

Section 2

Definitions

DRAFT: SEPTEMBER 9, 2011

This section defines the terms used in these regulations. Whenever the following words or phrases appear in ~~this the~~ following text, they shall have the meaning assigned to them by this section. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural; and the plural, the singular. The word “shall” is always mandatory, and the word “may” is discretionary. When not defined herein, the words used in this resolution shall have their common and customary meanings.

Staff note: for the draft, staff has eliminated a numbering scheme, which will likely be incorporated in later drafts and the final version.

Applicant

~~The landowner or his/her authorized agent who submits an application to the county for a permit.~~

The person or persons making application(s) to the governing body for a Lakeshore Construction Permit.

Comment [JN1]: Revised to be similar to other jurisdictions.

Boathouse

A structure which provides housing and shelter for boats and has more than ten percent (10%) of any side or end wall area enclosed.

Boat Rail System

A facility consisting of tracks or rails extending from, over, or across the lakeshore ~~protection zone~~ into the lake, with the purpose being which is designed to facilitate launching or retrieving boats.

Boat Ramp

A facility consisting of a pad or other hard or wire surface similar to a driveway or roadway extending from or across the lakeshore ~~protection zone~~ into the lake, with the purpose being which is designed to facilitate launching or retrieving boats.

Boat Shelter

A structure ~~which that~~ provides shelter for boats and has no more less than ten percent (10%) of any side or end wall area enclosed. A breakwater adjoining a shelter shall not be considered a part of a wall.

Comment [JN2]: Revised to be similar to Flathead County and Missoula County. Tribes do not define.

Breakwater

A ~~facility, other than a dock, which~~ structure designed to protects a shore area from wave action.

Comment [JN3]: Revised to be similar to other jurisdictions.

Breakwater portion of a dock

The portion of a dock that is generally parallel to the shoreline and constructed for the purpose of protecting

boats and/or the shoreline from wave action. The breakwater portion of a dock is measured as the entire length that is generally parallel to the shoreline (including the main dock stem).

Buoy

A float anchored to a lake bed that is used to moor boats, or that serves as a navigation guide, hazard warning, or similar use.

Common Use Dock

A dock used for recreational boating and other water-related activities permitted to a legal entity such as, but not limited to homeowner's association or condominium developments, exclusively for the personal use of owners or shareholders of such entity or their invitees. Common use docks may also include docks permitted to agencies, departments, Tribal, Federal, States, or local governments.

Comment [JN4]: From Tribal Shoreline Ordinance.

Conditions of Approval

Standards assigned or applied to an ~~an~~ “Application for Lakeshore Construction Permit.”

Constructed Area

Area covered by any constructed structures or features such as dock, deck, walkway, building roofing, concrete, asphalt, imported flagstone, or otherwise covered by any non-native material or substance that would not naturally occur within a particular area. Constructed

area includes areas such as imported washed-gravel for swimming areas and similar non-natural beaches. Constructed area does not include naturally exposed bedrock. An improvement or ground covering shall not be considered as constructed area if it permits normal precipitation to directly infiltrate the soil typical of the surrounding natural area and allows healthy growth of vegetation native to the immediate vicinity.

Contamination

The presence of any substance (chemical, radiological, or biological) or any condition (temperature, pH, taste, color, odor, turbidity) in soil or water which may create or threaten to create a hazard to human health or the environment, or impair the usefulness of the soil or water.

Comment [J15]: Not sure if we need this definition. It comes from Missoula County's definitions.

Crib Dock

A type of permanent dock consisting of solid wood crib(s) filled with ballast material such as rock, upon which a deck/platform is constructed.

Comment [JN6]: New definition, similar to other jurisdictions.

Deck

A constructed platform intended to provide a level area for people to stand, sit, or walk upon. A deck may be free-standing or attached to a building.

Dock or Pier

A structure, either floating or non-floating, which extends into, over, or across the water to provide for

boat moorage, access to a moorage area, swimming facilities, or other water related activities.

Dock Length

The length of that portion of the dock which extends lakeward at any time over water and is measured from the Mean Annual High Water Elevation to the farthest lakeward end of the dock.

Comment [17]: Flathead County's definition. The definition may need to be tweaked to match our proposed regulations.

Dock Wing

That portion of a dock and deck which lies generally parallel to the shoreline with its main function as a wave break or to provide a boat slip or shelter area as opposed to primarily provide access out to deep water.

Comment [18]: Definition from Flathead County and Missoula County.

Dredging

The process of excavating material from the lake bottom and thereby lowering the elevation of a portion of the lake bottom, temporarily or permanently. The term "dredging" shall include the process of extending the lake area landward by excavating material from the lakeshore ~~protection zone~~ and thereby lowering the ground elevation of ~~a~~ that portion of the lakeshore ~~protection zone~~.

Dwelling Unit

All permanent, semi-permanent, and temporary buildings, guest quarters, cabins, apartments, mobile homes, campers, trailers, or motor homes that result in concentrating human activities which are essentially

land based within the Lakeshore Protection Zone. A part of any dwelling unit includes roof overhangs, drip lines, balconies, bay windows, chimneys, and attached decks.

Comment [JN9]: This definition would work in conjunction with 'living quarters'. This is the term used in the Missoula County Shoreline Regulations and language from those regulations has been incorporated into this definition.

Expansion

Addition to an existing structure; including the alteration of the site size, shape, footprint, or aerial extension of a structure.

Fill

Any rock, soil, gravel, sand, or other earthen material deposited by man.

Filling

The process of ~~discharging placing material fill onto a lake bottom and thereby raising the elevation of a portion of the lake bottom.~~ This process may include the elimination of an aquatic environment or a wetland environment by extending the dry land area into such aquatic or wetland area. ~~The~~ This term ~~"filling"~~ "filling" shall include the process of ~~discharging material placing fill onto in the lakeshore protection zone~~ Lakeshore Protection Zone and thereby raising the ground elevation of a portion of the lakeshore protection zone or dredging and replacing the dredged material with fill.

[clean definition:] The process of placing fill. This process may include the elimination of an aquatic environment or a wetland environment by extending

the dry land area into such aquatic or wetland area. This term includes the process of placing fill in the Lakeshore Protection Zone and thereby raising the ground elevation or dredging and replacing the dredged material with fill.

Floating Structure

Any floating object that is temporary or permanent in nature whose primary purpose is being a human instrument of lake use, including but not limited to floating docks, swimming floats, ski jumps, slalom course markers, diving towers, buoys, markers or other structures.

Free Water Area

The open area beneath a dock, wharf, pier, breakwater, or other structure, which is totally free of any obstruction to water transfer under the structure.

Governing Body

~~The Board of County Commissioners for Lake County, Montana.~~

Governing Body

That unit of local government authorized to administer the Montana Subdivision and Platting Act on the land adjoining a lake or part of a lake subject to this part. In the jurisdictional area of Lake County, the governing body is the Board of County Commissioners for Lake County, Montana.

Comment [JN10]: Definition from MCA 75-7-202(3).

Groin

Any structure designed to arrest water, sand, or gravel movement along the ~~lakeshore~~ shoreline or along a dock, breakwater, retaining wall, or similar structure.

Comment [JN11]: Revised for consistency with other local jurisdictions.

Impervious

Not substantially penetrable by water.

Jetties (Jetty, plural)

Structures, usually in pairs, which extend from the ~~lakeshore~~ shoreline into the lake at the mouth of rivers or at the entrance to lagoons which are designed to confine the flow of water to a narrow zone. An artificial jetty is generally a man-made barrier in the water which is usually but not always perpendicular to a shoreline

Comment [JN12]: This sentence is similar to other local jurisdictions.

Lagoon

An artificial boat harbor created by excavating the ground of a lakebed or lakeshore, removing earth material, and thereby extending an aquatic environment into a dry land area.

Comment [I13]: Similar to Flathead County's and Tribes' definition.

Lake

~~A body of standing water and the area within its lakeshore, including adjacent wetlands, occurring naturally rather than by virtue of constructed~~

~~impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area), having a water surface area of at least one hundred sixty (160) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States Geological Survey, not used exclusively for agricultural purposes, and navigable by canoes and small boats. The lakes within the county which are governed by these regulations are Flathead Lake, Swan Lake, and Lake Mary Ronan. The lakes within the county that are governed by these regulations are Flathead Lake, Swan Lake, and Lake Mary Ronan~~

According to MCA 75-7-202, "Lake" means a body of standing water and the area within its lakeshore occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area), having a water surface area of at least 160 acres for at least 6 months in a year of average precipitation as such averages are determined by the United States geological survey, not used exclusively for agricultural purposes, and navigable by canoes and small boats.

The lakes within Lake County governed by these regulations are Flathead Lake, Swan Lake, and Lake Mary Ronan.

Lake Frontage

A measurement of the portion of a property that borders on the lake. For the purposes of measurement of typical properties abutting the lake, lake frontage is the straight distance between side property lines at the water's edge. Lake frontage on large properties or properties with highly variable shoreline may be measured in manners that take into account the variable shoreline.

Lakebed

The ~~land-area~~ ground area covered by water when the lake is at mean annual high water elevation.

Lakeshore

The perimeter of the lake when it is at its mean high water elevation, including the land within 20 horizontal feet from that high-water elevation.

Comment [114]: Definition from MCA 75-7-202(2).

Lakeshore Protection Zone

The lake, lakebed, and lakeshore. This area shall include the land area surrounding a lake and adjacent wetlands that is within twenty horizontal feet (20') of the perimeter of the lake and adjacent wetlands when the lake is at the mean annual high water elevation.

Living Quarters

All portions of a dwelling unit designed to provide human support or shelter. permanent, semi-permanent,

~~and temporary buildings, guest quarters, cabins, apartments, mobile homes, campers, trailers, motor homes, attached decks, or similar facilities, including appurtenant structures, which provide sleeping and/or eating facilities.~~

Comment [JN15]: See dwelling unit above.

Maintenance

~~Routine upkeep performed on an existing structure. Work shall not impact the lakeshore protection zone, nor shall the size, shape, character, or nature of the structure be altered.~~

Routine or seasonal work or upkeep performed on an existing structure or facility. To be considered maintenance, work shall not impact the Lakeshore Protection Zone, nor shall the size, shape, character, or nature of the structure be altered. Typically, only hand tools are required for maintenance. Examples of typical maintenance include painting, staining, tightening, adjusting, minor replacement of boards, shingles, broken windows, clean up of debris such as branches and leaves, restacking and repositioning of fallen rock and other natural materials, etc. The addition of walls to a previously open structure is not considered maintenance. Any dredging, filling or excavation is not considered maintenance.

Marina

Any waterfront facility which provides for recreational boating and other water related activities. Any facility

Comment [I16]: Definition similar to Flathead County and Missoula County's versions.

which provides dock slips or moorage for five (5) or more boats is considered a marina.

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.

Comment [I17]: Definition from Tribes.

Marina, Commercial or Public

A marina facility which is intended to serve either the general public or a limited group of people beyond the intent or scale of an adjacent homeowners' association.

Comment [I18]: Definition from Flathead County.

Marina, Private

A marina facility in which use is specifically limited to an adjacent homeowners' association (adjacent is defined as property within one-half mile of said marina).

Comment [I19]: Definition from Flathead County.

Mean Annual High Water Elevation

The mean average of the highest elevation of a lake in each of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrologic conditions. The highest elevation caused by operation of a dam or other impoundment counts towards the establishment of the mean annual high water elevation.

New Construction

Structures for which construction, substantial improvement, or alteration commences on or after the effective date of these regulations.

Nonconforming Structure or Use

A structure, use or activity which was lawful prior to the adoption, revision, or amendment of these regulations but which fails by reason of such adoption, revision, or amendment, to conform to the present requirements of the regulations.

Permit (a.k.a. Lakeshore Construction Permit)

A document issued by ~~the governing body~~ Lake County signifying that project plans together with any specified “Conditions of Approval” are in compliance with the “Policy Criteria for Issuance of a Permit” (Section 5-1).

Comment [JN20]: Subject to change.

Person

Any individual, firm, corporation, institution, or entity, including the State of Montana and its agents, agencies and political subdivisions.

Pier

~~A dock or other~~ non-floating fixed platform usually extending out over the water from shore and which gangways are usually attached.

Comment [JN21]: This language is from the CSKT definition of a pier. Staff does not see a distinction within the draft updates or existing regulations that need this distinction, but for now, this language is being included.

Planning Board

In Lake County’s jurisdictional area, the following two planning boards exist:

(A) The Lake County Planning Board within its jurisdictional area.

(B) The Polson City-County Planning Board within its jurisdictional area.

Planning Department

The Lake County Planning Department.

Comment [I22]: Page: 6
Not sure if this term is used within proposed regulations, verify prior to final version.

Planning Staff

The ~~staff~~ ~~planners~~ in the employ of the Lake County Planning Department, Lake County, Montana and associated with the Lake County Planning Board.

Reconstruction/Remodel

~~Renovation of an existing facility resulting in a change that is equal to or less than fifty percent (50%) of the structure's original value.~~

Reconstruction

To rebuild an existing facility such that at the time of the work, in excess of 50% of the value or size of the facility, excluding foundation, is replaced.

Remodel

Work involving renovation of an existing facility resulting in a change that is equal to or less than fifty percent (50%) of the existing structure's replacement value.

Repair

To restore an existing facility to a sound condition by replacing ~~component one or more~~ parts of the facility ~~(excluding foundations and roof systems)~~; ~~utilizing the same or substantially similar construction materials and maintaining the exact design, size and configuration as was original prior to repair.~~ ~~Replacement of a structure's foundation or roof system does not constitute repair.~~

Retaining Wall

Any structure built ~~to retain earthen material. A retaining wall is usually vertical, or steeper than 1.5:1 slope.~~ ~~essentially parallel and contiguous to the mean annual high water elevation of a lake which is designed to protect the land mass inland from the structure from erosion or wave action.~~

Comment [JN23]: This language is moved to new Sea Wall definition. Sea Wall is a type of retaining wall at the water.

Riparian Boundary

A projection of the side property lines from their point of intersection with the perimeter of the lake (at its mean annual high water elevation) lake ward at right angles (perpendicular) to the ~~(natural lakeshore)~~ ~~mean annual high water elevation~~. Where a structure has been built into the lake, and the structure has caused the build-up of an artificial lakeshore, the artificial lakeshore cannot be utilized to establish the riparian boundary.

Comment [I24]: Terms used in Flathead County's and Tribe's definitions.

Riprap

A revetment made out of rocks or other large objects, usually built with up to a 2:1 slope for the purpose of abating erosion, scouring, or sloughing caused by wave or hydrologic action.

Sea Wall

A retaining wall essentially parallel and contiguous to the mean annual high water elevation of a lake and designed to protect the land mass inland from the structure from erosion or wave action and/or protect the lake from migration of earthen material. Seawalls are commonly constructed of timber, rock, concrete, metal sheet piling, and may have biological components.

Sewage Pump Out Facility

A facility specifically provided to pump out and receive the contents of holding tanks onboard boats, with holding tanks understood to mean any retention system on a boat which is designed to hold sewage, and which must be emptied from time to time.

Shoreline

The interface between the lake at any given time and the lakeshore.

Shore Station

A metal or wood frame carriage designed to hoist boats from the water and to store boats over the water.

Comment [JN25]: Flathead County's definition includes a temporary, seasonal aspect to the definition of a shore station; however, it is staff's experience to see most shore stations in Flathead Lake year round..

Side Wall Area (of a dock)

The side of that portion of a dock which is generally perpendicular to the shoreline.

Comment [126]: Definition used by Flathead County and the Tribes.

Significant Period of Time

Staff note: there was discussion in January about defining "Significant Period of Time" because it is a term in the Policy Criteria. This has to do with non-degradation of state waters with increased sedimentation, and the context references state law and rules administered by Montana Department of Environmental Quality (DEQ). If this language is to remain, staff will further investigate and discuss with DEQ staff, if applicable, what may reasonably be deemed a Significant Period of Time.

Structure

~~Any addition to or modification of the lakeshore protection zone which affects the current/cross-sectional area of a lake, lakebed, or lakeshore.~~

Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built, molded, or composed of parts joined together in some definite or purposeful manner, which requires location on the ground or is attached to something having a location on the ground.

Value

Monetary worth as defined by an appraisal or arbitration.

Variance

~~Exemption—An exception to or relief from these regulations granted by the governing body in a situation where strict enforcement causes undue hardship and no reasonable alternatives exist.~~

Variance--Major

A variance granted for exemption to violations of “Policy Criteria for Issuance of a Permit” outlined in Section 5-1.

Comment [JN27]: Subject to change.

Variance-Minor

A variance granted for a slight deviation from the “General Construction Requirements” outlined in Section 5-2.

Comment [JN28]: Subject to change.

Waterslide

A structure down which one slides into a lake.

Wetlands

Water-land interface areas which are inundated or saturated by surface and/or ground waters at a frequency and duration of time periods sufficient to establish and, under natural conditions, support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include but are not limited to swamps, marshes, bogs and similar areas. Wetland areas may be separated from the main body of water by human made barriers or natural

berms. The water elevation in a wetland area is related to the elevation of the lake water.

Wharf

See dock. "Wharves" is plural for wharf.

Work

Any ~~activities-activity~~ performed by people or machine ~~which will~~ that temporarily or permanently alters, impacts or ~~modify-modifies~~ the current, course or cross-sectional area of ~~a lake, lakebed or lakeshore~~ the Lakeshore Protection Zone or a structure within the Lakeshore Protection Zone.

[clean:] Any activity performed by people or machine that temporarily or permanently alters, impacts or modifies the current, course or cross-sectional area of the Lakeshore Protection Zone or a structure within the Lakeshore Protection Zone.