

The property I'm listing is outside the city limits. Is it subject to this regulation?

No. If the property is annexed into the city limits, then the regulations will apply.

CITY OF WHITEFISH PLANNING & BUILDING DEPARTMENT



Whitefish Water Quality Protection Regulations

*Information
for the
Real Estate Community*

Other Resources

More information can be found at the Planning & Building Department or on the web at: www.cityofwhitefish.org.

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Lost Coon Lake

Water Quality Protection Regulations—Frequently Asked Questions

Will this regulation make property unbuildable?

NO. The ordinance would not make property unbuildable unless development of the lot would post a significant threat of injury to the occupiers of the land, other properties or the public.

I'm listing property developed with an existing house. How will this regulation affect this property?

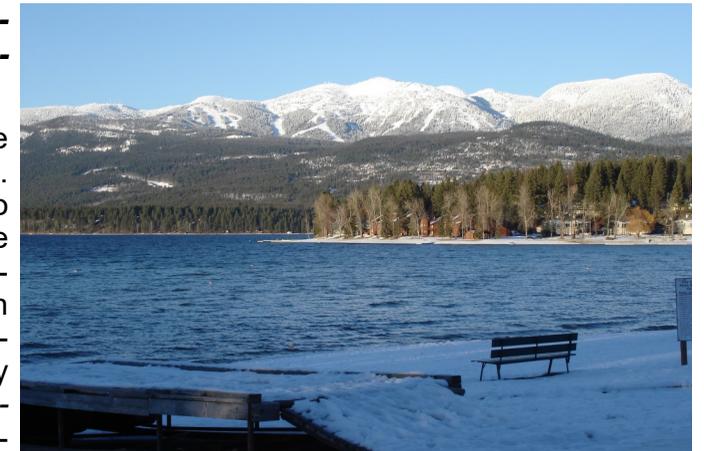
The regulation only applies to new development. You may maintain, repair, modify or add to existing structures, if you do not affect water quality protection areas or would not further encroach on a water quality protection area or buffer (e.g., an addition placed on the side of your home away from a water quality protection area).

What is a Preliminary Water Quality Protection Area Determination? What will it tell me?

The ordinance is geared toward the specific development of property. However, not everyone is ready to build, and the city recognizes the need for those buying or selling property to understand how this regulation may possibly affect future development of a lot. To this end, the city has a *Preliminary Water Quality Protection Area Determination* application. With a complete submittal, staff

will provide a written preliminary determination within 30-days as to effect of the regulation on development of the lot.

A more specific review will occur once detailed plans are submitted prior to actual construction of a home.



Whitefish Lake

**Protecting Water Quality in
our Community**

My client wants to purchase property and build a home. What will my client need to do to comply with these regulations?

Once your client is ready to build, the following steps will be taken.

STEP 1: Determine if there are water quality protection areas on the property.

There are many resources available to determine whether or not a water quality protection area is present on the property. The city has developed maps identifying the various regulated water quality protection areas. While these maps are not developed at a parcel level, they generally identify the presence of water quality protection areas to assist property owners when additional analysis may be warranted.

These maps are located at the Planning & Building office or on the city's webpage at: www.cityofwhitefish.org, under Planning & Building, Maps.

Other websites with natural resource information include:

Flathead GIS (flathead.mt.gov/gis)

State of Montana: NRIS (nris.state.mt.us)

If water quality protection areas are present on the property, go on to STEP 2.

STEP 2: Hire a qualified professional to provide more detailed

information on the water quality areas present on the property.

A qualified professional can help ascertain the types of water quality protection areas present and help design a site plan to minimize the effects of development on water quality protection areas.

If the qualified professional determines there are no water quality areas present, the review is complete and your client may proceed to building permit, if they are within the city limits or proceed with construction outside the city limits.

If there are water quality protection areas present, go on to STEP 3.

STEP 3: Design home to avoid water quality protection areas.

The first step in developing a site plan where water quality protection areas are present is to *avoid* the water quality protection area. Locating the home and associated development in a responsible manner that will not cause harm to water quality protection areas is the city's top goal in preserving water quality.

If it is not possible to develop the lot and avoid the critical areas, go on to STEP 4.

STEP 4: Mitigate the effects of development on the water quality protection areas.

The regulations provide for several methods to mitigate the effects of develop-

ment on identified water quality protection area depending on the area impacted. Mitigation will require a qualified professional to provide the city with a water quality protection area report describing the details of the project, its anticipated effects and proposed mitigation. The mitigation report will be submitted along with a building permit.

If it is not possible to mitigate the effects of development, go on to STEP 5.

STEP 5: If these regulations, along with the zoning regulations, make it incapable of building, what happens?

The regulations, consistent with US Supreme Court rulings, specifically ensures homesites will not be rendered unbuildable, except in the rare case new development would endanger other property owners.

The regulations allow for exceptions to normal water quality protection area standards to ensure "reasonable use" of property, defined as a use that is "allowed by the applicable zoning district and is consistent with similar uses in the same general area, taking into account the most recent construction trends in the general area."

If a reasonable use exemption is needed, please contact the Whitefish Planning Department to determine the appropriate next steps.

What is a qualified professional?

The regulations require certain reports be developed by qualified professionals, which is a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant water quality protection area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree as identified and have five years of progressively more responsible work experience with the relevant type of critical area. The city has a list of pre-approved qualified professionals available upon request.

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