



# Subdivision Amendments: 2023 State Legislation

Land Use and Planning

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## Overview

- Background
- Project Goal
- Brief introduction to bills, and other amendments
- Review of amendments
- Recommended Motion

## Background

- Subdivision regulations are driven by State Law
- Last update to Subdivision regulations based on State Law was 2022.
- Amendments are narrowly focused
- Amendments are a part of Phase I - Our Missoula update

## Project Goal

Incorporate the 2023 State law legislative changes into our local regulations helping to create an updated base for the Code Reform project.

## 2023 Bills

- **HB 211:** Revises Subsequent hearings, Phased subdivisions, Expedited review
- **SB 131:** Provides a review time for exempt subdivisions and prohibits conditions
- **SB 152:** Revises the date used to determine a first minor
- **SB 158:** Exempts Family Transfers under certain conditions
- **SB 170:** Provides an administrative process for minor subdivision
- **SB 331:** Provides an exemption process for certain Condominium/Townhouse projects

## **Non-Legislative proposed changes will:**

- Move the review procedures for condominium and townhouse proposals from Article 4 to Article 8, Exempt Land Divisions;
- Include State law language that were not included during our update in 2022;
- Correct formatting issues;
- Correct cross references; and,
- Make Article 8, Exempt Land Divisions, more usable and understandable.

## Work within:

Article 1 – Introductory Provisions: Violations

Article 2 – Definitions: Subdivision

Article 4 – Review & Approval Procedures: several sections

Article 5 – Submittal Requirements: several sections

Article 8 – Exempt Land Divisions: Family Transfers and  
Subdivision Exemption Affidavits (SEA)

## Amendments HB 211

### **HB 211:** Revises Subsequent hearings, Phased subdivisions, Expedited review

- Subsequent hearings
  - New information
  
- Phased Subdivision
  - Public hearing
  - Timing for request
  - Conditions
  
- Expedited Review
  - With a variance
  - Extended review time

## Amendments HB 211

### 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.

## 4-030 Major Subdivision Review Procedure

## Amendments HB 211

### .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.

## 4-030 Major Subdivision Review Procedure

## Amendments HB 211

### 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.

## 4-030 Major Subdivision Review Procedure

### .7 Amended Application for Major Subdivision

## Amendments HB 211

- (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.

## Amendments HB 211

### 4-030 Major Subdivision Review Procedure

#### ~~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.

## Amendments HB 211

### 4-051 Expedited Review Procedure

#### .1 Applicability

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

- (1) Is within the Missoula city limits;
- ~~(1)~~(2) Will be served by City water and sewer services
- ~~(2)~~(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) Includes plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

## Amendments HB 211

### 4-051 Expedited Review Procedure

#### .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.

## Amendments HB 211

### 4-051 Expedited Review Procedure

#### .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 preliminary plat application is sufficient.~~

## Amendments HB 211

### 4-051 Expedited Review Procedure

#### .4 City Council decision and documentation

##### STEPS REQUIRED FOR EXPEDITED REVIEW PROCEDURE

Step 1	Pre-application meeting between subdivider and CPDI staff.	
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 business days</u>
Step 6	City Council – public hearing.	<u>with a request for variance.</u>
Step 7	LUP – post public hearing discussion.	
Step 8	City Council – Final Consideration.	<u>s</u> Statutory limit. MCA76-3-623604.

## Amendments HB 211

### 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.

## Amendments HB 211

### 4-070 Preliminary and Final Plats

~~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:

## Amendments HB 211

### 4-070 Preliminary and Final Plats

#### GD. 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.

## Amendments HB 211

### 5-020 Subdivision Application Form and Preliminary Plat Supplements

#### .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)(e)).

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.

## Amendments SB 152

**SB 152:** Revises the date used to determine a first minor to October 1, 2003

## Amendments SB 152

### 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.

## Amendments SB 158

**SB 158:** Exempts Family Transfers under certain conditions

## Amendments SB 158

### Article I Introductory Provisions

#### I-110 Violations

Except as provided in 76-3-207, 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.

## Amendments SB 170

**SB 170:** Provides an administrative process for minor subdivision

## Amendments SB 170

### Article 2. Definitions 2-020 Definitions

#### Access

##### 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.

## Article 2. Definitions

## Amendments SB 170

### .117 Subdivision Types

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

#### A. Major Subdivision

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

#### B. 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.C. 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.D. Urban-Suburban Subdivision

#### F.E. Mobile Home Community and Recreational Vehicle Park Subdivisions

## Amendments SB 170

### 4-020 Minor Subdivision Review Procedure

#### .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

## Amendments SB 170

### 4-021 Administrative Minor Subdivision Review Procedure

#### .1 Applicability

#### .2 Exemptions to Administrative Minor Subdivision Application Requirements

#### .3 Process

#### .4 Appeal

## 4-021 Administrative Minor Subdivision Review Procedure

## Amendments SB 170

### **.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.

## 4-021 Administrative Minor Subdivision Review Procedure

## Amendments SB 170

### .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.

## 5-020 Subdivision Application Form and Preliminary Plat Supplements

### Amendments SB 170

- .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**

## Amendments SB 170

### 5-020 Subdivision Application Form and Preliminary Plat Supplements

#### .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:

## Amendments SB 131, SB 158 & SB 331 (Article 8)

**SB 131:** Provides a review time for exempt subdivisions and prohibits conditions

- Within 20 working days of sufficiency
- No conditions except to comply with State Law

**SB 158:** Exempts Family Transfers under certain conditions

- Exempted within platted subdivision
- Minimum 5 acres outside platted subdivision, unless....
- Transfers no matter the age of recipient
- Can be owned jointly with spouse

**SB 331:** Provides an exemption process for certain Condominium/Townhouse projects

- Exempted when in conformance with zoning
- Determination on exemption within 20 working days
- Cannot be prohibited
- Cannot be conditioned, or go through conditional use

## Amendments SB 131, SB 158 & SB 331 (Article 8)

### 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](#).

## Amendments SB 131, SB 158 & SB 331 (Article 8)

### 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;

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

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.~~

## Amendments SB 131, SB 158 & SB 331 (Article 8)

### 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 boundaries ~~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.

# Subdivision Regulations: State Law Changes



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

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 \_\_\_\_\_
- (b) A government or public entity seeks to .....

(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;

**Amendments  
SB 131, SB 158  
& SB 331  
(Article 8)**

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

### .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.

**Amendments**  
**SB 131, SB 158**  
**& SB 331**  
**(Article 8)**

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

.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;~~

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

~~.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~~

~~B. Family Transfer Exemption~~

~~C. Lot Aggregation~~

~~D. Relocation of Common Boundary Exemption~~

~~E. Security Interest Exemption~~

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

#### 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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

#### 4.2 Procedure Application and Review

- (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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

~~(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.~~

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

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

~~(b)~~(a) Security interest (division created to provide security for mortgages, 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 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.

**Amendments**  
**SB 131, SB 158**  
**& SB 331**  
**(Article 8)**

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

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

~~(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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

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

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;

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

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

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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

### 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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

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

A. Preliminary Plan Review and 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.

## Amendments SB 131, SB 158 & SB 331 (Article 8)

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

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

#### 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.

## Amendments SB 331

### 2-020 Definitions

#### .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.

## Amendments SB 161

2021 legislature

### 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. ~~T~~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.

## Comments

Agency comment – None

Public comment – Two

- Not related to legislative changes

## Timeline

Month	Process Step
<b>Before August</b>	Reviewing Bills, drafting amendments, integrating into existing regulation format
<b>August</b>	Agency and Public Comment (EngageMissoula.com)
<b>September 19</b>	Planning Board Public Hearing
<b>September 27</b>	Land Use and Planning Overview
<b>September 28</b>	Community Forum
<b>October 16</b>	City Council Public Hearing & Final Consideration

## ?? Questions ??



Subdivision & Zoning Amendments: 2023 State Legislations

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