

## EXECUTIVE SUMMARY

**CASE PLANNER** Christine Dascenzo, AICP, Missoula County Community and Planning Services

**PUBLIC HEARING DATES** MCPB November 19, 2019  
BCC December 12, 2019

**REVIEWED AND APPROVED BY** Tim Worley, Missoula County Community and Planning Services

**AGENDA ITEM** Maintenance amendments to Missoula County Subdivision Regulations; Chapter 3 – Urban and Rural Standards, (Appendix A) and Chapters 5 and 6 – Phased Developments

**APPLICANT** N/A

**LEGAL NOTIFICATION** The legal advertisement was published in the *Missoulian* on November 3 and 10, 2019.

In addition to the legal notice, staff has provided information about this project through email notice to the Missoula County Community and Planning Services email list (more than 700 recipients).

<b>Proposal</b>	<b>Recommendation</b>
To amend the Missoula County Subdivision Regulations to update Urban and Rural Standards, Appendix A, and Phased Developments.	To approve the proposed maintenance amendments to the Missoula County Subdivision Regulations.

# **MISSOULA CONSOLIDATED PLANNING BOARD**

**November 19, 2019**

## **Agenda Item 6A**

### **I. RECOMMENDED MOTION**

THAT THE PROPOSED AMENDMENTS TO THE MISSOULA COUNTY SUBDIVISION REGULATIONS AS SHOWN IN THE ATTACHMENTS, BE RECOMMENDED TO THE MISSOULA BOARD OF COUNTY COMMISSIONERS FOR ADOPTION, AS AMENDED.

### **II. INTRODUCTION**

Missoula County is proposing a set of maintenance amendments to the Missoula County Subdivision Regulations. Amendments focus on the urban and rural standards for road and non-motorized facilities in Chapter 3 and Appendix A and phased development standards, along with various copy edits. Recommended amendments include the following:

#### *URBAN AND RURAL STANDARDS (See Section 3.4.2, Urban and Rural Standards.)*

- Change how the urban and rural areas are determined.
- Eliminate annual Commissioner review of the areas.
- Apply the urban standard exception to residential subdivisions only.
- Requires curb, gutter, and boulevard in all urban area subdivision, not just major small lot subdivisions.
- Determine standards for non-motorized facilities by land use designation.
- Introduce an off-road trail alternative for major subdivisions in the rural area.
- Update *Appendix A, Urban Area* to reflect changes to the urban area.

#### *PHASED DEVELOPMENTS (CHAPTERS 5 AND 6)*

- Chapter 5
  - Incorporate updates to state statute related to phased developments, enacted on May 8, 2017
  - Delineate separate processes for extension requests and modification requests in subdivisions approved prior to May 8, 2017 and those approved on or after that date.
  - Reorganize some sections of the regulations for improved clarity.
- Chapter 6
  - Require remaining tracts of phased subdivision that are less than 160 acres to be included in final plat surveys.
  - Clarify the process for recording final plats.
  - Require a hearing process prior to filing each phase of a phased subdivision.

## MISCELLANEOUS UPDATES

- In Section 2.2.71, a definition is added for “Phased Development”.
- In Section 3.1.3, “High groundwater” and “Other hazards as identified” are added to the list of hazards and defined.
- In Section 7.6.10 Hazardous Land Assessment, a high groundwater hazard assessment is added.
- Copy edits throughout.

## **IV. PROPOSAL**

The proposed changes to the Missoula County Subdivision Regulations are primarily focused on updates to the Urban and Rural Standards and Phased Developments.

### **Urban and Rural Standards – Section 3.4.2**

The adoption of the Missoula Area Land Use Element in June of 2019 included an implementation recommendation to update the infrastructure standards for urban and rural areas based on the land use designations. Such an update is proposed beginning at *Section 3.4.2 Urban and Rural Standards for Roads and Non-Motorized Facilities*. The Urban Area Boundaries would continue to use the Lolo RSID 901 Wastewater Study Area, stop using the City of Missoula’s Wastewater Service Area and, instead, use the county’s land use designations that recommend a density of three dwelling units per acre or greater, including Residential, Neighborhood Residential, Planned Neighborhood, Neighborhood Center, Commercial Center, Live/Make Neighborhood, Community Mixed-Use, Civic Employment Center, and Industrial Center.

A requirement that the Board of County Commissioners annually review the urban area boundaries is eliminated because, by no longer relying on the city administered Missoula Wastewater Service Area, the Commissioners would be the sole governing body approving any changes to the proposed boundaries. The boundary in place at the time of sufficiency will determine urban versus rural standards.

A thorough policy of exceptions to urban and rural standards is in place to build in more flexibility for developments that do not fit the character of a particular set of standards (See Sections 3.4.2.1 C and 3.4.2.2 A). A proposed change would make urban standard exceptions available only to residential developments. This would maintain the higher urban standard of infrastructure for commercial and industrial buildings because they experience a broader set of users than do private residences.

Language limiting the requirement for curb, gutter, and boulevards to only major small lot subdivisions in the urban area was eliminated (See Section 3.4.7.3). This will increase reliance on the applicability of exceptions to urban standards given the updated land use designation recommendations for intensity, character, and mobility in these areas. Outside of these highlighted changes, the road standards remain the same. In short, this proposal focuses more on changing how the urban area is determined rather than changing road standards within the urban area.

### **Non-Motorized Facilities – Section 3.4.9**

For non-motorized facilities, the density recommended from the Missoula Area Land Use Element determines the level of sidewalk infrastructure. This is change moves away from using the proposed number of lots. The change would require facilities for minor subdivisions in the urban area, which were not previously required. Facilities are not required for minor subdivisions in the rural area.

Where a recommended density is less than 8 units per acre, the developer can choose between a wider sidewalk on one side of the road or narrower sidewalks on both sides. Where a recommended density is 8 units per acre or greater, sidewalks on both sides of the street are required. When the existing zoning density is less than the land use designation, or when it is greater than the land use designation, exceptions allow projects to use the other standard in an effort to avoid unnecessary variances. (See Sections 3.4.9.1). These changes are reflected in Table 3.4.9.4.

An available off-road trail option for urban subdivisions is proposed to be made available for rural major subdivision, as well (See Section 3.4.9.2 B.d). An updated Appendix A reflects the proposed changes to the urban boundaries and the density distinction for non-motorized facilities.

### **Phased Developments – Section 5.7.16**

A process for reviewing phased developments was laid out in [76-3-617, MCA](#), and became effective on May 8, 2017. Throughout this chapter, there are distinctions in the process that either apply to subdivisions approved before May 8, 2017 or those approved on or after that date. Extension requests, for example, shall be allowable for all subdivision in increments of 1-3 years, but subdivisions approved prior to the 2017 date follow a certain maximum extension schedule based on the number of lots, whereas subdivisions approved after the 2017 date have a maximum extension schedule of 20 years.

### **Phased Developments – Chapter 6**

The process for reviewing the final plat for all subdivisions was updated in [76-3-611, MCA](#). This is reflected in Chapter 6, along with additional process clarification unrelated to changes in statute. In Section 6.2.2.3, when one phase of a phased development is to be filed, the remaining tracts less than 160 acres shall be included. This ensures that the changes to the parent parcel are tracked as each phase of the subdivision is filed. The submittal process is reworked to comply with state statute in Section 6.2.3.

Section 6.3 is a new section and focuses on the process for filing final plats for phased subdivisions approved on or after May 8, 2017. It requires a public hearing by the governing body to review changed impacts and information about new potentially significant adverse impacts for the subdivision. The governing body may impose new conditions to address the changes and new information. Final plat may proceed after any new conditions are met.

### **Miscellaneous Edits**

Some copy edits are proposed throughout the subdivision regulations in order to reflect style guides, clarify roles and responsibilities, and improve clarity. These include updated links, reformatted and reworded text, and moving sections for better clarity.

### **III. AGENCY AND PUBLIC COMMENT**

Planning Staff released public drafts of the revisions on November 1, 2019. These include tracked changes versions, along with “clean copies.”

Staff received three comments that are attached. One is “no comment” from the Department of Revenue (DOR). Missoula Valley Water Quality District and Missoula County Parks, Trails and Open Lands provided more in-depth comments. Additional comment received after the publication of this staff report will be provided at the meeting.

### **V. FINDINGS AND CONCLUSIONS**

#### **Findings**

1. Montana Code Annotated [76-3-501](#) requires counties to adopt and provide for the enforcement and administration of subdivision regulations that reasonably provide for orderly development, adequate transportation, minimization of congestion, and the avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural hazard.
2. Chapter 2 of the Missoula County Growth Policy includes guiding principles that establish the overall planning framework. Those related to the proposed changes include:
  - Sustainability: Local government should strive to make decisions that are environmentally sound, fiscally responsible, and supportive of healthy communities over the long term.
  - Public health and safety: Missoula County will strive to protect public health, safety, and welfare in a fiscally responsible manner.
  - Balancing interests and minimizing regulation: The public interests of promoting economic development, conserving natural resources, maintaining community character, protecting public health and safety, and supporting private property rights should be weighed and balanced in decision-making. The use of regulatory and voluntary measures will be evaluated with an effort to employ the minimum amount of regulation necessary to protect public interests.

- Recreation: Missoula County residents enjoy recreating in the area's natural landscape. It is important to promote access to land and waters, and to provide facilities that contribute to active and healthy lifestyles, while concurrently protecting natural resources.
3. Chapter 2 of the Missoula County Growth Policy also describes key goals, objectives, and action strategies applicable to proposed amendments to the subdivision regulations.

Goal #5 - Promote economic development that creates opportunities throughout Missoula County including people living and working in rural communities and across wage levels.

Objective 5.3 - Facilitate well-designed commercial and industrial development that is located appropriately, served by necessary infrastructure, conducive to public health and the environment, and reduces buyer and developer financial and legal risks.

Goal #8 - Proactively plan and provide for the logical growth of communities while protecting rural character and sustaining county resources by guiding development to areas most suited for it.

Objective 8.1 - Protect and enhance the rural character that exists in much of the County, maintaining a clear distinction between urban and rural areas.

Objective 8.3 - Guide new subdivisions and development to areas that have the least impact on natural resources and are most suited for development.

Goal #9 - As part of planning, support the provision of infrastructure and services to and within rural communities.

Objective 9.1 - Support increased infrastructure capacity, services and amenities in and around existing communities where appropriate.

Action 9.1.4 - Create and support policies that require developers and new users to pay their proportional share of the costs necessary to serve new development.

Goal #11 - Reduce the safety risks and costs associated with wildland fire, flooding, and other hazards.

Objective 11.2 - When development in hazardous areas does occur, take appropriate measures to limit safety risks and ensure emergency personnel have sufficient resources to respond safely and effectively.

Action 11.2.1 - Work with public safety and resource agencies to identify and mitigate risks and provide appropriate resources for public and responder safety.

Action 11.2.2 - Adopt development regulations that require the best possible hazardous mitigation techniques, including Firewise construction, multiple accesses, etc.

Goal #12 - Promote healthy active communities.

Objective 12.1 - Expand and maintain the network of trails, pathways and sidewalks.

Goal #15 - Provide effective customer service and flexible, predictable and timely development review processes.

Objective 15.1 - Provide simple, clear and flexible land use and development regulations, procedures and forms.

Action 15.1.1 - Use plain language, graphics and build in flexibility as regulations are revised.

4. In the evaluating subdivision development impacts on local services and public health and safety, as required in §76-3-608(3)(a), Chapter 5 of the Missoula County Growth Policy identifies a number of key criterium to consider.

Evaluating a subdivision's impact on local services:

- Whether the existing quality or level of services available in the community will be positively or detrimentally impacted by the subdivision
- Whether local services of sufficient quality are or will be available in reasonable proximity to the subdivision.
- Whether the cost of providing services to the subdivision will be borne primarily by the subdivider and future owners or the community as a whole
- Requiring a subdivider to extend (or pay a proportional share for extending) local services of sufficient quality or level to the subdivision prior to or concurrent with demand, so that the existing level of service provided to the community will not be negatively impacted

Evaluating a subdivision's impact on public health and safety:

- Using construction techniques that mitigate or eliminate the threat of hazards
- Building where adequate water supplied are available, including water sources sufficient for fire fighting
- Building roads to and within the subdivision to appropriate standards and ensuring multiple accesses for safe ingress and egress in the event of an emergency
- Lessening the density of development in areas prone to natural or manmade hazards
- Providing non-motorized transportation systems to serve the subdivision

### **Conclusions**

1. The proposed changes meet State Law requirements for adoption of subdivision regulations in accordance with [76-3-501, MCA](#). These include, but are not limited to provision for orderly development, adequate transportation, and avoidance of subdivisions that involve danger of injury to health, safety, or welfare by reason of natural hazard.
2. The proposed changes to the Missoula County Subdivision Regulations are in line with the guiding principles of the Missoula County Growth Policy that focus on sustainability, public health and safety, balancing interests and minimizing regulation, and recreation.
3. The proposed changes are in line with the key goals, objectives, and action strategies of the Missoula County Growth Policy that focus on well-designed commercial and industrial development, planning and providing for logical growth, supporting the provision of infrastructure where appropriate, reducing safety risks associated with hazards, promoting healthy active communities, and providing simple, clear, and flexible regulations.
4. The proposed changes adequately address the evaluation of subdivisions based on impacts to local services and public health and safety.

### **VI. ATTACHMENTS**

- A. Proposed amendments to Chapter 2, Definitions - [Clean](#) | [Markup](#)
- B. Proposed amendments to Chapter 3, Design Standards - [Clean](#) | [Markup](#)
- C. [Proposed Appendix A, Urban Areas](#) | [Current Appendix A](#)
- D. Proposed amendments to Chapter 5, Procedures - [Clean](#) | [Markup](#)
- E. Proposed amendments to Chapter 6, Final Plat - [Clean](#) | [Markup](#)
- F. Proposed amendments to Chapter 7, General Submittal Requirements - [Clean](#) | [Markup](#)
- G. [All Public Comment](#): Water Quality; Parks, Trails and Open Lands; DOR