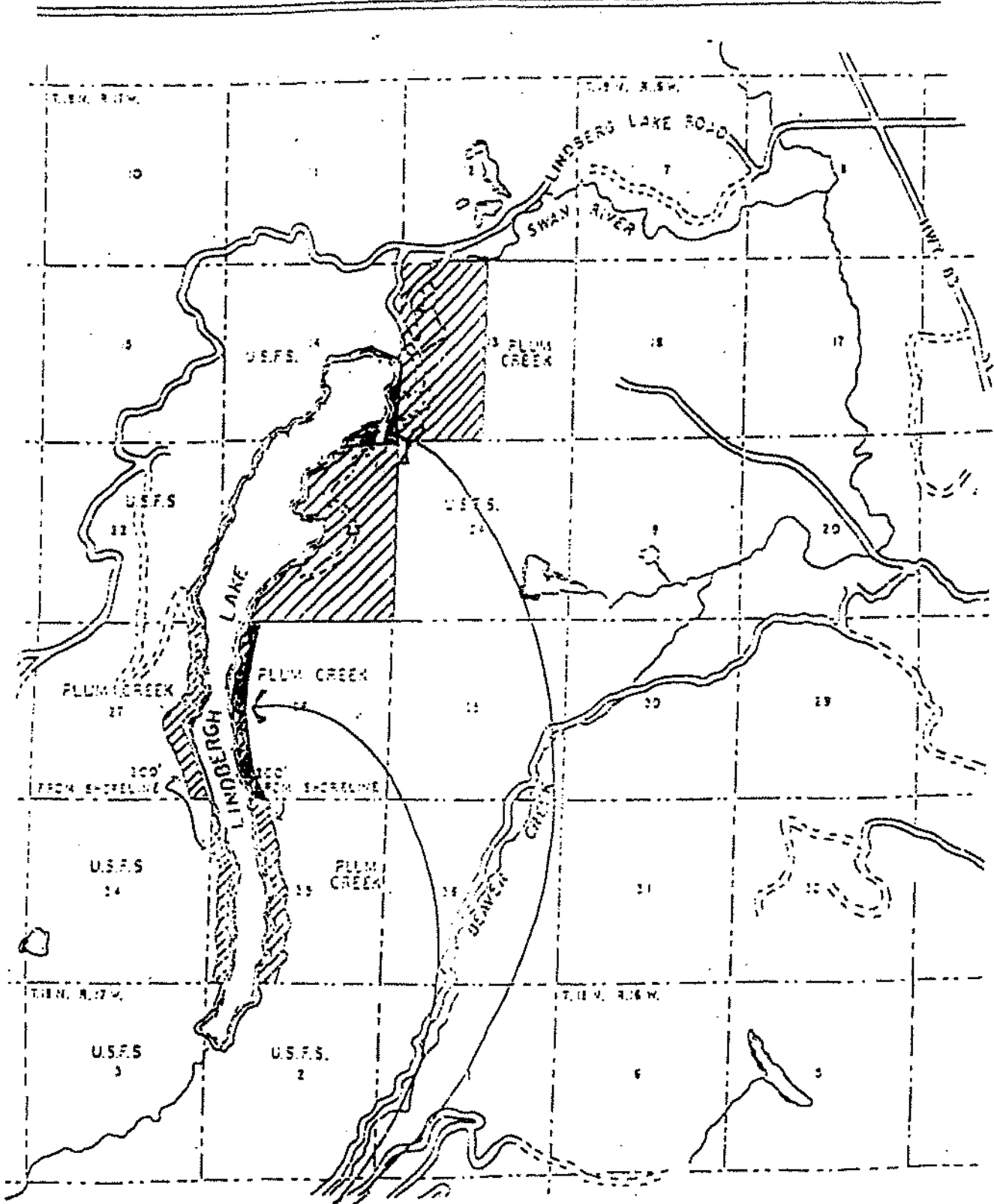
APPROVED AS TO FORM AND CONTENT:

  
County Attorney

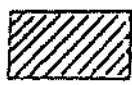
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EXHIBIT A

APPENDIX I  
LINDBERGH LAKE  
ZONING DISTRICT 25A



PROPOSED  
ADDITIONS TO  
DISTRICT 25-A



ZONING DISTRICT 25A

RESOLUTION NO. 92-108

A RESOLUTION TO AMEND THE REGULATIONS AND DISTRICT BOUNDARIES OF PLANNING AND ZONING DISTRICT NO. 25A.

WHEREAS, on March 2, 1970, the Missoula Board of County Commissioners, upon recommendation of the Missoula County Planning and Zoning Commission, did create Planning and Zoning District 25A (Z.D. 25A) and adopted standards governing the development of land uses and structures within this district; and,

WHEREAS 76-2-106 M.C.A. authorizes the Planning and Zoning Commission to make changes in districts; and,

WHEREAS notices of public hearing were posted in three (3) public places more than fifteen (15) days prior to the first public hearing; and,

WHEREAS the Planning and Zoning Commission conducted public hearings on October 7 and November 18, 1992, to receive public testimony on proposed revisions to the development standards governing the use of land and structures within Z.D. 25A; and

WHEREAS, on November 18, 1992 the Planning and Zoning Commission recommended adoption of the attached amended regulations for Z.D. 25A,

NOW THEREFORE, BE IT RESOLVED by the Missoula Board of County Commissioners that the standards of Planning and Zoning District No. 25A be amended to read as stated in Attachment #1 of this document.

PASSED AND ADOPTED THIS 17<sup>th</sup> DAY OF DECEMBER, 1992.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
Missoula County, Montana

Wendy Cromwell  
Wendy Cromwell  
Clerk and Recorder

Barbara Evans  
Barbara Evans, Chairman

Janet Stevens  
Janet Stevens, Commissioner

Ann Mary Dussault  
Ann Mary Dussault, Commissioner

APPROVED AS TO FORM AND CONTENT:

Michael W. Johnson  
County Attorney

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## ZONING DISTRICT NO. 25A

### APPLICABILITY.

The West 1/2 of Section 13 and all of Section 23 exempting therefrom Government Lots 2 and 3 in the West 1/2, Township 19 North, Range 17 West, P.M.M. and a 200 foot strip measured from the shoreline in Sections 27 and 35, Township 19 North, Range 17 West, P.M.M. on Lindbergh Lake. Drawings or maps of the above identified Sections with Lindbergh Lake depicted thereon are annexed hereto (see Appendix 1); the real property within this Zoning District No. 25A and covered hereby is all that real property depicted by, and which is within, the cross-hatched areas of the annexed drawings and maps.

### SECTION I. Definitions

A. Residential: Single family non-mobile dwellings which are used as permanent, seasonal or periodic residences, as well as all accessory buildings and uses clearly subservient to the residential use of the real property upon which the single family non-mobile dwelling is situated. Specifically excluding from, and not within, this definition are buildings, structures, units, vehicles and uses such as, but not limited to, the following: mobile occupancy units; condominiums and the rooms and units thereof; apartment houses and complexes, and the apartments, units and rooms therein; town houses and the rooms and units therein; garden courts and the units and rooms therein; time-share buildings and complexes, and the units and rooms therein; buildings for multiple family dwelling and the rooms and units therein; and lodges and resorts, and the rooms, units and apartments therein.

B. Noncommercial Recreational: Recreational uses conducted neither for pay nor for profit, directly or indirectly. Specifically excluded from, and not within, this definition are buildings, structures, units, vehicles and uses such as, but not limited to, the following: mobile occupancy units; condominiums and the rooms and units thereof; apartment houses and complexes, and the apartments, units and rooms therein; town houses and the rooms and units therein; garden courts and the units and rooms therein; time-share buildings and complexes, and the units and rooms therein; buildings for multiple family dwelling and the rooms and units therein; and lodges and resorts, and the rooms, units and apartments therein.

C. Legal Nonconforming Use: A use of the land, a parcel of land, and/or buildings thereon which was an actual and lawful use, parcel and/or building at the time of the adoption of these Zoning District No. 25A regulations (which use, parcel or building would not conform to said regulations because of adoption or subsequent changes in district boundaries or regulations), shall likewise constitute a legal nonconforming use, parcel and/or building.

D. Residential Service Occupation: A "Home Occupation" as defined in and regulated by Resolution #81-132 (see Appendix 2).

E. Mobile Occupancy Units: A unit which was originally or subsequently designed, constructed, equipped or used as a dwelling place, living abode, or sleeping place (either permanently or temporarily) for movement on streets, highways, roads and byways; such units include, but are not limited to, self-propelled or pull-type: campers, truck campers, chassis-mounted campers, cab over campers, half telescopic cab over campers, truck canopy covers, truck canopy toppers, mobile homes constructed prior to 6/15/76, motor homes, trailers, travel trailers and vehicles or other type units originally designed or subsequently altered to provide permanent or temporary facilities for recreational, travel, camping or sleeping use.

## SECTION II. Permitted Uses

A. One Single-family residential use.

B. Mobile Homes manufactured after June 15, 1976, which are permanently affixed (on a permanent foundation) to the land have exterior walls of wood or wood appearance painted or stained in earth tones, and comply in all other respects with the Development Standards of Planning and Zoning District No. 25A, as amended, of Missoula County.

C. Noncommercial recreational uses.

D. Residential Service Occupation Uses.

E. Structures accessory to permitted uses, including garages, sheds, boathouses, ramps and docks.

## SECTION III. Prohibited Uses

A. Mobile homes manufactured prior to June 15, 1976, and also mobile homes manufactured on and after June 15, 1976, which do not comply with Section II, paragraph B.

B. Business, commercial and intended or attempted profit-making purposes or uses including, but not limited to, the following: bars, taverns, and other establishments at which beverages are dispensed or served as a consequence of the payment of money; restaurants and cafes; lodges and resorts; animal, tool, vehicle and equipment rentals, including horse rentals, ski rentals, snow vehicle rentals, skate rentals, boat rentals, automobile rentals and recreational vehicle rentals; water, snow and aircraft passenger rides and excursions for pay; rental storage spaces or storage units; boarding houses, condominiums, apartments, town houses, garden courts, and time-share units; hunting guide services; fishing guide services; marinas; garages and service stations; stores; markets; sales outlets; and sale, rental, lease or other dispensation of goods and merchandise for pay.

C. Offices for on-site consultation with, or providing personal on-site services to, clients, patients or customers who come on site as a consequence of express or implied invitation to members of the public at large, and the rendition of services for pay. Provided, however, Residential Service Occupations shall not be within the prohibited uses described by Section II, paragraph D.

D. Business, professional and religious gatherings such as retreats, camps, encampments, conclaves, schools, and training or teaching sessions of any kind for two or more persons; provided, however, this prohibition shall not apply with respect to personal business, professional and religious gatherings which occur on an occasional basis and primarily involve noncommercial recreational use. This section does not prohibit the accessory use of a residential dwelling for religious gatherings.

E. Sanitariums, rest homes, group retirement homes, hospitals and schools, except as permitted by State statute, MCA 76-2-401 through 76-2-412 (1985).

F. The construction of causeways, waterways, canals, ditches and all other means and methods by which ingress, egress or access by water is gained, or sought to be gained, to Lindbergh Lake.

G. Ramps and other means or methods of access to, ingress to, or egress from, Lindbergh Lake by persons other than owners of lots or other tracts of land abutting or adjoining Lindbergh Lake and which is within this Zoning District No. 25A, and by the guests of such owners.

H. Structures which do not meet the development standards in Section IV (A) or (B) as applicable.

I. All other uses not specifically listed as a permitted use.

**SECTION IV - DEVELOPMENT STANDARDS**

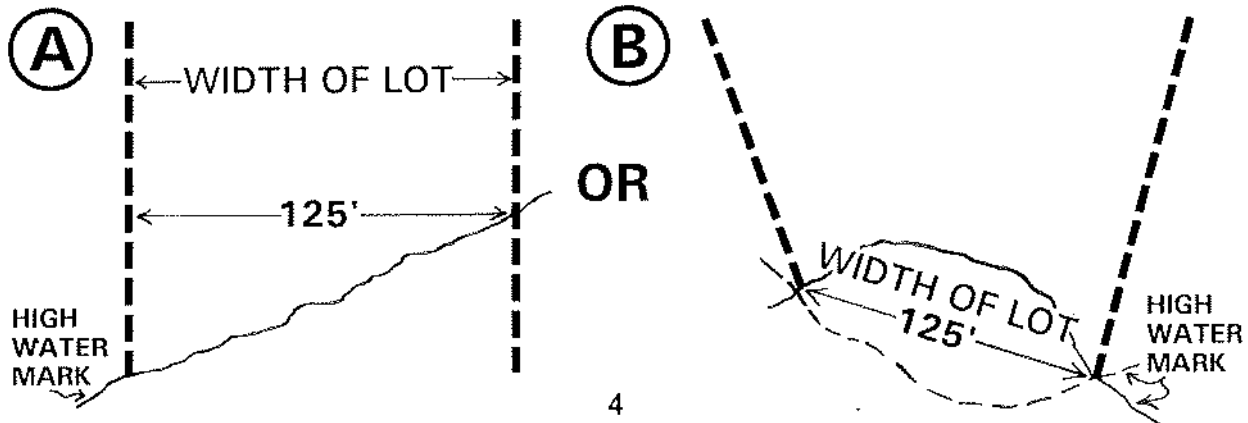
**COMMENT: THE DEVELOPMENT STANDARDS WHICH FOLLOW ARE DIVIDED INTO TWO SUB-REGULATIONS. ONLY ONE OF THESE SECTIONS (A OR B) IS TO BE APPLIED TO A GIVEN PROPERTY (IN A CASE WHERE A PROPERTY IS AFFECTED BY TWO SUB-SECTIONS BASED ON THE LEGAL DESCRIPTION, THE REGULATIONS OF EACH SECTION SHALL APPLY TO THAT PORTION OF THE PROPERTY). TO DETERMINE WHICH SUB-SECTION GOVERNS A PARTICULAR PROPERTY, CONSULT THE LEGAL DESCRIPTIONS CONTAINED IN SUB-SECTION A AND B. IN GENERAL, "A" APPLIES TO THE HACMOORE SUBDIVISION AND A PARCEL OF LAND LOCATED BETWEEN LOTS 6 & 7 OF THE HACMOORE SUBDIVISION. "B" APPLIES TO ALL OTHER PRIVATE LANDS IN ZONING DISTRICT 25A.**

A. The following development standards apply to the Hacmoore Subdivision and a tract of land described as commencing at the West 1/4 corner of Section 13, thence S.86°11'E., for 111.18 feet to the true point of beginning, thence N.47°57'E., for 45.53 feet thence S.45°57'E., for 141.64 feet to the center of Swan River thence, S.53°15'W., along the center of Swan River for 87.32 feet, thence N.28°38'W., for 136.92 feet back to the true point of beginning, all located in Section 13, T.19N., R.17W., P.M.M.

1. All existing lots in this zoning unit are considered legal conforming lots of record. No lot shall be further divided except Lot 9 of Hacmoore Subdivision which, if divided, shall create lots of not less than 25,000 square feet.
2. No other Section IV, Development Standards shall apply.

B. The following development standards apply to all lands within Zoning District 25A excluding those described in Paragraphs A, Section IV, Development Standards.

1. The minimum size of lots shall be 25,000 square feet, and the minimum size of any single family dwelling shall be not less than 400 square feet on the main floor or level.
2. The minimum lot width of each lot at the lakeshore shall be 125 feet measured as follows:



3. No building, shed, or any part thereof, shall be erected, constructed, located or maintained except in accordance with the following setbacks:"

- a. One (1) single family residence per legal lot may be constructed, erected, located and maintained not closer than fifty (50) horizontal feet of the high water line of Lindbergh or Cygnet Lake. A deck may be constructed closer to the high water line of the lake than the fifty (50) foot set back established for the primary residence.
- b. One (1) boathouse or other building or shed for purpose of storage of boats may be constructed, erected, located and maintained not closer than thirty-five (35) horizontal feet, of the high water line of Lindbergh or Cygnet Lake; provided, however, such boathouse, building or shed shall not exceed four hundred eighty (480) square feet of ground area, and the maximum side of said boathouse, building or shed fronting on Lindbergh or Cygnet Lake shall be twenty (20) feet.
- c. One (1) pumphouse of not more than twenty-five (25) square feet of ground area and not more than six (6) feet in height may be erected, constructed, located and maintained within ten (10) horizontal feet of the high water line of Lindbergh or Cygnet Lake.
- d. For each 25,000 square feet of lot size, only one accessory building exceeding 120 square feet may be constructed, erected, located and maintained not closer than seventy-five (75) horizontal feet of the high water line of Lindbergh and Cygnet Lake.
- e. All structures shall be constructed erected, located and maintained not closer than seven and a half (7 1/2) feet from the side lot line.
- f. No boat dock shall be constructed greater than 30 feet by 40 feet and shall be limited to 2 slips/mooring places per legal lot.

#### SECTION V. General Regulations and Variances

A. A legal nonconforming use or structure shall not be relocated, enlarged, increased, or extended to occupy a greater area of land, or a greater cubic footage of space, than was occupied at the time of the adoption of these Zoning District No. 25A regulations and any amendment thereto. This does not preclude existing single family residence, docks or other structures from being improved, enlarged remodeled or replaced as long as it conforms to all building codes and other ZD 25A zoning regulations.



B. A legal nonconforming parcel is a lot, parcel, or other subdivision of land which does not comply with the minimum lot size requirement contained in Section IV, Development Standards of this zoning district, but which was legally created prior to the adoption of these regulations. A legal nonconforming parcel must be in separate ownership and not of contiguous frontage with other lot(s) in the same ownership. Contiguous nonconforming lots in a single ownership shall be considered a single parcel and shall not be divided by ownership in such a way which leaves remaining any lot with an area smaller than the minimum lot size required by this zoning district. A legal nonconforming parcel may be enlarged through aggregation of lots or acquisition of additional adjacent property.

C. The area of land of any division, subdivision, lot or other platted parcel of real property in or upon which a legal nonconforming use is situated or is being carried out shall not be decreased, reduced or subdivided from the area of that division, subdivision, tract, lot or other such platted parcel at the time of the adoption of these Zoning District No. 25A regulations.

D. No legal nonconforming use shall be moved in whole or in part to any other division, subdivision, tract, lot or parcel of real property within this Zoning District No. 25A.

E. If any legal nonconforming use of land or structure, including accessory structures and docks, ceases for any reason for a period of twelve (12) consecutive months, then and thereafter any subsequent use of the land and structure shall conform to the standards specified by these Zoning District No. 25A regulations for conforming use. The removal of a legal nonconforming (pre-1976) mobile home from a legal nonconforming mobile home site shall constitute a cessation of a legal nonconforming use of land and structure and will be subject to the 12 month deadline as provided by this section.

F. Except for legal nonconforming uses as defined by Section I (C), any nonconforming structure which is destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction shall not be reconstructed or replaced except in conformity with the provisions of these regulations.

G. No roadside signs or roadside advertisements for any commercial, business, or professional purpose shall be permitted or allowed within this zoning district, except as permitted by Resolution #81-132 -- Home Occupations (Appendix 2).

H. No lot or any parcel of property may be subdivided or made smaller in its dimensions whereby the front footage on Lindbergh or Cygnet Lakes, is less than one hundred twenty-five (125) feet. The purpose of this restriction is to prevent any owner from further subdividing or dividing a lot or parcel of property in order to construct additional residences upon said lot or parcel of property; however, this restriction does not prevent the owners of two or more lots which are separated by an intervening lot from dividing that intervening lot in any manner which they desire for the purpose of protecting their respective privacy, so long as the total number of lots on the property does not increase as a result of said division. Once such intervening lot is divided, then the restrictive parcel shall merge with and become a part of the lot on each side

thereof and the new enlarged lots may not later be subdivided or reduced in size.

I. All garbage, pet foods, agricultural grain products, stock feed and waste must be stored indoors or in bear-proof containers. Fruit trees and apiaries shall be fenced or otherwise made unavailable to wildlife. Assistance in the design and development of fencing and other suitable protective measures can be obtained from the Montana Department of Fish, Wildlife and Parks or the US Fish and Wildlife Service.

J. No individual sewage disposal system or water system shall be constructed, permitted, maintained or located unless such system is located, constructed, equipped and maintained in accordance with the minimum requirements and regulations of the Missoula County Health Department, the Montana Department of Health & Environmental Sciences, and any other county, state or federal entity or agency having jurisdiction. In no event shall any privy, outhouse or other building or facility of similar nature and use be constructed, maintained or used.

K. Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint, fully stating the causes and basis thereof, with the County Zoning Officer. The Zoning Officer shall record and investigate the complaint. If the Zoning Officer finds that any of the provisions of these regulations are being violated, s/he shall submit a written investigation report to the Office of the County Attorney for appropriate legal action.

L. The Board of Missoula County Commissioners may authorize variances which will not be contrary to the public interest where, owing to special conditions, literal enforcement would result in clearly established and unnecessary hardship; provided, however, no variance shall be made, given or granted, and no petition, application or other request for variance shall be made, given, granted or considered, without formal meeting of, and open hearing before, the Board of County Commissioners. Public notification of the variance request and of the time and place of the public hearing shall be accomplished by all of the following:

1. All adjacent property owners (as listed in the most recent County Tax Records) within 300 ft. of the parcel requesting the variance will be notified by the Zoning Officer by 1st Class mail. This mailing will occur no later than twenty-one (21) days prior to the public hearing.
2. Homeowners Association(s) within the zoning district will be notified by the Zoning Officer by 1st Class mail. This mailing will occur no later than twenty-one (21) days prior to the public hearing. It is the responsibility of the Homeowners Associations to keep the Zoning Officer informed of the current names and addresses of Association Officers.

3. The property requesting the variance will be posted in at least three (3) conspicuous places by the Zoning Officer, stating the date, time, and place of the public hearing. This posting will occur no later than fifteen (15) days prior to the public hearing.
4. A legal advertisement will be placed in a newspaper of common circulation and a local newspaper (if any exists) stating the nature of the request and the date, time and place of the public hearing. This legal advertisement will be published no later than fifteen (15) days prior to the public hearing.

A fee to cover the administrative costs of processing the variance request must be paid by the applicant at the time that the variance request is submitted to the Zoning Officer. This fee shall be for the amount determined by the County Commissioners for variance request in all citizen-initiated zoning districts.

#### SECTION VI. Severability Clause

In the event any court of competent jurisdiction holds any section, subsection, part, term, clause or provision contained in the standards of this Zoning District No. 25A to be invalid, illegal, unconstitutional or otherwise unenforceable, then, nevertheless, all other and remaining sections, subsections, parts, terms, clauses and provisions thereof and hereof shall continue and remain in force and effect.

#### SECTION VII. History

Zoning District No. 25 was originally formed on May 13, 1968, and included all lakeshore property and all of Sections 13, 14, 22, 23, 26, 27 and 35, Township 19 North, Range 17 West and Sections 2 and 3, Township 18 North, Range 17 West. On January 8, 1970, District Judge Emmet Glore, ruling in favor of the Northern Pacific Railway Company, removed the East 1/2 of Section 13 and all of Sections 27 and 35, Township 19 North, Range 17 West, and Section 3, Township 18 North, Range 17 West, from the control of the Planning and Zoning Commission. Thereupon, representatives of the Northern Pacific Railway Company suggested that a 200 foot strip measured from the shoreline in Sections 27 and 35, Township 19 North, Range 17 West, on Lindbergh Lake, be included in the contemplated Zoning District. Thereupon, a new petition was circulated, and, after hearing, Zoning District No. 25A was established.

In January, 1986, a request by James Busch for a use variance was denied by the Missoula County Commissioners.

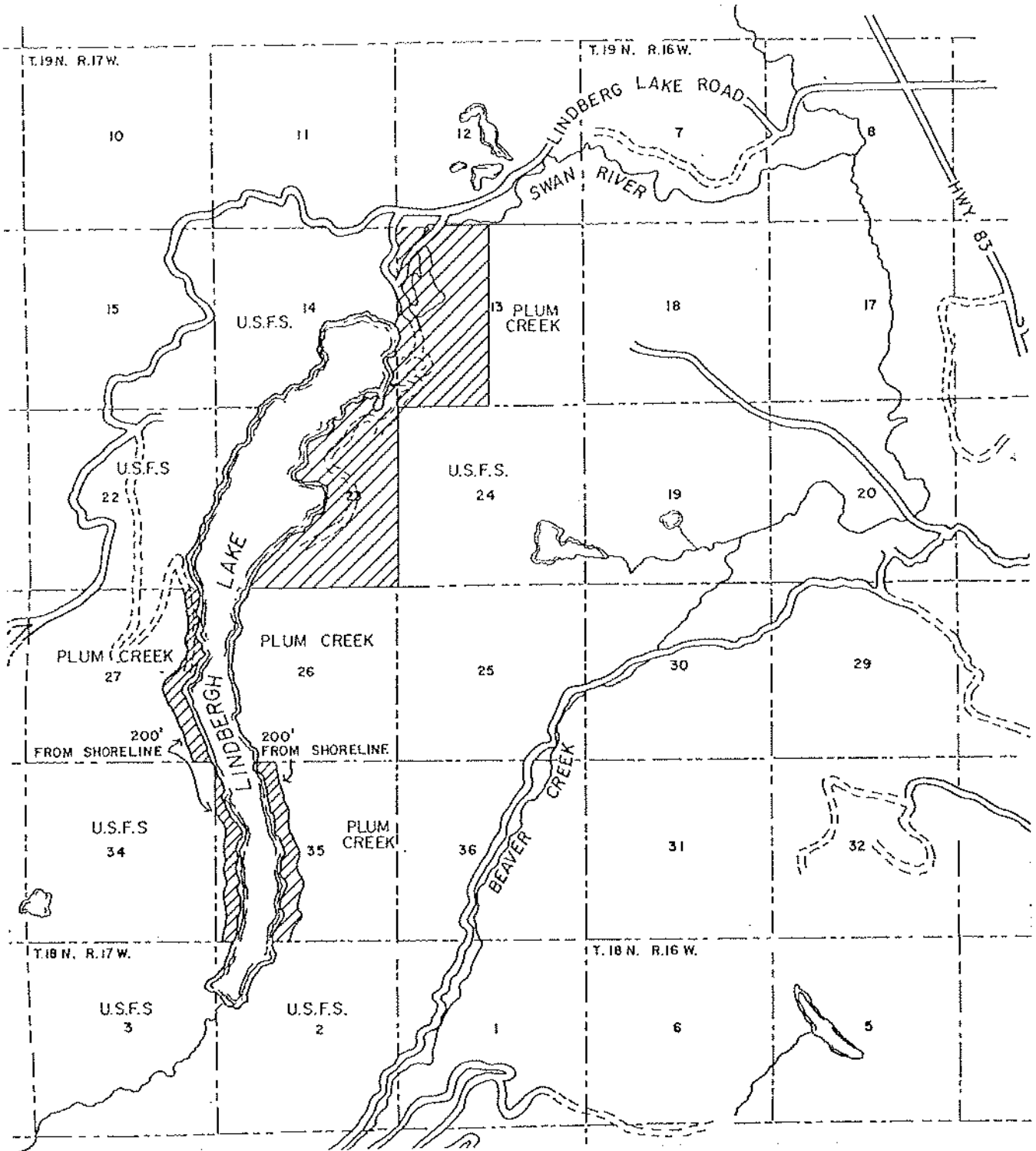
On January 14, 1987, a public hearing was held before the Missoula County Planning and Zoning Commission regarding proposed amendments to the Z.D. 25-A regulations. On January 28, 1987, the Missoula County Commissioners voted to amend the Z.D. 25A regulations.

On November 18, 1992, the Missoula County Commissioners, based on the recommendation of the Planning and Zoning Commission, voted to amend the district by removing a 200 foot wide strip of land back from the shoreline located in Section 3, T.18N, R.17W., P.M.M., that was part of this Zoning District 25A due to a change of land ownership. This entire section is now owned by the U.S.A. (Forest Service).

On November 18, 1992, the Missoula County Commissioners, based on the recommendation of the Planning and Zoning Commission, voted to remove property described as Government Lots 2 and 3, in the West 1/2 of Section 23, T.19N., R.17W., P.M.M., from Zoning District 25A, following a land trade placing this property under ownership of the U.S.A.

On October 7 and November 18, 1992, public hearings were held before the Missoula County Planning and Zoning Commission regarding proposed amendments to the Z.D. 25A regulations. On the recommendation of the Planning and Zoning Commission, the Board of County Commissioners voted to amend the regulations clarifying language and establishing development standards.

# APPENDIX I LINDBERGH LAKE ZONING DISTRICT 25A



**ZONING DISTRICT 25A**

HOME OCCUPATIONS AS CUSTOMARY USES AND SPECIAL EXCEPTIONS  
As Adopted By Resolution 01-132, July 23, 1981.

APPENDIX 2

A. INTENT

These amendments are proposed with the following intentions:

1. To provide greater flexibility in the types of uses allowed as home occupations.
2. To set performance standards as the means to protect the residential character of neighborhoods where home occupations are located, and otherwise clearly prohibit a range of intensive non-residential uses which should not be permitted.
3. To apply these standards to all citizen initiated zoning districts except Zoning Districts 4, 10, 12A, 32 and 36.
4. To establish this supplementary regulation as the basis for other amendments to create administrative procedures and definitions.
5. To separate home occupations into two categories:
  - a. Customary uses, which are allowed if specified criteria are met; and,
  - b. Special Exceptions, which are subject to specified performance standards and a public hearing.

B. DEFINITION

Home Occupation (Defined). Any use customarily conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants thereof, which is clearly incidental and secondary to the purposes of dwelling, OR, any use which has been approved as a Special Exception after public hearing and meets the performance standards set forth in this regulation.

C. STANDARDS

1. Customary. A customary home occupation is a permitted use, provided the following limitations are met:
  - a. The activity uses less than twenty-five (25) percent of the dwelling floor space or is located in an existing residential accessory building, or portion thereof, not to exceed an area equal to twenty-five (25) percent of the dwelling floor space.
  - b. The use shall not produce light, noise, odor, traffic, parking demand or any exterior activity inconsistent with the character of the neighborhood.
  - c. The use has no displays, advertising or signs.
  - d. There are no outside employees.

- e. There is no increased parking demand.
  - f. Tradesmen such as electricians, carpenters and plumbers may keep one work vehicle on the property. There shall be no outside storage of tools or materials.
  - g. There is no necessary or intended remodeling of existing structures or new accessory structures, to accommodate the home occupation.
2. Special Exception. Uses which cannot qualify as customary home occupations may qualify as a Special Exception provided the following standards and limitations are met:

a. Hearing Procedure

(1) Hearing and Application Required. The Board of County Commissioners shall hold a public hearing. Written applications for home occupation permits shall be received thirty (30) days in advance of the hearing date and shall contain the following:

- (a) A check for the specified fee made out to the Missoula County Treasurer.
- (b) A legal description of the subject property.
- (c) A detailed description of the intended home occupation.
- (d) A site plan at a scale of not less than 1" = 20 feet, showing the following:
  - 1- Dimensions, positions and setbacks of all existing and proposed structures, storage areas, driveways and parking areas.
  - 2- Present and proposed use of existing and new structures.
  - 3- Lot lines and their dimensions.
  - 4- Adjacent streets, alleys and sidewalks.
  - 5- All structures within fifty (50) feet of the property and their current use.
  - 6- Location, height and description of existing and proposed trees, vegetation and decorative fences.
- (e) A landscape plan.
- (f) A listing of any Federal, State and local licenses required of this activity.

(g) The signature of the property owner if not the same as the applicant.

(2) Notice of Hearing. The Zoning Office shall give notice of the hearing as follows:

(a) The Zoning Office shall publish a notice in a newspaper of general County circulation, which shall appear at least fifteen (15) days prior to the public hearing.

(b) The notice shall contain:

- 1- The type of application sought;
- 2- The location of the property;
- 3- The date, time and place of the public hearing;
- 4- A statement that the application is on file for public inspection at the County Zoning Office; and,
- 5- A map depicting the property location.

(c) The Zoning Office shall post the notice in three (3) public places at least fifteen (15) days in advance of the hearing. 76-2-106 MCA.

(d) The Zoning Office shall send written notification to property owners according to the following procedures:

- 1- Mailing lists shall include all persons listed on the last completed tax assessment list who own property within three hundred (300) feet of the applicant's property.
- 2- The mailing shall be made at least fifteen (15) days prior to the public hearing.
- 3- The notice shall contain a brief description of the district boundaries and regulation; the nature of the application; the time, place and date of the public hearing; and, the phone number and address of the Zoning Office.
- 4- The cost of the mailings shall be billed to the applicant.

**b. Standards**

(1) Structures and Alterations. New structures, remodeling and alterations shall be limited as follows:



- (a) New accessory structures intended for home occupation use shall be erected as residential accessory buildings and meet the following standards:
- 1- Be located in a side or rear yard and be at least ten (10) feet from the residence and three (3) feet from any property line. Stricter setbacks may apply in individual zones. See regulations.
  - 2- A height less than the dwelling.
  - 3- Design consistent with the dwelling and other buildings in the neighborhood.
  - 4- The ground cover area when added to the ground cover area of other detached accessory buildings shall not exceed that of the dwelling, and shall not exceed an area equal to one-half the dwelling floor space.
- (b) Homes which are built or remodeled to accommodate home occupations shall not incorporate design or mechanical features which would require extensive revisions to permit full residential use in the future.
- (c) The activity shall not occupy more than one-half of the dwelling floor area, or, if located in an accessory structure, shall not occupy an area greater than one-half the dwelling floor space.

**(2) Storage**

- (a) Outside storage shall be restricted to less than one-half of the rear yard, but not to exceed an area equal to the ground cover of the dwelling, and meet the following:
- 1- Such areas shall be enclosed by a vegetative or decorative screen not less than five (5) feet high and having one-hundred (100) percent opacity if the screen is decorative and seventy-five (75) percent opacity at planting if the screen is vegetative.
  - 2- Stored materials shall not be visible from adjacent dwellings or lots. If necessary, canopies shall be used.
  - 3- Stored materials shall be at least ten (10) feet from the dwelling.
  - 4- Outside storage of vehicles not in regular use, heavy equipment, scrap materials, salvage auto parts, used lumber or bricks, refuse material, toxic or controlled substances, flammable liquids and explosives is prohibited.

-5- The Fire Department may approve the storage of a limited amount of flammable liquids in approved containers.

(3) Signs and Advertising

- (a) One sign no larger than four (4) square feet and mounted flush to a wall is permitted.
- (b) On-site displays and advertising are prohibited.
- (c) Advertising in TV, radio, publications and telephone books is permitted.

(4) Landscaping

- (a) All non-residential activity, including customer parking, home occupation accessory structures and outside storage areas shall be landscaped and screened from view on adjacent lots, public streets and lots located across alleys and streets.
- (b) A proposed land-scape plan shall be submitted with the application and is subject to modification by the governing body.
- (c) Landscaping and required vegetative screens shall be installed within the first growing season after approval and shall be maintained thereafter.

(5) General Standards

- (a) Hours of operation are restricted to between 7:00 a.m. and 6:00 p.m. Monday through Saturday. The Commissioners may set expanded hours of operation.
- (b) Two paved off-street parking spaces and a paved access drive are required. This condition shall not be satisfied by off-street parking required of the dwelling; however, the access drive may be shared. The parking requirement may be waived by the Board if it is evident no parking demand exists, or if the property is located outside the designated air quality non-attainment area and area affecting non-attainment.
- (c) There shall be no more than one (1) employee who is not a resident on the property.

c. Prohibited Uses

- (1) Any use which generates a parking demand for more than two (2) vehicles, inclusive of spaces to be used by non-resident employees, is prohibited. Section 3.02 B. of Resolution 76-113 shall be used to determine parking demand.

(2) Any use which depends on pick-up and delivery by trucks other than those operated by the U.S. Post Office or parcel delivery services is prohibited. The Board may allow pick-up and delivery by trucks other than those operated by the U.S. Post Office or parcel delivery services provided the following issues are addressed and found acceptable to maintaining public safety and preserving residential character:

- (a) The lot's functional location relative to collector and arterial streets.
- (b) The routing of trucks relative to homes, schools and playgrounds.
- (c) Frequency and timing of pick-up and deliveries.
- (d) The size of the truck relative to street width and the existence of sidewalks.
- (e) Truck noise relative to maintaining the tranquility of residential areas.

d. Decision. The Board of County Commissioners shall approve, approve with modifications or deny the application within fifteen (15) days of the public hearing. In reaching their decision, the Board gives consideration to the following:

- (1) Full compliance to standards and limitations set forth in this section.
- (2) The extent to which the concerns of adjacent property owners are addressed.
- (3) Testimony for and against the application received during the public hearing.
- (4) The recommendation of the Missoula Planning Office.

e. Compliance

- (1) Upon approval of the application, the applicant may request a home occupation permit from the County Zoning Office. Operation will not begin until the permit is issued.
- (2) A permit will not be issued until the following are complete and filed with the County Zoning Office:
  - (a) The site and landscape plans as submitted or revised in accordance with the decision.
  - (b) Copies of required Federal, State and local licenses.

- (c) Written clearances by the Fire Department, City-County Health Department and Building Inspector.
- (3) Installation of paved parking and landscaping shall be inspected within one (1) year of the decision or at any earlier date specified by the Board of County Commissioners.

f. Appeal and Interpretation

- (1) Home occupation permits shall run with the property, and not the owner, in perpetuity; however, the following limitations apply:
  - (a) If the use ceases for more than one-hundred and eighty days (180), the home occupation permit is voided, and all signs, improvements, materials, and alterations related to the use shall be removed or converted within sixty (60) days.
  - (b) The fact that a home occupation permit has been granted will not be recognized as the basis for granting or denying variances or rezonings.
  - (c) Home occupation permits are granted for a specific use with specific conditions. Any change in use, however similar, shall be resubmitted for review and action by the Board as set forth in Section 2a.
  - (d) The action of the Board of County Commissioner may be appealed to a court within thirty (30) days of the decision. 76-2-110 MCA.
- (2) Nothing in this Resolution shall restrict the right of property owners to request use variances based on hardship.
- (3) Applications for uses which are specifically prohibited in the individual district regulations shall not be considered under the provisions of this Resolution.

