



Chapter Seven

Definitions

What This Chapter Does

This chapter provides definitions for terms used in these regulations.

DRAFT CHAPTER VII - DEFINITIONS

A. What This Chapter Does. This chapter provides definitions for terms used in these regulations. Any dispute about the meaning of a term shall be resolved using the appeals procedure of ~~II.P.~~ III.Q.

B. Rules of Interpretation. Terms include both singular and plural forms; i.e., building includes buildings, and their derivatives; i.e., adjacent includes adjoining. The administrator is responsible for interpreting these regulations: See Chapter I.I and I.J.

C. Other Definitions. Certain sections of these regulations, including the performance standards for signs, wireless communication facilities, and the RCZD zoning district, have definitions unique to those sections. Those definitions are intended to supplement the definitions in this chapter.

Accessory. Accessory uses and buildings are those customarily associated with and clearly subordinate to a permitted or special permit building or use. Common accessory uses (a parking lot associated with a business or a personal garden associated with a home, for example) and buildings (a detached garage in a residential area, for example) raise few questions, but this definition specifically addresses ~~two~~ problematic five specific accessory uses.

1. A single dwelling unit occupied by the owner, a manager, or a guard is a customary accessory use on all commercial and industrial premises.
2. An accessory apartment (a single, functionally separate dwelling unit) is a customary accessory use in all single-family dwellings unless a detached accessory dwelling unit is also located on the same lot.
3. A detached accessory dwelling unit (a single, functional dwelling unit physically separated from the primary dwelling unit on a lot), including an apartment above a detached garage, is considered an accessory residential use in the PLZD, RRZD, LRZD, MRZD and RZD in compliance with the district regulations and performance standards in Chapters II and IV.BB.
3. Family and group day-care homes servicing up to 12 children and registered by the Montana Department of Family Services shall be customary accessory uses in all single-family dwellings, as provided by 76-2-412, MCA. Day care shall also be considered customarily accessory to any commercial or industrial use that provides on-site day care for its employees. Day care centers in commercial or industrial zoning districts are commercial or industrial uses, subject to all applicable performance standards.
4. Certain other accessory uses and buildings are addressed in specific zoning districts (like the keeping of livestock in the RRZD). Home occupations are separately addressed: see ~~Appendix D~~ Chapter IV.CC.

Adjacent. Adjacent includes all lots or parcels that directly border the lot or parcel on which a development is proposed, and all lots or parcels separated from that lot or parcel by only a public or private easement or right-of-way, including streets, railroads, and irrigation canals.

Administrator. The employee or Polson Building and Planning Official or designee for matters within the city, the 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. (See Chapter I, J. and K.)

New: Affordable Housing. Housing where the occupant is paying no more than 30% of the median income for the county for gross housing costs including utility costs, rent or mortgage, taxes and insurance.

New: Agricultural Water Users Facilities. Those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes and other water conveyance structures.

Arterial Street. For the purpose of these regulations, the following roads within the City-County Master Planning and Zoning Area shall be considered to be Arterial Streets: Highway 93, Highway 35, 1st Street E., 7th Ave., Main St., 7th Street E., Kerr Dam Road and Rocky Point Road.

New: Average Daily Traffic (ADT). The average number of vehicles crossing a specific point on a roadway during a 24-hour period on the average working day. The projected or estimated ADT for a subdivision shall be based on the most representative land use(s) described in the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers, or a similar source.

New: Bed and Breakfast. A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.

BOA. The City of Polson Board of Adjustment as authorized by 76-2-321, MCA and the Lake County Board of Adjustment, as required by 76-2-221, MCA. The BOAs is an are appointed body bodies that hears variances, and appeals from decisions of the administrator and board.

Board. The Polson City-County Board, appointed as authorized by 76-1-101, MCA, et seq.

BOCC. The Lake County Board of Commissioners, the county's chief elected officials.

Buffer. Two different kinds of buffers are required by these regulations. XVIII.C. Chapter IV ____ requires a shoreline buffer, which is a minimally disturbed area along the lakeshore structural setback designed to protect water quality and that natural characteristics of the land/water interface where only limited development and vegetation disturbance is allowed to occur. XVIII.X. Chapter IV ____ requires landscaped buffers, which are required between adjoining properties that are in different zoning districts or, in certain cases, in the same zoning district, but have different uses. Landscaped buffers are not required between structures on the same lot or parcel, except where the lot or parcel is platted or otherwise intended for future partition.

Building. As used in these regulations, refers to any structure used or intended for supporting any use or occupancy.

Building Height. The vertical distance from mean natural grade to the highest point on a building. Building height excludes chimneys, vents, and antennae.

Certificate of Compliance. A certificate of compliance is issued upon the completion of a use or building and any accompanying improvements required by these regulations: See ~~H.W~~ Chapter III.BB.

New: City Commission (CC). The elected governing body of the City of Polson.

Clear Vision Triangle. A triangular area on a lot or parcel in which objects that would block the vision of drivers at an intersection or driveway are prohibited: See ~~Appendices E and F~~ Chapter VII, ____.

New: Cluster Development. A subdivision with lots clustered in a group of five or more that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

Collector Street. A street that will serve more than 15 dwelling units.

Commercial. ~~Includes all land uses in SLUC 4731, 4741, and 492; 52-59, except 598; 61-65, except 637; 67-69; and 71-79; except any use in SLUC 63-64 that includes an outdoor work and/or materials handling and/or storage yard. Such uses are industrial. (SLUC = Standard Land Use Code) Enterprises involving wholesale trade, retail trade, professional services and personal services.~~

New: Community Garden. A plot of land that is gardened by a group of people to produce fruits, vegetables and/or flowers. A community garden may be owned by a single person/entity or a group of people and may include composting for use on site and sales of products grown on site. A community garden does not include resident animals.

New: Community Residential Facility. (1) A community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care; (2) a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or youth group home as defined in 52-2-602, MCA; (3) a halfway house operated in accordance with regulations of the department of public health and human services for the rehabilitation of alcoholics or drug dependent persons; (4) a licensed adult foster family care home; or (5) an assisted living facility licensed under 50-5-227, MCA. (76-2-411, MCA).

New: Complete (application). An application is complete if it contains all of the applicable information required on the permit form and in these regulations.

New: Condominium. Except as described in the RCZD, the ownership in common with others of a parcel of land and certain parts of a building together with individual ownership in fee of a particular unit or apartment in such building.

Council. ~~The elected governing body of the City of Polson.~~

Day Care. As defined by 52-2-703(5), MCA, day care means less than 24 hour out of home care for children, whether that care is for daytime or nighttime hours. Montana law defines three kinds of day care facilities.

1. A family day care home is a private residence in which day care is provided to three to six children from separate families on a regular basis. Montana law (76-2-412(4), MCA) requires that family day care homes be permitted as accessory uses in all residential zoning districts.

2. A group day care home is a private residence in which day care is provided to seven to 12 children on a regular basis.
3. A day care center is a place in which day care is provided to 13 or more children on a regular basis.

Family and group day care homes are not home occupations, but customary accessory uses to dwellings, as provided in ~~XXI.C.3~~ 76-2-412, MCA.

New: Dedication. The deliberate appropriation of land by any owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

New: Density. The average number of residential, commercial or industrial units allowed per acre. Density is distinct from minimum lot size. A land division may create lots that are smaller than the required density, provided that the overall average density does not exceed the maximum number of units per acres.

Development. Development is used as a generic term covering any and all activities for which a permit is required by these regulations. The developer is, by definition, the owner of the parcel on which a development is proposed, but owners may appoint a representative for all proceedings by these regulations. A subdivider who is different from the owner may also be considered the developer.

New: Duplex. A structure containing two separate dwelling units, each of which has direct access to the outside.

Facade. That portion of a building below the roofline fronting on and visible from a public street.

New: Finding of Fact. A written conclusion or determination based on evidence made in support of a decision.

New: First Minor Subdivision. A proposed minor subdivision from a tract of record that has not been subdivided or created by a subdivision under the MSPA or has not resulted from a tract of record that has had more than five lots created from that tract of record under 76-3-201 or 76-3-207, MCA, since July 1, 1973.

Floodplain, 100-year. For the purposes of these regulations, synonymous with "special flood hazard area", as defined and mapped by the Federal Insurance Administration. The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency.

Fowl. Chickens, turkeys, ducks, guinea fowl, pigeons, and pheasants. ~~(County Res #02-26, 4/4/02)~~

Frontage. The frontage of a lot or parcel is the distance, measured in lineal feet, along any property line/s that directly abut a public street.

New: Governing Body. The Polson City Commission or Lake County Commissioners, as appropriate.

New: Growth Policy. The Polson Growth Policy or the Lake County Growth Policy as applicable.

~~Guest House. A single, functionally separate dwelling unit, detached from the primary residence, which is for use exclusively by [non-compensating/non-paying] guests of the resident family. It is an accessory use for a single family dwelling that occupies a lot that is one acre or larger within LRZD that has RROD designation. Only one municipal facility hookup for sewer and water shall be allowed per lot. Only one guesthouse shall be allowed per lot. A lot with a guest house shall not be subdivided. A guest house shall: 1) Comply with all other standards for principal residences; 2) Require no additional road approach; and 3) Have a restriction placed on the deed which shall be recorded with the property which states: "Guesthouse cannot be used as a rental, for lease or in receipt of any form of payment or compensation for its use. It shall be used on a temporary basis by the resident family's guests." (Ord. # 609 6/20/05).~~

(Administrative Note: The definition of accessory dwelling unit has been expanded to include guest house and performance standards for accessory dwelling units have been included in Chapter IV.)

Hazardous Materials. Includes all substances subject to regulation by the Emergency Planning and Community Right-To-Know Act.

Home Occupation. A commercial or light industrial activity conducted in a dwelling or a building accessory to a dwelling. Home occupations, by definition, comply with the detailed performance standards of Appendix D Chapter IV.

New: Hospital Complex. One or more buildings, one of which must be a hospital (defined as an institution to provide medical and surgical care to the sick or injured, including operating room facilities and beds for overnight stay). May also include a cafeteria or restaurant, medically related heliports, nursing homes, extended care clinics, physical therapy and employee exercise facilities, shops for medical equipment and supplies, books, magazines, gifts and similar items.

New: Immediate Family. A spouse, children by blood or adoption, and parents.

Industrial. Includes all land uses in SLUC 21-52, except SLUC 4731, 4741, and 492; 55; 598; 637; 66; and 82-89; plus any use defined as industrial by XXI.P. Of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, repair, dismantling, recycling, processing, storage, distribution and handling of goods and the materials from which they are produced.

New: Infill Development. Development or redevelopment designed to occupy scattered, vacant or underutilized parcels of land that remain after the majority of development has occurred in an area.

Large-Scale Development. A large-scale development is a project that will contain ~~100~~ 50 or more residential lots or units, or is projected to generate ~~1,000~~ 500 or more ADT: See XVIII.V. Chapter IV

Livestock. Cattle, calves, horses, mules, sheep, lambs, and goats. (County Res #02-26, 4/4/02)

New: Local Services. Any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens. These services include, but are not limited to, law enforcement, fire protection, water supply, recreation, streets and roads, parks, libraries, schools, wastewater, electrical, telephone and internet service and solid waste collection and disposal.

Lot. Lot is used as both as a generic term for a development site, and to refer to any parcel of land created and described by a record of survey or plat.

Lot Coverage. Lot coverage is the percent of a lot or parcel that is covered by rooftops, paved roads, and other surfaces that prevent direct infiltration of precipitation or runoff into the soil.

Manufactured Home. See ~~XXI.YY~~ definition for 'single-family home', below.

MCA. Acronym for Montana Code, Annotated. The state laws of Montana.

New: Marina. A dock facility from which services are provided, such as, but not limited to, moorage sales or rental, marine sales and services, sales of fuel and other goods and sewage disposal. A distinction is made between marinas and common use docks. Marinas provide services to the general public and meet the needs of many lake users and common use docks only meet the needs of a homeowners association of limited size.

New: Material (as in a material change to an application or plat). Significant, substantially altering the proposal or having an impact on any of the primary review criteria, bringing the proposal out of conformance with the applicable growth policy, zoning or subdivision regulations, or impacting the public's opportunity to provide meaningful comment.

New: Medical offices. Those uses concerned with the diagnosis, treatment, and care of human beings. Such uses include, but are not limited, to doctor and dental services, clinics, out-patient surgery centers, imaging centers, physical therapy and psychiatric counseling. Medical offices also include medically related professional offices such as social services and medical administration.

New: Medical Support Services. Uses and facilities including, but not limited to, medical equipment storage and supply, pharmacies, and other facilities commonly associated with medical institutions.

New: Minor Subdivison. A subdivision that creates five or fewer lots.

Minor Utility Installation. Includes cable television, electric power, and telephone cables and transmission lines, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to those transmission lines or pipelines. Other utility installations are industrial uses.

Minimize. For the purposes of these regulations, "to minimize" means to demonstrate that no alternative plan for the proposed development will result in a smaller impact.

NEW Mitigate. To eliminate or make the reasonably expected impacts of a land use less severe.

Mobile Home. Any structure manufactured in compliance with the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. 5401, et seq., as amended) that is transportable in one or more sections, and which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. Mobile homes are not single-family dwellings: see definition below.

Mobile Home Park. Any lot or parcel used for occupancy by mobile homes that are not placed on permanent foundations. Mobile home parks are subdivisions.

Montana Subdivision and Platting Act (MSPA). 76-3-101, MCA, et seq.

Motor Home. A motor vehicle:

1. Designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;
2. Containing permanently installed independent life support systems that meet the ANSI/A119.2 standard; and provides at least four of the following types of facilities:
 - a. Cooking, refrigeration or icebox
 - b. Self-contained toilet
 - c. Heating or air-conditioning or both
 - d. Potable water supply, including a faucet and sink; or
 - e. Separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply or both.

New. Multiple-family dwelling. A building designed for permanent occupancy by more than one family or household, unless otherwise indicated in these regulations¹, which may include apartment or townhouse or condominium building(s).

Nonconforming. A nonconforming use or building complied with the regulations that existed at the time of its development, but would not comply with these regulations, if submitted for approval after their effective date. The degree of nonconformity is the measured extent to which an existing building or use fails to comply with the ~~specification~~ standards of this ordinance. For example, the degree of nonconformity of a parking lot that has four spaces, but serves a use requiring nine, is five parking spaces. No change in the nonconforming building could be permitted that would reduce the number of parking spaces, because that would increase the degree of nonconformity.

Occupancy. The use of a building or lot. ~~Occupancies are classified using the Standard Land Use Code (SLUC).~~ A minor change in occupancy is a change ~~within the two-digit SLUC code or a change to any~~ occupancy that has identical or lesser parking requirements, similar traffic generation potential, creates no additional signage, and, has, as determined by the administrator, similar or lesser impacts on neighboring land uses.

New: Open Space. Land that is essentially unimproved and set aside, dedicated, designed or reserved for public or private use or enjoyment, or for the enjoyment of owners and occupants of land adjoining or neighboring such open space. This includes land that is intended to be preserved due to significant natural resources, wildlife habitat, viewsheds, irrigated or prime agricultural land and other similar features. This does not include land used for mineral extraction.

Outdoor Storage. Keeping, stockpiling, or storing materials for any reason (it need not be for commercial use), including the long term storage of construction materials and inoperative machinery or vehicles, that is not enclosed in a building and is visible from a public street.

~~**Plan.** The *Polson Master Plan*, as amended.~~

New: Person. Any individual, corporation, governmental agency, business trust, estate, trust, partnership,

¹ In the MRZD, XRZD and TZD, two-family dwellings are not considered multiple-family dwellings.

association, two or more persons having a joint or common interest, or any other legal entity.

New: Planned Unit Development. A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use (76-3-103 [10]).

Plat. The legal map describing a subdivision.

New: Public Health and Safety. The prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes and other natural hazards; high voltage power lines or high pressure gas lines; and air or vehicular traffic safety hazards.

Recreational Vehicle. A recreational vehicle is a park model, motor home, travel trailer, truck camper, fifth wheel or camping trailer, with or without motive power, designed for temporary recreational or emergency occupancy. Recreational vehicles are not mobile homes.

Recreational Vehicle Park. Any lot or parcel used for temporary occupancy by recreational vehicles. Recreational vehicle parks are subdivisions.

Setback. The setback is the shortest distance between the property line and the outer wall, at grade, or any above grade extension that projects more than three feet from the outer wall at grade, of ~~the principal building on the same lot~~ any building. The space within that distance is called a required yard.

1. The front setback is measured from the lot line paralleling the public street on which the building is addressed to the principal or accessory building. Except where one of the bordering streets is an arterial or collector, corner lots shall treat the yard on the street on which the structure is addressed as "front". The yard on an arterial or collector shall, however, be the front yard, regardless of whether the structure is addressed on that street.
2. The rear setback is measured from the rear lot line to the principal or accessory building. The rear lot line is parallel, or more or less parallel, to the street. Corner lots have two rear yards, but may treat either as a side yard for the purposes of these regulations. (~~Ord. #567, 8/16/99~~)
3. The side setback is measured from the side lot line to the principal or accessory building. (~~Ord. #567, 8/16/99~~)

Sewerage. Refers to the entire system (mains, treatment plant, etc.) used to treat sewage wastes.

Short Court. A private road serving 3 to 8 dwelling units, with the following characteristics: road right-of-ways of 40' width or less and with road lengths of 200' or less; concrete curbs and gutters; no sidewalks; and plans for snow removal. (~~Ord. #594, 6/7/04~~)

Sign. Any object or structure used to identify, advertise, or in any way attract or direct attention to any use, building, person, or product by any means, including, but not limited to, the use of lettering, words,

pictures, and other graphic depictions or symbols. Specific types of signs are defined in Appendix B Chapter IV.

Single-Family Dwelling. A detached building designed for occupancy by one family or household. Also includes ~~foster and youth homes, and~~ community residential facilities, as required by 76-2-401, MCA, et seq. Includes both conventional dwellings and, ~~as required by 76-2-202(6), MCA and 76-3-302(4), MCA,~~ manufactured homes that: (1) comply with the National Manufactured Home Construction and Safety Standards Act (40 USC 5401, as amended) or the Uniform Building Code at the time of production; (2) are at least 1,000 square feet in size; (3) are attached to a permanent foundation and, where available, permanently connected to municipal utilities; (4) have a pitched roof, eaves and siding and roofing materials that are customarily used on site-built homes in the Polson Planning Area; and (5) ~~have a minimum width of 24 feet exclusive of porches, decks, sidewalks, eaves and after factory additions~~ are built offsite in a factory on or after January 1, 1990. (76-2-202, MCA). Recreational vehicles, mobile homes and travel trailers are not single family dwellings, and shall not be used as such. (~~Ord. #545, 9/2/97~~)

Site Plan. See ~~Appendix H.~~ A graphic depiction of a development that accompanies a permit application and includes information necessary to determine compliance with these regulations. See Administrative Materials B.

Sketch Plan. A sketch plan is a general or conceptual site plan of a development. It must be to scale, and include the approximate site boundaries, approximate location of prominent natural features on and adjacent to the site; existing and proposed lot lines and streets; the approximate location and exterior dimensions of existing and proposed structures; the approximate location, size, and circulation pattern of proposed parking areas; and the approximate location and dimensions of proposed buffers.

~~BBB. Standard Land Use Code. Abbreviated SLUC. The standard land use code is a method of classifying land uses adapted from the *Standard Land Use Coding Manual*, U.S. Department of Transportation, Federal Highway Administration, as reprinted in March 1977. A summary is given on the inside front cover of these regulations.~~

New: Slope. The degree of deviation of a surface from horizontal measured from the natural grade. For the purposes of these regulations, slope is expressed in percent and may be averaged across a specific, limited area or physical feature such as a road or segment of road, a building site, a lot or an entire subdivision depending on the context in which the term is used.

Structure. Any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, earth formations, liquid storage tanks, fences, and overhead transmission lines. For the purposes of ~~Chapter XIII~~ the Airport Safety Overlay District (Chapter II), includes mobile structures, like cranes.

Subdivision. As provided by 76-3-103(14), MCA, "a division of land or land so divided that creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a U.S. government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes."

New. Subsequent Minor Subdivision. Any subdivision of five or fewer lots that is not a first minor

subdivision.

New Sufficient (application). An application is sufficient if it contains an adequate level of detailed, supporting information to allow for thorough evaluation and review under these regulations.

Townhouse or Townhome. Arrangement under which individuals own their own residential unit and hold title to the land beneath said unit. A townhouse shares a common wall with one or more adjoining residential units. ~~(Ord. #594, 6/7/04)~~

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use and not used as a principal residence. The size or weight of the unit is such that it can be licensed for standard highway travel and as not to require special highway movement permit(s). The unit is designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted about or forward of the tow vehicle's rear axle. ~~(County Res #02-28, 4/4/02)~~

Use. Synonymous with "occupancy": see ~~XXI.00~~.

Variance. A variance is a modification of the specification or performance standards of these regulations that provide a reasonable use of lot or parcel that cannot otherwise be developed in compliance with these regulations. Specific findings are required for the approval of a variance: See ~~II.Q-III.R~~.

New: Viewshed. A visually prominent area seen from a common public observation area(s). Visually prominent areas include skylines, ridgelines, bluffs, rock outcroppings, peaks and surface water. Common observation points include public roads, navigable waterways and public lands.

New: Wildlife. All birds, mammals, amphibians, reptiles and fish that are not domesticated or tamed.

New: Wildlife Habitat. Land and water that provides food and shelter for wildlife.

New Yard. See "Setback".