

SUBDIVISION REGULATIONS: WHAT LOCAL LEADERS NEED TO KNOW



MONTANA CODE ANNOTATED

Title 76. Land Resources and Use

Chapter 3. Local Regulations

Chapter 4. State Sanitation
Regulation

LOCAL REGULATION OF SUBDIVISIONS

Subdivision regulations regulate the process of creating and designing new lots for residential, commercial, and industrial uses; ensuring adequate access, water and sewer connections, roads, local services, etc. These regulations are required to be adopted by every municipality and county.

There are **two types of subdivisions**:

- Major subdivisions (6 or more lots)
- Minor subdivisions (5 or less lots)
 - Minor subdivisions (determined by record of previous subdivisions/exemptions), can be classified as “subsequent minors” reviewed as minor or major depending upon the regulations adopted by the council.

The **subdivision review process varies** depending on the type of subdivision. Review timelines, notice requirements, and whether a public hearing is required can differ.

- In communities with zoning and public water and sewer systems, some subdivisions may qualify for an **expedited or administrative review process**.
- When reviewing a preliminary plat application, the **governing body acts in a quasi-judicial role**. This means officials must apply existing laws and regulations to a specific proposal, property, and set of facts, similar to how a judge applies the law to a case.

ROLES & RESPONSIBILITIES OF THE GOVERNING BODY

- **Written decision required:** The governing body must issue written findings and a written decision for every subdivision application.
- **Conditions (mitigation) may be required:** To address identified impacts, the governing body may require improvements such as:
 - Streets and roads
 - Water, sewer, and stormwater infrastructure
 - Parkland dedication or cash-in-lieu
 - Floodplain, wildlife, or wildfire mitigation
- **Conditions must be supported by the record:** Any required mitigation must be based on the full review record, including the application, subdivision regulations, staff reports, agency comments, and public input.
- **All conditions must be imposed at preliminary plat approval.**
- **Additional conditions cannot be added after preliminary plat approval is granted.**