

# CHAPTER 1

## GENERAL PROVISIONS

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### **1.1 Title**

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These regulations shall be known and cited as the Missoula County Subdivision Regulations hereinafter referred to as “these subdivision regulations” or “these regulations.”

### **1.2 Authority**

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Authorization for these regulations is contained in the Montana Subdivision and Platting Act (MSPA), MCA, Title 76, Chapter 3.

### **1.3 Adoption**

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These subdivision regulations were adopted by the Missoula County Board of County Commissioners with an effective date of April 11, 2024. Upon adoption of these regulations, all prior Missoula County Subdivision Regulations are hereby repealed. These regulations may be subsequently amended from time to time.

### **1.4 Jurisdiction**

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These regulations govern the subdivision and platting of land within the County of Missoula, Montana.

#### **1.4.1 Three Miles of City, Rural School Districts**

If a proposed subdivision lies within 3 miles of the City of Missoula, the Planning Office shall submit the subdivision application and proposed preliminary plat/plan to the appropriate city agencies for review and comment. If the proposed subdivision is located within a rural school district, the Planning Office shall submit the subdivision application and proposed preliminary plat/plan to the appropriate school district trustees for review and comment.

#### **1.4.2 Span City Boundary**

If a proposed subdivision lies partly within the City of Missoula, the preliminary plat shall be submitted to, and approved by, both the city and county governing bodies.

#### **1.4.3 Subdivisions with Annexation**

When the entire parcel proposed for subdivision is also proposed for annexation to the City of Missoula, the subdivision application shall be submitted to the City of Missoula. When only a portion of the parcel is proposed for annexation, approval of both the city and county governing bodies must be required. (See Section 5.6, Subdivisions Proposed for Annexation)

### **1.5 Applicability**

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These regulations shall apply to all subdivisions as defined in Chapter 2, Definitions, unless exempted.

#### **1.5.1 Applicable Regulations**

Subdivision review and approval, conditional approval, or denial shall be based on the regulations in effect at the time a subdivision application and preliminary plat/plan are deemed to contain sufficient information for review. If these regulations are amended prior to completion of the sufficiency review, the determination of whether the application contains sufficient information, and the subdivision review, shall be based on the amended regulations.

#### **1.5.2 Exemptions**

Several subdivisions are exempt from review pursuant to Chapter 8, Divisions of Land Exempt from Review Under MSPA.

### **1.6 Purpose and Intent**

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The purposes and intent of these regulations are to:

- 1.6.1** Promote the public health, safety, and general welfare by regulating the subdivision of land;
- 1.6.2** Prevent overcrowding of land;
- 1.6.3** Lessen congestion on the streets and highways;
- 1.6.4** Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;
- 1.6.5** Require development in harmony with the natural environment;
- 1.6.6** Promote preservation of open space;
- 1.6.7** Promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
- 1.6.8** Protect the rights of property owners; and,
- 1.6.9** Require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey; and,
- 1.6.10** Provide for phased developments.

## **1.7 Effect of Regulations**

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### **1.7.1 Construction Timing**

No construction, development, or alteration of the site proposed for subdivision, including grading or excavation relating to improvements for a proposed subdivision, shall commence until the governing body has approved the preliminary plat/plan. Prior to approval of the preliminary plat/plan, all resources on the site shall remain unaltered, including but not limited to, historic, cultural, archeological, agricultural land, and natural resources. Riparian vegetation within a Riparian Resource area and agricultural soils shall not be damaged or removed prior to approval of the preliminary plat/plan.

### **1.7.2 Exempted Construction Activities**

Notwithstanding *Section 1.7.1, Construction Timing*, the following activities shall be permitted provided the requisite permits and approvals are obtained:

#### **1.7.2.1 Application Related**

Work related to testing, analysis, or monitoring activities that may be required by these regulations or are relevant to the processing of the subdivision application;

#### **1.7.2.2 Unrelated Work**

Previously scheduled work that is unrelated to the proposed subdivision, such as utility maintenance or utility construction;

#### **1.7.2.3 Residence**

The construction of a single residence, related outbuildings, and the improvements that are necessary to serve the single residence which are permitted independent of an approved subdivision; and,

#### **1.7.2.4 Approved Work**

Activities identified by the applicant as being likely to occur after the subdivision application has been submitted and that have been approved in writing by the Planning Director.

### **1.7.3 Enforcement of Unpermitted Construction Activities**

Unpermitted construction, development, or site alterations not exempted above will cause subdivision applications to be deemed insufficient for failure to accurately describe the current status of the land proposed for subdivision. An amended application that describes the changed status of the land shall be submitted pursuant to *Section 5.7.17, Amended Application*, prior to further review of the subdivision application. Restoration of an altered resource may be required as a condition of approval for an amended application.

#### **1.7.4 Transfer of Title**

Except as provided for below, a final subdivision plat shall be filed for record with the Missoula County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner.

##### **1.7.4.1 Contracts**

After the preliminary plat of the subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision, if all of the following conditions have been met:

##### **A. Escrow**

That under the terms of the contracts, the purchasers of lots in the proposed subdivision make all payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana.

##### **B. No Distribution**

That under the terms of the contracts and the escrow agreements, the payments made by the purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is approved and filed with the County Clerk and Recorder.

##### **C. Refund**

That the contract and escrow payments provide that if the final plat of the subdivision is not approved and filed with the County Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contracts.

##### **D. Disclosure**

That the contracts contain the following language conspicuously set out therein:

*“The real property which is the subject hereof has not been finally platted and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner.”*

##### **E. Taxes**

That the County Treasurer has certified that no real property taxes or assessments levied on the land to be divided are delinquent.

### **1.7.5 Penalty**

Any person who violates any of the provisions of the Montana Subdivision and Platting Act or these regulations shall be guilty of a misdemeanor and punishable by a fine of not less than 100 dollars or more than 500 dollars or by imprisonment in the county jail for not more than 3 months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these regulations shall be deemed a separate and distinct offense.

## ***1.8 Relationship with Laws, Regulations, Agreements, Taxes***

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### **1.8.1 Most Restrictive**

If the requirements of these regulations conflict with any other requirements, ordinances, regulations, restrictions, or limitations, the more restrictive requirements or those which impose the highest standards shall control.

### **1.8.2 Private Agreements**

It is not the intent of these regulations to interfere with, annul, or amend any private agreements, easements, or covenants that are not in conflict with these regulations.

### **1.8.3 Other Applicable Rules**

Approval under these regulations does not exempt an application or imply approval from other applicable laws, ordinances, codes, and regulations. In addition to the requirements established herein, subdividers shall consult other laws, ordinances, codes, and regulations that may apply to the proposed subdivision. For informational purposes, subdividers are alerted of the following sources of rules that may apply to the proposed subdivision:

#### **1.8.3.1 MCA**

All applicable provisions of the Montana Code Annotated;

#### **1.8.3.2 Regulations, Codes**

The Missoula County Zoning Resolution, where applicable; International Building Codes adopted by Missoula County and/or the State of Montana; Uniform Plumbing Code; Missoula County Floodplain Regulations; National Fire Protection Association Codes (NFPA 1); agreements for the Transfer of Development Rights (TDRs); Missoula County Public Works Manual; and all other applicable regulations or resolutions of Missoula County;

#### **1.8.3.3 CIP**

Capital Improvements Program of Missoula County;

#### **1.8.3.4 Health Code**

The Missoula City-County Health Code;

**1.8.3.5 MDT**

Montana Department of Transportation (MDT) requirements if the subdivision or any lot contained therein abuts a highway, or a street connection to a highway, that is under the jurisdiction of MDT;

**1.8.3.6 Districts**

Regulations of private districts including but not limited to irrigation districts and fire districts;

**1.8.3.7 Health, Safety**

Public health and safety regulations, including the Missoula City-County Air Pollution Control Program and the Aquifer Protection Ordinance; and,

**1.8.3.8 Taxes, Assessments**

For land proposed to be subdivided, the real property taxes and assessments must be paid current before the land is divided.

## ***1.9 Severability***

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If any section, subsection, sentence, clause, phrase, or word of these regulations is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of these regulations. The governing body hereby declares that it would have passed these regulations and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, and if for any reason a part of these regulations should be declared invalid or unconstitutional, then all remaining provisions of these regulations will be in full force and effect.

## ***1.10 Amendments to Regulations***

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Before the governing body amends these regulations it shall hold a public hearing and give public notice of its intent to amend these regulations by publishing notice of the time and place of the hearing in a newspaper of general circulation in the county not fewer than 15 calendar days nor more than 30 calendar days prior to the date of the hearing.

## ***1.11 Permission to Enter***

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The governing body or its designated agency may conduct such investigations, examinations, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations. The submission of preapplication materials or a preliminary plat/plan for review shall constitute a grant of permission to enter the subject property for inspections related to the application. The permission to enter shall not include the right to enter any structures on the property. Failure to provide access to the property shall result in a rejection of the application and the subdivision plat/plan for review.

## **1.12 Organizational Features**

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### **1.12.1 Purpose and Intent Statements**

Numerous sections of these regulations contain purpose and intent statements that describe the general context in which the regulations are to be applied and provide direction for when interpretations must be made in individual decisions. These statements do not supersede more detailed standards in these regulations.

### **1.12.2 Graphics**

Several illustrations and flow diagrams serve as visual aids for the reader. They illustrate or diagram a general example to help explain the regulations. If an illustration or flow diagram conflicts with the text or a table of these regulations, the text or table shall govern. Text boxes are an informational aid to alert the reader of additional regulations or information that may apply to a proposed subdivision.

### **1.12.3 Appendices**

Appendices are referenced in certain sections of these regulations that provided detailed information. These appendices are adopted herein as part of the regulations and have the full force and effect of these regulations.