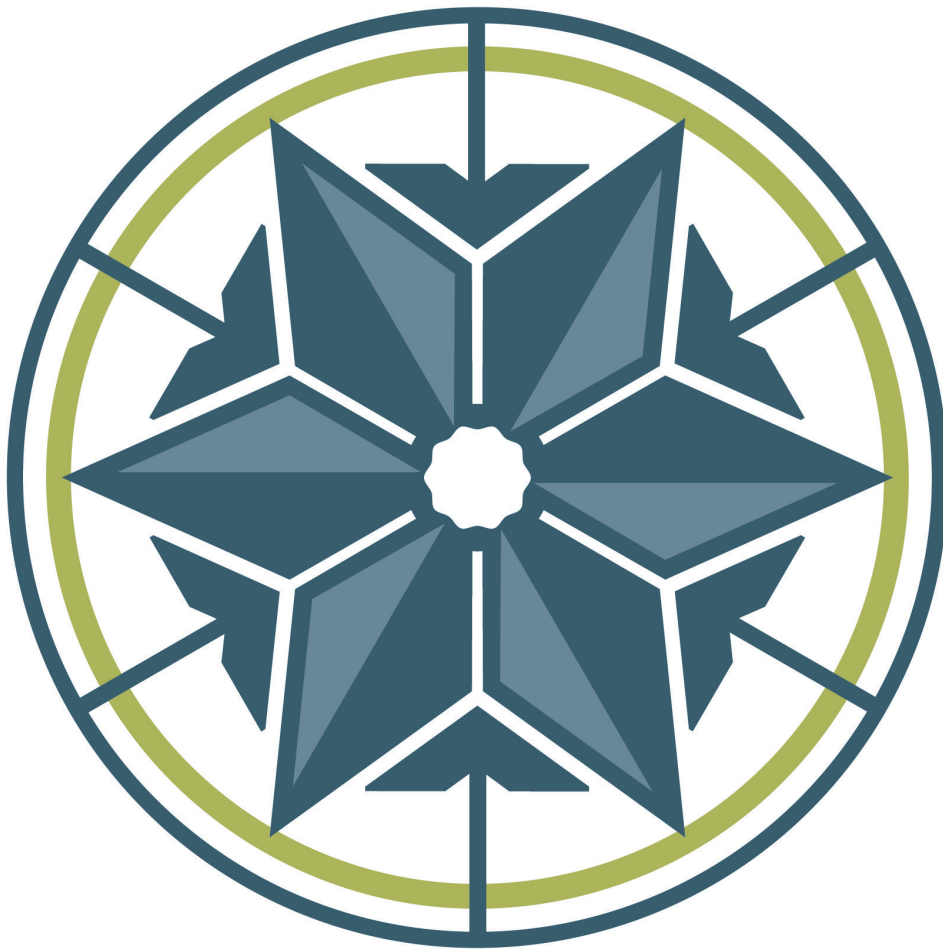


MISSOULA COUNTY ZONING REGULATIONS

EFFECTIVE JULY 1, 2022

REVISION DATE: SEPTEMBER 14, 2023



MISSOULA COUNTY ZONING REGULATIONS

EFFECTIVE
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CHAPTER

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1.1 TITLE

This document, inclusive of any amendments, shall be known as the Missoula County Zoning Regulations. For convenience, it may be referred to throughout this document as “these regulations” and throughout this and other county documents and policies as “the zoning regulations.”

1.2 AUTHORITY

These regulations are adopted pursuant to and in accordance with the authority granted in Montana Code Annotated (MCA) Title 76, Chapter 2.

1.3 APPLICABILITY

- A)** These regulations apply to all land, buildings, structures, uses, infrastructure, and rights-of-way located in zoned areas within the unincorporated area of Missoula County, regardless of ownership, unless specifically exempted by these regulations or any other local, state, or federal law.
- B)** No land shall be used, graded, excavated, occupied, or altered, nor any building, structure, or part thereof be erected, constructed, reconstructed, moved, removed, enlarged, or structurally altered unless in conformity with these regulations.
- C)** These regulations shall not be construed as eliminating or altering any action now pending under existing law or previous zoning regulation, nor shall they be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue under such regulations.

1.4 PURPOSE AND RELATIONSHIP TO THE GROWTH POLICY

These regulations are adopted to preserve, protect, and promote the public health, safety, and general welfare of residents, businesses, and property owners within the County in a manner that meets the criteria and guidelines established in MCA §76-2-203. The intent of these regulations is to implement the goals and policies contained within the *Missoula County Growth Policy* and to achieve the following objectives.

- A)** Improve the built environment.
- B)** Protect and promote community character.
- C)** Conserve and protect the County’s natural beauty and cultural and historic resources.
- D)** Promote the conservation of energy, land, and natural resources.
- E)** Improve sustainability and resiliency through best practice in environmental design.
- F)** Promote development patterns that support safe and efficient infrastructure and public services.
- G)** Promote multi-modal transportation through a mix of uses and compact community form, where appropriate.
- H)** Encourage innovations in use and design, especially regarding residential development and renewal, so that the needs of the community may be met by greater variety, type, and design.
- I)** Provide open space for mobility, habitat, light, air, and recreation.
- J)** Establish clear and efficient development review procedures.

1.5 COMPLIANCE REQUIRED

- A) No building, structure, or land shall be used or occupied in whole or in part unless in complete conformity with these regulations.
- B) No building or structure, in whole or in part, shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in complete conformity with these regulations.
- C) No use shall be established or changed for any building, structure, or land unless in complete conformity with these regulations.
- D) Any building, structure, or land under the jurisdiction of a zoning district established under MCA §76-2, Part 1 and that does not establish administrative procedures specific to the district shall comply with the applicable administrative provisions for Zoning Compliance Permits, non-conformities, and enforcement as established by Chapters 10, 11 and 12.

1.6 UNIFORMITY WITHIN DISTRICTS

The regulations established for each zoning district apply uniformly to each class or kind of use, structure, or land and may include context-sensitive conditions applicable to uses, structures, and land located in similar areas or proximity to identified features.

1.7 CONFORMITY WITH OTHER LAWS

- A) If a conflict exists between any provision in these regulations and any other rules or regulations adopted by Missoula County, the provision that is the most restrictive shall prevail.
- B) If a conflict exists between any provision in these regulations and any state or federal law, the more restrictive

provision shall control to the extent permitted by such law.

- C) Unless expressly stated otherwise in these regulations or as required by state or federal law, nothing herein requires or implies Missoula County to check for conformity with the laws of other jurisdictions before issuing a local approval; however, the County may require demonstration of compliance as part of the permit approval process.

1.8 COVENANTS, DEED RESTRICTIONS

These regulations do not repeal any private agreements or covenants between parties. Unless deed restrictions, covenants, or other contracts directly involve the County as a party in interest, the County has no administrative responsibility or duty for enforcing such restrictions, covenants, or contracts. The Zoning Officer may, however, require that such instruments be submitted for review to ensure their provisions do not conflict with these regulations.

1.9 VESTED DEVELOPMENT RIGHTS

Any amendments, modifications, supplements, repeals, or other changes in these regulations or the official zoning map shall not apply when a valid vested development right exists. A development in process is determined to be vested if an application has been received and acknowledged to be complete by the Zoning Officer prior to the adoption of these regulations. The burden is on the property owner to prove a valid vested development right has been established before a change in these regulations.



1.10 TRANSITIONAL DEVELOPMENT

The following rules apply to any development application in process that has been reviewed based on the previously adopted zoning regulations or approved before the effective date of these regulations.

- A) Applications in Process.** Applications received before the effective date of these regulations and deemed complete, including fee paid, by the Zoning Officer but still pending approval will be reviewed under the previous zoning regulations. Following approval, all future activity onsite not approved with the original application is subject to the adopted regulations in place at such time the use or activity occurs.
- B) Approved Applications Not Yet Completed.** All zoning compliance and other zoning development applications approved under previously adopted zoning regulations and not having an established deadline or completion date shall be required to be completed within three years of the effective date of these regulations. Approved activities or development that fail to meet this three-year deadline or other established deadline shall require a new application, payment of fee, and review and approval under these regulations. A one-time extension may be granted by the Zoning Officer for no more than one year if the Zoning Officer determines the extension is necessary to address delays beyond the reasonable control of the applicant.
- C) Completed Permits.** Zoning Compliance Permits issued before the effective date of these regulations remain valid in perpetuity for the development, change, or use

approved, provided all development activities have been completed in accordance with the permit. If substantial work or investment, as determined by the Zoning Officer, has not been made and no valid vested right has been established pursuant to Section 1.9. Vested Development Rights, any future activity on the site must conform to all the requirements of these regulations.

- D) Legacy Districts.** Legacy districts and all Part 1 zoning districts may continue to develop as approved and shall be subject to the applicable zoning regulations adopted by Missoula County through Resolution #2017-039 on April 11, 2017.

1.11 EFFECTIVE DATE

The provisions of these zoning regulations become effective on and compliance with its provisions is mandatory beginning July 1, 2022, as amended, unless otherwise expressly stated within the text of these regulations.

1.12 SEVERABILITY

If any specific section, subsection, standard, or provision of these regulations, including any zoning district boundary that now exists or may exist in the future, is declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of these regulations as a whole or any

COMMENT: Legacy districts may continue; however, any modifications to legacy districts should move toward conformance with these regulations and the *Missoula County Growth Policy*.

remaining parts not specifically declared to be invalid or unconstitutional. Any portion of these regulations not affected by the decision of the court shall remain in full force and effect.

1.13 REPEAL OF EXISTING REGULATIONS

The zoning regulations in effect at the time of adoption of this document are repealed to the extent necessary to give these regulations full force and effect. However, certain regulations contained within prior versions will remain applicable to legacy districts and districts established under MCA §76-2, Part 1, to the extent required to ensure their legal status.

1.14 INTERPRETATION AND RULES OF CONSTRUCTION

A) Interpretation of Scope.

1. These regulations have been developed in conformance with the *Missoula County Growth Policy* and should be interpreted to implement the land use goals, objectives, policies, and actions established by this document as strictly as possible.
2. Where interpretation of these regulations is required, such interpretation should be made in favor of the property owner's rights whenever possible.
3. These regulations must be read literally and are intended to be interpreted no more or less strict than stated.
4. The provisions of these regulations are interrelated and cannot be interpreted in isolation. All provisions and regulations must be interpreted within the context and intent of the entire document.
5. The provisions of these regulations are the minimum requirements deemed necessary to carry out their stated purpose and intent. In many instances, public interest is best served when such minimums are exceeded, and this code may be interpreted, whenever permissible and appropriate, to encourage and allow use and development that exceeds stated minimums and reflects contemporary best practices.
6. Privileges granted under these regulations run with the land and are not tied to ownership. All amendments to these regulations and all permits and approvals issued under its provisions shall apply to the applicable land, structure, development, or use and will not be granted if the action sought would not be equally acceptable regardless of ownership or ownership status.
7. In addition to the requirements within these regulations, all use and development of land and structures must comply with all other applicable local, state, and federal regulations.
8. All references to other local, state, or federal regulations are for informational purposes only, do not constitute a complete list of such regulations and must not be construed to imply any responsibility for the County to enforce state or federal regulations.



9. If a conflict exists between the provisions of the text of these regulations and any table, illustration, graphic depiction, caption, or appendix, the provisions within the text shall prevail.
 10. Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of these regulations. Should there be a difference of meaning or implication between the text of these zoning regulations and any heading, the text controls.
 11. The illustrations in these regulations are not drawn to scale and are intended solely as a guide to graphically represent requirements and concepts.
 12. The omission of any specific use, dimension, word, phrase, punctuation, or other provision of these regulations shall not be interpreted as permitting any variation from its general meaning and intent as commonly inferred or interpreted including, but not limited to, the omission of the last comma in a series commonly referred to as an "Oxford comma."
- b. All references to employees, public officials, bodies, and agencies mean those of Missoula County, unless otherwise expressly stated.
 - c. Whenever a provision vests authority in the head of a department or other officer or employee of the County to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.
 - d. Unless otherwise expressly indicated, lists of terms or examples that use "including," "such as," or similar terms provide examples only. They are not to be construed as exhaustive lists of all possibilities.
 - e. Commentary notes, where included, have no regulatory effect, cannot alter the meaning or intent or a regulation or requirement, and are intended solely as a guide for administrative purposes.

B) Rules of Language Construction.

1. Meaning and intent.

- a. All references to other local, state, or federal regulations or policies mean the most current version and citation for those regulations and policies unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, the requirements

for compliance are no longer in effect.

2. Computation of time.

- a. References to "days" are to calendar days unless otherwise expressly stated. Reference to "business days" are references to regular working days of Missoula County, excluding weekends and holidays observed by the County.
- b. The time in which an act is to be completed is computed by excluding the first day and

including the last day. If the last day is a Saturday, Sunday, or holiday observed by the County, that day is excluded as well.

- c. A day concludes at the close of business (5:00 p.m. Mountain Time), and any materials received after that time will be deemed to have been received the following day.

3. **Tenses and usage.**

- a. Words used in the singular include the plural and words used in the plural include the singular.
- b. Words used in the present tense include past and future tense. The reverse is also true.
- c. The words "shall," "will," and "must" are mandatory; the word "may" is permissive, except when the context of its particular use is negative (e.g., "may not").
- d. Requirements using numbers as stated "up to x," "not more than x," and "a maximum of x," always include "x."
- e. Any reference to a chapter or section shall mean a chapter or section of these regulations, unless otherwise specified.
- f. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, governmental unit, and any combination thereof.
- g. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- h. The word "parcel" includes the words "lot," "property," and "tract."
- i. The word "building" includes the word "structure"; however, the word "structure" does not always imply the word "building."
- j. The word "street" includes the words "road," "avenue," "lane," "highway," and "alley" unless otherwise defined.
- k. Words used in the masculine gender include the feminine gender and vice versa, and gender-neutral words may substitute for gender-specific words (e.g., "they" instead of "she").
- l. The word "contiguous" as applied to lots, parcels, or districts shall be interpreted as meaning "sharing a common boundary."
- m. The phrase "on the premises of," as applied to accessory uses or structures, shall be interpreted to mean "on the same lot or on a contiguous lot in the same ownership."

4. **Conjunctions.** Unless the context clearly indicates otherwise, conjunctions have the following meanings.

- a. The word "and" in a list indicates that all connected items or provisions apply.



- b. The word “or” in a list means that connected items or provisions may apply singularly or in combination.
 - c. The phrase “and/or” means that one or a combination of two or more connected items or provisions may be applicable.
- 3. The official County zoning districts layer, together with all notations, references, data and other information shown on the official County zoning districts map, is hereby adopted and incorporated into these regulations. The official zoning map and any amendments adopted by the Missoula County Board of Commissioners shall constitute the final authority for determination of zoning district boundaries. Where a map error is determined, the Zoning Officer will determine the official boundary of that district.

1.15 OFFICIAL COUNTY ZONING MAP

A) Establishment and Authority.

- 1. **Zoning districts layer.** The location and boundaries of the zoning districts established by these regulations are found in a geospatial dataset entitled “Missoula County Zoning Districts” that is maintained electronically as part of the County’s geographic information system (GIS) under the direction of the Zoning Officer.
- 2. **Zoning districts map.** The official County zoning map is titled “Missoula County Zoning Districts Map” and displays the County zoning districts layer and other map layers or other reference information necessary to identify the location and boundaries of zoning districts in the County. It is maintained electronically as part of the County’s geographic information system (GIS) under the direction of the Zoning Officer and Geographic Information System Office in the County Technology Department.

B) Interpretation of Boundaries.

Where uncertainty exists about the location of a zoning boundary, the Zoning Officer will determine its actual location by using the following rules of interpretation.

- 1. When the zoning map shows a zoning district boundary as following a certain feature or reflects a clear intent that the boundary follows the feature, the boundary will be construed as following that feature as it exists on the ground with the following clarifications.
 - a. All zoning district boundaries extend and apply to the centerline of a right-of-way, when present.
 - b. If a boundary is shown as approximately following a watercourse, street, railroad,

COMMENT: The location and boundary of each zoning district as described in the authorizing County resolution is stored in the geospatial dataset as a polygon (area) coordinate geometry using the County’s adopted coordinate (or spatial reference) system. Additional non-spatial information recorded for each district in this dataset includes its official name, map symbol, and district type described in Chapter 2, as well as other appropriate metadata. This constitutes Missoula County’s official zoning district geospatial dataset.

COMMENT: When displayed on a map, the zoning district layer represents each zoning district's coordinate geometry as a graphic symbol that identifies the district's borders, permitted land use type(s), and name or map symbol using colors, symbols, and text, as shown in the map's legend. The layer symbology and geospatial data used to represent the County zoning districts on the official zoning map and displayed in its legend constitute the official zoning district layer.

or other right-of-way, the boundary will be construed as following the actual centerline of the feature.

- c. If, subsequent to the establishment of the boundary, the centerline of a watercourse should move as a result of a slow-moving natural process (e.g., flooding, erosion, sedimentation, etc.) as opposed to an evulsive event, the boundary will be construed as moving with the centerline of the watercourse.
 - d. If, subsequent to the establishment of a boundary, the ridgeline or contour line associated with a boundary should move as a result of a slow-moving natural process (e.g., erosion, slippage, subsidence, etc.) as opposed to an evulsive event, the boundary will be construed as moving with the ridgeline or contour line.
 - e. A boundary shown on the zoning map as approximately following a lot boundary will be construed as following the legal description of the lot boundary as legally described at the time the zoning boundary was established.
2. Zoning boundaries that do not coincide with a property line, lot boundary, landmark, or similar

feature will be determined using geospatial data included in the official zoning map.

C) Maintenance and Updates.

1. The official zoning map and zoning district layer for Missoula County shall be maintained by the Planning, Development and Sustainability Department.
2. At the direction of Missoula County Board of Commissioners, the Zoning Officer is responsible for revising the official zoning map to reflect amendments as soon as possible after their effective date. No unauthorized person may alter or modify the official zoning map.
3. The Planning, Development and Sustainability Department shall maintain digital copies of superseded versions of the official zoning map for historical reference.

1.16 SPLIT-ZONED LOTS

Whenever two or more zoning districts apply to different parts of a lot, regardless of whether adopted under Part 1 or Part 2 zoning provisions established by Title 76, Chapter 2, MCA, the following rules of interpretation apply. These rules of interpretation also apply in instances where a portion of a lot is unzoned.

- A) Where a new lot is created through subdivision, split zoning of that lot is expressly prohibited.



- B)** Where an existing lot two acres or less in size is located within two or more different zoning districts or a portion is unzoned, the district regulations applicable to the largest portion of that lot shall apply to the entire tract. Where the split zoning applies to equal portions of a lot, the lot owner may choose which district prevails.
- C)** Where an existing lot greater than two acres in size is located within two or more different zoning districts, and each zoned portion of the lot is a minimum one-half acre in size, each portion of that tract shall be subject to the applicable regulations of the zoning district in which it is located. Otherwise, any portion of an existing lot that does not meet these minimum requirements shall be subject to the regulations of the zoning district with the largest applicable area of the lot as a whole.
- D)** Where an existing lot is split by two or more zoning districts and multiple principal uses are permitted or approved as a Special Exception in any one of the applicable zoning districts, multiple uses may be located on any portion of the subject lot, provided all other requirements and these zoning regulations are met.
- E)** Building setbacks do not apply along interior zoning district boundary lines that split a lot.

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