

**ORDINANCE Ord # 2016-006**  
**AN ORDINANCE TO AMEND THE**  
**REVISED ZONING REGULATIONS FOR THE**  
**CITY OF POLSON 2016 DEVELOPMENT CODE**

**WHEREAS**, 76-2-301, MCA authorizes municipal zoning; and

**WHEREAS**, the City Commission of Polson recently adopted revisions in zoning regulations;

**WHEREAS**, it appears after further reading by staff and the public that certain amendments and corrections need to be made to the language of the adopted ordinance;

**WHEREAS**, the City Commission hereby finds that the proposed amendments as found in the attachment are reasonable and appropriate for the City of Polson and serves to clarify and correct the ordinance previously adopted.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Polson, Montana that the amendments and clarifications attached hereto are adopted into the zoning regulations of the City of Polson. The Clerk is hereby instructed to make such insertions and to republish the same in the records of the City and on the City's website.

Date: November 7, 2016

First Reading:     \_\_\_6\_\_\_ ayes           \_\_\_   \_\_\_ nays           \_\_\_1\_\_\_ absent

Date: November 21, 2016

Second Reading:    \_\_\_6\_\_\_ ayes           \_\_\_   \_\_\_ nays           \_\_\_1\_\_\_ absent

Effective Date: December 21, 2016

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

c. **Commercial Development.** Commercial uses should use the limited shoreline available to link local residents and travelers with the lake and river. Uses that can as effectively be located away from the shoreline should be. Also, the uses permitted in the RZD must pose no special threat to water quality. Examples of commercial uses that would be appropriate in the RZD include: i. hotels; ii. recreational vehicle parks; iii. restaurants – but not with drive-in service; iv. sporting goods sales and rentals; v. guide services; and, vi. marinas in compliance with ~~hg.~~, below.

d. **Landscape.** There shall be a coherent planting plan for the entire development, with special attention given to the role of vegetated surfaces in channeling and absorbing surface runoff, and to the shoreline buffer, which shall serve as an effective vegetative filter strip. See IV.W for landscape requirements.

e. **Access to the Shore.** Any development that provides safe, continuous public pedestrian/bicycle access to or along the shoreline shall be permitted to increase its maximum building height from 35 to 50 feet. Examples of access that may qualify for this bonus include a public trail along the waterfront, a public park with parking, a restaurant open to the public with lakefront facilities, or similar. Award of such bonus does not eliminate the requirements of IV.C. for shoreline buffers.

f. **Outdoor Sales and Storage.** Outdoor sales, including outdoor dining areas, shall be permitted. Outdoor storage shall also be permitted but shall be screened from public view by any effective combination of the placement of buildings, landscaping, and screening fences or walls. Watercraft storage is exempt from the screening requirement. Temporary storage of construction materials and equipment being used for work in progress is exempted from this screening requirement.

g. **Marinas.** A marina may be an appropriate use in the RZD, but because marinas involve extensive lakeshore disturbance and the handling of fuel and other potential contaminants, the developer shall be required to:

- i. Provide for a professionally prepared environmental assessment, including recommended mitigation measures;
- ii. Provide plans sufficient to demonstrate compliance with the most current edition of National Fire Protection Association (NFPA) 303, *Fire Protection Standards for Marinas and Boatyards*, and other fire and building codes specifically applicable to marinas; and
- iii. Provide shoreside pumpout facilities.

The need for an environmental assessment shall be established at the pre-application review and the production of the assessment will follow the procedure provided for community impact reports in Chapter IV. Compliance with the appropriate city, and/or tribal Lakeshore Protection Regulations is also required.

Table II.24. HMZD Land Use

Permitted Uses	Special Uses
Single-family and two-family dwelling	Hospital complexes
Multiple-family dwelling, up to 4 units per structure	Multiple-family dwelling, 5 to 8 units per structure
Medical offices, medical support services	Religious institutions – day care centers - schools
Community residential facilities, 8 or fewer residents - day care home	Community residential facilities, 9 or more residents
Public parks and recreation areas	Private parks and recreation areas
Home occupations up to 1 on site employee in compliance with IV.Z	Home occupations 2-4 on site employees in compliance with IV.Z
Social services, government, public safety/service, <u>non-profits</u>	Wireless communication facilities (see IV.DD)
Minor utility installations (see III.C.6)	
Bed and breakfasts (see IV.AA)	
Accessory uses customarily associated with the permitted and special permit uses	
Community gardens	

2. **Additional Requirements for Nonconforming Uses.** Nonconforming buildings and uses are regulated by the provisions of Chapter III.FFDD. and, within the ASOD, these additional requirements.
- a. Nonconforming uses shall permit installation, operation, and maintenance of any markers or light needed to indicate their presence to aircraft pilots.
  - b. No nonconforming building or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of these regulations (adopted ~~march~~ March 7<sup>th</sup>, 1994).

**O. Annexation.** Annexation of property into the city may occur prior to or in conjunction with a permit application according to the provisions of Title 7, Chapter 2, Parts 42 through 46, Montana Code Annotated. However, annexation does not guarantee permit approval. ~~All territory which may hereafter be annexed to the city shall be zoned at the time of annexation regardless of county-adopted zoning designation. Prior to such annexation and zoning, the Zoning Administrator shall have made a recommendation to the Planning Board, and the Planning Board shall have made its investigation and shall make a recommendation to the City Commission. Public hearings on the question of zoning shall be held in conjunction with the necessary annexation procedures. See section (R) below for the zoning procedures.~~

**S. Administrative Reviews.**

1. After each regular meeting of the Montana Legislature, or on an as needed basis, the city administrators shall review these regulations and present recommendations (if any) for map and text amendments to the City Commission.
2. The review may include the number and types of permit requests, including variances, and focus on what is working, what is not, and what should be clarified, changed or eliminated. -The review should focus on whether these regulations are helping to carry out the applicable goals, objectives and policy statements of the growth policies. Case studies using photos and graphics may be used, including before and after conditions as appropriate.
3. The reviews should address legislative changes, changes in transportation and infrastructure plans, and other changing circumstances that impact land use and the built environment.
4. An administrative review may also constitute a review for any errors, oddities, and omissions. The City Attorney may make such non-substantive changes as needed.

**C. Shoreline Buffers (20 feet in RZD).** 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. The Lakeshore Protection Regulations should be consulted prior to development within 20 feet of the high water mark of Flathead Lake.

1. Shoreline buffers shall be left in 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, boat houses, pumping facilities, utility lines, and similar structures;
  - c. Construction of new roads, bridges, boat houses, pumping facilities, and utility lines, provided that the area disturbed by such work is minimized;
  - d. Construction of pedestrian and bicycle trails of a maximum 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 [Chapter II.PN.4.hg](#).

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### **G. Pre-application Process.**

1. Prior to submittal of a subdivision application, the subdivider shall submit a complete [Subdivision](#) pre-application form ~~(see Administrative Materials)~~, appropriate fee and the information listed on the form to the Polson Building & Planning Department. Within 30 calendar days of receiving the complete [Subdivision](#) pre-application form, fee and supporting information, the subdivision administrator, acting as the authorized agent of the governing body to review subdivisions, and the subdivider and/or his or her agent(s) shall meet either in person or by telephone to discuss the proposed subdivision.

2. At the pre-application meeting, the subdivision administrator shall:

- a. Identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision and review process including, but not limited to, zoning regulations, performance standards and floodplain regulations.
- b. Provide the subdivider with a list of public utilities, those local, state and federal agencies, and any other entities, such as a homeowners association, that may have an interest in the subdivision that the subdivider will be required to contact prior to submitting a subdivision application and that the subdivision administrator may also contact. If, during the course of the subdivision review, the subdivision administrator contacts a public utility, agency or other entity that was not included on the list originally made available to the subdivider, the subdivision administrator shall notify the subdivider of the contact and timeframe for response.
- c. Provide the subdivider with a list of information that must be submitted for a preliminary plat application to be deemed complete and sufficient for review. This does not limit the ability of the subdivision administrator to request additional information at a later time that will enable the subdivision administrator to determine whether the application is sufficient for review or to answer questions that emerge during the review process.

3. Unless the subdivider submits a subdivision application and preliminary plat within one year of the pre-application meeting, the subdivider must re-submit a complete [Subdivision](#) pre-application form, appropriate fee and the information as required in this section prior to submitting the subdivision application. The subdivision administrator has the discretion to extend this time period for one additional year if she/she determines the information contained in the [Subdivision](#) pre-application response would be the same based on site and area specific conditions and the regulations in effect at the time of the request.

**I. Subdivision Application and Preliminary Plat Submittal.**

1. The subdivider shall submit to the administrator ~~four~~ copies of a preliminary plat application for review. The following informational topics and materials are intended to be a comprehensive list of the items that the subdivider may be required to submit to the administrator for review and show on the preliminary plat. The actual list of information for each subdivision proposal will be determined by the subdivision administrator during the pre-application review based on project-specific and area-specific conditions, as well as the project's scale.

**J. Element and Sufficiency Review.** For both minor and major subdivisions, the initial review process is as follows:

**1. Element (Completeness) Review**

- a. Within five working days of receipt<sup>1</sup> of a subdivision application and fee, the subdivision administrator shall determine whether the application contains all of the applicable materials required in subsection I., above, and shall provide written notice her/his determination to the subdivider.
- b. If the subdivision administrator determines elements are missing from the application, he/she shall identify those elements in the notification, and no further action shall be taken on the application by the subdivision administrator until the application is resubmitted.
- c. The subdivider may correct the deficiencies and resubmit ~~4~~ copies of the application or additional information to the subdivision administrator, as appropriate.
- d. If the subdivider corrects the deficiencies and resubmits the application or additional information, the subdivision administrator shall have ~~5~~ five working days to notify the subdivider whether the application contains all the required materials.
- e. This process shall be repeated until the subdivider submits all the required materials or the application is withdrawn.
- f. At the discretion of the subdivision administrator, it may become necessary during this process to return the application copies in their entirety to the subdivider and request entirely new application copies.

**S. Final Plat Application Submittal and Review.**

1. **Application Submittal.** A completed final plat application form (see Administrative Materials) and all supplementary documents must be submitted to the administrator prior to the expiration of preliminary plat approval period. The submittal shall include, as applicable:
  - a. The final plat application form;
  - b. The final plat review fee;
  - c. A signed statement and supporting documentation from the subdivider or designated agent describing how each condition of approval has been satisfied; (Administrative note: Certain conditions of plat approval may be carried out over time and may be enforced through development permit processes and through ongoing compliance monitoring.)
  - d. A title report or abstract dated no less than 30 calendar days prior to the date of submittal that shows the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record;
  - e. A signed, dated and notarized statement from each landowner, if different from the subdivider, and each lien holder or claimant of record consenting to the platting of the subdivision dated no less than 30 calendar days prior to the date of submittal;
  - f. The original certification document from the MDEQ that contains the approved plans and specifications for sanitary facilities serving the subdivision;
  - g. A signed, stamped certification from an engineer licensed in the State of Montana that the applicable improvements associated with the subdivision have been constructed in accordance with the requirements of the standard of these subdivision regulations, Chapter V. and the MDEQ;
  - h. A certificate of dedication of public improvements;
  - i. A copy of the approved state highway permits when a new road or driveway will intersect with a state highway;
  - j. A subdivision improvements agreement, financial guarantee and supporting documentation securing the future construction for all incomplete improvements to be installed (if applicable);
  - k. ~~Two-Three~~ 18" x 24" (for first minor subdivisions creating one additional lot) or ~~two-three~~ 24" x 36" (for all other subdivisions) original final plats on mylar material signed by the subdivider and notarized, completed in accordance with the Uniform Standards for Final Subdivisions Plats.