

ARTICLE XXXI DEFINITIONS

Section 1: Intent

For the purpose of these Regulations certain words and terms used herein are defined. All words used in these Regulations shall be first defined as provided herein, and, if not defined herein, shall be defined in the Gallatin County Growth Policy and, if not defined therein, shall have their customary dictionary definitions

Section 1

Section 2 Rules of Interpretation.

The following rules of interpretation apply to the definitions for the Gallatin County Zoning District. The Rules of Interpretation include:

- 2.01** the present tense includes the future tense;
- 2.02** all words in the plural number include the singular number unless the natural construction of the wording indicates otherwise;
- 2.03** the word *shall* is always mandatory;
- 2.04** the word *person* includes a firm, association, organization, partnership, trust, company or corporation as well as individual or individuals;
- 2.05** the word *lot* includes the words *plot or parcel or Tract of Record, and vice versa*;
- 2.06** the word *building* includes the word *structure*;
- 2.07** the words *map* or *zoning map* mean the zoning map(s) of the zoning jurisdiction of the Gallatin County Zoning District that delineate the area to be governed by these regulations; and
- 2.08** the word *used* as applied to any land or structures, shall be construed to include the words *intended, arranged, or designed to be used, or occupied*.

Section 3 Definitions.

- 3.01** Acre. A measure of land area containing 43,560 square feet.
- 3.02** Agricultural Activity. The use of the land for grazing and cropping to produce food, feed, and fiber commodities. Examples may include: cultivation and tillage of the soil; dairying and animal husbandry; growing and harvesting of agricultural and horticultural commodities; and the raising of livestock, bees or poultry. An agricultural activity includes the keeping of livestock for personal recreational use. It may also include small scale, low impact and low volume boarding and/or training services. It does not include any agriculture industry or business such as game farms, fur farms, animal hospitals, commercial dog kennels, Equestrian Facilities (*see Sect. 3.30*), animal feeding operations or similar uses.
- 3.03** Agricultural Structure. A structure used primarily for and necessary to an Agricultural Activity or to contain equipment necessary for Agricultural Activities including the containment of livestock and which does not contain any cooking or sleeping facilities.
- 3.04** Accessory Structure. A Structure other than an Agricultural Structure located on the same Tract of Record as the primary Structure that is subordinate in size and/or use to a primary Structure and includes detached garages, workshops, and other similar structures, and for which the use of is customarily incidental to that of a permitted or conditionally permitted use of the property.
- 3.05** Bed and Breakfast Home. A single-family dwelling which remains owner-occupied at all times providing one or more guest rooms for compensation, and where food service is limited to breakfast which may be served to over-night guests only.
- 3.06** Board. The Gallatin County Planning Board, the appointed body responsible for making recommendations to the County Commission relative to these Regulations and the zoning jurisdiction of the Gallatin County/Bozeman Area Zoning District.
- 3.07** Board of Adjustment. A five-member board appointed by the County Commission to hear and decide variances and to hear administrative decision appeals within a zoning district created pursuant to Section 76-3-201, MCA.
- 3.08** Building Area. The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: That area of a lot

that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.

- 3.09** Building Envelope. The three-dimensional volume on a lot lying between the front, side and rear yard setback lines and between ground level and the maximum allowable building height, constitutes the area available for potential building construction.
- 3.10** Building Height. The vertical distance measured from grade as defined in this section to the highest point on the roof or parapet wall. Where a building utilizes multiple roof styles or pitches, the highest point of each type of roof or parapet wall shall be in conformance with applicable height regulations as established for the respective roof pitches in each zoning district. Where the vertical difference between grade as defined in this section is greater than two feet between opposite elevations of the building, the height of the building may be increased by one foot for every one foot in grade difference up to a maximum of six additional feet.
- 3.11** Building Line, Required Front. The line nearest to the front and across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.
- 3.12** Building Line, Required Rear. The line nearest to the rear and across a lot establishing the minimum open space to be provided between the rear line of a building and the rear lot line.
- 3.13** Building Line, Required Side. The line nearest to the side and extending between the required front building line and required rear building line establishing the minimum open space to be provided between the side line of a building and the side lot line.
- 3.14** Campground. Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, recreational vehicles or other camping outfits.
- 3.15** Cluster Development: A development technique that concentrates buildings/structures and the infrastructure necessary to serve them in specific locations on a lot, site, or parcel to allow the remaining land to be used for agriculture, recreation, preservation of features and/or structures with environmental, historical, cultural, or other significance, or for other similar uses deemed appropriate by the governing body. Clustered Development is intended to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities.

- 3.16** Commercial. An activity, use, business, or enterprise of any kind conducted with the intent of realizing a profit or gaining compensation of any kind from the sale of goods or the provision of services to others.
- 3.17** Commission, Gallatin County. The elected Board of County Commissioners for Gallatin County, Montana and the governing body of Gallatin County/Bozeman Area Zoning District.
- 3.18** Conditional Use Permit. legal authorization to construct, develop or operate a conditional use as defined by these Regulations.
- 3.19** Condominium. A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all owners on a proportional, undivided basis. Condominiums may be residential, commercial or industrial in nature.
- 3.20** Conforming Use. Any use allowed by the regulations as a permitted use or conditional use.
- 3.21** Deck. A structural platform with or without a roof open to the ambient air directly adjacent and accessible to a principle building.
- 3.22** Development. Any man made change to improve or alter real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 3.23** Development Node: Areas designated on the RCD preliminary project sketch which shall include all concentrated areas of Clustered Development.
- 3.24** Development Right. The zoning entitlement to construct a single-family dwelling unit on a parcel in accordance with applicable regulations.
- 3.25** Dwelling. A building, or portion thereof, used primarily for residential occupancy, including single-family, two-family, multiple-family dwellings and group homes, but not including hotels, motels or tourist homes.
- 3.26** Dwelling, Single-family. A building used for residential occupancy by one family.
- 3.27** Dwelling, Two-family. A building, or portion thereof, used for occupancy by two families living independently of each other with the units completely separated by a common wall, floor and/or ceiling. Also referred to as "duplex."
- 3.28** Dwelling, Multiple (multi-family). A building, or portion thereof, used for occupancy by three or four families living independently of each other, with the units completely separated by a common wall, floor and/or ceiling.

- 3.29** Dwelling Unit. A dwelling or portion of a dwelling, used by one household for residential purposes.
- 3.30** Equestrian Facility. A commercial stable where horses are boarded and where one or more of the following activities occur on a regular basis: training, lessons, shows, and clinics. In general, an equestrian facility serves a high volume of equine clients, and provides amenities such as indoor and outdoor arenas, tack rooms, wash rooms, stalls, multiple turn outs and pastures, and full service horse care.
- 3.31** Family. (1) A person living alone; (2) any number of people related by blood, marriage, adoption, guardianship or other authorized custodial relationship; (3) two unrelated people and any children related to either of them; (4) not more than four unrelated people living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities.
- 3.32** Growth Policy, Gallatin County. The official document adopted by Gallatin County and used by the local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change in the unincorporated areas of Gallatin County. The required and optional elements of a growth policy are listed in Section 76-1-601, MCA.
- 3.33** Guest House. An attached or detached accessory building used to house guests of the occupants of the principal building, and which is never rented or offered for rent. Any guest house providing cooking facilities shall be considered a dwelling unit.
- 3.34** Hotel or Motel. A building or a group of buildings, in which lodging is provided and offered to transient guests for compensation; shall not include a boarding house, lodginghouse or roominghouse.
- 3.35** Lot. A designated parcel, tract, Tract of Record, or area of land, including a condominium unit, established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.
- 3.36** Lot, Area. The total area within the lot lines of a lot, excluding any street rights-of-way.
- 3.37** Manufactured Home. A factory-built, single-family structure that is under the authority of 42 USC Section 5401, the National Manufactured Home Construction and Safety Standards Act, built on a permanent chassis, and is used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles

permanently attached to its body or frame. This definition specifically does not include modular housing or recreational vehicle.

- 3.38** Mobile Home. A transportable, manufactured structure, suitable for year-round single-family household occupancy and having water, electrical and sewage connections similar to those of conventional dwellings. This definition applies to only units constructed prior to Federal Manufacturing Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Compare with the definition of manufactured home.
- 3.39** Mobile Home Park. Any plot of ground upon which two or more mobile homes, occupied or intended to be occupied for dwelling or sleeping purposes, are located.
- 3.40** Modular Home. A dwelling unit meeting the standards of the International Building Code (IBC) which was mass produced in a factory, designed and constructed for transportation to a site for occupancy when connected to the required utilities and when permanently anchored to a permanent foundation, whether intended for a use as an independent, individual unit or in combination with other units to form a larger structure, and which does not have integral wheel, axles, or hitch.
- 3.41** New Construction. Development commenced on or after the effective date of this Regulation.
- 3.42** Non-Conforming Parcel. A parcel, the area, dimensions or location of which was lawful prior to the adoption, revision, or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
- 3.43** Non-Conforming Structure. A structure, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
- 3.44** Non-Conforming Use. A use or activity that was lawful prior to the adoption, revision or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
- 3.45** Open Space. Land consisting of range, crop, timber, pastureland or water area that is essentially unimproved and devoid of buildings and other physical structures except where accessory to the provision of recreation or maintenance of the property. Structures that are historical or of other cultural significance may be allowed to be located within open space. Open Space includes land restricted from development by: an irrevocable conservation easement; a deed or zoning

restriction; the OSP or RCD zoning overlay; a condition of subdivision approval; or by public ownership (including land owned by a Federal, State, or local government). Open space may be held as common open space, private open space, or public open space.

- 3.46** Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include, unless otherwise prohibited by these Regulations, such complementary Structures, Agricultural Structures and improvements all as deemed necessary and appropriate by the Zoning Enforcement Agent.
- 3.47** Open Space, Private. Common open space, the use of which is normally limited to the occupants of a single dwelling, structure, or property.
- 3.48** Open Space, Public. Open space owned by a public agency or a private entity and dedicated to the public and maintained by it for the use and enjoyment of the general public.
- 3.49** Overnight Accommodation. Any Structure or part of a Structure providing temporary or permanent living quarters for persons other than the landowner or lessee (or the landowner or lessee's immediate family) in exchange for remuneration of any kind.
- 3.50** Parcel. A contiguous lot or tract of land owned and recorded as a property of the same persons or controlled by a single entity.
- 3.51** Parcel of Record. An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office.
- 3.52** Planning Department, Gallatin County. The department responsible for the community development planning for the unincorporated area of the county.
- 3.53** Property Owner. Any person, firm, corporation or other entity shown as being the legal owner of a tract, parcel, or lot in the records of the County Clerk and Recorder.
- 3.54** Recreational Vehicle (RV). A vehicular-type portable structure without a permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

- 3.55** Recreational Vehicle Park. A plot of ground upon which two or more sites are located, established or maintained for occupancy by the general public as temporary living quarters for travel, recreation or vacation purposes.
- 3.56** Residential Dwelling Unit. A Structure or portion thereof providing independent permanent or semi-permanent living quarters for not more than one family or individual and which may include eating, sleeping, and/or sanitation facilities.
- 3.57** Right-of-Way. (1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil and gas pipeline, water line, sanitary storm water sewer, and other similar uses: (2) generally, the right of one to pass over the property of another.
- 3.58** Road. See definition of *Street*.
- 3.59** Setback. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.
- 3.60** Setback Line. That line that is required minimum distance from the street right-of-way or public access easement line or any other lot line that establishes the area within which structures must be placed.
- 3.61** Site Plan. The development plan for one or more lots on which shows the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulations; utility services; structures; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that may be required by these Regulations, in order that an informed decision can be made by the approving authority.
- 3.62** Street. A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.
- 3.63** Street, Arterial. A street or road, moving relatively large volumes of traffic in two or four lanes, having the primary function of moving through traffic and the secondary function of providing access to adjacent land.
- 3.64** Street, Collector. A street or road generally with two traffic lanes and two parking lanes serving the equally important functions of moving through traffic and providing access to adjacent land.

- 3.65** Street, Local. A street or road with two traffic lanes and one or two parking lanes having a primary function of providing access to adjacent property, and to discourage through traffic.
- 3.66** Street Frontage. Any property line separating a lot from a street; the front lot line.
- 3.67** Street, Public. A street or road for which the right-of-way has been dedicated to the public, or is otherwise publicly owned.
- 3.68** Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.
- 3.69** Structure, Nonconforming. Any structure which was legal prior to the effective date of the regulation codified in this section which fails to comply with the building location standards, and/or size requirements of the applicable zone of this title in which it is located.
- 3.70** Structural Alteration. Any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joist, or roof rafters.
- 3.71** Tract of Record. This term shall have the meaning as defined in the Montana Subdivision and Platting Act, Title 76, Chpt. 3, MCA.
- 3.72** Transfer(able) Development Credit (TDC). A TDC represents an opportunity available to a landowner allocated TDCs to sell, transfer, or otherwise convey an allocated credit to another which in turn could allow the recipient to increase density above the baseline established for a zoning district. In most circumstances, a TDC is separate from and unrelated to the underlying zoning entitlement to develop a Residential Dwelling Unit.
- 3.73** Transferable Development Opportunity (TDO). An opportunity to obtain value from property without actual development occurring on the property and includes the ability to participate in a Transferable Development Credit program and a Transferable Development Right program.
- 3.74** Transfer(able) Development Rights (TDR). A TDR evidences a landowner's ability to transfer, sell or otherwise convey a zoning entitlement to construct a Residential Dwelling Unit or create a Tract of Record at the density permitted by the zoning district in which the land is located.
- 3.75** Unit. A residential lot, a commercial lot, a condominium, a townhouse, an individual recreational vehicle parking site or a manufactured home lot.

- 3.76** Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied for any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
- 3.77** Use, Accessory. See definition of *accessory building or use*.
- 3.78** Use, Conditional. Either a public or private use as listed in this Regulation which, because of its unique characteristics, cannot be properly classified as a principal use or accessory use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted, with or without conditions, in addition to any condition specifically stated in this Regulation for any particular conditional use, including time limits, pursuant to the requirements of this Regulation.
- 3.79** Use, Nonconforming. An existing use of land or building which was legal prior to the effective date of the regulation codified in this Regulation but which fails to comply with the requirements set forth in this Regulation applicable to the zone in which such use is located.
- 3.80** Use, Permitted. A use which is lawfully established in a particular district or districts and which conforms to all requirements, regulations, and performance standards of such district. A permitted use may be a principal use, an accessory use, or a conditional use.
- 3.81** Use, Principal. A use or structure which determines the predominant or major use of the lot on which it is located. The principal use shall be that use which establishes the character of the property relative to surrounding or adjacent properties.
- 3.82** Variance. A provision which allows modification to a regulation or waiver of the building and development standards when a literal enforcement would result in unnecessary or undue hardship and the granting of the variance is not contrary to the public's health, safety, and general welfare.
- 3.83** Violation. The failure of a structure, subdivision, use of land, or other development to be fully compliant with the governing regulations.
- 3.84** Water Conveyance Facility. This term shall have the meaning as defined in the Gallatin County Subdivision Regulations.
- 3.85** Watercourse. Any stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which some or all of the water is naturally occurring, such as runoff and springs, and which water flows in a definite direction or course, either continuously or intermittently, and has a

definite channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

- 3.86** Zone. A specifically delineated area or district within which uniform regulations, requirements, and standards govern the use, placement, spacing, and size of land and structures.
- 3.87** Zoning Enforcement Agent: Agent appointed by the County Commission to supervise and enforce the provisions of this Regulation, and may include the Planning Director, Code Compliance Specialist, and/or delegated staff.
- 3.88** Zoning Map. The map or maps that are a part of these Regulations and delineate the boundaries of the zone districts.

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