



Chapter Four

Performance Standards

What This Chapter Does

This chapter establishes detailed performance standards designed to protect Flathead Lake and other natural assets; avoid natural hazards; require development to provide adequate infrastructure; and ensure land use compatibility between different land uses.



DRAFT CHAPTER XVIII IV – PERFORMANCE STANDARDS

- A. **What This Chapter Does.** This chapter establishes detailed performance standards, with which all development must comply.

Division 1 – Protecting Flathead Lake and Other Natural Assets – Avoiding Natural Hazards

- B. **Runoff Management.** A runoff management plan (storm drainage report) shall be implemented by all developments that are adjacent to the lakeshore ~~or~~ and that: ~~disturb, or may reasonably be expected to result in disturbance of, a cumulative total of more than one acre of land with a slope 8% or more, or a high erosion hazard; include 1,000 or more lineal feet of road crossing a slope of more than 8% or more, or an area of high erosion hazard; or create 20,000 square feet or more of contiguous impervious coverage~~ add more than 5,000 square feet of impervious surface. Such plans shall be prepared by a ~~qualified professional~~ licensed engineer and reviewed by the City Engineer. Runoff management plans shall meet the specifications of the *City of Polson Standards for Design and Construction.* *(Note: The Standards for Design and Construction have not been officially adopted but according to city contract engineer Shari Johnson, are being put to use. The standards have two chapters of stormwater/runoff management specifications that could be included in the PDC (either in this section B., M., below, or in draft Chapter V---Required Improvements. Shari Johnson has indicated that she prefers to make reference to the Design and Construction Standards instead of putting the requirements into the PDC because the requirements can then be implemented on a case-by-case, site specific basis and don't require all of the steps the PDC requires for amendment as changes are deemed necessary over time.)*

- ~~1. Identify runoff and erosion hazard areas on the site;~~
- ~~2. Show how the retention of existing vegetation will be maximized (including the protection of existing vegetation during construction) and land disturbance minimized;~~
- ~~3. Show how the area disturbed by construction at any one time will be minimized and how disturbed areas will be stabilized during the construction period;~~
- ~~4. Show how disturbed areas will be promptly, permanently stabilized by revegetation or structural techniques;~~
- ~~5. Show how runoff velocities will be minimized and drainageways will be prepared to handle any acceleration or increase in runoff;~~
- ~~6. Show how the additional volume of runoff generated will be retained on-site and absorbed, evaporated, or released at the pre-development rate of release;~~
- ~~7. Show how sediment resulting from accelerated soil erosion will be retained on site;~~
- ~~8. Show how water quality in adjoining or nearby streams or wetlands will be protected by retention of existing vegetation, installation of vegetative filter strips, and similar means;~~
- ~~9. Show how groundwater quality will be protected, particularly in the WPOD; and~~
- ~~10. Show how the future maintenance of runoff management measures (including earthwork, plantings and structures) will be provided.~~

- C. **Shoreline Buffers.** A shoreline buffer is a structural setback designed to protect water quality and the natural characteristics of the land/water interface where only limited development and vegetation disturbance is allowed to occur. It includes the 100-year floodplain or special flood hazard area, all wetlands adjacent to the shoreline, and the land area within 50 feet of the high water line of the lake or river.

1. Shoreline buffers shall be left in, or restored to, wetlands, riparian, hay meadow, or other vegetation capable of serving as an effective vegetative filter strip. Shoreline buffers may, however, be disturbed as follows:
 - a. Clearing and grading to prepare for plantings and other activities required to restore or enhance the beauty and function of wetlands and riparian areas;
 - b. Repair or replacement of existing irrigation works, roads, bridges, utility lines, and similar structures;
 - c. Construction of new roads, bridges, and utility lines, provided that the area disturbed by such work is minimized;
 - d. Construction of pedestrian and bicycle trails of a maximum ~~ten~~ 10 feet in width, including associated benches and picnic tables;
 - e. Installation of boat ramps, piers, docks, and observation decks provided that such structures disturb no more than 10% or 24 lineal feet of shoreline, whichever is less, of the lake frontage on any lot or parcel; and
 - f. Development of marinas, as provided in ~~IX.D.7.~~ II.O.4.g.

2. Requirements. When a permit or approval is sought for land that is required to contain a shoreline buffer, the following apply:
 - a. The developer shall submit a plan showing all areas within the buffer area that are to be disturbed, the extent of disturbance, and plans to reclaim, revegetate and protect water quality.
 - b. Disturbances of the setback and vegetative buffer areas shall incorporate necessary measures to limit channelization and erosion, and shall be limited to those exceptions listed in 1., above.
 - c. The plan shall be reviewed by the administrator and approved by the appropriate body (for example, administrator for a zoning conformance permit, CC/BOCC for a subdivision application). Modifications to the plan may be required as a condition of approval.
 - d. The developer shall implement all approved plans as required. Non-compliance shall be considered a violation of these regulations (Chapter III).

- ~~2.3.~~ All exceptions listed in XVIII.C.1.1., above, shall comply with city, county, tribal, state and federal shoreline and wetlands protection standards. Development for which a permit is required by city, county, tribal or state law or the Clean Water Act ("404" permits) shall:
 - a. Demonstrate compliance with this performance standard by submitting the approved permit with the application for a permit required by these regulations, or

- b. Show that a complete application for the permit has been filed, and accept approval of that permit as a condition of compliance with these regulations.

D. Hillside Development

1. Lot Coverage

- a. The maximum lot coverage specification standards established in Chapters ~~IV-XII~~ II are for development on slopes of 0-8%. Above 8%, the maximum lot coverage permitted shall be as shown in Table ~~XVIII.2-IV.1.~~, except as provided in b., below.

Table ~~XVIII.2-IV.1.~~ Maximum Lot Coverage By Slope – All Zoning Districts

Slope	Maximum Lot Coverage
0-8%	Determined by the character of the zoning district – <u>see the specific zoning districts in Chapter II</u>
8-15% <u>9-35%</u>	With slight to moderate erosion hazard ¹ – 20% Severe erosion hazard – 15%
15-25%	5%
25% plus	1%
36% plus	<u>1% by right, up to 10% maximum with runoff management plan and engineer’s certification (see b. below)</u>

“Slope” shall be the average slope of the entire lot or parcel.

- b. Exception. On lots with an average slope 9-35% where a suitable building site exists², the maximum allowed lot coverage percentage is the maximum allowed for slopes of 0-8%, if the following conditions are met:

- i. A runoff management plan meeting the requirements of the *City of Polson Standards for Design & Construction* is submitted and approved by the City Engineer; and
- ii. An engineer licensed in the State of Montana certifies the development adequately addresses all safety, slope stability and erosion control concerns.

- 2. Wildfire Safety. At the discretion of the administrator, any proposed development may be evaluated by the Polson Fire Chief for the potential fire hazard where vegetation types, water supply, access, and the area’s fire history shall be considered. Conditions of approval may include fuels reduction, water supply improvements, access improvements, requiring buildings to be set back from slopes and other fire safety improvements.

E. Water Quality. All developments shall comply with state and federal water quality standards. Developments for which a state or federal permit to discharge is required shall:

¹ Soil erosion hazard ratings may be found at <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

² For the purposes of this section, a suitable building site is a reasonably shaped area at least 2,500 square feet in size on a ≤ 35% slope, that is accessible by a 12-foot wide driveway with a maximum grade of 12%, is located more than 4 feet above seasonal high groundwater and outside of required building setbacks, and that has a maximum 5% slope for the initial 20 feet from the primary access road.

1. Demonstrate compliance with this performance standard by submitting the approved permit with the application for a permit required by these regulations, or
2. Show that a complete application for the permit has been filed, and accept its approval as a condition of compliance with these regulations.

F. Air Quality. All developments shall comply with state and federal air quality standards. Developments for which a state or federal air quality permit is required shall:

1. Demonstrate compliance with this performance standard by submitting the approved permit with the application for a permit required by these regulations, or
2. Show that a complete application for the permit has been filed, and accept its approval as a condition of compliance with these regulations.

G. Hazardous Materials.

1. Any development that generates, handles, stores, or disposes of hazardous materials shall demonstrate continuing compliance with state or federal requirements for such activities, and, within the city limits, with the applicable requirements of the city's fire and building codes.
2. All applications for permits for such uses shall be accompanied by an initial list of hazardous chemicals, or the materials safety data sheets for such chemicals, proposed to be on the site, as required by Sections 311-312 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 USC 1101-11050, as amended). No permit shall be approved until the fire department has reviewed this list and indicated that it has the capability to effectively respond to an emergency at the proposed development. No development to which the fire department cannot effectively respond shall be approved.

H. Floodplain. All development within or partially within a special flood hazard area shall comply with the local floodplain regulations required for participation in the National Flood Insurance Program. See also XVIII.C. C., Shoreline Buffers, above.

I. RESERVED.

Division 2 – Providing Adequate Infrastructure

J. Municipal Utilities. Except in the PLZD and RRZD, all developments, and all lots or parcels within a development, shall have direct access to municipal water and sewer utilities in compliance with the current edition of the City of Polson Standards for Design and Construction. Provision of utilities, including any extension of mains, lift stations, stormwater facilities and other infrastructure necessary to serve the development shall be the responsibility of the developer, although the city may choose to bear the costs of providing larger facilities to provide for future development. Developments in the PLZD and RRZD shall have on-site water and sewerage systems approved by the county. (Note: The Standards for Design and Construction have not yet been adopted, but have specifications that could be included here.)

K. Private Utilities.

1. All developments, and all lots or parcels within a development, shall have direct access to electric power, telephone, and, where available, cable television and natural gas. Private utilities shall be provided by the developer, as required by the individual utilities.
2. Wherever such service is available, utilities shall be placed underground, with the connections to each lot made before street surfaces are constructed.

L. Easements. No building shall be placed in any utility easement, public or private. If approved by the Water and Sewer Superintendent, fences with a gate or separable section may be constructed across municipal utility easements. Fences across other easements must have approval of the affected utility. Note that irrigation companies and districts are considered to be utilities for the purposes of this performance standard.

M. Runoff Management. ~~RESERVED~~ A runoff management plan (storm drainage report) shall be implemented by all developments that are adjacent to the lakeshore and that add more than 5,000 square feet of impervious surface. Such plans shall be prepared by a licensed engineer and reviewed by the City Engineer. Runoff management plans shall meet the specifications of the City of Polson Standards for Design and Construction.

N. Vehicular Access.

1. Within the city limits, all developments, and all lots or parcels with in a development, shall have safe direct access to a dedicated public street that complies with the detailed performance standards of Appendix G- City of Polson Standards for Design and Construction.
2. Exceptions:
 - a. Multiple-family dwelling complexes, and PUDs, commercial complexes and mobile home parks shall provide private internal streets; and
 - b. When specifically approved by the governing body, vehicular access to parking spaces, garages and accessory buildings may come from an alley.
3. Outside of the city limits, all developments, and all lots or parcels with in a development, shall have safe direct access to a dedicated public or a private street that complies with Design and Improvement Standards of the Lake County Subdivision Regulations.
4. Provision of access, including street and alley extensions, shall be the responsibility of the developer, although the city or county may choose to participate in the costs of extending collector streets to serve future development, and may also choose to allow access onto a street with a lesser construction standard in accordance with its policies.

O. Access Driveways. All points of access to public streets, including residential driveways, shall comply with the detailed performance standards of ~~Appendices E and G-For Off-Street Parking and Loading Areas (P., below)~~ and the City of Polson Standards for Design & Construction.

P. Off-Street Parking. All developments shall provide off-street parking and loading areas in compliance with the following detailed performance standards of Appendix E For Off-Street Parking and Loading Areas, except in the CBZD and TZD, where reliance on shared parking areas and on-street parking is permitted. Snow storage shall not be allowed to reduce the size of required off-street parking or loading areas.

1. **Purpose.** These performance standards are intended to prevent traffic congestion by requiring provision of adequate off-street parking and loading areas.
2. **Off-Street Parking Required.** Except as indicated in 6., and 7., below, all uses and buildings shall provide at least the minimum number of off-street parking spaces required by Table ~~E.1~~ IV.2. Parking areas shall have properly graded and drained ~~gravel or~~ paved surfaces. Note that a runoff management plan will be required for any parking area of more than ~~20,000~~ 5,000 square in size: See ~~XVIII.B~~ IV.B. and M., above.
3. **Off-Street Parking Requirements for Uses Not Listed.** The classification of uses and the off-street parking requirements for uses not listed in Table ~~E.1~~ IV.2 shall be determined by the administrator based on:
 - a. The most similar land use listed in Table IV.2;
 - b. Parking requirements from other jurisdictions; and
 - c. Published sources of parking information such as those produced by the Institute of Transportation Engineers and the American Planning Association.

Any person who disputes a decision of the administrator may request a review of that decision using the appeals procedure of ~~H.P.~~ III.Q.

4. **Location of Off-Street Parking.** Required off-street parking spaces shall be within 600 feet of a main entrance of the use or building served, except for spaces serving a dwelling, which shall be within ~~100~~ 200 feet of the main entrance of the dwelling unit served.
5. **Control of Parking.** Off-street parking shall generally be provided on the same lot or parcel, and under the same ownership as the use it serves, but two or more uses may share parking where:
 - a. The total number of spaces provided is not less than the sum of spaces required for all buildings or uses served, and
 - b. A contract providing for shared parking for a period of at least 20 years is executed before approval of a permit and recorded before issuance of a certificate of compliance.

In such cases, the required off-street parking may be located on the lot or parcel serving one of the uses.

6. **Exception: Reduction in Shared Off-Street Parking Spaces.** Up to a 30% reduction in the number of parking spaces required for shared off-street parking may occur under the following circumstances:
 - a. When at least 50% of the parking spaces required by this section are for primarily “night-time” uses such as theatres, bowling alleys, bars and related uses, and the parking spaces to

serve those uses are provided by “day-time” uses such as banks, offices, furniture stores, manufacturing, large-scale retail, wholesale and related uses;

- b. When at least 50% of the parking spaces required by this section for primarily “day-time” uses may be supplied primarily by “night-time” uses;
- c. When at least 60% of the parking spaces required by this section for a religious institution, an auditorium incidental to a school, or a similar use, may be supplied by the off-street parking facilities provided by uses primarily of a “day-time” nature;
- d. The joint parking facility shall be located within 300 feet of either the building or land use on which the parking facility is required;
- e. The applicant for the joint use parking facility shall show there is no substantial conflict in the principal operating hours of the buildings or uses for which joint use of the off-street parking facilities is proposed;
- f. A contract providing for shared parking for a period of at least 20 years is executed before approval of a permit and recorded before issuance of a certificate of compliance.

7. Exception: Reduction for Bicycle Parking. Bicycle parking facilities (bike racks) may be substituted for no more than 5% of the total parking spaces required for non-residential land uses.

8. Passenger Loading Areas. Day care centers, schools, and places for public assembly located on arterial roads shall provide at least one safe, properly signed off-street passenger loading area.

9. Freight Loading Areas. Commercial and industrial buildings and uses shall provide one safe, properly signed off-street freight loading area for each 10,000 square feet of gross floor and/or outdoor storage area. Off-street freight loading areas shall be on the same lot or parcel and under the same ownership as the building or use they serve, be designed to accommodate the largest vehicle that may reasonably be anticipated, and have the following minimum dimensions:

- a. Vertical clearance: 14 feet;
- b. Width: 12 feet; and
- c. Depth or length: 35 feet.

No vehicle parked in an off-street freight loading area shall extend into a public right-of-way.

10. Access to Off-Street Parking and Loading Areas. Properly graded and drained gravel or paved driveways shall be provided for safe access to off-street parking and loading areas, including the off-street parking for single family dwellings.

- a. No parking or loading area shall create a situation in which vehicles are required to back onto a public street. Parking areas for single family dwellings with access to local and collector streets are exempt from this requirement.
- b. Continuous curb cuts shall be prohibited. All access to public streets shall be via driveways that comply with these performance standards.
- c. Driveways accessing an arterial shall be at least 200 feet from any other point of access (other driveways or intersections). Driveways to roads intersecting an arterial shall be located at least 150 feet from the arterial or, where that distance cannot be attained, at the property line most distant from the arterial.
- d. Clear vision triangles shall be provided on both sides of driveways. A clear vision triangle is defined by extending a line between two points: Point 1 shall be 15 feet from the outer edge of the driveway on the lot line paralleling the street the driveway enters; and Point 2 shall be 15 feet back from the lot line along the outer edge of the driveway. For driveways accessing arterials, the distance shall be increased to 30 feet. Driveways expected to carry 300 or more ADT shall be treated as intersections.
- e. No parking, and no solid fence or wall, planter, hedge, shrub, or other visual obstruction more than 2.5 feet in height above grade shall be permitted in a clear vision triangle. Trees may be permitted in clear vision triangles, but only where all branches are pruned to a height of at least eight feet above grade.
- f. Driveways for single-family dwellings shall be a minimum of ~~10~~ 12 feet wide, with a minimum curb radius of five feet, and a maximum grade of ~~3%~~ 5% for at least 20 feet before the driveway intersects the street. Driveways for other uses shall be designed to accommodate the anticipated level of traffic.
- g. Where required for drainage, driveways shall be constructed over a minimum 12 inch culvert capable of supporting a load of 40,000 pounds.

11. Circulation in Off-Street Parking Areas. The pattern of circulation within parking areas shall be designed to provide safe and efficient access to individual parking spaces, protect pedestrians moving through the parking area, and facilitate safe access to public streets.

- a. Minimum aisle widths shall be:
 - i. For two-way circulation and 90° parking: 24 feet;
 - ii. For one-way circulation and 60° angle parking: 18 feet;
 - iii. For one-way circulation and 45° angle parking: 15 feet; and
 - iv. for one-way circulation and 30° angle parking: 13 feet.
- b. Where one-way circulation is used, directional signs shall be installed at all access points to the parking area.
- c. No parking area shall be designed so that circulation from one portion of the area to another relies on a public street.

d. There shall be safe pedestrian access around or through all parking and loading areas.

10. Master Planning. All developments proposing more than one use or building shall demonstrate that their site plan minimizes the number of points of access to public streets.

Table E-1. IV.-2.– Minimum Parking Space Standards

Land Use	Parking Spaces	Land Use	Parking Spaces Per 1,000 feet ² of gross floor area
Dwellings	2 per unit	Retail automotive, marine	5
Lodging places	1 per unit + 1	Eating, drinking places	15
Theatres, places of assembly	0.33 per seat	Financial, real estate, insurance	3
Elementary and junior high schools	1 per classroom + 1 (auditoriums are places of assembly)	Beauty and barber services	6
Hospitals, rest homes & similar uses	2 per bed	Other personal services, misc. services	3
Land Use	Parking Spaces Per 1,000 feet ² of gross floor area	Health services, except hospitals	5
Building materials, farm equipment, furniture	1	Professional services	3
Hardware, apparel, small scale misc. retail uses	3	Shopping centers, <u>large scale “box store” retail</u>	4
General merchandise, groceries	4	Mixed office uses	3

Notes: Other uses (transportation, communications and utilities; wholesale trade; and industrial) shall provide one parking space for each anticipated employee plus one, and one parking space for each company vehicle plus one. Where a place of assembly does not have fixed seating, one space shall be provided for each 25 square feet of assembly area. Off-street parking requirements for different uses in the same building shall be calculated separately.

Q. Pedestrian Access. Developments shall provide sidewalks along all street frontages and/or an effective system of off-street pedestrian circulation that will allow pedestrians to safely travel from any part of the development to the boundaries of the development. Sidewalks and pedestrian (not intended for bicycles) trails shall be a minimum of 5 feet in width in residential developments, and 10 feet in width in commercial areas. Wider walks or pedestrian trails may be required in active areas, including the CBZD and ~~SPOD~~ TZD, or where trails will be shared with bicycles, in which case the minimum width shall be 10 feet. Please see the City of Polson Standards for Design and Construction for specifications.

R. Bicycle Access. ~~RESERVED~~

1. Bicycle routes are required when determined necessary by the CC/BOCC to provide safe access to schools, playgrounds, shopping, adjoining neighborhoods, transportation and other community facilities or for the continuation of existing or planned routes.

2. Bicycle routes may be located along internal subdivision roads and may require an additional 8-foot, striped bike lane to separate the path from traffic when deemed necessary by the CC/BOCC to provide for safe coexistence of automobile and bicycle traffic.
3. When adjacent to a trail system, the developer shall continue that trail system across the subject property. All separated bicycle trails shall be built in conformance with the *City of Polson Standards for Design and Construction*.

S. Circulation. All circulation systems, vehicular, pedestrian, and bicycle, shall be designed and constructed to connect with both existing and anticipated future development.

T. Parks. These parkland dedication requirements apply to all residential subdivisions, including first minor subdivisions, recreational vehicle subdivisions, mobile home subdivisions, and to condominiums, townhouses and other multiple-family housing developments.

1. As required by 76-3-606-621, MCA, ~~residential subdivisions~~ the developer shall dedicate to the CC/BOCC land, or provide a cash donation in lieu of land, for parks.

a. ~~11.1% of the total area of lots of five acres or less in size and 8.33% of the total area of lots of five to 10 acres in size, exclusive of all other dedications, shall be dedicated for parks, except~~

a. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

b. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre; and

c. 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and

d. 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

2. The parkland dedication requirement does not apply to:

a. Land proposed for subdivision into parcels larger than 5 acres;

b. Nonresidential subdivision lots;

c. A subdivision in which parcels are not created (except as provided in T. above); and

d. A subdivision in which only one additional parcel is created;

3. The governing body, in consultation with the subdivider and the planning board or park board, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed

the proportional amount not covered by the land donation. The land dedicated for park use may be inside or outside of the boundaries of the subdivision.

~~2.4.~~ Where the small size of the parcel to be dedicated, topography, location, or other circumstances (see 4 5. below) make dedication infeasible, the CC/BOCC may accept a cash donation. Cash donations shall be for the fair market value of the undivided, unimproved land to be divided into lots. Cash donations shall be paid into a separate fund and used only for the acquisition of parkland, or the ~~initial~~ development, or maintenance of parks. The governing body may not use more than 50% of the dedicated money for maintenance.

~~4.~~ ~~The location of land dedicated as a park shall be approved by the council/BOCC in compliance with the following guidelines. Where these guidelines cannot be met, a cash donation shall be required.~~

~~a.~~ ~~Slopes, wetlands, and other areas that cannot be developed for active recreation shall not be accepted, although the developer may include such areas as part of a larger park.~~

~~b.~~ ~~The proposed park must be large enough for development of a useful neighborhood park: at least six acres.~~

~~c.~~ ~~The proposed park space should be within one-half mile of the majority of lots to be served.~~

~~d.~~ ~~The proposed park must be safely accessible by pedestrians coming from the lots to be served, but have direct access to a collector street, or otherwise be located where it will not channel traffic onto local residential streets.~~

~~e.~~ ~~Where possible, the proposed park should be connected to existing or proposed pedestrian/bicycle trails.~~

5. The subdivider is encouraged to meet with the Polson Parks Director prior to submitting a subdivision application. When reviewing a parkland proposal, the following will be considered:

a. Size. The park must be large enough to be useful and aesthetically pleasing;

b. Topography. The park must be suitable for active or passive recreation, but may include limited areas of steep slopes, wetlands and other areas that will not be developed;

c. Location. The park must be within ½ mile of the majority of the lots served and be safely accessible by pedestrians coming from the lots served. Where possible, the park should include and be connected to existing or planned pedestrian and bicycle trails;

d. The recreational needs of the subdivision residents;

e. Cost-effective maintenance;

f. Overall value to the public, and

g. The goal of providing recreational opportunities to all segments of the population.

6. As per 76-3-621(6), MCA, the governing body shall waive the park dedication requirement if it determines that:

- a. The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and,
- b. The area of land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under 1, above; or
- c. The preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and
- d. The area of the land proposed to be subdivided, by virtue of providing long-term protection, is reduced by an amount equal to or exceeding the area of the dedication required under 1., above; or
- e. The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
- f. The area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under 1., above.

7. The governing body may waive the park dedication requirement if:

- a. The subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical or natural resources, agricultural interests, or aesthetic values; and
- b. The area of the land to be subject to long-term protection, equals or exceeds the area of the dedication required under 1., above.

3.8. In subdivisions developed pursuant to a development agreement (see Chapter ~~XIX~~ V), the parks dedication for the entire subdivision shall accompany the first final plat filed.

~~5. Exception. No dedication or donation is required where: a. only one lot is created; b. all lots are five or more acres in size and the developer records a covenant, which may be revoked only with city/county consent, that: i. no lot shall be used for any purpose other than a single family dwelling, and ii. no lot shall be further subdivided; and c. developed park facilities are provided by the developer and maintained by a community association created in compliance with these regulations.~~

~~U. RESERVED.~~

~~V.U. Large Scale Development.~~ A large scale development includes ~~100~~ 50 or more residential lots or units, or commercial or industrial or a combination of uses that will potentially generate 1,000 500 or more vehicle trips on the average working day (ADT) based on research published by the Institute of Transportation Engineers or a similar source.

1. Large-scale developments shall provide, or contribute to the provision of, additional public facilities necessitated, entirely or in part, by their development. Such facilities shall be provided in compliance with all requirements of these regulations and may include, but are not limited to: water system capacity, including larger mains, wells and reservoirs; sewerage system capacity, including larger mains, lift stations, and treatment facilities; runoff management measures, including stormwater control facilities and conveyance systems, street improvements, including deceleration, acceleration, or turn lanes, traffic signals, and bridges; pedestrian and bicycle facilities; solid waste transfer stations; and emergency services buildings and apparatus.
2. The public facilities needs of a large-scale development shall be determined through a fact-finding process conducted by the board, at the expense of the developer. The administrator may retain professional planners or engineers to prepare a community impact report, the purpose of which shall be to determine what facilities needs may be attributed to the proposed development. The community impact report process shall be conducted as follows:
 - a. The administrator shall determine whether a proposed development is a large-scale development at the pre-application review;
 - b. Where a community impact report is required, ~~the developer shall place a deposit with the city or county in the amount provided in the resolution establishing fees for the administration of these regulations. Any unused funds shall be returned to the developer promptly upon completion of the report~~ at the pre-application meeting, the administrator shall provide a list of contractors who are deemed qualified to conduct the review and the scope of work to be performed. The scope of work may be modified by written agreement between the administrator and the developer.
 - ~~c. An application shall be considered complete and a hearing scheduled only after completion of the community impact report. The maximum time permitted for the preparation of a community impact report shall be 120 days.~~
 - c. The developer shall grant written permission to the administrator to solicit proposals to accomplish the agreed upon scope of work. The administrator shall then seek proposals from qualified contractors within 15 days and allow the contractors 30 days to respond. If the contractors do not respond, the administrator and the developer shall decide upon other contractors who could perform the work and seek bids from them.
 - d. The successful contractor shall be chosen by the administrator and developer in a written agreement. Once the contractor is selected, the city or county shall enter into a contract within 15 days. The contract shall state that the community impact report shall be complete within 60 days of initiation of the contract. The developer shall pay all of the contractor's costs, as well a contract administration fee in accordance with the adopted fee schedule, to the city or county. The city or county shall pay the contractor for services performed under the contract.

V. RESERVED.

Division 3 – Ensuring Land Use Compatibility – Enhancing the Community’s Image

W. Potential Nuisances. Failure to comply with these performance standards on a continuing basis is a violation of this ordinance.

1. **Noise.** No development shall create excessive levels of sound beyond its property line. Excessive sound, measured at the appropriate minimum setback line of the receiving use, exceeds the standards of Table ~~XVIII.3.~~ IV.2.
 - a. This performance standard applies to sounds generated by occupancy of a development, including sounds generated by operation of ~~trains~~, motor vehicles, and heavy equipment on the site. It does not apply to ~~the movement of trains on existing railroad rights-of-way or~~ motor vehicles on public streets, or the operation of farm machinery, watercraft, or aircraft.
 - b. The maximum sound levels of Table ~~XVIII.3.~~ IV.2. may be exceeded by temporary construction and maintenance activities and holiday celebrations, but in the RRZD, LRZD, MRZD, HMZD, XRZD, RCZD and TZD, excessive noise generated by such activities shall be restricted to the hours between 7:00 A.M. and 10:00 P.M.

Table ~~XVIII.3.~~ IV.2. Detailed Performance Standards for Noise

District In Which The Sound Is Received	Maximum Sound Level
RRZD, LRZD, MRZD, <u>HMZD, XRZD, TZD</u>	60 dBA, 7:00 A.M. to 10:00 P.M. 50 dBA, 10:00 P.M. to 7:00 A.M.
PLZD, RZD, HCZD, CDZD, IZD, CIZD	70 dBA, any time

“dBA” is the measure of sound levels in A-weighted decibels.

2. **Light, Glare, Heat.** No development shall direct excessive or dangerous light, glare, or heat beyond its property line, or create lights or glare that constitutes a traffic hazard.
 - a. Welding equipment and similar sources of intense light or heat shall be shielded from neighboring properties and public ways by enclosure in a building, location on the property, or a fence or wall.
 - b. No commercial or industrial development shall generate a level of illumination greater than 0.5 foot-candle in any neighboring residential zoning district.
3. **Electrical Interference.** No development shall create electrical interference on other properties. See also ~~XIII.H.~~
4. **Solid Waste.** Solid waste shall be stored in approved containers, and handled in a manner that does not:
 - a. attract bears, rodents, flies or other animals;

- b. generate odors perceptible beyond the property line or liquid runoff; or
 - c. permit the blowing of paper or other lightweight waste.
5. **Commercial and Industrial Waste.** All commercial and industrial solid waste handling and storage areas shall be screened from public view by enclosure in a building, location on the property, a fence or wall, or a densely planted landscaped buffer.
 6. **Outdoor Storage.** Outdoor storage of commercial and industrial solid waste is covered in 5., above. Other outdoor storage shall be permitted as established in each zoning district, but shall not, regardless of its location on the property, or screening or buffering, create a fire, health, or safety hazard, or constitute an attractive nuisance.
 7. **Surface Runoff.** No development shall channel surface or irrigation water onto another property without the express permission of its owner. See also ~~XVIII.B.~~ the City of Polson Standards for Design and Construction.
 8. **Irrigation.** No development shall adversely impact the operation of an existing irrigation system.
 9. **Dust, Smoke, Odors.** No development shall generated dust, smoke, odors, or other air-borne pollutants that have an adverse impact on neighboring properties or the enjoyment of public spaces. See also ~~XVIII.F.~~ IV.F, Air Quality, above.
- X. **Landscaped Buffers.** Installation of landscaped buffers is among the most effective techniques for ensuring land use compatibility and enhancing the community's image. Landscaped buffers shall be provided around the perimeter of property developed under these regulations as ~~required by Appendix F~~ follows.
1. **Purpose.** Landscaping requirements are an essential element in mitigating potential land use conflicts enhancing the visual appeal of the city and surrounding area. The purpose of ~~this appendix~~ these standards is to assure that the landscaped buffers required by these regulations fulfill those goals.
 2. **Use of Existing Vegetation.** Mature, functional existing vegetation ~~should~~ shall be retained to serve buffering functions wherever possible.
 3. **Basic Buffer Width and Vegetation.** The width of the required buffers shall vary with the nature of the uses being separated, the height of the buildings buffered, and the design of the buffer. Table ~~F.1.~~ IV.3. shows the minimum width required. ~~where the A basic~~ a basic buffer consists of ~~a level or gently sloping area~~ of sod or ground cover and four major trees in each 100 lineal feet of buffer. The trees should be spaced to provide a natural appearance.
 4. **Height Adjustment.** The minimum buffer width shall be increased by the height adjustment factor, where one is established. The factor is a ratio expressing the number of feet that must be added to the minimum buffer width for each foot in height over 30 feet of the building being buffered.

5. **Buffer Width Reduction: Berms.** The minimum buffer width requirement may be reduced where a berm is included in the buffer. The width reduction shall be twice the height of the berm, but the maximum permitted reduction for a berm shall be 10 feet. No berm shall have a slope of more than 3:1, except where it incorporates a retaining wall. Such walls may be used only on the side opposite the use or public way being buffered.
6. **Buffer Width Reduction: Additional Plantings.** The minimum width requirements may be reduced where a greater density and diversity of plantings is included in the buffer. The buffer width reductions permitted in this section (6.) are cumulative and may result in a total reduction of 30%. The buffer width reductions permitted by 5., above are also cumulative with those permitted here, but there is a minimum buffer width, see 7., below.
 - a. Major Trees. The required buffer width shall be reduced by 10% where five or more major trees are planted or retained in each 100 lineal feet of buffer.
 - b. Understory Trees. The required buffer width shall be reduced by 10% where five or more understory trees are planted or retained in each 100 lineal feet of buffer.
 - c. Shrubs. The required buffer width shall be reduced by 10% where 20 or more shrubs per 100 lineal feet are planted or retained.
7. **Minimum Buffer Width.** No required buffer shall be less than half the minimum buffer width established by Table ~~F.1.~~ IV.3., or less than 10 feet in width, regardless of any reductions permitted by 5. and 6., above.
8. **Headlight Screen.** Table ~~F.1.~~ IV.3. requires the installation of a headlight screen on the outer perimeter of parking and loading areas in certain situations. A headlight screen consists of a minimum 3.5 foot high screening fence or wall, earth berm, or dense hedge. It adds no width to the required buffer.
9. **Screening Fence or Wall.** Table ~~F.1.~~ IV.3. requires the installation of a screening fence or wall in certain situations. A screening fence or wall is a minimum six foot high wood fence, chain link fence with slats, or masonry wall installed on the interior side of a landscaped buffer.
10. **Buffer Crossings/Inclusions.** Buffers may be crossed by driveways, utility lines, sidewalks, and pedestrian trails. A sidewalk or pedestrian trail may run along the length of a buffer, with its width, up to a maximum 10 feet, included in the required buffer width, provided that a minimum 10 feet of landscaped area is still provided. Buffers may also include permitted freestanding signs and subsurface utilities.
11. **Plant Materials Specifications.** Plant materials that are native to the Polson climate and soils are encouraged. Plant materials installed in required buffers shall meet the following specifications:
 - a. All trees, major and understory, shall be containerized or bagged-and-burlapped stock in good condition, with a caliper or at least 1.5 inches measured one foot above grade for deciduous trees, and a height of at least six feet for coniferous trees; and

- b. All shrubs shall be minimum one-gallon containerized stock, in good condition. All plant materials shall comply with the American Standard for Nursery Stock.

Table IV.3 Buffering Requirements

Zoning of Proposed Development	Zoning of Use or Area to be Buffered	Basic Buffer Width	Height Adjustment	Headlight Screen?	Screening Fence or Wall?
CIZD	Any area not zoned PLZD, HCZD or CIZD	50 feet	1:1	Y	Y
CIZD	HCZD (<u>airport safety regulations apply</u>)	20 feet	---	---	---
CIZD	Any public street or road that is not entirely contained within the CIZD	12 feet	---	---	---
CBZD	RRZD, LRZD or MRZD – CBZD may have 100% lot coverage elsewhere	20 feet	0.25:1	Y	---
HCZD	RRZD, LRZD, MRZD, TZD, <u>XRZD</u> or RZD	20 feet	0.5:1	Y	Y
HCZD, RZD	Any public street or road	12 feet	---	---	---
RZD	RRZD, LRZD, MRZD, TZD or RZD	12 feet	0.5:1	Y	Y except TZD or RZD
<u>TZD mult-fam. dwellings</u>	See Chapter II, multi-family dwellings <u>RRZD, LRZD, MRZD, CBZD</u>	<u>10 feet</u>	<u>0.5:1</u>	<u>Y</u>	---
TZD block conversion	See Chapter II, block conversions RRZD, LRZD, MRZD	20 feet	0.5:1	Y	---
MRZD, MF dwellings	RRZD, LRZD, MRZD, <u>XRZD</u>	10 feet	---	Y	---
SUPs, except MF dwellings	RRZD, LRZD, MRZD, <u>XRZD</u>	20 <u>10 feet</u>	1:1	Y	---
LRZD	RRZD, LRZD, MRZD	20 <u>10 feet</u>	1:1	Y	---
<u>RRZD, LRZD, accessory bldg. (II.J.4.c.& II.K.4.b.)</u>	<u>Street or road, neighboring properties</u>	<u>10 feet</u>	---	---	---
<u>HMZD (SUPs only)</u>	<u>MRZD, LRZD</u>	<u>12 feet</u>	<u>0.5:1</u>	<u>Y</u>	---

Note that screening may be required around solid waste handling and storage areas and outdoor storage, even when not required for the entire development.

Y. Signs. All signs shall comply with the following detailed performance standards of Appendix B.

APPENDIX B – DETAILED PERFORMANCE STANDARDS FOR SIGNS

- 1. Purpose.** The purpose of these performance standards is to provide reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards; to recognize that signs are a necessary means of useful communication and convenience to the public; to ensure that signs do not constitute a traffic or pedestrian safety hazard, ~~or~~ obstruct public ways, or create a nuisance; to promote both renovation and proper maintenance of signs; ~~and~~ to protect and enhance the community’s image and the right of citizens to enjoy Polson’s natural scenic beauty; ~~while allowing local businesses to communicate with potential customers in a reasonable manner.~~ The purpose of this Ordinance/Resolution is to promote and protect the health, safety, morals, and the general welfare of the community; to coordinate the type, placement, and physical dimensions of signs within the different land use zones; to recognize

~~the commercial communication requirements of all sectors of the business community; to encourage the innovative use of and attractive design; to allow for special circumstances; and to guarantee equal treatment under the law. The use is regulated according to zone.~~

- 2. Scope.** ~~These Regulations~~ performance standards govern the type, placement, and physical dimensions of signs within the different zoning districts. ~~These performance standards shall not relate to building design. Nor shall these regulations standards regulate official traffic or government signs; the copy of message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays (i.e. – newspaper dispensers); scoreboards on athletic fields; flags of any nation, government, or noncommercial organization; gravestones; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign. —Thus, the primary intent of this Ordinance shall be to regulate signs of a commercial nature intended to be viewed from any vehicular or pedestrian public right-of-way. This Ordinance shall supercede any existing sign ordinance governing commercial signage.~~

~~SECTION THREE – GENERAL PROVISIONS~~

~~It shall hereafter be unlawful for any person to erect, place, or maintain a sign in the City/County Planning Area except in accordance with the provisions of these regulations.~~

- 3. Sign Permits Required** *(moved from below)*. ~~Unless otherwise provided by this Ordinance/Resolution in 4., below, all new signs after adoption of this Ordinance/Resolution shall require permits and payment of fees as described in Section Seven Chapter II.I. and II.J. of these regulations. No permit is required for the maintenance of a sign, for a change of copy on painted, printed, or changeable copy signs or for legal non-conforming signs under Sec 5.01.~~
- 4. Signs Not Requiring Permits.** The following types of signs are allowed and are exempt from permit requirements but must be in conformance with all other requirements of this Ordinance/Resolution these standards:
- a. Signs used by churches, synagogues, religious institutions, government agencies, libraries, non-profit public service organizations, museums or civic organizations;
 - b. Construction and neighborhood identification signs, provided they do not exceed 32 square feet in size, one construction sign per contractor, and one neighborhood identification sign per entrance;
 - c. Directional/Informational signs less than 4 feet in overall height and maximum of 12 square feet in area per face;
 - d. Holiday decorations and signs, and seasonal banners and pennants erected by authorized entities;
 - e. Nameplates and address signs not exceeding 4 square feet in area;
 - f. Political signs provided they do not exceeding 10 square feet in residential, resort and transitional areas districts or 32 square feet in other areas districts. Such signs shall not be

erected more than 45 consecutive days prior to the pertinent election or referendum and shall be removed within 14 days following such election or referendum unless federal or state laws would require an earlier removal. Political signs may be placed only on private property and only with the permission of the property owner;

- g. Public or government signs or notices, or any sign relating to an emergency;
- h. Real estate signs ~~which~~ provided they do not exceed 10 square feet for residential properties and 32 square feet for all other structures or properties for sale, lease or rent, and are removed within one week after closing;
- i. Window signs, displays, and painted/vinyl or other substance window lettering;
- j. Incidental signs;
- k. Signs that cannot be read from the public right-of-way (e.g., a menu board at drive thru);
- l. Temporary Banners, pennants, festoons, balloons, tethered objects, strings of flags, streamers, inflated objects or any device intended as an attractant and that is ~~is~~ may be affected by the movement of the air. Such signs shall be maintained in an undamaged, clean condition and shall not be displayed for a period of more than two weeks;
- m. Portable signs including but not limited to portable readerboard, sandwich boards, A-frame, tire or tire rim, costumed character, stuffed animal, strings of lights arranged in the shape of a product, arrow or ~~commercial~~ message;
- n. Holiday decorations and community signs, banners and pennants as otherwise provided;
- o. Signs for events of city-wide, civic, or public benefit as authorized by the ~~City Council or Mayor/County Commissioners~~ CC/BOCC which must be removed within seven days after conclusion of the event;
- p. Signs identifying private property or hazards;
- q. Barber pole signs not exceeding 6 feet in height and 6 square feet in area, attached to a building;
- r. Works of art including wall graphics, murals, carvings and sculptures with no advertising matter and which are not used in connection with a promotion, goods or services or as an advertising device. Such works of art are not limited by the area restrictions in these standards;
- s. Notices posted by a public agency (i.e., notice of a proposed zoning amendment); and
- t. Temporary signs advertising a special, one-time event such as a garage sale, not to exceed 4 square feet, and that must be removed within 2 days of the event.

5. Prohibited Signs. The following types of signs or attractive devices are prohibited in all districts:

- a. Abandoned signs or Any sign which identifies or advertises an activity, business, product, service or special event no longer produced, conducted, performed or sold on the premises where the sign is located (excluding off-premise signs); ~~[see “seasonal business signage”]~~
- b. Signs imitating or resembling official traffic or government signs or signals;
- c. Any sign attached to a utility pole or structure, street light, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench or other location on public property except as otherwise provided. This prohibition is not intended to include any tags, signs or other informational signs required by utility companies;
- d. Any sign placed in any public right-of-way except for signs, pennants, banners, etc. erected by the City/County or other authorized entity;
- e. Signs which have been unlawfully or illegally erected and/or maintained;
- f. ~~Roof signs on pitched roofs shall not extend above the roofline. Roof signs on essentially flat roofs shall not extend more than 6 feet above the highest point of the roofline excluding cupolas, pylons, chimneys, antennas, or minor projections; (Moved to 6.c., below)~~
- g. Any strobe lights or searchlights, animated, rotating, flashing, blinking signs or signs displaying video;
- h. Billboards;
- i. Signs that constitute a traffic hazard or nuisance that are detrimental to the health, safety and welfare of the public;
- j. Permanent display of banners, pennants, festoons, balloons, tethered objects, strings of flags, streamers, inflated objects or any device intended as an attractant and that may be affected by the movement of the air;
- k. Any sign which emits audible sound, odor, smoke, steam, laser, or hologram light; and
- l. Signs that are written upon, temporarily or permanently placed upon or attached to a motor vehicle or trailer and parked conspicuously and/or driven around to advertise. This restriction is not intended to prohibit signs on vehicles that carry a firm name, telephone number, address of business, major enterprise, principal products or service.

6. General Regulations. The following are general regulations that apply to all signs in all districts. Specific standards are contained in each of the zoning districts and may have restrictions beyond what is required by these general regulations.

- a. Total number of signs: Commercial, special use and other non-residential uses are allowed one freestanding or monument sign per premises unless restricted elsewhere in ~~this ordinance~~ these standards. A combination of any of the permitted signs is allowed provided

they do not exceed the total square footage allowed under the zoning district in which the property is located.

- b. Freestanding and monument signs: Freestanding and monument signs shall be permitted according to the size and height standards of the sign district in which the property is located.
 - i. A freestanding or monument sign may consist of more than one sign panel provided all such sign panels are consolidated into one common integrated sign structure. In the event a sign is installed that does not utilize the maximum sign area permitted, any supplemental additions shall be compatible with the existing sign structure.
 - ii. The outermost edge on any freestanding or monument sign shall be set back so that such sign will not obstruct traffic visibility thereby creating a traffic hazard, and shall be located outside of any clear vision triangle (See Chapter IV.P.10.)
- c. Building mounted signs:
 - i. ~~Building mounted signs include signs that are flush mounted on a building and signs which are attached to the building in some other manner.~~ Building mounted signs are allowed in all zoning districts. The zoning district in which the property is located determines the allowable square footage. ~~Building mounted signs include, but are not limited to, Projecting Signs, Awning/ Marquee Signs, Wall Signs and Under Canopy Signs.~~ *(Note: the struck-through text has been moved to the definitions section.)*
 - ii. Roof signs on pitched roofs shall not extend above the ~~roof-ridge~~ roof-ridge line. Roof signs on essentially flat roofs shall not extend more than 6 feet above the highest point of the roofline excluding cupolas, pylons, chimneys, antennas, or minor projections.
- d. Sign Area Calculation.
 - i. ~~The area shall be within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising copy, design, and lighting.~~ The area of a box or cabinet sign is determined based on the outer dimensions of the cabinet face (e.g., for a box or cabinet sign face in the shape of a rectangle, $A = L \times W$).
 - ii. If the sign is composed of individual letters or symbols using a wall or sky as the background with no added decoration, the total sign area shall be ~~calculated by measuring the area within the perimeter of each symbol or letter~~ determined by calculating the area of the smallest geometric figure (e.g., square, rectangle, circle, polygon, etc.) that can be drawn around the letters and/or elements. ~~The combined areas of the individual figures shall be considered the total sign area.~~
 - iii. For signs with more than one plane, such as balls, cylinders, etc., the area shall be computed by determining the total surface area of the box required to enclose the sign divided by two.

- iv. The ~~sign perimeter of measurable~~ area shall not include embellishments such as pole covers, framing, decorative roofing, poles, base, etc., provided that there is not written advertising copy, design, or lighting on such embellishments.
- iii. For the purpose of calculating its area, the area of a projecting, freestanding or monument sign shall have only one face (the largest one) of any double or multi-faced sign, so long as no face exceeds 36 inches from another face at any point. If any extension is more than 36 inches from another, the sign shall be calculated to have more than one face.
- e. Maximum Height. *(moved from definitions section)*
 - i. The zoning district in which the property is located determines the allowable maximum sign height.
 - ii. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) the existing grade prior to construction, or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of the public street or the grade of the land at the principal entrance to the principal structure on the premises, whichever is lower.
- f. Streetward projection. The maximum streetward projection of signs shall be determined as follows:
 - i. In diagonal parking areas (e.g. Main Street), streetward sign projection shall not extend beyond the vertical curb plane;
 - ii. In parallel parking areas, streetward projection shall not extend beyond the vertical plane 2 feet inward from curb; and
 - iii. Along federal, state, or county highways or roadways, the applicable federal, state, or county regulations shall apply.
- g. Minimum height over traveled ways. The lowest projection of a sign shall be at least 8 feet above a sidewalk or other pedestrian/bicycle facility and at least 14 feet above a road surface.
- h. Off-premise signs. Off-premise signs are limited to a maximum area of 128 square feet per face. Off-premise signs shall have minimum spacing of 750 lineal feet. ~~The minimum spacing requirement also applies to the distance between an~~ off-premise signs and any freestanding or ~~ground-mounted~~ monument signage. Off-premise signs are only permitted in the HCZD and CIZD.

- i. Multiple Occupants on a Premise: Multiple occupants on a premise will be required to share the permitted number and area allowed for ~~freestanding or monument and wall~~ signs in that zoning district.
- j. Alley Entrance and Signs. ~~Businesses~~ Occupants shall be permitted one flush mounted sign each.
- k. ~~Businesses~~ Occupants without frontage on a public street or road: ~~Businesses~~ Occupants shall be permitted one flush mounted sign each, and may also have a window or street level A-frame sign in accordance with the size limitations of each district.
- l. Maintenance. ~~All signs shall be properly maintained. All signs and their supports, braces, guys, anchors and electrical equipment shall be kept fully operable and maintained in a safe, neat, clean and attractive condition or the sign shall be removed. Failure to comply with the maintenance provisions of these standards constitutes a violation and is subject to enforcement proceedings under Chapter IV.EE. If the administrator finds that any sign or support presents an immediate danger to the public, they must order either immediate repair or immediate removal. With the authorization of the CC/BOCC, the administrator is authorized to remove the sign if the person responsible cannot be found or refuses to repair or remove the sign within 10 days.~~
- m. Lighting.
 - i. Unless otherwise specified by ~~this Ordinance~~ these standards, all signs may be illuminated. However, no sign regulated by ~~this Ordinance~~ these standards shall create a public nuisance or utilize an exposed incandescent lamp without an external reflector, screen or comparable diffusion.
 - ii. Brightness. Signs may not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours or more than 500 nits during nighttime hours (between dusk and dawn), as measured from the sign's face at maximum brightness. Changeable copy dynamic displays must be equipped with automatic dimming technology that automatically adjusts the display's brightness based on ambient light conditions.
- n. Automatic changeable copy (dynamic display) signs.
 - i. ~~Unless otherwise specified by this Ordinance,~~ Any sign herein allowed may use manual ~~or automatic~~ changeable copy. Automatic changeable copy signs are allowed only in HCZD and CBZD on parcels with frontage along U.S. Highway 93.
 - ii. The dynamic display portion of the sign may not exceed 40 square feet or 50% of the total sign area, whichever is less. The remainder of the sign may not have the capability to have dynamic displays, even if not used. Only one, contiguous dynamic display area is allowed on a sign face.
 - iii. The sign face shall be oriented away from adjacent residential zoning districts.

- iv. Dynamic displays may not change or move more often than once every second.
- v. The transition from one image or display to the next must be accomplished in one second or less. Fading, scrolling, and dissolving effects may be used as part of the transition.
- vi. Dynamic displays may not use blinking, bursting, distorting, flashing, oscillating, rotating, shimmering, sparkling, or streaming effects. Audio or pyrotechnic elements are also prohibited.
- vii. The sign owner must stop the dynamic display within 24 hours of receiving notice from the administrator that it is malfunctioning or otherwise not complying with these standards.
- o. Indemnification and insurance. All persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way or property shall agree to hold harmless and indemnify the City/County, its officers, agents, and employees, against any and all claims of negligence resulting from such work or placement.

7. ~~SEC. 4.03~~— Signs permitted in the HCZD and CIZD. Signs are allowed in HCZD and CIZD as follows.

- a. All signs in compliance with Sec. ~~3.03-4.~~, and off-premise signs in compliance with 6.h.
- b. Freestanding and monument signs, one per premises.
- c. Non-Freestanding Signs. ~~Within the Ordinance area, Non-Freestanding Signs in PLZD, HCZD, & CIZD,~~ Except as specified in d.ii., below, non-freestanding signs (e.g., projecting signs, awning signs, wall signs) shall have as their limit 35% of the visible building surface area not to exceed 35% of two sides of the building structure.
- d. Home occupations and day care centers:
 - i. One freestanding or monument sign per premises, not to exceed 32 square feet ~~per sign face~~, a maximum of 4 feet in overall height, and externally lit only;
 - ii. ~~For home occupations, day care centers, and others within the area zoned , HCZD, & CIZD,~~ Non-freestanding signs shall have as their limit, 15% of street visible building surface area not to exceed 15% of the surface area of two sides of a building structure.
- e. Incidental signs not to exceed 2 square feet in aggregate sign area per occupancy.
- f. All freestanding or ground mounted monument signs shall be set back pursuant to ~~4.01b-6.b.ii~~ and 6.f.
- e. Maximum Sign Area Calculation. Within the zoning districts listed above HCZD and CIZD, the computed permitted area of all signs on a property, including freestanding and monument

signs, shall be the calculated average of the following not to exceed the maximum sign area square footage.

HCZD and CIZD Sign Area Calculation Table

Maximum Height	14 Feet*	20 Feet**
Maximum Sign Area (square feet)	210	150
% Ground Floor Area of Principal Building	1%	1%
Square feet of sign per lineal foot of street frontage (may include more than one street)	1	1

*When the maximum sign height on a property is 14 feet or less, the total maximum allowable sign area on a property is 210 square feet.

** When the maximum sign height on a property is between 14 and 20 feet, the total maximum allowable sign area on a property is 150 square feet.

Example 1.		14 Feet	20 Feet
Ground Floor Area	14,000	140	140
Street Frontage (ft)	120	120	120
Maximum SF, from above		210	150
Average		157	137
Maximum Freestanding Sign Size Area*		157	137
Actual Present Freestanding Signage	0		

*The calculated maximum sign area for a property may be used on any combination of permitted signs.

Example 2.		14 Feet	20 Feet
Ground Floor Area	3,760	37.6	37.6
Street Frontage (ft)	200	200	200
Maximum SF, from above		210	150
Average		149	129
Maximum Freestanding Sign Size Area		149	129

8. ~~SEC. 4.04~~— Signs permitted in the CBZD, ~~and~~ RZD, HMZD and TZD. Signs are allowed in CBZD, ~~and~~ RZD, HMZD and TZD as follows.

- a. All signs in compliance with ~~Sec. 3.03-4~~.
- b. Freestanding and monument signs, one per premises.
- c. Non-Freestanding Signs. ~~Within the Ordinance area, Except as specified in d.ii., below, non-~~freestanding signs in CBZD, ~~and~~ RZD, HMZD and TZD (e.g., projecting signs, awning signs, wall signs) shall have as their limit 35% of the visible building surface area not to exceed 35% of the surface area of two sides of the building structure.
- d. For home occupations, ~~and~~ day care centers, and all special permit uses in the TZD :
 - i. One freestanding or monument sign per premises, not to exceed 32 square feet per sign face, a maximum of 4 6 feet in overall height, and externally lit only.
 - ii. ~~For home occupations, day care centers, and others within the Ordinance area zoned CBZD and RZD,~~ Non-Freestanding signs (e.g., projecting signs, awning signs and wall signs) shall have as their limit, 15% of street visible building surface area not to exceed 15% of the surface area of two sides of a building structure.
- e. One identification sign per neighborhood, subdivision, development, apartment, condominium complex or mobile home park entrance not to exceed 32 square feet in total sign area and 4 feet in height. This height does not include architectural embellishments and appendages of reasonable design standards approved by the administrator. Such signs shall only use external lighting and must have landscaping around the base.
- ~~(g) Incidental signs not to exceed 2 square feet in aggregate sign area per occupancy.~~
- ~~(h) All freestanding or ground mounted monument signs shall be set back pursuant to Sec. 4.01b.~~
- f. Maximum Sign Area Calculation. ~~Except as restricted above, within the Ordinance area zoned CBZD, and RZD and TZD, the computed permitted area of all signs on a property, including freestanding and monument signs, shall be the calculated average of the following not to exceed the maximum sign area square footage.~~

CBZD, RZD, HMZD and TZD Sign Area Calculation Table

Maximum Height	14 Feet*	20 Feet**
Maximum Sign Area (square feet)	160	115
% Ground Floor Area of Principal Building	1%	1%
Square feet of sign per lineal foot of street frontage <u>(may include more than one street)</u>	1	1

*When the maximum sign height on a property is 14 feet or less, the total maximum allowable sign area on a property is 160 square feet.

** When the maximum sign height on a property is between 14 and 20 feet, the total maximum allowable sign area on a property is 115 square feet.

Example 1.		14 Feet	20 Feet
Ground Floor Area	14,000	140	140
Street Frontage (ft)	120	120	120
Maximum SF, from above		160	115
Average		140	125
Maximum Freestanding Sign Size Area*		140	115
Actual Present Freestanding Signage	0		

*The calculated maximum sign area for a property may be used on one free standing or monument sign or on any combination of permitted signs.

Example 2.		14 Feet	20 Feet
Ground Floor Area	3,760	37.6	37.6
Street Frontage (ft)	200	200	200
Maximum SF, from above		160	115
Average		149	129
Maximum Freestanding Sign Size Area		133	118

9. SEC. 4.05 Signs permitted in the PLZD, RCZD and all residential zones. Signs are allowed in the PLZD, RCZD and all residential zones as follows.

- a. All signs in compliance with Sec. 3.03 4. ~~with the exception of subsection (l) & (m), which are permitted for special events such as grand openings, garage sales, reunions, etc. for a time frame of 48 hours from the start of the event.~~
- b. One identification sign per neighborhood, subdivision, development, apartment or condominium complex, or mobile home park entrance, not to exceed 32 square feet in total sign area and 4 feet in height. This height does not include architectural embellishments and appendages of reasonable design standards approved by the administrator. Such signs shall only use external lighting and must have landscaping around the base.
- c. For home occupations, bed and breakfasts, community residential facilities (8 or fewer), day care centers and others and any permitted uses, one wall sign, not to exceed 16 square feet in total sign area and externally lit.
- d. For special permit uses (not including those in c., above), such as churches and synagogues, religious institutions, schools, nursing homes and hospitals, community residential facilities:

- i. One freestanding or monument sign, not to exceed ~~the commercial standard in 4.03;~~ 64 square feet in area and 10 feet in height; and
- ii. One wall sign, not to exceed 24 square feet in total sign area and externally lit.

All freestanding or ground mounted monument signs shall be setback pursuant to 4.01b.

~~(g) Commercial signs, other than those provided for above, are prohibited within the residential and productive lands zoning districts.~~

~~SEC. 4.10— SIGNS PROPOSED AS PART OF A VARIANCE APPROVAL~~

All signs in compliance with Sec. 3.03

All other sign proposals shall conform to the regulations for permitted uses for that sign district with which it most approximately resembles. ~~The applicant must keep in mind the use has been approved through the variance procedure and therefore has no specific regulations addressing that particular use within the sign district. Where an agreement cannot be reached, the City Council/County Commissioners will have the final decision making authority.~~

10. SECTION FIVE Nonconforming Signs. ~~SEC 5.01— DETERMINATION OF LEGAL NONCONFORMITY~~

- a. A sign which was in ~~existence prior to adoption of this Ordinance/Resolution,~~ installed or erected in compliance with the regulations or standards that were in effect at the time of its development, but would not comply with these standards shall be considered a legal non-conforming sign. Such signs may be maintained and repaired but may not be if it is not altered in any way that increases its the degree of non-compliance conformity. ~~(Refer to Sec. 3.02).~~
- b. All non-conforming signs shall be brought into compliance within ninety (90) calendar days of notice from the ~~City/County~~ administrator if:
 - i. The use advertised is suspended for ninety (90) calendar days, (does not include off-premise signs) or
 - ii. The land use of the property on which the non-conforming sign is located changes, or
 - iii. The sign is altered in any way except for ordinary maintenance, or
 - iv. The sign is relocated.
- c. ~~Any roof sign extending higher than the ridge-line of roof or parapet wall or more than 6 feet above the highest point of a flat roof, or any billboard in existence prior to adoption of the Ordinance/Resolution these standards shall be considered a legal non-conforming sign if they are not altered in any way that increases their non-compliance.~~

11. ~~SEC. 7.08—~~ Removal of abandoned, hazardous and illegal signs.

- a. The enforcement process in Chapter IV.EE shall be utilized for abandoned, hazardous and illegal signs, except that if the administrator finds that any sign or support presents an immediate danger to the public, they must order either immediate repair or immediate removal. With the authorization of the CC/BOCC, the administrator is authorized to remove the sign if the person responsible cannot be found or refuses to repair or remove the sign within 10 days.
- b. A sign may only ~~No sign shall~~ be removed without the specific authorization of the ~~Mayor/County Commissioner~~ CC/BOCC.
- c. After removal or demolition of any sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and requiring payment of the costs as certified by the administrator.
- d. The owner of the business upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the administrator, as in the case of a leased sign.
- e. For purposes of removal, the definition of sign shall include all sign embellishments and any portion of a sign or sign structure no longer necessary to provide structural support.

12. ~~SECTION SIX~~—Construction Specifications.

- a. All signs shall be constructed in accordance with the requirements of the local building code and state electrical code.
- b. All signs shall be permitted and constructed in accordance with the requirements of the Montana Department of Transportation when applicable. ~~This will address most freestanding or monument signage fronting on Highway 93 & 35 within the City/County Planning Area.~~
- c. No sign shall create a public hazard in the public right-of-way. Signage is permitted within the City right-of-way in the Central Business District only. Such signage requires an additional permit. Please call for information concerning such signage.
- d. All signs shall be anchored as appropriate for their design.
- e. No signs shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
- f. No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and cover windows when not in violation of the provisions of the local building or fire prevention codes.

~~SECTION SEVEN—~~

~~ADMINISTRATION AND ENFORCEMENT—(Note: With the exception of removal of illegal, abandoned and dangerous signs (above), Zoning Administration is covered in Chapter III. A separate administration and enforcement section is not necessary only for signs.)~~

~~SEC. 7.01 – CODE ADMINISTRATOR~~

~~The Administrator shall be appointed by the City Council/County Commissioners and is authorized to process applications for permits, and enforce and carry out all provisions of this Ordinance/Resolution. The Administrator is empowered to inspect new sign construction for compliance with all applicable codes and ordinances. Such inspections shall be carried out, by appointment, during business hours unless an emergency exists.~~

~~SEC. 7.02 – APPLICATION FOR PERMITS~~

~~Application for a permit for the erection, alteration, or relocation of a sign shall be submitted to the Administrator upon a form provided by the Administrator and shall include the following information:~~

~~Name and address of the owner of the sign.~~

~~Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.~~

~~The number and type of sign(s) or sign structure as defined in these regulations and the sign district in which it is located.~~

~~A site plan showing the dimensions of the property, building location, driveways and other relevant features including the proposed location of the sign(s) on the site and/or on the building and existing signs on the site.~~

~~Specifications and scale drawings showing the materials, design, dimensions, structural supports, lighting, and total square footage of each sign.~~

~~SEC. 7.03 – PERMIT FEES~~

~~All applications for permits filed with the Administrator shall be accompanied by a payment of the initial permit fee for each sign according to the following schedule:~~

~~On-Premise Signs (new permit):
\$20.00 plus \$ 0.25 for each square foot of sign area.~~

~~“Legal Nonconforming” sign (continuation):
No Charge, No Permit Required.~~

~~Off-Premise Signs (new permit):
—\$20.00 plus \$0.25 for each square foot of sign area.~~

~~SEC. 7.04 – ISSUANCE, DENIAL AND APPEAL~~

~~The Administrator shall issue a permit for the erection, alteration, or relocation of a sign within 14 days of receipt of a valid application, provided that the sign complies with all applicable laws and regulations of the City of Polson/Lake County. In all applications, where a matter of interpretation arises, the more specific definition or higher standard shall prevail.~~

~~When the Administrator denies a permit, he/she shall give a written notice to the applicant along with a brief statement of the reasons for denial and instructions on the process to obtain a variance. Sign applicant shall have right of appeal to the City of Polson/Lake County Board of Adjustment and any other legal/judicial forum appropriate. The Administrator may suspend or revoke an issued permit for any false statement or material misrepresentation of fact in the application.~~

~~SEC. 7.05 – PERMIT CONDITIONS, REFUNDS, AND PENALTIES~~

~~If a permit is denied, the permit fee will be refunded to the applicant within 14 days.~~

~~If no inspections have been made and no work authorized by the permit has been performed, the permit fee, except for the base fee may be refunded to the applicant upon request, provided that the permit and permit sticker are returned to the Administrator within 7 days of issuance.~~

~~A permit issued by the Administrator becomes null and void if work is not commenced within 180 days of issuance, unless the permittee encounters unforeseen difficulties and notifies the administrator.~~

~~SEC. 7.06 – INSPECTION UPON COMPLETION~~

~~Any person installing, altering, or relocating a sign for which a permit has been issued shall notify the Administrator upon completion of the work. The Administrator shall make a final inspection within 7 working days of receiving notice of completion of work. If no inspection is conducted within those 7 working days the signage shall be deemed satisfactory if meeting all requirements of this sign ordinance for such permit.~~

~~SEC. 7.07 – VIOLATIONS~~

~~If a violation of the code exists, the Administrator shall issue a written order to the alleged violator. The order shall specify those sections of the code of which the individual may be in violation and shall state that the individual has 15 days from the date of the order in which to respond to City/County regarding the alleged violation.~~

~~If, upon inspection, the Administrator finds that a sign or any portion of the sign structure is abandoned or structurally or materially defective the Administrator shall issue a written order to the owner of the sign and occupant of the premises stating the nature of the violation and requiring them to respond to the order within 15 days of receipt of the order. In no event shall respondent have less than 30 working days to make any repairs that may be necessary.~~

~~In cases of emergency, the Administrator may cause the removal of a dangerous or defective sign. Signs removed in this manner must present a hazard to public safety.~~

~~SEC. 7.09 – PENALTIES~~

Any person who fails to comply with the provisions of this Ordinance may, after exhausting the normal response and appeal process, be subject to a fine of up to a maximum of \$500 or six months in jail.

~~SECTION EIGHT--
CONFLICT, SEVERABILITY, AND EFFECTIVE DATE~~

~~SEC. 8.01-- CONFLICT~~

~~If any portion of this code is found to be in conflict with any other provision or ordinance of the City of Polson/Resolution of Lake County, the provision that establishes the higher standard shall prevail.~~

~~SEC. 8.02-- SEVERABILITY~~

~~If any Section, subsection, sentence, clause, or phrase of this code or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this code, or the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect.~~

~~SEC. 8.03-- EFFECTIVE DATE~~

~~This code shall take effect and be in force upon adoption by the governing bodies.~~

13. Definitions. Certain terms used in these performance standards are defined for the purpose of this Ordinance convenience as follows. See also Chapter VII, Definitions, for additional definitions.

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found. Abandoned signs are declared a public nuisance in Chapter III.JJ.4. This definition also applies to any/all portion(s) of the sign structure not required for maintaining the structural integrity and not part of an architectural embellishment for a legal permitted sign [compare "Seasonal Business Sign"].

Administrator: ~~The City of Polson or its designated representative or employee within the City Limits and the Board of Lake County Commissioners or its designated representative or employee within the County jurisdiction of the Polson Planning Area.~~ The Polson Building and Planning Official or designee for matters within the city and Lake County Planning Director or designee for matters within the county jurisdictional area, or a contractor, who is responsible for the administration of these regulations. *(Note: this definition has been modified to be consistent with the definition in Chapter VII.)*

Animated Sign: Any sign that uses movement or change of lighting to depict action or to create a special effect or scene [compare "Flashing Sign," "Changeable copy sign (automatic)"].

Area: [see "Sign, Area of"]

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid or rigid materials on a supporting framework [compare "Marquee"].

Awning Sign: A sign painted on, printed on, or attached flat against the surface of an awning.

Banner Sign: A sign made of fabric or any non-rigid material with no enclosing framework. [Compare “Wall Sign”]

Billboard: Off-Premise sign with a surface area of any one side exceeding 128 square feet in area. This type of sign is not permitted. [Compare “Off-Premise Sign”]

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Mounted Sign: Any sign that is flush mounted on a building and signs that are attached to a building in some other manner. Examples of building mounted signs are Projecting Signs, Awning/ Marquee Signs, Wall Signs and Under Canopy Signs.

Changeable Copy Sign (Automatic): A sign on which the copy, images or display changes automatically ~~on a lampbank or~~ through mechanical or digital means (e.g., electrical or electronic time and temperature units). These signs are also known as dynamic display signs.

Changeable Copy Sign (Manual): A sign, on which copy is changed manually in the field (e.g., reader boards with changeable letters).

City: Unless the context clearly discloses a contrary intent, the word “City” shall mean the City of Polson and its ~~extra-jurisdictional~~ municipal area.

Clearance (of a Sign): The smallest vertical distance between the existing grade at the base of the sign and the lowest point of such sign, including framework and embellishments, extending over that grade.

Construction Sign: A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Copy: The wording, design or images ~~lighting~~ on a sign surface in either permanent or removable form. ~~It is intended that “lighting” in this definition be limited to the lighting on the sign itself.~~

County: Unless the context clearly discloses a contrary intent, the word “County” shall mean Lake County. The jurisdictional area of Lake County under this Resolution is the area within the Polson/Lake County City/County Planning Area that is outside of the Polson City Limits.

Directional/Informational Sign: An on-premise sign giving directions, instructions, or facility information (e.g., parking or exits and entrance signs).

Double Faced Sign: A sign with two faces. If the thickness between the two faces of the sign(s) exceed 36” the area of the sign face(s) will be calculated separately.

~~**Electrical sign:** A sign or sign structure in which electrical wiring, connections, or fixtures are used. (Note: The term electrical sign is not used in these performance standards).~~

~~**Electronic Message Center:** [see “Changeable Copy Sign, Automatic”] (Note: The term electronic message center is not used in these performance standards).~~

Facade: The entire building front including the parapet.

Face of Sign: The area of a sign on which the copy is placed, this includes any design or lighting on such face.

Festoons: A string of ribbons, tinsel, small flags, or pinwheels.

Flashing Sign: **A sign that contains an intermittent or sequential flashing light source used primarily to attract attention. Does not necessarily include changeable copy signs, animated signs, or signs which, through reflection or other means, create an illusion of flashing or intermittent light [compare “Animated Sign,” “Changeable Copy Sign”].**

Freestanding Sign: A sign supported upon the ground by poles or braces and not attached to any building [compare “Monument,” “Billboard” & “Off-Premise Sign”].

Frontage: The length of the property line of any one premise along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall fronting on a public right-of-way.

Government Sign: Any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility.

~~**Ground Mounted Sign (Monument):** Any sign attached to or supported directly on the surface below by masonry, wood, or similar materials.~~

Height (of a sign): The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of the public street or the grade of the land at the principal entrance to the principal structure on the premises, whichever is lower [compare “Clearance”].

Identification Sign: A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

Illegal Sign: A sign that does not meet the requirements of this Ordinance these standards exclusive of legal-nonconforming signs.

Illuminated Sign: A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Incidental Sign: A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises (e.g., a credit card sign or a sign indicating hours of business).

~~**Legal Nonconforming Sign:** A sign that does not conform to the specific provisions of this ordinance but may be designated "legal nonconforming" pursuant to Section 5.01.~~

~~**Lot:** A parcel of land legally defined on a subdivision plat recorded with the assessment department or land registry office, or a parcel of land defined by a legal record of survey. (Note: This term is not used in these performance standards and is different from the definition in Chapter VII.)~~

~~**Maintenance:** For the purposes of this Ordinance these standards, the cleaning, painting, repair, or replacement of defective parts of a sign.~~

Mansard: A sloped roof or roof-like façade architecturally comparable to a building wall.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building [**compare "Awning"**].

Marquee Sign: Any sign attached to the front or side of a marquee structure.

~~**Ground Mounted Sign Monument Sign:** Any sign attached to or supported directly on the surface below by masonry, wood, or similar solid materials other than support poles.~~

Nameplate: A non-electric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

~~**Nonconforming Sign:** A sign that was installed or erected in violation of this Ordinance exclusive of legal nonconforming signs in compliance with the regulations that were in effect at the time of its development, but would not comply with these regulations, if submitted for approval after their effective date. (Note: This definition is consistent with the definition of nonconforming use in Chapter VII.)~~

Occupancy: The portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.

~~**Off-Premise Sign:** A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located. Such signage is limited to a maximum area of 128 square feet per face, and shall have minimum spacing between signs of 750 lineal feet. The minimum spacing requirement also applies to the distance between Off-Premise signs and freestanding or ground mounted signage. (Note: The struck-through text has been moved to 6., general regulations.)~~

On-Premise Sign: A sign that pertains to the use of the premises on which it is located.

Owner: A person recorded as such on official records. For the purposes of this Ordinance these standards, the owner of property on which a sign is located is presumed to be the owner of the

sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the administrator (e.g., a sign leased from a sign company or constructed by a renter.)

Painted Wall sign: Any sign that is applied with paint or similar substance on the face of a wall.

Parapet: The extension of a false front or wall above a roofline.

Person: For the purpose of ~~this Ordinance~~ these standards, any individual, corporation, government agency, business trust, estate, association, firms, trust, partnership, or ~~similar defined interest~~ two or more persons having a joint or common interest, or any other legal entity.

Point of Purchase Display: Advertising of a retail item accompanying its display (e.g., an advertisement on a product dispenser.)

Pole Cover: Covers enclosing or decorating poles or other structural supports of a sign.

Political Sign: For the purposes of ~~this Ordinance~~ these standards, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Premises: A parcel of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate within a specific zoning district.

Projecting Sign: A sign which is attached to, suspended from, or supported by a building and which projects more than sixteen (16) inches from the building.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

Roofline: The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Roof Sign: Any sign erected upon or above any portion of a roof or parapet wall of a building and which is wholly or partially supported by said building **[compare "Mansard," "Wall Sign"]**.

Rotating Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Seasonal Business Signage: A sign that is used to advertise a business that is operated on a seasonal basis for less than eight months in one calendar year.

Sign: Any device, structure, fixture, enclosure, or placard using graphics, symbols, lighting, and/or written copy designed specifically for the purpose of advertising, identifying, or attracting attention to any establishment, product, goods, or services **[compare Sec. 1.02]**.

Sign, Area of: The area of a sign including the area within the perimeter that forms the outside shape including the frame, forming an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. *(Note: The methods of sign area measurement have been moved to 6., general regulations.)*

~~**Snipe Sign:** A temporary sign or poster affixed to a tree, fence, etc. *(Note: The term snipe sign is not used in these standards.)*~~

Subdivision or Neighborhood Identification Sign: A freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.

Temporary Sign: A sign not constructed or intended for long-term use (up to 2 weeks).

Under-Canopy Sign: A sign suspended beneath a canopy, ceiling, roof, or marquee.

Use: The purpose for which a building, lot, premise, signs, or structure is intended, designed, occupied, or maintained.

Wall Sign: A sign attached parallel to and extending not more than 16 inches from the wall of a building. This definition includes painted, individual letter, cabinet signs, and signs on a mansard. Banners with a rigid enclosed framework or attached to a solid support on three sides may be considered a wall sign.

Window Sign: A sign installed inside or outside a window and intended to be viewed from the outside. This term does not include merchandise located in a window.

End of definitions for Y. Signs

Z. Views to Flathead Lake. The intent of this section is to aid in finding a balance between the rights of developers and the maintenance of the existing views of Flathead Lake and Flathead River. Views to Flathead Lake and River from dwellings, and lake-oriented commercial uses and transportation routes are a valuable resource, and should generally not be blocked (fully obscured), even by development that otherwise complies with these regulations. However, landowners have a right to develop property in compliance with these regulations. See also Chapter II.O., which requires that view corridors be provided in the RZD.

1. Proposed subdivisions ~~shall~~ may be required to provide drawings or electronic simulations showing how their design minimizes the possibility that their development will block existing lake views.
2. Proposed special use permit uses ~~shall~~ may be required to provide drawings or electronic simulations demonstrating that they do not block existing lake views, or that partial blocking of existing lake views is necessary to ~~permit any reasonable use of~~ reasonably develop the lot or parcel ~~on which.~~
3. Permitted uses will generally be assumed to comply with this performance standard, if they meet the specification standards of their zoning district. The administrator may, however,

condition the approval of a development permit on alterations that help retain views from adjoining properties.

AA. RESERVED.

BB. AA. Recreational Vehicles. ~~(Applies to County Planning Area, outside of City limits only—not approved or allowed by City (County Res # 02-28, 4/4/02)~~

1. In all residential zoning districts ~~located within the Polson Master Plan area~~, the temporary use of a recreational vehicle for landowners' guests shall be permitted for a time period not to exceed 14 days without obtaining a zoning conformance permit. Such temporary recreational vehicles shall be parked on the landowners' property.
2. Permitted Uses—~~Temporary~~ Seasonal Recreational Accommodations: A recreational vehicle may be used as a temporary recreational structure on waterfront properties outside of the Polson city limits on a seasonal basis with a zoning conformance permit. The number of recreational vehicles shall not exceed one per lot, ~~without a special use permit~~. The recreational vehicles may not be rented. These structures must meet all specification standards of the zoning district in which the property is located including setback distances, shoreline buffers and other applicable performance standards of ~~Chapter XVIII of the Polson Development Code~~ these regulations. The recreational vehicle may be stored on the property in compliance with the outdoor storage specification defined for each zoning district while not in use. All RVs shall have sewage disposal facilities that meet local and state sanitation requirements. No RV structures shall be used as permanent (year round) dwellings.
3. No recreational vehicle shall be parked or permitted to stand on any public street, highway, road, alley or other such right-of-way for more than a 24-hour period. If so parked for less than a 24-hour period, it shall be parallel to the edge of the right-of-way, safely out of the flow of moving traffic.

Division 4 – Land Divisions

NOTE: THIS SECTION HAS BEEN MOVED TO CHAPTER VI

BB. Accessory Dwelling Units.

1. **Purpose.** The purpose of these performance standards is to allow efficient use of the existing housing stock and infrastructure, provide housing options that respond to changing household sizes and needs, provide a means for residents—particularly seniors, single parents and empty-nesters—to remain in their homes and neighborhoods, obtain extra income, security, companionship and assistance, and to provide a broader range of affordable housing options.
2. **Applicability.** The following are considered accessory dwelling units or uses:
 - a. A single dwelling unit occupied by the owner, a manager, or a guard is a customary accessory use on all commercial and industrial properties.
 - b. An accessory apartment (a single, functionally separate dwelling unit) is a customary accessory use in all single family dwellings.

- c. A detached accessory dwelling unit (a single, fully functional dwelling unit physically separated from the primary dwelling on a lot), including an apartment above a garage, is a customary accessory residential use in the PLZD, RRZD, LRZD, MRZD, RZD, and HMZD.

3. Specification Standards.

- a. Only one accessory dwelling is permitted per lot;
- b. An accessory dwelling shall not contain more than two bedrooms;
- c. In the PLZD, RRZD and LRZD, the lot must be a minimum of one acre in size. In the MRZD, RZD, TZD, and HMZD, the lot must meet the minimum size requirement of the district;
- d. The ground floor area of the accessory unit shall not exceed 50% of the ground floor area of the principal dwelling or structure;
- e. An accessory dwelling shall not exceed two stories or the height of the principal dwelling or structure, whichever is less;
- f. The accessory dwelling shall have a roof pitch, siding, trim and window proportions similar to that of the principal dwelling or structure;
- g. The accessory dwelling shall comply with all other standards for principal dwellings or structures such as setbacks, lot coverage and height;
- h. The accessory dwelling unit shall not require a separate access approach;
- i. Only one municipal facility hookup for sewer and water shall be allowed per lot; and
- j. At least one off-street parking space must be provided for an accessory dwelling unit.

4. Renting an accessory dwelling unit. Renting of either dwelling may occur so long as the two conditions below are met. (Renting an accessory dwelling unit to a manager or guard on a commercial or industrial property is exempt from these conditions.)

- a. One of the dwellings shall be occupied by the landowner as a permanent residence.
- b. The landowner shall record a signed affidavit and deed restriction, in a form approved by the city or county attorney as applicable, stating the property owner will reside on the property, either in the principal or accessory dwelling unit. Once recorded, the deed restriction may not be removed or modified without CC or BOCC approval.

5. Violation of terms. In the event that any of these terms is violated, the owner shall provide for the removal of the accessory dwelling improvements and restore the site to its principal use.

CC. Home Occupations.

- 1. Purpose.** The purpose of this appendix section is to encourage "cottage industry" while protecting neighboring homes. A home occupation may be any commercial or industrial activity that complies with these performance standards, and the other performance standards of these regulations, as applicable.
- 2. Floor Area.** A home occupation may be located within any dwelling or an accessory building, but shall not occupy a floor area larger than:
 - a. In the RRZD: that of the dwelling to which it is accessory, or
 - b. In all other zoning districts: one-third of the floor area of the dwelling to which it is accessory.
- 3. Employees.** Except in the PLZD, MRZD, TZD and HMZD where 2-4 employees may be allowed with a special use permit, no home occupation shall have more than one full-time equivalent on-premise employee who is not a member of the resident family.
- 4. Parking.** Home occupations shall provide off-street parking in compliance with the requirements of Appendix E IV.P., above.
- 5. Outdoor Storage.** Outdoor storage associated with a home occupation shall be subject to the same performance standard governing other outdoor storage in its zoning district, and the other applicable performance standards of these regulations.
- 6. Signs.** Home occupations may display "residential" signs, as permitted by Appendix B IV.Y, above.

DD. Bed and Breakfasts

- 1. Purpose.** The purpose of this section is to provide options for overnight accommodations and meal services to tourists and visitors while minimizing impacts to the neighborhood in which the accommodations are located.
- 2. Applicability.** Bed and breakfasts are considered either a permitted use or a special permit use and may be operated in the RRZD, LRZD, MRZD, TZD and RZD.
- 3. Performance Standards.**
 - a. The establishment must be operated by the owner of the home, who must live on the property.
 - b. The bed and breakfast may not contain more than 4 guest rooms.
 - c. Food service may be provided for resident guests only.
 - d. Bed and breakfasts may not be leased or offered for use as reception space, party space, meeting space or similar events open to non-resident guests.

- e. A maximum of one wall sign, which may be externally lit, not exceeding 8 square feet in area, may be displayed.
- f. If the parcel abuts an alley, access to guest parking must come from the alley.

EE. Multiple-Family Dwellings

- 1. Applicability.** Multiple-family dwellings are subject to all applicable regulations of the Polson Development Code except as modified or supplemented by these standards. These standards apply to multiple-family dwelling structures, including apartments, condominiums and retirement homes that contain more than two living units. They also apply to townhouse structures, and when a single parcel contains either multiple two-family dwellings or a combination of multi-family dwellings and two-family dwellings. These standards do not apply when one two-family dwelling is to be located on a parcel.
- 2. Pedestrian Access.** Multiple-family dwellings must provide a system of walkways connecting each multi-family dwelling to the following when applicable: adjacent public sidewalks, on-site parking lots or parking structures, other on-site multiple-family dwelling buildings, garages, disposal and recycling containers, mail boxes, recreation areas and storage areas.
- 3. Parking and Vehicle Access.** No more than 30% of the parking area may be located between the principal building and the front street. Parking may not be located within any required side yard or setback area. Direct access shall be provided onto a collector or arterial street, or otherwise located where traffic shall not be channeled onto local residential streets.
- 4. Design Features.** The developer shall provide at least 3 of the following (at the developer's discretion):
 - a. Modulated building wall planes on the front façade through the use of projections, recesses and offset planes with a minimum depth of 2 feet;
 - b. Balconies or bay windows on the front building façade;
 - c. Varied rooflines;
 - d. Visual diversity on all building facades by varying materials, texture, or color.
 - e. Landscaping adjacent to the building that includes at least 1 tree and 4 shrubs per each 25 linear feet of building façade that faces a public street.
 - f. Windows or glazed area equal to at least 15% of the combined total of all the building's facades.

FF. Cluster Development

1. Purpose. The purpose of these cluster development standards is to encourage innovative development designs that concentrate building sites on smaller lots in order to reduce capital and maintenance costs while preserving natural areas, agriculture and open spaces.

2. Applicability. This cluster development option is available in the PLZD, RRZD, LRZD and RZD.

3. Review Procedure.

a. Cluster developments shall follow the subdivision review procedure in Chapter VI, except once the application has been deemed sufficient and the proposal has been certified as a cluster development, there shall be a 35-working day review period regardless of the number of lots or units.

b. Cluster development subdivisions are exempt from the parkland dedication requirements of IV.T. and 76-3-621, MCA.

4. Development Standards.

a. The maximum size for any clustered parcel is ½ acre.

b. The maximum number of dwelling units or developed lots allowed is the same as that allowed under the applicable zoning district regulations.

c. The maximum number of parcels in a cluster is 20. There may be more than one cluster.

d. Setbacks may be waived or reduced. Lots are not subject to the minimum lot size, minimum frontage or minimum lot width requirements of the zoning district.

e. At least 40% of lots shall abut a conservation or open space area. Direct pedestrian access to the conservation or open area shall be provided to all lots unless and while the area is used for farming or ranching, where resident access is not required but may be provided.

f. The clusters shall contain a continuous system of sidewalks and trails.

g. There may be up to four homes on a shared driveway. The shared driveway is limited to 100 feet in length.

5. Conservation Area or Open Space.

a. The conservation area or open space must conserve and protect significant resources, such as stream buffers, steep slopes, wetlands, fields, seeps, woodlands, prime soils, irrigation facilities and viewsheds. It can be used to conserve agricultural lands and provide recreational opportunities for the subdivision's residents and/or the general public. It can be used to conserve significant historic or cultural resources.

- b. The conservation area or open space may contain a residence and appurtenances if used for agriculture. The conservation area or open space may also be used for wastewater treatment facilities, subsurface utilities, stormwater management, community gardens, trails, parks and other recreational uses and related facilities as allowed in the zoning district. It shall not be heavily infested with noxious weeds at the time of final platting. Roads within the conservation area or open space shall not be counted toward the open space minimum.
- c. The location, size, character and shape of the conservation or open space area(s) shall be appropriate for its intended use. However, at least 10 acres or 50% of the property, whichever is greater, shall be designated and maintained as conservation area or open space.
- d. Open space to be used for active recreation shall be located and designed so that it can be conveniently and safely accessed by intended users.
- e. The designated conservation or open area shall be preserved through an irrevocable conservation easement, granted in perpetuity, as provided for in Title 76, chapter 6, MCA, prohibiting further division of the parcel. The property and easement may be publicly or privately held.
- f. A cluster development preliminary plat application shall include a plan for ownership, use, management and use and development guidelines.

GG. Wireless Communication Facilities

1. Purpose. The purpose of these standards is to:

- a. Accommodate the provision of wireless communication services to residents, businesses and visitors;
- b. Enhance the ability of service providers to serve the community as quickly, effectively and efficiently as possible by clarifying the permitting process and design requirements;
- c. Protect residential property values and the visual environment from the adverse impacts of communication facilities through careful design and performance standards; and
- d. To limit the number of towers needed to serve the Polson area by requiring the co-location of wireless communication devices on existing and new antenna support structures, rooftop-mounted structures, public buildings and utilities.

2. Definitions Unique To These Standards.

- a. Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae such as panels, microwaves dishes, and satellite dishes and omni-directional antennae, such as whip antennae.

- b. Antenna Support Structure. Any structure or device designed, constructed, used and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. The term includes but is not limited to buildings, light poles, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures, and the like. The term includes the structure and any support thereto.
- c. Antenna Support Structure Height. The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- d. Co-location. The use of a wireless communications facility by more than one wireless communications provider.
- e. FAA. Federal Aviation Administration.
- f. FCC. Federal Communications Commission.
- g. Wireless Communication Facility. A facility for the transmission and/or reception of radio frequency, microwave or other signals for communications purposes, typically consisting of an equipment enclosure, an antenna support structure, foundation and one or more antennae. Amateur radio and land mobile radio are excluded from this definition.

3. Applicability. All wireless communication facilities located within the Polson ~~Master Plan Planning Area~~ except for tribal, allotment or trust lands are subject to ~~this ordinance/resolution~~ these standards. Amateur radio and other residential communication devices are exempt from the application of this ordinance/resolution.

4. Location.

- a. Wireless communication facilities within the Polson ~~Master Plan~~ Planning Area are permitted in all zoning districts if the proposal meets the requirements of Section 5. (General Standards), Section 6. (Co-location Requirements), and Section 9, (Application Information) and the application is approved ~~according to the terms of Section 10. (Application and Appeal Procedure).~~ in accordance with III.L.
- b. The use of existing buildings and other structures for the placement is hereby encouraged. Additionally, all wireless communication facilities shall meet the requirements of the FAA and FCC.

5. General Standards

- a. Height: The maximum antenna support structure height is 70 feet.
- b. Design: The tower associated with a wireless communication facility shall be a monopole or similar structure designed so that guy wires are not necessary. Lattice towers are prohibited. Creative designs that seek to hide the structure or minimize the visual impact are encouraged.

- c. Spacing: The minimum distance from the base of an antenna support structure to the closest boundary of a residentially zoned parcel is equal to the height of the structure, including antennae. The spacing requirement does not apply to parcels adjacent to an existing wireless communication facility (i.e., there is no spacing requirement between antenna support structures).
- d. Color: All structures at a wireless communication facility shall be non-reflective and finished with a uniform earth or sky tone color including white, gray and brown. Galvanized steel is considered non-reflective.
- e. Lighting: No tower shall be artificially lit unless to assure safety as required by the FAA or FCC. If lighting is required, red beacons are preferable to flashing strobe lights.
- f. Signage: No advertising is permitted anywhere on the facility. Identification signage that lists contact information and is less than four square feet in size shall not be considered advertising.
- g. Screening: Communication facilities shall not include staffed offices, vehicle or equipment storage or other uses not required to send, receive or relay transmissions unless they are screened from public view.
- h. Fencing: A chain link or solid wood or masonry fence at least six feet in height shall be constructed and maintained around the perimeter of the wireless communication facility. Barbed wire fences are prohibited within the City limits. If the facility is located on top of a building or other structure, no fencing is required.
- i. Landscaping: A continuous hedge at least four feet in height when planted shall be planted and maintained around the perimeter of the fencing to provide a visual screen. If the facility is located on top of a building or other structure, no landscaping is required.

6. Co-location Requirements.

- a. New antenna support structures shall be designed to accommodate the applicant's antenna and at least one additional antenna unless technically infeasible.
- b. All new antennae must co-locate on existing or approved antenna support structures or existing structures. If co-location is not feasible, the service provider must demonstrate evidence supporting its claim. Such evidence may consist of the following:
 - i. No existing structures are located within the geographic area required to meet the applicant's technical requirements.
 - ii. Existing structures are not of sufficient height or strength (including the possibility of reinforcement) to support the proposed antenna.
 - iii. The applicant's proposed antenna would electromagnetically interfere with an existing antenna or vice versa.

- iv. The cost to co-locate substantially exceeds the costs to erect a new facility.
 - v. Property owners or owners of existing facilities are unwilling to accommodate the applicant's needs.
 - vi. The applicant clearly demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- 7. Abandonment.** If at any time the use of a wireless communication facility is discontinued for 180 days, the facility shall be declared abandoned. Determination of abandonment shall be made by the administrator who shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner will have 90 days to:
- a. Re-use the facility or transfer it to another service provider who will re-use it; or
 - b. Dismantle the facility and return the site to pre-construction condition. If the facility is not removed within 90 days of determination of abandonment, the city or county may remove the facility at the property owner's expense.
- 8. Variance.** If a service provider is unable to meet the requirements of ~~this ordinance/resolution~~ these regulations, the service provider may petition the applicable ~~planning board and elected officials or~~ board of adjustment for a variance. Such a request must include the fee associated with a variance request, steps to be taken to minimize impacts to surrounding landowners and demonstrate why the applicant cannot comply with the requirements. ~~Variations from this resolution/ordinance may be granted so long as, in the board's determination, no other reasonable options exist and all relevant impacts are mitigated.~~ The variance procedure shall be in accordance with III.R.
- 9. Application Information.** The applicant shall submit the following information for review (see Administrative Materials A for an application):
- a. A site plan showing the location and legal description of the site, adjacent roadways, parking and access, areas of vegetation and landscaping, setbacks from property lines, rights-of-way, easements, covenants and residentially zoned areas, and the location of all improvements within the proposed or existing facility;
 - b. A vicinity map showing properties and listing the names and addresses of landowners within 1,000 feet and describing land uses;
 - c. Elevation drawings showing all antennae, towers, structures, fencing, lighting, signage, landscaping and other improvements;
 - d. A statement describing the reasons for the proposed design, the need for the facility including its role in the larger network, the capacity of the antenna and the number and type of antennae it can accommodate. Present and future need must be demonstrated by the applicant;

- e. A letter of intent to allow co-location on the antenna support structure;
- f. A letter of intent to remove the facility at the expense of the facility owner or landowner if it is abandoned. The letter shall include a signed statement by the property owner consenting to the County or City staff entering the property to remove an abandoned facility;
- g. Proof of ownership of the land upon which a communication facility is proposed to be constructed or a copy of the appropriate lease or rental agreement;
- h. Proof of legal and physical access; and
- i. A statement by a licensed professional engineer that the facility will comply with all FAA and FCC standards for structures and radio emissions and local, state and/or federal building codes.