



**MEMORANDUM**

**To:** Advisory Group Members      **CC:** John Engen, Mayor  
Missoula City Council Members  
Roger Millar, Director OPG  
Mike Barton, Senior Planner OPG

**From:** Laval Means

**Date:** December 4, 2009

**Re:** Missoula City Subdivision Regulations Update

This opportunity for review and updating of the entire City Subdivision Regulations has been made possible due to the need to align revisions recently made in the City Zoning Ordinance and is the continuation of the City Subdivision and Zoning Regulations Update Project. The draft update also includes revisions proposed for several other reasons: remain current with State legislative directives; reflect some revisions recently made to the County Subdivision Regulations and Applications; incorporate the already-approved revisions to the parkland section (Resolution # 7402); incorporate limited clean-up of the regulations based on review and comments from early listening sessions and technical review.

The attached Advisory Group Draft document uses the existing City Subdivision Regulations as a base and shows revisions as tracked changes (either strike-through or underline). Editor's notes are used to provide additional background. The format for review of the draft document should enable a clear understanding of where revisions are proposed and this memo should provide additional understanding of why the revisions are proposed.

The following list groups the proposed main revisions and is intended to provide some background for those changes. Clean-up of language is also proposed in cases where the existing text has simply not been clear.

**Summary of Main Revisions**

1. *Items to be amended because of update to zoning in Title 20*
  - General Interpretations – Revisions to Article 2
  - Definitions – Revisions to Article 2
  - Riparian Regulations – Revisions to Article 3 and 5
  - Hillside Protection – Revisions to Article 3
  - Cluster and Conservation – Revisions to Article 3 and 5
  
2. *Changes to regulations required because of legislative changes in State Law*  
Based on SB305:

- Review deadlines amended to allow 80 working days for subdivision review of projects with 50 lots or more. (MCA 76-3-604) This change appears in section in 4-030.1B

Based on HB 486:

- A written decision must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision. (MCA 76-3-504 and MCA 76-3-620) This change appears in section 4-010.14.D.(2)
- Require a public hearing be held for any variance request to a major subdivision. (MCA 76-.506) This change appears in several sub-sections of Article 4.
- Require that a declaration of condominium ownership include certification from local government that the project is exempt or has been approved based on certain criteria (MCA 70-23-301). This change appears in section 4-040.4.
- Allow the City Council to require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security for purposes of filing a final plat (MCA 76-3-507). This change appears in the following sections: 4-010.14.A(2), 4-070.4.F.(4)(b), 5-050.4.D, 9-010.1.B.
- Add aggregated parcels to the list of subdivision exemptions (MCA 76-3-207). This change appears in section 8-030 & 8-030.3.
- Require that a waiver of a right to protest expire twenty years after the date the final subdivision plat is filed with the county clerk and recorder (MCA 76-3-608). This change appears in every section that refers to waivers for SIDs.
- Separately address Wildlife and Wildlife Habitat as primary review criteria (MCA 76-3-608). This change appears in 4-010.14.B(4).

### 3. *Items to coordinate with the County:*

- Riparian regulations – Revisions to Article 3: Combined with revisions that reflect recent changes made in the City Zoning Ordinance.
- Proof of access and final plat – Revisions to Article 3: The proposed revisions reflect recent County Subdivision revisions and address concerns raised regarding requiring documentation of legal access at the time of submittal. The new language allows a description to suffice, with proof of legal access to be obtained before filing the final plat.
- Procedure for Plat Adjustments – Revisions to Article 4: The proposed revisions reflect recent revisions made in the County Subdivision Regulations. This revision allows for administrative approval of minor (non-material changes) plat adjustments rather than approval by City Council.



- Environmental assessment (EA) – Revisions to Article 5: This is a clarification of what has always been required and reflects the detail in the recently updated County Subdivision Applications.
  - Soils assessment - Revisions to Article 5: This is a new submittal requirement in certain situations and is currently in the County Subdivision Applications.
  - Community impact report (CIR) – Revisions to Article 5: This is a clarification of what has always been required and reflects the detail in the recently updated County Subdivision Applications.
  - Phasing Plans – Revisions to Article 5 and a definition in Article 2. The revisions reflect recent changes made in the County Subdivision Regulations.
  - Variance language – Revisions to Article 6: The proposed revisions reflect recent revisions made in the County Subdivision Regulations.
4. *Policy already adopted.*
- Park land dedication Resolution #7402
5. *General clean up items.*
- A key theme to clean-up for some of the regulations is to provide clarifying language in many cases where unless and except statements have been used in Article 3. This previously vague language has lead to unpredictable approaches for variances.

We look forward to meeting with the Advisory Group and gaining feedback from you on the draft. We also appreciate your dedication to reviewing these regulations and being a voice for the entire community. Please let me know if you have any questions. I can be reached at [lmeans@co.missoula.mt.us](mailto:lmeans@co.missoula.mt.us) or 258-3797. Thanks and see you soon.

**Remember:** The meeting to review this draft is set for Wednesday, December 16, 2009 from 7:00 to 9:00 p.m. in the City Council Chamber, 140 West Pine.

Attachment:

Advisory Group Review Draft City Subdivision Regulations – 12-04-2009