

RESOLUTION 2024-072

A RESOLUTION AMENDING MISSOULA COUNTY'S BUILDING CODE ENFORCEMENT PROGRAM (PREVIOUSLY ADOPTED BY RESOLUTION 2006-025) BY EXEMPTING CERTAIN RESIDENTIAL USE STRUCTURES FROM REQUIRING BUILDING PERMIT(S).

WHEREAS, The Missoula County Board of County Commissioners adopted a building code program on February 8, 2006, by Resolution 2006-025, as authorized by Section 50-60-301 MCA; and

WHEREAS, Montana Code Annotated Section 50-60-102 gives the Board of County Commissioners the authority to exempt building permit(s) requirements for certain residential structures; and

WHEREAS, Missoula County Resolution 2020-070 dissolved the agricultural building exemption that was previously allowed under Resolution 2006-025. **NOW, THEREFORE, BE IT RESOLVED** that Resolutions 2006-025 and 2020-070 are hereby amended to provide for a new building permit exemption process, effective July 1st, 2024, by the Missoula County Board of County Commissioners. The following structures are hereby exempt from building permit requirements *only*.

- Green houses/hoop structures as described in Exhibit A for personal/residential use only, with no public access.
- Decks not over 30" in height measured plumb from grade to deck surface, attached or unattached to a structure, that is on a permanent or non-permanent foundation, regardless of overall size of deck structure.
- Pergolas and gazebos for residential use only. Pergolas and gazebos are open air structures attached or unattached to a residential structure that is on a permanent or non-permanent foundation. See Exhibit B for additional description.
- Additions to existing residential-only buildings. Examples include a covered entry way, covered patio/porch, covered deck, or a lean-to structure. These additions must be "non-habitable" space for *storage only*, and may be built with or without a permanent foundation, onto any existing residential-only building, including accessory structures. See Exhibit C for definitions and clarifications.
- Agricultural building(s) not intended for human habitation or commercial use (*i.e.*, sale of goods, factory use of a building, etc.) on parcels/properties classified as Agricultural through the Montana Department of Revenue Agricultural Land Classification Application and in conjunction with Montana Code Annotated Section 15-7-202. Exemption process must be followed to qualify. See Exhibit D.

BE IT FURTHER RESOLVED That any exempt structures are still subject to all other applicable Missoula County Regulations including, but not limited to, plumbing, mechanical and electrical permits if applicable; Missoula County Floodplain Regulations if located within the regulated flood

hazard area; Missoula County Shoreline Regulations; Missoula County Health Department Regulations if property is on, or required to be on, an individual sewage disposal system; Missoula County Zoning or Land Use Regulations.

BE IT FURTHER RESOLVED that these modifications to the Missoula County Building Codes Enforcement Program shall become effective July 1, 2024.

DATED THIS 18th DAY OF June, 2024

Board of County Commissioners
Missoula County

ATTEST:

Tyler Gernant by Sam Scott

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Tyler R. Gernant, Clerk and Recorder

Dave Strohmaier

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Dave Strohmaier, Chair



Josh Slotnick

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Josh Slotnick, Commissioner

Juanita Vero

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Juanita Vero, Commissioner

Exhibit A

Greenhouse, International Building Code, “A structure or thermally isolated area of a building that maintains a specialized **sunlit environment** used for and essential to the cultivation, protection or maintenance of plants.”

Further described as a structure comprised of metal framework or wood framework, with walls and roof made chiefly of glass or translucent plastic.

Hoop structure, further described as a structure consisting of a lightweight metal, plastic, or wooden frame, or a series of hoops, that is covered by an impermeable, removable layer of plastic or polyethylene film used to protect plants grown in the soil or in containers upon the soil.

To remain exempt from a building permit the structure(s) can only be used for residential use with no access provided to the public for the sale of goods produced in the greenhouse.

Exhibit B

Pergola – Outdoor free-standing accessory structure forming a shaded walkway, passageway or sitting area of vertical posts or pillars with cross beams and open lattice.

Gazebo – Outdoor free-standing small accessory structure with open sides and a roof.

**The main difference between a pergola and a gazebo is the function of the roof. A gazebo provides full coverage from the sun while a pergola allows sunlight to shine through the slatted roof and provides only partial shade.*

Exhibit C

Additions to Existing Residential-Only Buildings

Addition of *“non-habitable”* space with or without a permanent foundation onto any existing building or accessory structure such as a covered entry way, covered patio/porch, covered deck, or a lean-to structure for *storage only*.

“Habitable Space” is defined as a space in a building for living, eating, cooking, and sleeping per the International Residential code.

“Accessory” structures being defined as private residential garages or private residential storage structures.

Exhibit D

Agricultural Building Exemption Process

To qualify for the Agricultural Building Exemption the applicant must produce the certification letter from the Montana Department of Revenue classifying the parcel(s) as agricultural for tax purposes.

A signed affidavit confirming the agricultural use of the building, as well as a site plan meeting the intake submittal requirements, elevation drawings (all 4 sides), and a labeled floor plan must be provided. The Building Department will collect a one-time fee of \$150 to cover staff time and recording of the affidavit. The affidavit will not be recorded until we receive confirmation of approval from the other Missoula County departments.

- Any change of use of the agricultural buildings into habitable space or into a private residential garage requires a building/trade permit(s), engineered stamped plans; Land Use/Zoning Compliance permits; Floodplain, Shoreline and Health Department permits, as applicable. Fees will be assessed on use and square footage.
- Any change of use of the agricultural building without proper permits will result in penalty fees up to 100% of the building permit fees per Resolution 2019-100 and a notice of violation filed on the property until the structure is brought into compliance with all Missoula County Regulations.

The term 'agriculture' is defined as, "The science, art, or occupation of cultivating land, raising crops, and feeding, breeding, and raising livestock. American Heritage dictionary of the English language, Fifth Edition. It is also referred to as farming or ranching. The term 'agricultural' means the production of food, feed, livestock, poultry, bees, biological control insects, fruits, and vegetables, as well as sod, ornamental, nursery, horticultural crops, and fiber commodities that are raised, grown, or produced for commercial purposes. It also includes the raising of domestic animals and wildlife in domestication or a captive environment". 15-1-101, MCA.

The term 'livestock' includes typical domesticated animals: cattle, sheep, swine, goats, horses, mules, and asses. In addition, it also includes "llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates." 15-1-101, MCA and ARM 42.20.601.