

City Subdivision Regulations: State Law Summary of Proposed Changes

This document contains proposed amendments to the City Subdivision Regulations prompted by State Legislative changes during the 2023 legislative session, and addresses comments received from various City agencies and the public. Each proposed amendment is shown in redline strike out format and includes an explanation for why the amendment is being proposed.

Article 1 Introductory Provisions

1.

1-110 Violations

Except as provided in 76-3-207, A any person who violates any of the provisions to the *Montana Subdivision and Platting Act* and these regulations is guilty of a misdemeanor and punishable by a fine of not less than \$100.00 or more than \$500.00 or by imprisonment in the county jail for not more than three 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 *Montana Subdivision and Platting Act* or these regulations is deemed a separate and distinct offense, as required by MCA 76-3-105, as amended.

Explanation:

SB 158 amended State law 76-3-207 regarding a subdivision created as a gift or sale to a family member. (Also known as a family transfer) That change requires an exception be provided in the violations section of our code.

Article 2. Definitions

2.

2-020 Definitions

.1 Access

A. Legal Access

That the subdivision abuts a public street or road under the jurisdiction of the city, the county, or the state. In the alternative, that the subdivider has obtained adequate and appropriate easements from a public road to the subdivision across all intervening properties. Minor subdivisions proposed for Administrative Minor Subdivision review require existing legal and physical access to each lot.

B. Physical Access

That a road or driveway conforming to the ~~local~~ subdivision standards provides vehicular access from a public or private road to the subdivision. Minor subdivisions proposed for Administrative Minor Subdivision review require existing legal and physical access to each lot.

Explanation:

SB 170 created a new administrative process opportunity for minor subdivisions. (See proposed amendments 3 and 9) These amendments make it clear projects applying to use the Administrative Minor Subdivision process must have legal and physical access to each lot proposed.

3.

.117 Subdivision Types

As used in these regulations, subdivision types are as follows:

C. Major Subdivision

A subdivision of land in which six or more lots are created.

D. Administrative Minor Subdivision

A subdivision of five or fewer lots that meets the requirements in MCA 76-3-609(6) requiring compliance with applicable zoning regulations, service by public sewer and water, containing existing legal and physical access to each lot, and compliance with the subdivision regulations without a variance request. See Section 4-021 for process.

D.E. Minor Subdivision

A subdivision of land in which five or fewer lots are created and does not qualify for the administrative minor subdivision process.

E.F. Urban-Suburban Subdivision

F.G. Mobile Home Community and Recreational Vehicle Park Subdivisions

Explanation:

SB 170 created a new administrative process opportunity for minor subdivisions that meet local zoning, have access to municipal services, physical access to each lot, and are not requesting a variance. These amendments create a definition of administrative minor subdivision and clarify the definition of minor subdivision.

4.

.124 ~~Townhouse~~ Townhome

Arrangement under which individuals own their own units and hold separate title to the land beneath the unit but jointly own the common areas and facilities.

Explanation:

The State law definition of townhouse includes the term townhome, they are used interchangeably for State regulations. That differs from our local definition where a townhouse is a building type, and a townhome is an ownership type. Changes made with SB 331 necessitate our definition be more clear. This amendment will create a distinction in our regulations between townhouse and townhome.

5.

Article 4. Review and Approval Procedures

4-010	General Provisions for all Major and Minor Subdivisions	4-1
4-020	Minor Subdivision Review Procedure.....	4-9
4-021	Administrative Minor Subdivision	4-XX
4-030	Major Subdivision Review Procedure.....	4-10
4-040	Review Procedure for CondominiumsRemoved – (2023 Legislative changes)...	4-12
4-050	Removed - (2014 Legislative changes).....	4-14
4-051	Expedited Review	4-14
4-060	Review Procedure for Mobile Home Community and Recreational Vehicle Park Subdivision	4-14
4-070	Preliminary and Final Plats.....	4-15
4-080	Vacating Recorded Plats	4-20

Explanation:

The addition of subsection 4-021, Administrative Minor Subdivision, requires it be added to the list of contents for Article 4. A specific page number will be assigned after final formatting of the document, along with any other page number references that may need to be changed.

Explanation:

Condominium and townhome proposals are exempt from subdivision review. Section 4-040 Review Procedure for Condominium or Townhome Exemptions has been removed in its entirety from Article 4 and placed in Article 8, Exemptions, for consistency. (See section 8-050) This amendment removes the section from the table of contents for Article 4.

6.

4-010 General Provisions for all Major and Minor Subdivisions

.8 Amended Applications for Minor and Administrative Minor Subdivisions

If the subdivider changes the subdivision application or preliminary plat after Development Services makes a determination of sufficiency but before the City Council has rendered a decision, the subdivider must submit the amended application to Development Services for review. Changes made by the subdivider in response to Development Services, agencies or public comment will not force a suspension of the review period by more than ten business days.

Explanation:

HB 211 specified when and why a subsequent hearing for a subdivision must be required with regard to new information received about that project. Because minor subdivisions do not require a hearing, staff made it clear this section only applies to Minor and Administrative Minor Subdivision review and added additional information to address HB 211 in the Major Subdivision review process.

7.

4-020 Minor Subdivision Review Procedure

.1 Applicability

~~Subdivisions that qualify for minor subdivision review are those divisions of land containing five or fewer lots.~~ Montana law identifies “first minor” subdivisions and “subsequent minor” subdivisions, but for the purpose of these regulations all subdivisions creating five or fewer lots are considered to be and will be reviewed as minor subdivisions, or administrative minor subdivisions for those that meet the qualifications.

A. Minor subdivisions are those that do not qualify for administrative minor subdivision process, section 4-021.

B. Administrative minor subdivisions are subdivisions that meet definition 2-020.117, Administrative Minor Subdivision.

Explanation:

SB 152 amended the date a division would be considered a first minor from July 1, 1973, to October 1, 2003. This amendment in State Law doesn't change the fact that whether it is a first or subsequent minor the City has elected to treat them the same. This amendment clarifies the newly created Administrative Minor Subdivision and Minor Subdivisions are excluded from first minor and subsequent minor review.

8.

.2 Exemptions to Minor Subdivision Application Requirements Exceptions

The following do not apply to minor subdivisions:

C. Parkland dedication in accordance with 3-080.2D, where all the lots in the subdivision may be occupied by only one dwelling unit based on the applicable zoning classification; and

Explanation:

This amendment changes and clarifies the heading of this section to be consistent with the new heading created in Section 4-021.2 below.

Explanation:

In response to SB 170, language from Article 3-080.2D is added here to clarify when parkland dedication is not required for minor subdivisions

9.

4-021 Administrative Minor Subdivision Review Procedure

.1 Applicability

A subdivision of five or few lots, meeting the definition in Article 2-020.117,

that complies with the applicable zoning district standards and the following:

- A. The subdivision will be served by municipal water and sewer service;
- B. Has existing legal and physical access to each lot; and,
- C. Does not require a variance to these regulations.

.2 Exemptions to Administrative Minor Subdivision Application Requirements

The following do not apply to subdivisions that qualify as an Administrative Minor Subdivision as defined in Article 2-020.117:

- A. Review of the subdivision based on the following primary review criteria and submittal of the summary of probable impacts based on the following primary review criteria:
 - (1) agriculture,
 - (2) agricultural water user facilities,
 - (3) local services,
 - (4) the natural environment,
 - (5) wildlife,
 - (6) wildlife habitat,
 - (7) public health and safety.
- B. Preparation of an environmental assessment.
- C. Public hearing requirements.
- D. Parkland dedication in accordance with 3-080.2D., where all the lots in the subdivision may be occupied by only one dwelling unit based on the applicable zoning classification.

.3 Process

- A. Pre-application meeting per 4-010.1.
- B. Neighborhood Meeting requirement in 4-010.2 is not required.
- C. Element Review per 4-010.4.
- D. Sufficiency Review per 4-040.5.
- E. Notification: Immediately upon determination that the application is sufficient for review, the following must be notified by first-class mail of the pending application:
 - (1) Each property owner of record immediately adjoining the proposed subdivision project
 - (2) Each purchaser under contract of property immediately adjoining the proposed project
- F. Administrative Review: The subdivision administrator shall approve, conditionally approve, or deny an administrative minor subdivision and issue a written statement of the decision within 30 working days of a determination that the application contains required elements and sufficient information for review.

.4 Appeal

An appeal of the subdivision administrator's decision to approve, approve with conditions or deny an Administrative Minor Subdivision may be made in writing with the request that the administrator forward the application on to the City

Council. The City Council shall sustain the administrator's decision based on the record as a whole, unless the decision is found to be arbitrary, capricious, or unlawful. The appellant's written request for appeal shall address their reasoning for why the subdivision administrator's decision is arbitrary, capricious, or unlawful. The City Council shall make a final determination within 15 working days from the receipt of the request to appeal.

Explanation:

SB 170 created a new administrative process opportunity for minor subdivisions that meet local zoning, have access to municipal services, physical access to each lot, and are not requesting a variance. Section 4-021 was created to provide the process for administrative minor subdivision review.

10.

4-030 Major Subdivision Review Procedure

.6 New Information

A. City Council shall determine whether public comments or other information presented at a public hearing constitutes relevant new information and whether the public comment or new information has a substantial effect on the City Council's consideration of the application.

(1) If City Council determines the public comment or other information is not relevant and credible or the comments and other information do not have a substantial effect on City Council's consideration of the application, City Council may approve, conditionally approve, or deny the subdivision without basing its decision on the public comment or new information.

(2) If City Council determines the public comment or other information is relevant and has a substantial effect on City Council's consideration of the application, Council shall direct Development Services to schedule a subsequent public hearing on the public comment or new information for the purposes of considering the findings of fact, conclusions of law and any proposed conditions of approval in light of the new information Council will rely on in making its decision on the subdivision.

~~If the public has had a reasonable opportunity to examine and comment on information heard by the City Council or if any new evidence presented is not relevant and credible, the City Council will decide whether to approve, conditionally approve or deny the proposed subdivision. If new information not previously submitted as evidence or considered by either the City Council or its authorized agents or agency at a hearing during which the subdivision application was considered, the City Council will determine whether the public~~

~~comments or documents are relevant and credible based on the following:~~

- ~~A. New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the City Council will rely upon in making its final decisions on the proposed subdivision.~~
- ~~B. New information or analysis of information may be considered to be credible if it is based on physical facts or evidence.~~

Explanation:

HB 211 specified when and why a subsequent hearing for a subdivision must be required with regard to new information received about that project. These amendments clarify if the public provides new information or changes in design during or after the public hearing, that substantially impact analysis of potential impacts, a subsequent hearing must be held for that project. When a decision is made to hold a subsequent hearing only the new information provided may be considered during the hearing. Only major subdivisions require a hearing and are affected by this bill.

11.

.7 Amended Application for Major Subdivision

- A. If the subdivider changes the subdivision application or preliminary plat after Development Services determines that the application is sufficient but before City Council has rendered a decision, City Council shall determine whether the changes constitute a substantial change to the design of the subdivision.
 - (1) If City Council determines the changes to the subdivision application or preliminary plat are not a substantial change to the design of the subdivision and the changes do not substantially impact the analysis of potentially significant adverse impacts, City Council can approve, conditionally approve, or deny the subdivision without a subsequent public hearing.
 - (2) If City Council determines the changes to the application or preliminary plat are a substantial change to the design of the subdivision and the changes substantially impact the analysis of the potentially significant adverse impacts, City Council shall direct Development Services to schedule a subsequent public hearing on the changes to the subdivision application or preliminary plat for the purposes of considering its findings of fact and conclusions of law and any proposed conditions of approval in light of the change to the design of the subdivision.
 - (a) The following changes, although not an exhaustive list, may be considered a substantial change to the subdivision application or preliminary plat:

- i. A change that would require an additional variance request or expansion of a variance request;
- ii. Reconfiguration of the road layout that diminishes connectivity for any mode of transportation;
- iii. Reconfiguration of the legal, physical and designated access for the subdivision;
- iii. Relocation or reconfiguration of park land, common area or open spaces out of compliance with the parkland dedication standards in 3-080;
- iv. Increases the impacts of the subdivision by increasing the number of lots; or
- v. Changes to easement provisions for public access, utilities, and irrigation ditches.

Explanation:

HB 211 specified when and why a subsequent hearing for a subdivision must be required with regard to new information received about that project. This sub-section is new. These amendments clarify if the applicant proposes amendments to the governing body review packet, after sufficiency and prior to hearing, that substantially impact analysis of potential impacts, a subsequent hearing must be held for that project. When a decision is made to hold a subsequent hearing only the new information provided may be considered during the hearing. Only major subdivisions are required to have a hearing.

12.

~~7~~ **8. Subsequent Public Hearing**

- A. If a subsequent public hearing is held, the required review period is suspended as of the date of the City Council's decision to schedule a subsequent hearing. The ~~60-days~~suspended statutory review period resumes on the date of the City Council's next scheduled public meeting for which proper notice of the public hearing on the subdivision application can be provided.

Explanation:

State law suspends the review period for projects going through a subsequent public hearing. This amendment makes it clear that suspension occurs and when the timeline begins again. HB 211. This sub-section is also re-numbered.

13.

~~4-040~~ **Review Procedure for Condominium or Townhouse Proposals Removed – (2023 Legislative changes)**

- ~~.1~~ When division of land takes place in a condominium or townhouse

~~proposal, the subdivision must be reviewed under the procedures contained in this article. If a total of five or fewer lots and units are proposed, it must be reviewed as a minor subdivision. If a total of six or more lots and units are proposed, it must be reviewed as a major subdivision.~~

~~.2 Where no division of land is created by a condominium proposal, the subdivision must be reviewed under the procedures as follow:~~

~~**A. Review and Approval**~~

~~Any condominium development must meet all the requirements described in this article and are exempt from the surveying and filing requirements of the *Montana Subdivision and Platting Act*. Proposals must be submitted for review and approved by the City Council before portions thereof may be conveyed. The developer must submit a completed application form and a preliminary plan of the proposed development. Approval will be based upon the primary review criteria in 4-010.14.~~

~~**B. Improvement**~~

~~Before any portion of a condominium development may be conveyed the developer must have installed all required improvements as per Article 9. Preliminary plans, profiles, tentative grades and specifications for proposed improvements must be submitted to Development Services for its approval prior to the construction of improvements. Development Services may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.~~

~~**C. Final Plan Review**~~

~~In lieu of filing a final plat, the developer must submit a plan conforming to the requirements for preliminary plats specified in 5-010. The plan must show the lot layout and the typical location of the condominiums on the lot. The developer must submit the plan to Development Services. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan must be maintained in Development Services.~~

~~.3 A condominium, townhouse or conversion proposal, if constructed on land subdivided in compliance with State law (MCA Title 76, Chapter 3, Parts 5 and 6) or on lots within incorporated cities and towns, is exempt from the provisions of the chapter if:~~

~~**A.** The proposal is a conversion of an existing rental-occupancy residential building or office building to individual condominium or townhouse ownership;~~

~~**B.** The approval of the original subdivision of land where the condominium or townhouse proposal will be constructed expressly contemplated the construction of the condominiums or townhouse and included applicable park dedication as required by MCA 76-3-621; or~~

~~**C.** The condominium or townhouse proposal is in conformance with~~

~~applicable local zoning regulations when local zoning regulations are in effect.~~

~~Commentary: Missoula's zoning regulations contain provisions for nonconformities, which are parcels, uses and structures that were lawfully established but because of annexation or the adoption of new or amended regulations no longer comply with one or more requirements of this zoning ordinance. A condominium or townhouse proposal determined non-conforming under these provisions (MMC 20.80) shall be deemed in conformance with applicable local zoning regulations for the purpose of exemption from subdivision review under this section.~~

- ~~.4 If a condominium or townhouse project meets the criteria of 4-040.3, the owner must file a Declaration of Condominium or Townhouse Unit Ownership in the Clerk and Recorder's Office and an exhibit containing certification from Development Services that the condominium or townhouse proposal is either exempt from review under MCA 76-3-203 or has been approved following either review under MCA Title 76, Chapter 3, Parts 5 and 6.~~

Explanation:

Condominium and townhome proposals are exempt from subdivision review. Section 4-040 Review Procedure for Condominium or Townhome Exemptions has been removed in its entirety from Article 4 and placed in Article 8, Exemptions with revisions for consistency. (See section 8-050)

14.

4-051 Expedited Review Procedure

.1 Applicability

- A. A subdivision qualifies for the expedited review process if the proposed subdivision:

- ~~(1)~~ (1) Is within the Missoula city limits;
- ~~(1)(2)~~ (2) Will be served by City water and sewer services
- ~~(2)(3)~~ (3) Complies with all adopted zoning, design standards and other adopted subdivision regulations ~~without the need for variances or other deviations to adopted standards;~~ and
- ~~(3)(4)~~ (4) Includes plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

Explanation:

HB 211 amended State law regarding expedited review of certain subdivisions requiring them to be served by municipal water and sewer facilities and allows a subdivision requesting a variance to go through the expedited review process. The above amendments show these changes.

15.

.2 Application Review

- A. Upon submission the application must be reviewed for required elements and sufficiency of information. The application may include a request for variance or deviation from these regulations. Neighborhood notice procedures included with element and sufficiency processes are not required by State Law during an expedited review.

Explanation:

The expedited review procedure was amended with HB 211 allowing a proposal to request a variance or deviation from subdivision regulations and still use the expedited review process. The proposed amendment makes it clear a variance to subdivision regulations can be requested.

16.

.3 Public Hearing and Notice

Upon determination of an applications sufficiency, the City Council shall hold a public hearing to approve, conditionally approve, or deny the request within:

- (1) 35 business days if the project does not include a variance or deviation from these regulations, or
- (2) 45 business days if the project does include a variance or deviation from these regulations.

~~The City Council shall hold a public hearing within 35 business days of a determination that the preliminary plat application is sufficient.~~

Explanation:

The expedited review procedure in State law was amended to allow an applicant to request a variance and still use the expedited review process. Local government was also granted the opportunity to approve, deny, or conditionally approve a project. The bill also provided timelines for completion for both, projects requesting a variance, and projects without a request for variance. This amendment clarifies these State changes. HB 211.

17.

.4 City Council decision and documentation

STEPS REQUIRED FOR EXPEDITED REVIEW PROCEDURE

Step 1	Pre-application meeting between subdivider and CPDI staff.	
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Step 2	Element Review: subdivider submits entire subdivision application to CPDI staff for element review.	Maximum 5 business days.
Step 3	Sufficiency Review: after all elements of the application are complete, the subdivider submits the application for Sufficiency Review to CPDI, reviewing agencies, and other entities identified by CPDI.	Maximum 15 business days.
Step 4	After the subdivision application is deemed sufficient, the subdivider submits a revised title page to CPDI for City Council review.	Maximum 35 business days
Step 5	CPDI – staff report.	<u>without a request for variance, 45</u>
Step 6	City Council – public hearing.	<u>business days</u>
Step 7	LUP – post public hearing discussion.	<u>with a request for variance.</u>
Step 8	City Council – Final Consideration.	<u>sStatutory limit. MCA76-3-623604.</u>

Explanation:

Amendments made to the public hearing and notice section (proposed amendment 15) are carried forward to the table above for consistency.

18.

4-070 Preliminary and Final Plats

.2 Phased Development – Deemed Sufficient for Preliminary Plat Review after October 1, 2023

A. Applicability:

(1) The following sections apply to phased development applications submitted after October 1, 2023.

B. Application:

(1) For any phase of an approved subdivision submitted for final plat approval more than five years after the date of preliminary approval of the subdivision must follow the procedures under 4-070.3B-D.

(a) Written notice must be provided to Development Services expressing the desire of a subdivider to commence with a phase. Written notice may not be provided more than one year or less than 90 calendar days in advance of submitting the final plat application.

(2) Proposed phased development is subject to Section 5-020.14.

(3) At the time of the request for a pre-application meeting, the subdivider shall provide Development Services a preliminary plat of the full subdivision indicating all independent platted development phases in accordance with 4-010.1B(4). Phases are required to be submitted sequentially.

Explanation:

HB 211 changed the Phased Development Review process and requires a public hearing be held prior to submitting a phase for final plat review more than five years after the preliminary plat approval of phased developments approved on or after October 1, 2023. The hearing is held to determine if any changed conditions would justify amending any existing condition or imposing additional conditions on that particular phase prior to final plat review for that phase. This amendment clarifies when a public hearing will be required and the process to follow.

19.

-2.3 Phased Development --Submitted Deemed Sufficient for Preliminary Plat Approval-Review on or after May 8, 2017 and prior to October 1, 2023

B. Phased development Review for Each Phase:

(1) Application

Written notice must be provided to Development Services expressing the desire of a subdivider to commence with a phase. Written notice may not be provided more than one year or less than 90 calendar days in advance of submitting the final plat application. Prior to submitting the final plat submittal packet for a particular phase, a public hearing will be held to determine whether any changed primary review criteria impacts, or new information exist, that create new potentially significant adverse impacts for the phase or phases commencing.

The written notice shall include an application packet with the following:

Explanation:

HB 211 made changes to the phased development process. This amendment limits an applicant's ability to request final plat approval to a specific timeframe and clarifies the paragraph by changing the heading.

20.

B.C. Phased Development Deadlines:

Explanation:

This paragraph should be lettered C. instead of B., this amendment will correct a formatting error.

21.

CD. Public Hearing:

- (2) A public hearing shall be held within 30 business days after receipt of the written notice from the applicant to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval. The governing body may ~~approve or approve with additional conditions.~~ amend or impose additional conditions of approval. Any additional conditions required must mitigate impacts based on changed primary review criteria or new information. Findings of Fact are required to support new conditions.

Explanation:

HB 211 modified the Phased Development Review process. This amendment clarifies the City Council has the ability to amend or impose additional conditions of approval through the hearing process, and re letters the paragraph appropriately.

22.

~~.2.3~~ **Phased Development** ~~—Submitted~~ Deemed Sufficient for Preliminary Plat ~~approval~~ Review prior to May 8, 2017

~~.3.4~~ **Final Plat**

Explanation:

These two paragraphs are formatted wrong and need to be re numbered as shown. These amendments will correct formatting errors. A paragraph heading change will make the regulations consistent with other sections.

23.

5-020 Subdivision Application Form and Preliminary Plat Supplements

- .6 Primary Review Criteria Report and Summary of Probable Impacts**
Information required by the City Council necessary to perform an adequate review pursuant to the *Montana Subdivision and Platting Act* that includes specific information relating to the State primary review criteria as required by MCA 76-3-608(3), and identify the adverse impacts

and describe proposed avoidance and mitigation efforts resulting from the proposed development for each of the following criteria:

A. **Exceptions**

The community impact report, summary of probable impacts on the primary review criteria and environmental assessment are not required for:

- (1) Administrative Minor Subdivisions, Section 2-020.117B., or
- (2) Expedited Subdivisions, Section 4-051.2C.

A.B. **Agriculture**

B.C. **Agricultural Water User Facilities**

C.D. **Local Services**

D.E. **Natural Environment**

E.F. **Wildlife**

F.G. **Wildlife Habitat**

G.H. **Public Health and Safety**

Explanation:

SB 170 adopted by the Legislature in 2023 created an administrative minor subdivision process and exempted these subdivisions from having to provide a summary of probable impacts report. This amendment clarifies the information isn't needed for review. The sub sections will be re-lettered appropriately.

Explanation:

SB 161 adopted by the Legislature in 2021 exempted subdivisions using the expedited review process from having to provide an environmental assessment. This amendment was missed during the update in 2022. The exemption language is being included in this amendment process; staff have been following the State law even though it wasn't in our local regulations.

24.

.7 Community Impact Report

The subdivider must provide a report containing a statement of the local facility and service demands resulting from build-out of the subdivision, including the impacts on education facilities and school bus service, transit facilities and services, roads and non-motorized transportation facilities, water, sewage, and solid waste facilities, police and fire protection services and facilities, including those

needed for wild land fire protection (per MCA 76-3-603(1)(a)(iii)).

A. The Community Impact Report outlining impacts to local facilities is not required for Administrative Minor Subdivisions meeting Section 2-020.117.B or Expedited Subdivisions meeting Section 4-051.1.A, however general information on how the subdivision is served by transit, school bus routes, roads, active transportation facilities, City water and sewer, police protection, and fire protection are included in the subdivision application for all subdivisions.

Explanation:

SB 170 created an administrative process for certain minor subdivisions. This amendment clarifies Administrative Minor Subdivisions do not have to submit a community impact report or environmental assessment with their application.

Explanation:

SB 161 adopted during the 2021 legislative session exempted subdivisions using the expedited review process from having to provide a community impact report. This amendment was missed during the update in 2022. The exemption language is being included in this amendment process; staff have been following the State law even though it wasn't in our local regulations.

25.

.13 Water and Sanitation

If the subdivision is proposed to be served by City Water and Sewer the subdivider must provide documentation that the subdivision qualifies for a municipal facilities exclusion and provide the distance from the subdivision boundary to the nearest public water main and public sewer main. If the subdivider does not propose a municipal facilities exclusion authorized under MCA 76-4-125(1), pursuant to MCA 76-3-622, the subdivider must provide the following water and sanitation information for any new subdivision that will include a new water supply system or new wastewater facilities:

Explanation:

The newly created administrative minor subdivision process specifically requires minor subdivisions using the administrative review process to provide documentation that the City will provide water and sewer service to the project. SB 170. This amendment makes it clear that documentation must be submitted with any subdivision application.

26.

5-030 Additional Requirements for Major Subdivisions
.1 Environmental Assessment

For all Major Subdivisions that are not classified as Expedited Subdivisions meeting Section 4-051.1A, the subdivider must provide an environmental assessment that addresses the requirements of MCA 76-3-603, and must include narratives describing the environment, coordination of roads, land dedication, road improvements, open space, sanitation and congestion. The following sections from [5-020](#) must be included as part of the environmental assessment: primary review criteria report, summary of probably impacts, and community impact report. The environmental assessment must include proposed avoidance and mitigation efforts that will be used to reasonably minimize potentially significant adverse impacts.

Explanation:

SB 161 adopted by the Legislature in 2021 exempted subdivisions using the expedited review process from having to provide an environmental assessment. This amendment was missed during the update in 2022. The exemption language is being included in this amendment process; staff has been following the State law even though it wasn't in our local regulations.

27.

Article 8. Exempt Land Divisions

8-010	General	8-1
8-020	Divisions Exempt from <u>Zoning Compliance</u> Review, Survey and Plat Filing	8-1
8-030	Divisions and Aggregations <u>Subject to Zoning Compliance Exempt from Plat Filing</u> and Review	8-2
8-040	Exemption Procedures <u>for Exemptions Under 8-020 and 8-030</u>	8-3
8-050	Certificates of Survey <u>Review Procedure for Condominium or Townhome</u> <u>Exemption Development Proposals</u>	8-6

Explanation:

Amendments made to various headings require changes to the table of contents for Article 8. These changes update the table of contents.

28.

8-010 General

All divisions or subdivisions of land are subject to the surveying, plat filing and review process set forth in these regulations unless specifically exempt from some or all requirements.

- .2 Any claimed exemption may be denied ~~by the City Council~~ if the method of disposition is adopted for the purpose of evading the *Montana Subdivision and Platting Act* (Subdivision Act), as determined under [8-040](#).

Explanation:

This amendment removes specificity because the regulations address how a potential denial is reviewed and approved in section 8-040.2.

29.

8-020 Divisions Exempt from ~~Zoning Compliance Review, Survey and Plat Filing~~

- .1 The following divisions ~~and subdivisions~~ are exempt from ~~subdivision review and zoning compliance review per MCA 76-3-201, plat filing and surveying requirements~~:
 - A. ~~Court ordered~~ Division creating not more than four new lots or parcels (for a total not to exceed 5 lots or parcels including the parent parcel) and created by court order, operation of law, or one that could be created pursuant to the law of eminent domain in the absence of agreement between the parties;
 - B. Division created to provide security for mortgages, liens, or trust indentures; in compliance with 76-3-201 ~~as follows~~:
 - (1) ~~Applies to a division of land of any size; and~~
 - (2) ~~The mortgage parcel may only be transferred by the financial or lender institution following foreclosure unless the mortgage parcel was created prior to October 2, 2003;~~
 - C. Division creating an interest in oil, gas, mineral or water severed from the surface ownership;
 - D. Divisions creating cemetery lots;
 - E. Division reserving a life estate;
 - F. ~~Division for lease or rental for farming or agricultural purposes;~~
 - F.G. ~~Divisions created for rights-of-way or utility sites;~~
 - H. ~~Divisions created prior to July 1, 1974, as evidenced by conveyances executed prior to that date;~~

~~G.I. Divisions of airport land if the lease or rental is for on-site weather or air navigation facilities, the manufacture, maintenance and storage of aircraft, or air carrier related activities;~~

~~H.J. Divisions of state-owned land unless the division creates a second parcel from a single tract for the sale, rent, or lease for residential purposes after July 1, 1974; and~~

~~I. Divisions creating a parcel or parcels that can be described as 1/32 or aliquot part of government lot or section.~~

~~.2 A person may file a Certificate of Survey or plat for a division that is exempt, if the survey meets all other applicable requirements.~~

Explanation:

Amendments to this section are cleanup, including language from, and clarifying, previously established State law sections 76-3-201 and 76-3-205 as well as removal of language deleted during a previous legislative session. These proposed amendments don't correlate with a specific 2023 legislative bill but because of the number of amendments required to be made to this Article based on the current legislative session we have included them.

30.

8-030 Divisions and Aggregations Subject to Zoning Compliance Exempt from Plat Filing and Review

The following divisions and aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, as described in MCA 76-3-207, are exempt from ~~plat filing and subdivision~~ review, but must be surveyed and are subject to applicable zoning regulations adopted under MCA Title 76, Chapter 2:

.1 Outside platted subdivisions:

A. relocating common boundary ~~ies outside of platted subdivisions~~ lines of adjoining properties;

B. divisions for purpose of a single gift or sale in each county to each member of the landowner's immediate family;

(1) For the purposes of 8-030.1B., if the property is within a zoning district, each family transfer parcel shall be at least five acres in size unless the zoning district allows for smaller parcel sizes.

(2) For the purposes of 8-030.1B., an immediate family member includes family members of any age and may be owned jointly with that immediate family member's spouse.

(3) For the purposes of 8-030.1B., an immediate family member who receives a division of land may not transfer or otherwise convey the division of land for up to two years after the date of the division unless City Council sets a period of less than two years, or City Council authorizes a variance from these

requirements to address hardship situations.

C. divisions by sale, gift, or agreement to buy or sell where the landowner enters into a covenant with the City Council that runs with the land and provides that the divided land will be used exclusively for agricultural purposes;

(1) In compliance with MCA 76-3-211, when an agricultural covenant exists and a change of use is requested for anything other than agricultural purposes, the division of land that received an exemption through 8-030.1C will be subject to subdivision review. However, the City Council, in its discretion, may revoke the covenant provided and the division may proceed without subdivision review if:

(a) The original lot lines are restored through aggregation of the covenanted land prior to or in conjunction with the revoking of the covenant; or

(b) A government or public entity seeks to use the land for public purposes as defined in the City Council's review criteria pursuant to 76-3-504(1)(p).

(2) In compliance with MCA 76-3-211, if the City Council proposes to revoke a covenant pursuant to subsection ~~(D)(2)(C)(1)(b)~~, a public hearing will be held. Within 15 business days of the hearing, the City Council shall issue written findings of fact and a decision based on the record. If the City Council approves the revoking of the covenant the approval must be recorded with the clerk and recorder.

(3) the revocation of a covenant pursuant to this section does not affect sanitary restrictions imposed under Title 76, chapter 4.

D. Aggregation of parcels when a Certificate of Survey shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original unplatted parcel continues to apply to those areas;

.2 Inside platted subdivisions;

A. ~~The relocation of common boundaries of five or fewer lots must be surveyed and an amended plat filed, but is exempt from subdivision review;~~

B. A division, redesign or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the City Council;

C. Aggregation of parcels or lots when a Certificate of Survey or subdivision plat shows that the boundaries of the original parcels lots have been eliminated and the boundaries of a larger aggregate parcel lot are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas;

D. Divisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family, if the division;

(1) Is within a subdivision that has been approved by City Council;

(2) Creates parcels of a size allowed within the subdivision; and

(3) An amended plat must be filed with the County Clerk and Recorder.

(4) For the purposes of 8-030.2D., an immediate family member includes family members of any age and may be owned jointly with that immediate family member's spouse.

.3 Between a lot within a subdivision and an adjoining tract outside a platted subdivision:

A. Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas;

~~.3 Restrictions: a division of land may not be made under this section unless the County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent;~~

Explanation:

- *Language is being amended to more closely match what is written in State law and help clarify the statement.*
- *Cross references to State law sections are being included for clarification, and an existing cross reference is being corrected.*
- *The section is updated to include changes made to Family Transfer law by SB158. Some language is being duplicated to cover exemptions both inside and outside a platted subdivision. Other language is being simplified for better understanding.*
- *Headings have been added and amended for clarification.*
- *Existing State law language not currently in our regulations was added for more clarity.*
- *Duplicate language found in another Article is being removed to help streamline the regulations.*

31.

8-040 Exemption Procedures for Exemptions Under 8-020 and 8-030

- .1** Any person seeking exemption from the requirements of the *Montana Subdivision and Platting Act*, ~~other than the six listed in 8-030,~~ under 8-020 and 8-030 must submit a completed and approved application submittal checklist, existing site layout, proposed site layout, complete the

~~exemption affidavit and sign the affidavit before a notary public, an appropriate exemption affidavit, which must be printed on the prior to submitting a Certificate of Survey, amended plat or deed for review by the City and/or recording by the County Clerk and Recorder if one is filed.~~

Explanation:

Amendments to this section help clarify what is required at submittal and reflect the requirement in SB131 that states an application must contain all materials and information required to complete the examination of the application.

~~.2 Any person seeking an exemption listed in 8-030 must request a determination of his or her entitlement to use the exemptions claimed prior to submitting a Certificate of Survey or deed for review and/or recording by submitting a completed affidavit and sketch of the proposed divisions to the designated review agent in Development Services.~~

~~.3 Types of Exemptions~~

~~A. Agriculture Exemption~~

~~A division made for lease or rental for farming or agricultural purposes or divisions made outside platted subdivisions by sale, gift, or agreement to buy and sell where the landowner enters into a covenant with the City Council and provides that the divided land will be used exclusively for agricultural purposes. Any change in use of the land from agricultural purposes subjects the land to subdivision review.~~

~~B. Family Transfer Exemption~~

~~A division made outside of platted subdivisions for the purpose of a single gift or sale in each county to each immediate family member including spouse, children, or parents.~~

~~C. Lot Aggregation~~

~~A division of land that redesigns, rearranges or aggregates multiple lots into fewer lots.~~

~~D. Relocation of Common Boundary Exemption~~

~~A division of lots that redesigns or rearranges lots within a platted subdivision but does not result in an increase in the total number of lots.~~

~~E. Security Interest Exemption~~

~~A division of land to provide security for mortgages, liens, or trust indentures.~~

Explanation:

These paragraphs are both part of the process and duplicate statements. They are being removed from here and being restated and included in other portions of section 8-040 to help clarify and streamline procedures.

32.

4.2 Procedure Application and Review

- A. ~~All~~ The use of an exemption under 8-020 and 8-030 require the submittal of the Application Submittal Checklist, affidavits, Existing and Proposed Site Layout Exhibits, surveys, deeds or other documents claiming entitlement to use an exemption ~~must be submitted first to the designated review agent in to~~ Development Services along with the fee;
- (1) Except for applications involving the exemption identified in 8-030.2B. or for applications that appear to involve evasion under subsection B, below, applications for a division or aggregation of land under 8-020 and 8-030, the City Council delegates to the director of CPDI the ability to approve such applications where they meet the applicable regulations. Such an approval decision must be made ~~within 20 working days upon receipt of an application containing all materials and information required by City Council.~~
- (2) If the Director of CPDI determines that the application either does not meet the applicable regulations or determines that the application appears to involve evasion under Subsection B, below, the Director shall make a preliminary denial decision within 20 working days upon receipt of an application containing all materials and information required by City Council, ~~and the application should be referred to City Council to make a final decision as quickly as possible.~~
- (3) The use of ~~the exemptions under any of the circumstances listed in 8-040.4E8-030.2B.~~ within a platted subdivision for a division, redesign or rearrangement of six or more lots ~~must be referred to the City Council for their determination on whether the use of exemptions is an evasion of the Subdivision Act; before an amended plat may be submitted to the City for review and approval prior to filing the plat with the County Clerk and Recorder.~~
- ~~B. All other circumstances must be certified on the affidavit as having been reviewed by the designated review agent and notice given to the applicant and the County Clerk and Recorder;~~
- ~~C. For exemptions referred to the City Council:~~
- ~~(1) The City Council must conduct a hearing to allow the claimant an opportunity to present evidence showing that he/she is entitled to claim exemptions from the requirements of the Subdivision Act;~~
- ~~(2) The City Council will notify the claimant of the date, time, and place of the hearing and may exercise its subpoena power to require the testimony or physical evidence in the possession of any person having knowledge of the proposed divisions, prior, or future divisions and transfers;~~

- ~~(3) The City Council will review the circumstances outlined in 8-040.4E and 8-040.4F surrounding the divisions and transactions, and must make written findings of fact and a determination that the claimant is or is not entitled to the exemption claimed, and must so notify the claimant and the County Clerk and Recorder;~~
- ~~(4) If the City Council determines that the claimant is not entitled to the exemption claimed and if the landowner proceeds to file the survey in question or to transfer title to or possession of tracts described by the survey, the City Council may direct the Director of CPDI to enforce the provisions of the Subdivision Act. Nothing stated herein prevents the Director of CPDI from taking any other appropriate action provided for in the Subdivision Act;~~
- ~~D. The use of exemptions under any of the following circumstances requires review and hearing before the City Council to provide the claimant an opportunity to prove his/her entitlement to use the exemptions:~~
 - ~~(1) General (applicable to all exemptions): For purposes of this part, "subsequent division" includes only those divisions made using the "family gift," exemptions:
 - ~~(a) Subsequent division of a tract created after July 1, 1974, in which more than one type of exemption is claimed by the same applicant or an applicant having a family or business relationship with another claimant;~~
 - ~~(b) Subsequent division of a tract created after July 1, 1974, in which the proposed division will be to a common road, sewer, or water system or subject to restrictive covenants with other tracts created by using exemptions and that are part of the same parent parcel;~~
 - ~~(c) Divisions of land where the land was included as part of a subdivision plat previously rejected;~~
 - ~~(d) The arrangement of the proposed divisions suggests an intention to create multiple lots;~~
 - ~~(e) The proposed division would permit a use of the land that is not in compliance with the Growth Policy, as determined by the following guidelines:
 - ~~i. If the location of the property can be precisely determined on the land use map accompanying the Growth Policy, the use will be in compliance so long as it is included in the activities designated by the plan for that area.~~
 - ~~ii. If, because of the small scale of the map, the location of the property is difficult to pinpoint exactly with regard to boundaries of the areas on the land use map accompanying the Growth Policy, the use~~~~~~

~~will be in compliance so long as it is included in the activities designated by the plan for any of the bordering areas.~~

~~iii. If the requested division is for a use different from the designation on the land use map, but the use would comply with the land use goals, objectives, or policies specified in the *Growth Policy*, the proposed use will be in compliance with the plan.~~

~~iv. Any other proposed use that may be found not to be in compliance with the *Growth Policy*.~~

Explanation:

- *Amendments will clarify what is required at the time of submittal based on current practice.*
- *SB 131 gives staff the ability to review and approve exemptions that meet the zoning and subdivision exemption regulations administratively within 20 working days.*
- *City Council review and approval will be required in the instance of an appearance of evasion or if a project results in the rearrangement of six or more lots. A decision to deny the exemption application will be made within the 20-day timeframe with a preliminary denial by staff prior to the City Council decision.*
- *The public hearing process is being removed and replaced by a simplified and consolidated process for City Council review because there is now a limit of 20 days for review and decision of exemptions, and staff is prohibited from approving an exemption with conditions of approval.*

33.

~~(2).3 Applicability and standards for the use of the following Sspecific exemptions (applicable for specific exemption claimed):~~

~~(a) Family gift or sale (family transfer:-~~

~~i. Use of a family transfer in combination with other exemptions by the same claimant regardless of when the other exemption was taken;~~

~~ii. Family transfers in which the parent purports to act as a guardian for a minor child without a trust instrument;~~

~~iii. Family transfers to grandchildren from a family member who received the same land as a gift from the grandchildren's parent; and~~

~~iv. Subsequent division using the family transfer exemption by a claimant who purchases from a~~

~~donee or donee's successor in interest of a tract created by family transfer exemption.~~

~~(b)(a)~~ Security interest (division created to provide security formortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes):

~~i. More than one security interest parcel created simultaneously by a claimant out of same the parent parcel or created in any time span from the same claimant's ownership;~~

~~ii. Financing is not for construction on the parcel created, or refinancing, or an existing structure;~~

~~iii. Document creating security interest allows title to be transferred to a third party upon foreclosure;~~

~~iv. Documents creating the security interest, or letter verifying financing, must be filed with the survey; and~~

~~v.i. If a security parcel was conveyed by the landowner to another party without foreclosure prior to October 1, 2003, the remainder parcel may be transferred to another party without foreclosure; and, ~~T~~the reference description created on a survey done for the security interest exemption may only be used by the security interest holder to transfer the parcel on foreclosure, unless another exemption is applied for and obtained.~~

~~(c) Agricultural leases and/or uses: More than one agricultural exemption per claimant's ownership, other than parcels leased to separate individuals.~~

~~(b) Boundary line relocations:~~

~~(d)i. For lots that have ~~fee simple access to frontage on~~ two (or fewer) public ~~roads~~ rights-of-way, rearrangement or redesign of lots ~~that results in~~ elimination of ~~shall not eliminate~~ an existing access or ~~reduction of~~ reduce an access to less than 5 feet in width.~~

~~E.B. Determination of Evasion: At the hearing City Council will determine whether an applicant is entitled on entitlement to the exemption, the City Council will and will consider all relevant circumstances in determining whether a subdivision plat review is required. Relevant circumstances may include:~~

~~(1) Any of the circumstances outlined in 8-040.4E(1);~~

~~(2)(1) Conveyances of property back to the sellers where exemptions were used by the buyers to divide the property;~~

~~(3) Divisions of land created by order of any court of record in the State of Montana or by operation of law or that, in the absence of an agreement between the parties to the sale, could be created by an order of any court in the State of Montana pursuant to the law of eminent domain, MCA Title 70, Chapter 30;~~

~~(4)~~(2) Divisions of land where the land was included as part of a subdivision plat previously rejected;

~~(3)~~ Simultaneous filing of similar surveys for contiguous tracts of land, where there is a relationship between the subdivider and the surveyor and between the subdivider and the other claimants and where the subdivider is the one originating the survey, or transactions;

~~(5)~~(4) Nature of claimant's business (i.e., whether claimant is in the business of dividing and selling land);

~~(6)~~(5) Prior history of the tract in question (i.e., whether this claimant is engaged in prior exempt transactions involving the tract);

~~(7)~~(6) Proposed configuration of the tract after the transaction is completed; and

~~(8)~~(7) The transaction is not substantial.

C. Conditions may not be imposed on the approval of a division of land reviewed under 8-020 and 8-030 except for conditions necessary to comply with survey requirements.

Explanation:

- *Non relevant regulations are being removed to better reflect SB 131.*
- *Process statements are being replaced with more detail based on requirements of SB 131.*
- *Language is being clarified, and duplicate language is being removed.*
- *SB 158 created new regulations for Family Transfer law, the current language will be replaced with new language covered earlier in the regulations.*
- *Non-relevant language will be removed, and a new subsection was created for clarity.*

34.

8-050 Review Procedure for Condominium or Townhome Exemption Development Proposals

.1 A condominium, townhome or conversion proposal, if constructed on land

subdivided in compliance with State law (MCA Title 76, Chapter 3, Parts 5 and 6) or on lots within incorporated cities and towns, is exempt from subdivision review if the proposal complies with one of the following:

- A. The approval of the original subdivision of land where the condominium or townhome proposal will be constructed expressly contemplated the construction of the condominiums or townhomes and included applicable park dedication as required by MCA 76-3-621; or
- B. The condominium or townhome proposal is in conformance with applicable local zoning regulations pertaining to land use, density, bulk and dimensional requirements, landscaping, and parking requirements when local zoning regulations are in effect.

.2 Condominium and townhome proposals exempt from subdivision review must be reviewed under the following procedures:

A. Preliminary Plan Review and Approval:

- (1) Condominium, townhome exemption development, and conversion proposals must be submitted as a Zoning Compliance Permit application for review and approval by Development Services.
- (2) Condominium, townhome, and conversion proposals must comply with Missoula Municipal Zoning Regulations and procedures (Title 20, Section 20.40.180) in order to receive approval.

Commentary: Missoula's zoning regulations contain provisions for nonconformities, which are parcels, uses, and structures that were lawfully established, but because of annexation or the adoption of new or amended regulations, no longer comply with one or more requirements of this zoning ordinance. A condominium or townhome proposal determined non-conforming under these provisions (MMC 20.80) shall be deemed in conformance with applicable local zoning regulations for the purpose of exemption from subdivision review under this section.

(3) Development Services staff shall approve or deny the Zoning Compliance Permit for a condominium, townhome, or conversion proposal within 20 working days of the receipt of a complete application. A complete application contains all materials and information necessary to determine compliance with the provisions of this chapter and the City of Missoula Zoning Regulations.

(4) Development Services staff shall not impose conditions of approval on a condominium, townhome, or conversion proposal.

B. Declaration Review and Approval

(1) If a condominium, townhome exemption development, or conversion proposal meets the criteria in 8-040.2 and has received preliminary plan approval from Development Services, the owner of the parcel must file a Declaration of Condominium or Townhome Unit Ownership with the County Clerk and Recorder's Office.

(2) Prior to recording, Development Services staff shall review the declaration for compliance with the preliminary plans approved with the Zoning Compliance Permit.

Explanation:

Townhome exemption developments (TEDs) and condominiums are exemptions to subdivision listed under MCA 76-3-203. Montana SB 331 amended MCA regulations regarding TEDs and condominiums by specifying which zoning requirements may apply to these exemptions. Additionally, SB 331 prohibits the City from conditioning approvals of TED and condominium exemptions and enacted a 20-working day deadline for staff to approve or deny the application. The section describing TED and condominium exemptions was located in Article 4 of the subdivision regulations. With this ordinance, staff proposes moving the language to Article 8 which describes all exemptions to subdivision. The original language from Article 4 was amended to comply with SB 331, to clarify requirements and process, and includes a cross reference to Title 20 Zoning Code.

35.

~~**8-050 — Certificates of Survey**~~

~~A Certificate of Survey may not be filed by the County Clerk and Recorder unless it complies with the following requirements:~~

- ~~.1 — Certificate of Survey must be drafted to standards that assure acceptable micro-filming quality and must be drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches overall to include a 1.5-inch margin on the binding side;~~
- ~~.2 — Each sheet must show the number of that sheet and the total number of sheets included. All certifications must be shown or referenced on one sheet;~~
- ~~.3 — The Certificate of Survey must show or contain on its face or on separate sheets referenced on its face the following information only:
 - ~~A. — A location box including the quarter section, section, township, range, principal meridian and county of the surveyed land must be shown in lower right portion. Space in the lower right hand corner must be provided on the Certificate of Survey for the clerk and recorder's filing information. A Certificate of Survey may not bear the title "plat," "subdivision," or any title other than "Certificate of Survey."~~
 - ~~B. — Names of the owners of the land surveyed and the names of any adjoining certificates of survey previously recorded and ties thereto;~~
 - ~~C. — Date survey was completed and a purpose of survey quoting appropriate exemption must be shown in lower right hand corner above filing information;~~
 - ~~D. — North point;~~
 - ~~E. — Scale bar (scale must be sufficient to legibly represent the required data on the Certificate of Survey submitted for filing);~~
 - ~~F. — All monuments found, set, reset, replaced, or removed describing their kind, size, location and giving other data related thereto and must be tied in by bearing and distance;~~~~

- ~~G.~~ The location of any corners of sections or divisions of sections pertinent to the survey and must be tied in by bearing and distance;
 - ~~H.~~ Witness monuments, basis of bearing, bearings and length of lines;
 - ~~I.~~ The bearings, distances and curve data of all perimeter boundary lines must be indicated. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse must be given;
 - ~~J.~~ Data on all curves sufficient to enable the re-establishment of the curves on the ground. This data must include:
 - ~~(1)~~ Radius of curve;
 - ~~(2)~~ Arc length; and
 - ~~(3)~~ Notation of non-tangent curves;
 - ~~K.~~ Lengths of all lines shown to at least tenths of a foot and all angles and bearings shown to at least the nearest minute;
 - ~~L.~~ A legal description of the perimeter boundary of the tract surveyed;
 - ~~M.~~ All parcels created by the survey, designated by a number or letter, and the dimensions and area of each parcel. (Excepted parcels must be marked "Not included in this survey.")
 - ~~N.~~ The signature and seal of the registered land surveyor responsible for the survey. The affixing of his seal constitutes a certification by the surveyor that the Certificate of Survey has been prepared in conformance with the Subdivision Act (MCA sections 76-3-101 through 76-3-614) and the regulations adopted pursuant thereto; and
 - ~~O.~~ Memorandum of oaths administered pursuant to MCA section 76-3-405.
- ~~4.~~ Procedures for divisions of land exempted from public review as subdivision. Certificates of Survey for divisions of land meeting the criteria set out in MCA section 76-3-207, must meet the following requirements:
- ~~A.~~ Certificates of Survey of a division of land that would otherwise be a subdivision but that is exempted from public review under MCA section 76-3-207 may not be filed by the County Clerk and Recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision and citing the applicable exemption;
 - ~~B.~~ Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the Certificate of Survey may not be filed unless it bears a signed and acknowledged copy of the covenant;
 - ~~C.~~ For an exemption as a gift or sale to a member of the immediate family, the Certificate of Survey must also indicate the name of the grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee; and

~~D. For an exemption as a relocation of a common boundary line, the Certificate of Survey must bear the signatures of all landowners whose parcels are changed by the relocation. The Certificate of Survey must show that the exemption was used only to change the location of a boundary line dividing parcels, and must clearly distinguish the prior boundary location (shown, for example, by a solid line or notation).~~

~~.5 Procedures for filing Certificates of Survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in MCA sections 76-3-201, 76-3-105, and 76-3-209, are not required to be surveyed nor must a Certificate of Survey or subdivision plat thereof be filed with the County Clerk and Recorder. A Certificate of Survey of such a division may, however, be filed with the clerk if it meets the requirements for form and content for certificates contained in this section and bears a certificate of the surveyor performing the survey stating the applicable exemption from the Subdivision Act.~~

Explanation:

The language in this section, Certificates of Survey, may not reflect current requirements of the County Surveyor and County Clerk and Recorder. This language was removed because the City can't specify what the County Surveyor and County Clerk and Recorder require for filing of a Certificate of Survey. Section 8-050 is being replaced by the Townhome Exemption and Condominium procedures from Article 4.