[To be included in the "Preface" of the Growth Policy between "Format of Document" (Part 2) and "History of Land Use and Growth in Flathead County" (now Part 4)].

PART 3: User's Manual

The Growth Policy is a comprehensive planning document that applies to all of Flathead County, excepting the incorporated cities of Kalispell, Whitefish and Columbia Falls and their respective inter-local agreement areas. The document was developed in conformance with statutory requirements set forth under Title 76, Chapter 1, Part 6 of the Montana Code Annotated (M.C.A.). Like any comprehensive plan, the Growth Policy is a living document that provides a tangible representation of what Flathead County is like today, and what the County wishes to be like in the future. As such, the Growth Policy is *not* a regulatory document (pursuant to Section 76-1-605). It does, however, provide a foundation upon which future regulations may be based.

The intent of this User's Manual is to help readers of the Flathead County Growth Policy better understand what the comprehensive planning document can and cannot do, and its relationship to other non-regulatory plans and regulations. A comprehensive plan gives overall guidance and provides a method for achieving an end.[1] Plans such as this are inherently non-regulatory; as a stand-alone document, a plan has no authority to restrict land use or permit development. A comprehensive `plan provides the groundwork upon which regulations may be based. Regulatory documents such as the County's Subdivision or Zoning Regulations must be created in accordance with the Growth Policy[2], and serve as a means of implementing specific goals, policies and concepts introduced by the comprehensive plan. These and other regulatory documents are identified as regulatory implementation methods in Appendix C, Part 2 of the Growth Policy. These documents have not been adopted as part of the Growth Policy, but are separate regulatory entities administered by the County.

Picture the Growth Policy as an "umbrella" document providing guidance to all other plans and regulations administered by the County. The following diagram provides a visual representation of the Growth Policy's relationship to both regulatory and non-regulatory documents administered throughout Flathead County. Items shaded **green** or **tan** are **non-regulatory** planning documents; items shaded **blue** are **regulatory**. Dotted lines indicate regulatory documents established under alternate provisions of the M.C.A. but that also implement specific goals, policies and text found within the Growth Policy document.

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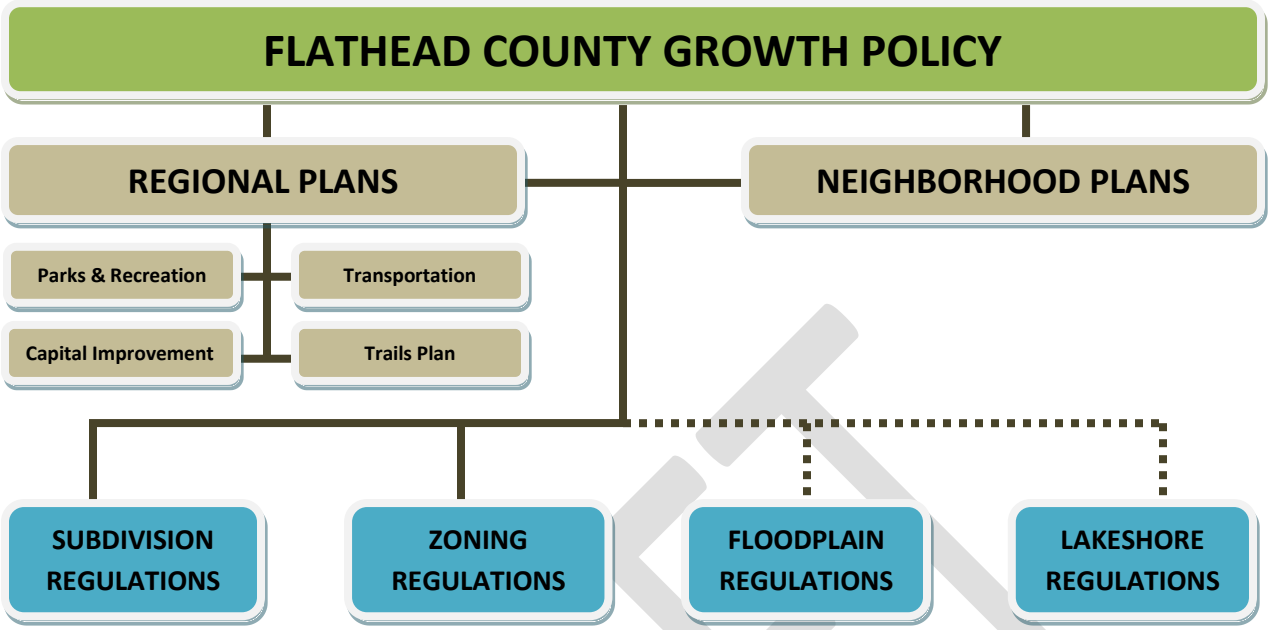
[1] Merriam-Webster Dictionary; http://www.merriam-webster.com/dictionary/plan

[2] M.C.A. Section(s) 76-1-605(c) and 76-1-606



Two non-regulatory extensions of the Growth Policy "umbrella" identified above are regional and neighborhood plans. In Flathead County, regional plans tend to focus on a specific planning issue, such as parks or transportation, providing a higher level of analysis and guidance for future land use and development decisions based on the particular topic. Neighborhood plans look at smaller geographical areas within the County, allowing community members to develop a more detailed vision for their neighborhood based upon the broader principles identified within the Growth Policy. Neighborhood plans are addressed specifically under Chapter 10 of the Growth Policy; regional plans are discussed throughout the document as appropriate and identified in Appendix C, Part 2 as non-regulatory implementation methods.

As previously stated, the Growth Policy as a stand-alone document is *non-regulatory* and does not confer any authority to regulate that is not otherwise specifically authorized by law or by regulations that have been adopted pursuant to the law [M.C.A. Section 76-1-605(2)(a) and (b)]. The Growth Policy guides how regulatory documents are created and/or updated[3] but cannot serve as the sole basis upon which to approve or deny a land use application. This approach has been established through case law[4], a review of which indicates a County would be better served by giving due consideration to the Growth Policy, but cannot deny an application based solely on an application's inability to comply with the document. Most land use applications submitted to the Flathead County Planning and Zoning Office are therefore reviewed for their compliance with the Growth Policy using the following regulations:

[3] M.C.A. Section(s) 76-1-605(c) and 76-1-606

[4] Little v. Board of County Commissioners (1981), 193 Mont. 334, 631 P.2d 1282

Flathead County Subdivision Regulations

Subdivision regulations adopted pursuant to Title 76, Chapter 3 must be made in accordance with the Growth Policy [per Section 76-1-606 M.C.A]. The current Flathead County Subdivision Regulations have been adopted under this provision, in conformance with the Growth Policy. The regulations are intended to provide standards and procedures for the review of subdivision and other land division applications within the County. All subdivision applications are reviewed for their general conformance with goals and policies identified in the Growth Policy, pursuant to Section 76-3-504(q)(ii) and for informational purposes only. Since the subdivision regulations themselves are an implementation of the goals and policies established by the document, if a proposed development complies with the review criteria and provisions of the subdivision regulations themselves, it is inherently compliant with the Growth Policy. This ensures proponents or opponents of a proposed development cannot rely solely upon those goals and policies that support their position in the review.

Flathead County Zoning Regulations

The creation of new zoning districts, as well as amendments to existing zoning maps or text, requires compliance with the Growth Policy and/or applicable neighborhood plans. Section 76-2-203(1)(a) M.C.A. specifically states that zoning regulations *must* be made in accordance with the growth policy, as part of the required review criteria for any zoning request. The Growth Policy provides the foundation upon which zoning can be based, pursuant to Section 76-2-201 M.C.A.; in addition to goals and policies made for the purpose of promoting public health, safety, morals and general welfare, the Growth Policy designates appropriate land uses for areas of the County, upon which new zoning (or amendments to existing zoning) can be based.

Flathead County Floodplain Regulations

The County Floodplain Regulations specifically apply to areas of the County within the special flood hazard areas identified by the FEMA Flood Insurance Rate Maps (FIRMs). Much like the subdivision or zoning regulations, the floodplain regulations are an implementation tool identified within Appendix C of the Growth Policy. However, the regulations were passed by Resolution No. 522 in 1984, to comply with the provisions of Title 76, Chapter 5 regarding the Montana Flood Plain and Floodway Management Act. The administration of floodplain regulations ensures the County meets the requirements for continued participation in the National Flood Insurance Program (NFIP). Participation in the NFIP allows residents of Flathead County to obtain flood insurance; without these regulations, Flathead County would no longer be eligible to participate in the program, thus limiting residents' ability to insure their properties – a requirement of many home loans. While mandated by a separate chapter of M.C.A. from that which regulates land use, this document is linked to the Growth Policy because of the Growth Policy's consideration of and specific goals and policies related to floodplain, water quality and the natural riparian resources available to the residents of Flathead County.

Flathead County Lake & Lakeshore Protection Regulations

Although not specified as a component of Title 76 M.C.A., the Lake and Lakeshore Protection Regulations are identified within the Flathead County Growth Policy as an implementation tool, serving to promote public health and safety, maintain water quality and preserve public water bodies and natural resources available the citizens of Flathead County. This document was originally adopted under the authority of Section 75-7-207 M.C.A. on April 13th, 1982 and regulates development activities within twenty (20) horizontal feet of the perimeter of designated lakes (known as the Lakeshore Protection Zone), as well as activities occurring within water bodies having a minimum surface area of twenty (20) acres at least six (6) months out of the year.

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