

ORDINANCE NO 741

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA, AMENDING PORTIONS OF TITLE 17 OF THE COLUMBIA FALLS MUNICIPAL CODE.

WHEREAS, the City Council believes that certain changes are necessary for the purposes of updating and clarifying portions of Title 17 of the Columbia Falls Municipal Code;

WHEREAS, the City Council believes that certain amendments to Title 17 of the Columbia Falls Municipal Code are necessary to promote the health, general welfare, safety and/or morals of the citizens of Columbia Falls;

WHEREAS, said amendments were considered by the Columbia Falls City-County Planning Board in at its regularly scheduled meeting on October 15, 2013, and the Board recommended approval of said amendments;

WHEREAS, a hearing on said amendments was held by the City Council of the City of Columbia Falls, Montana, at its regular meeting on Monday, November 4, 2013, after said hearing was advertised according to law; and at said hearing on said date, the City Council considered the recommendation of the Columbia Falls City-County Planning Board, together with any and all comments filed or voiced with respect to said changes; and

WHEREAS, the City Council has determined that the amendments are in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA AS FOLLOWS:

Section One. Findings of Fact: That the City of Columbia Falls Planning Department's report is hereby adopted by the Council as findings of fact with respect to said amendments.

Section Two. Sections Amended: That portions of Title 17 of the Columbia Falls Municipal Code are hereby amended as set forth on Exhibit "A" attached hereto.

Section Three. Inconsistent Provisions: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section Four. Severability: The provisions of this Ordinance are severable. If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision.

Section Five. Effective Date: This Ordinance shall become effective thirty (30) days after its final passage and approval by the City Council of the City of Columbia Falls, Montana.

PASSED AND APPROVED BY THE CITY COUNCIL OF COLUMBIA FALLS, MONTANA THIS 2nd DAY OF DECEMBER, 2013, THE COUNCIL VOTING AS FOLLOWS:

AYES: Shepard, Karper, Petersen, Plevel and Barnhart

NOES: None

ABSENT: Bates and Fisher

City Clerk

APPROVED BY THE MAYOR OF COLUMBIA FALLS, MONTANA THIS 2nd DAY OF DECEMBER, 2013.

Mayor

ATTEST:

City Clerk

17.12.030 Application and review process.

A. The subdivision application and review process involves four parts:

1. Preapplication conference;
2. Application submittal;
3. Preliminary plat review and action;
4. Final plat review and action.

B. Application Process.

1. Application Submittal. The subdivider shall submit a complete application to the planning office containing the following:

- a. Preliminary plat application (form available at the planning office);
- b. Copies of the preliminary plat and supplemental information required in Appendix A and the application;
- c. Application fee as established by the city.

2. Determination of Completeness.

a. Upon receipt of the submitted documents and review fee, the application shall be received and date stamped showing the working day it arrived.

b. Within five working days of the receipt, the planning office shall determine whether the application contains all of the required materials.

i. If the application is complete, the subdivider shall be notified of the determination of completeness.

ii. If the submitted documents and information are found to be incomplete or insufficient, the applicant shall be notified of the deficiencies and informed that the application will not be formally accepted for processing until the missing items are submitted. Upon resubmittal of the application the determination timeline is five working days after the receipt date. This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision prescribed herein.

3. Determination of Sufficiency.

a. Within fifteen working days after giving the subdivider notice of determination of completeness, the planning office shall determine whether the application and required elements contain sufficient detail and supporting information to allow for review of the proposed subdivision.

i. If the application is determined to contain sufficient information for review, the planning office shall notify the subdivider of the determination of sufficiency.

ii. If the application information is determined not sufficient for review, the planning office shall notify the subdivider that the application is not sufficient and identify the information that is insufficient. Upon resubmittal of the application the process returns to a determination of completeness and the timeline begins anew.

b. A determination that an application contains sufficient information for review as provided in this subsection does not ensure that the proposed subdivision will be approved or conditionally approved by the city council and does not limit the ability of the planning director, planning board, or the city council to request additional information during the review process.

c. A determination of sufficiency by the planning director pursuant to this subsection does not limit other agencies having authority, from requiring additional information.

C. Review Process. The review process depends on the subdivision type; see the appropriate section for major or minor subdivision. (Ord. 701 § 2(part), 2008; Ord. 668 § 1(part), 2005)

APPENDIX A CONTENTS OF PRELIMINARY PLAT

I. CONTENTS OF THE PRELIMINARY PLAT:

The preliminary plat may be comprised of one (1) or more sheets. Each sheet shall be either 18" x 24" or 24" x 36" in size and shall be drawn to a scale not less than 200 feet to an inch. The following information shall be shown on the face of the preliminary plat:

A. Name and location of the subdivision, scale and north point;

B. Location of all section corners or subdivision corners pertinent to the subdivision boundary;

C. Exterior boundaries of the tract to be subdivided including bearings and distances sufficient to locate the exact area proposed for subdivision;

D. All lots and blocks designated by numbers, approximate dimensions scaled to the nearest foot, and the area of each lot estimated to the nearest 0.1 acre;

E. Ground contours for the tract in accordance to the following requirements:

Where the Average Slope of the Entire Site Is	Contour Intervals for the Entire Plat Shall Be
Under 10%	Two (2) feet
10%--15%	Five (5) feet
Over 15%	Ten (10) feet

If a uniform contour interval is not practical, the contour interval may be changed for steep areas, if such a change is clearly identifiable through shading or other appropriate graphic technique;

F. All existing and adjoining streets and alleys, avenues, roads and highway, and width of the right-of-way with existing and proposed street names and access points from the nearest public roads;

G. Any existing and proposed utilities, utility easements and

right-of-way easements located or proposed to be located on or adjacent to the tract, including description of their width and purpose;

H. Location, boundaries, dimensions and areas of any parks or areas dedicated for common or public use;

I. Location and size of existing buildings, structures and improvements, if to be retained;

J. Designated one hundred year (100-year) floodway and/or floodplain area, if any;

K. Location and size of all natural and environmental features on the site including rivers, streams, springs, ponds, and lakes.

L. For each lot show:

1. A typical building pad (measuring a minimum 40 foot square) on land suitable for subdivision. If the pad is wholly or partially within an area considered unsuitable for subdivision and the concern is slopes then show these areas a two (2) foot contour interval.

2. A 10 foot wide private drive if the developed slope will equal or exceed 10% at any point. Show these areas at two (2) foot contour interval.

3. Any building pad which exceeds 25% in cross slope shall be required to receive a favorable report and comply with the recommendations of a geotechnical soils analysis conducted by a licensed engineer prior to final plat approval.

4. Any lot failing to comply with standards 1 and 2 is considered unsuitable for a building site.

II. SUPPLEMENTS TO THE PRELIMINARY PLAT:

A. VICINITY MAP(S):

One or more vicinity map(s) showing:

1. Ingress and egress to the subdivision from the adjoining or nearest public roads;

2. Any rivers, streams or creeks adjoining or in the vicinity of the proposed subdivision;

3. All tracts, lots or land parcels adjoining the proposed subdivision together with the name and address of the owner of each tract, lot or land parcel verified by the County Clerk and Recorder or a title company. Where the subdivision abuts a public right-of-way, or water course less than 150 feet in width, the properties across such right-of-way or water course shall be considered as adjacent.

4. Names of any adjoining platted subdivisions and/or numbers of adjoining Certificates of Survey on record in the Office of the Clerk and Recorder.

5. Location of any buildings, railroads, power lines, towers, roads, and other land uses.

6. Any existing or proposed zoning.

B. COVENANTS:

Any proposed covenants and restrictions to be included in Deed or Contract for Sale. If common property and/or facilities within

the subdivision is to be maintained by an association of the property owners, the subdivider shall submit a draft of covenants and restrictions which will govern the association. These covenants and restrictions shall, at a minimum, provide that:

1. The property owners association will be formed prior to sale of any lots within the subdivision;

2. Membership is mandatory for all property owners in the subdivision;

3. The association is responsible for any liability insurance, payment of taxes on common property and maintenance of common use areas and facilities;

4. Any amendment to the covenants shall be done only with the approval of the city council.

C. ENVIRONMENTAL ASSESSMENT:

An environmental assessment report shall accompany the preliminary plat, unless exempted.

The requirement for submittal of the "environmental assessment" shall be waived when the proposed subdivision is totally within an area covered by all of the following:

1. An adopted Growth Policy;

2. Zoning regulations;

3. A strategy for development, maintenance, and replacement of public infrastructure.

The requirement for submittal of the "environmental assessment" shall be waived when the proposed subdivision is the first minor subdivision created from a tract of record;

The Planning Board may exempt the subdivider from the completion of all or any portion of the environment assessment in an area for which a Growth Policy has been adopted, and the proposed subdivision is in conformance with the Policy, or if the subdivision contains fewer than ten (10) parcels and less than 20 acres. When such an exemption is granted, the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of the statement shall accompany the preliminary plat of the subdivision when it is submitted for review.

Appendix "B" of these Regulations provides the format for the considerations and criteria to be address in the environmental assessment.

D. PHASED PROJECTS:

The applicant, as part of the preliminary plat approval, may propose to delineate on the preliminary plat two or more final plat filing phases and establish the schedules of the preliminary plat review and approval.

1. Each phase must be free-standing, that is, fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time.

2. A phasing plan must be submitted which includes:

a. A preliminary plat that clearly numbers and shows each

individual phase,

b. A time frame for the development of each phase,

c. A street and utility extension plan for each phase. Said plan is premised on the understanding that each phase is intended to be free standing on its own merits should additional phases not occur.

(1) As such, certain streets and utility extensions may be required to be extended beyond a particular phase for safety and service purposes.

(2) Temporary dead end streets are not allowed. Where a street temporarily dead ends, a temporary cul-de-sac may be required. If said street exceeds cul-de-sac standards for length or is critical to the traffic flow of the area, it may be required to be extended beyond the immediate phase.

III. REVIEW OF NEW WATER SUPPLY OR WASTEWATER FACILITIES

Montana Code Annotated (MCA) 76-3-622 requires the subdivider to provide specific information if the subdivision application proposes a new water supply or wastewater facility unless the subdivision meets the exception listed in part III-B below.

A. REQUIRED SUBMITTAL FOR NEW FACILITIES

The subdivider shall submit to the governing body the information listed in this section for proposed subdivisions that will include new water supply or wastewater facilities. The information must include:

1. a vicinity map or plan that shows:

a. the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:

(1) flood plains;

(2) surface water features;

(3) springs;

(4) irrigation ditches;

(5) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems;

(6) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and

(7) the representative drainfield site used for the soil profile description as required under subsection (1)(d); and

b. the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;

2. a description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the department of environmental quality;

3. a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the department of

environmental quality pursuant to 76-4-104;

4. evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:

a. a soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;

b. demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and

c. in cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);

5. for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:

a. obtained from well logs or testing of onsite or nearby wells;

b. obtained from information contained in published hydrogeological reports; or

c. as otherwise specified by rules adopted by the department of environmental quality pursuant to 76-4-104;

6. evidence of sufficient water quality in accordance with rules adopted by the department of environmental quality pursuant to 76-4-104;

7. a preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

8. If the water and wastewater treatment systems are shared, multi user, or public, a statement of whether the systems will be public utilities as defined in 69-3-101, MCA and subject to the jurisdiction of the public service commission or exempt from public service commission jurisdiction and if exempt, an explanation for the exemption.

B. EXEMPTION FROM REQUIRED SUBMITTAL FOR NEW FACILITIES

In accordance with MCA 76-3-622 (2); a subdivider whose land division is excluded from review under 76-4-125(2) is not

required to submit the information required in Appendix A. III A above.

76-4-125(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201 and 76-3-204;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system that was constructed prior to April 29, 1993, and, if required when installed, was approved pursuant to local regulations or this chapter.

76-3-201. Exemption for certain divisions of land -- fees for examination of division. (1) Unless the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter may not apply to any division of land that:

(a) is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, chapter 30;

(b) subject to subsection (3), is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes;

(c) creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;

(d) creates cemetery lots;

(e) is created by the reservation of a life estate;

(f) is created by lease or rental for farming and agricultural

purposes;

(g) is in a location over which the state does not have jurisdiction; or

(h) is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter.

(2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division.

(3) An exemption under subsection (1)(b) applies:

(a) to a division of land of any size;

(b) if the land that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. A transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection (3)(b) subjects the division of land to the requirements of this chapter.

(c) to a parcel that is created to provide security as provided in subsection (1)(b). The remainder of the tract of land is subject to the provisions of this chapter if applicable.

(4) The governing body may examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination.

76-3-204. Exemption for conveyances of one or more parts of a structure or improvement. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land, as that term is defined in this chapter, and is not subject to the requirements of this chapter.