

***THE SUBDIVISION
REGULATIONS OF THE
CONSOLIDATED CITY AND COUNTY OF
BUTTE-SILVER BOW
STATE OF MONTANA***



BUTTE-SILVER BOW PLANNING BOARD

2009

BUTTE-SILVER BOW
SUBDIVISION REGULATIONS

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SECTION 1: GENERAL

A. TITLE

These regulations shall be known and may be cited as "The Subdivision Regulations of the Consolidated City and County of Butte-Silver Bow, State of Montana" hereinafter referred to as "these regulations."

B. AUTHORITY

Authorization for these subdivision regulations is contained in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16.

C. INTENT AND PURPOSE

Subdivision of land to accommodate community growth and development directly affects the consolidated government of Butte-Silver Bow, its residents and the subdivider. The intent of subdivision regulations is to provide guidelines which reflect the best interests of the residents of Butte-Silver Bow and the developer.

It is the purpose of these regulations to promote public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; promote the preservation of open space; promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey.

Further, to support the purposes of 76-3-102, MCA, these regulations are intended to promote the following:

1. The orderly development of any subdivision within Butte-Silver Bow County.
2. The coordination of roads within subdivided lands with other roads, both existing and planned.
3. The provision of proper physical and legal access, including obtaining of necessary easements.
4. The provision of adequate open spaces for travel, light, air, and recreation.
5. The provision of adequate transportation, water, drainage, and sanitary

facilities.

6. The avoidance or minimizing of congestion.
7. The avoidance of subdivisions, which would involve unnecessary environmental degradation.
8. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation, or other public improvements.
9. The avoidance of excessive expenditure of public funds for the supply of public services.
10. The manner and form of making and filing of any plat for subdivided lands.
11. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all plats of subdivisions covered by these provisions.

D. JURISDICTION

These regulations govern the subdivision of land within the jurisdictional area of the Governing Body of the Consolidated city and County of Butte-Silver Bow, State of Montana, which includes all lands in Butte-Silver Bow County.

If a proposed subdivision is located in a rural school district, the Governing Body shall provide a summary of the information contained in the subdivision application and preliminary plat to school district trustees.

E. SEVERABILITY

Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part so held invalid.

F. GROWTH POLICY

The Butte-Silver Bow Growth Policy shall guide the use of all land within the jurisdictional area of the Governing Body of Butte-Silver Bow. The type and intensity of land use as shown on the Growth Policy shall be used as a guide to determine the character of land division including lot size and arrangement and the type and extent of streets and roads, highways, dedications, improvements, services, and other utilities and public facilities that shall be provided.

G. ZONING ORDINANCE

The Butte-Silver Bow Municipal Code, Chapter 17, Zoning, shall guide the use of all land within all areas under the jurisdiction of the Zoning Ordinance. The type and intensity of land use, as established by the Zoning Ordinance, shall be used as a guide to determine the character of all land divisions including lot size and arrangement and the type and extent of street and roads, highways, dedications, improvements, services, and other utilities and public facilities that shall be provided.

H. DEFINITIONS

The following words or phrases in these regulations have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates the use of discretion in making decisions.

1. ***Access (Legal and Physical):***
 - a) Legal access means that each lot in a subdivision either abuts a public (city, county, state, or federal) street or road, or that the subdivider has obtained adequate and appropriate easements across all necessary properties, from a public road to each lot in the subdivision, whether or not a road has been constructed on that property, and has dedicated the easement or a private road for public use.
 - b) Physical access means that the street or road conforming to the subdivision design standards provides vehicular access from a public street or road to each lot in the subdivision, either from a public street or road, from a road constructed to local road standards within the obtained easements which is dedicated to public use, or from a private road improved to local road standards which has been dedicated to public use.
2. ***Adjoining Landowner (Adjacent Property Owner):*** The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a road, watercourse or deeded right-of-way.
3. ***Agriculture:*** All aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.
4. ***Agricultural Water User Facilities:*** Those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.

5. ***Alley:*** A public way not more than thirty (30) feet nor less than sixteen (16) feet in width affording generally a secondary means of access to abutting property and not intended for general traffic circulation.
6. ***Assessor:*** The Butte-Silver Bow Assessor.
7. ***Block:*** A group of lots, tracts or parcels within well-defined and fixed boundaries such as streets, highways, waterways, railways, waterways or other means.
8. ***Certificate of Survey:*** A drawing of a field survey prepared by a Licensed Professional Land Surveyor for the purpose of disclosing facts pertaining to boundary locations.
9. ***Clerk and Recorder:*** The Butte-Silver Bow Clerk and Recorder.
10. ***Cluster Development:*** A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public or private services and utilities, while allowing other lands to remain undeveloped.
11. Comprehensive Plan, Master Plan or ***Growth Policy:*** The name growth policy shall have the same meaning as Comprehensive Plan or Master Plan. A growth policy, as defined in Section 76-1-103, MCA, and any of its parts such as a plan of land use and zoning, thoroughfares, sanitation, and other related matters that shall guide the use of all land within the defined jurisdictional area of Butte-Silver Bow. The most recent Butte-Silver Bow Growth Policy adopted by the Butte-Silver Bow Council of Commissioners shall apply.
12. ***Condominiums:*** An estate in real property consisting of an undivided interest held in common in a parcel of real property, together with a separate interest in space within a building located on real property.
13. ***Covenant(Restrictive Covenant):*** A restriction or requirement placed upon the ownership of related properties within a defined area or development whereby the owners of such properties pledge that something is done, shall be done, or will not be done.
14. ***Dedication:*** The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
15. ***DEQ:*** The Montana Department of Environmental Quality.

16. **Deed:** A document signifying legal ownership of property and appurtenances.
17. **Division of Land:** The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.
18. **Dwelling Unit:** Any structure or portion thereof providing complete, independent and permanent living facilities for one household.
19. **Easement:** A grant by a property owner to a specific person, utility, or to the public to use land for a specific purpose or purposes, in which said property owner agrees not to build, create or construct or permit to be built, created or constructed, any obstruction, building, engineering works or other structures over, upon or under easement that would interfere with said use.
20. **Engineer (Professional Engineer):** A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67) to practice engineering in the State of Montana.
21. **Examining Land Surveyor:** A Licensed Professional Land Surveyor duly appointed by the Governing Body to review surveys and plats submitted for filing.
22. **First Minor Subdivision:** A proposed minor subdivision from a tract of record that has not been subdivided or created by a subdivision under the MSPA or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA, since July 1, 1973. [76-3-609(2), MCA].
23. **Flood:** The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage [76-5-103(8), MCA].
24. **Flood of 100 Year Frequency:** A flood magnitude expected to recur on the average of one every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.
25. **Floodplain:** The area adjoining the watercourse or drainway which would be covered by the flood water of a flood of one hundred year frequency as defined by the National Flood Insurance Act and shown on the Flood

Insurance Rate Maps of Butte-Silver Bow, Montana.

26. ***Floodway:*** The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainway.
27. ***Governing Body:*** The elected legislative body commonly known as the Council of Commissioners of the Consolidated City and County of Butte-Silver Bow municipality.
28. ***Immediate Family:*** A spouse, children by blood or adoption, and parents.
29. ***Improvement Agreement:*** A contractual agreement that may be required by the Governing Body to ensure the construction of such improvements as required by local subdivision regulations. The improvement agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.
30. ***Irregularly Shaped Tract of Land:*** A parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
31. ***Landowner:*** All individuals, groups, or parties with a title interest in the property. For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner,” and “owner mean the seller of the parcel under the contract-for-deed (24.183.1104 ARM). For all other purposes of these regulations, the terms “property owner,” “landowner,” and “owner” mean both the seller and the purchaser under a contract for deed.
32. ***Local Service:*** Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens.
33. ***Lot:*** A single parcel, plot or other land area created by subdivision for sale, lease, or rent and legally described by a Certificate of Survey, plat, amended plat and/or by lots and block designation included in a recorded plat.
34. ***Lot Measurements:***

Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line;

Lot Width -- The average width of the lot;
Lot Frontage -- The width of the front lot line;
Lot Area -- The area of a lot determined exclusive of street, highway,
alley, road, or other rights-of-way.

35. ***Lot Types:***

Corner Lot: A lot at the intersection of two streets;

Interior Lot: A lot with frontage on only one street;

Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

Flag Lot: A lot of irregular shape, the bulk of which is normally situated to the rear of other lots, having as its frontage and access a drive connecting it to a street.

36. ***Major Subdivision:*** A subdivision containing less than 160 acres which does not qualify as a minor subdivision or an exemption.

37. ***Metropolitan Sewer District:*** That area delineated by the Butte-Silver Bow Metro Sanitary and Storm Sewer Office as the Metropolitan Sanitary and Storm Sewer District No. 1.

38. ***Minor Subdivision:*** A subdivision containing five (5) or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use, and which has been approved by the Department of Environmental Quality.

39. ***Minor Subdivision – Summary Review:*** A first or a subsequent subdivision containing five (5) or fewer parcels where proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plat has been approved by the Department of Environmental Quality whenever approval is required.

40. ***Mobile (Manufactured) Home:*** A detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, “trailer homes,” “house trailers,” and “manufactured homes” whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include “modular” or “factory-built buildings” that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.

41. ***Mobile (Manufactured) Home Space:*** A designated portion of a parcel of land designed for the accommodation of one mobile home and its accessory

buildings or structures for the exclusive use of the occupants.

42. ***Mobile Home Park:*** Any parcel or portion of a parcel of land on which two (2) or more mobile homes are located for lease or rent and occupied or intended to be occupied for dwelling purposes.
43. ***Mobile (Manufactured) Home Pad:*** That area of a mobile home space which has been prepared for the placement of a mobile home.
44. ***Montana Department of Environmental Quality Minimum Standards:*** Minimum standards as set forth by the Division of Environmental Sciences of the Montana Department of Health and Environmental Sciences, adopted pursuant to Title 76, Chapter 4, Part I, MCA.
45. ***Monument (permanent monument):*** Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
46. ***MSPA:*** Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.
47. ***Natural Environment:*** The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of Historic and aesthetic significance.
48. ***Open Space:*** A lane or water area devoid of buildings and other physical structures except where accessory to the provision of recreation.
49. ***Overall Development Plan:*** The plan of a subdivision design for a single tract proposed to be subdivided by stages.
50. ***Planned Unit Development (PUD):*** A land development project consisting of residential clusters, industrial parks, shopping centers or office building parks, or any combination thereof which composes a planned mixture of land uses built in a prearranged relationship to each other and having open space and/or community facilities in a common ownership or use.
51. ***Planning Board:*** The Butte-Silver Bow Planning Board formed pursuant to Title 76, Chapter 1, MCA.
52. ***Planning Director:*** Shall mean the Butte-Silver Bow Planning Director or his designated representative, who is vested with the duty of administering subdivision and platting regulations within the jurisdictional area of Butte-Silver Bow, Montana.
53. ***Plat:*** A graphic representation of a subdivision showing the division of

land into lots, parcels, streets, and alleys and other divisions and dedications.

Preapplication Plat: A sketch plan of the proposed subdivision submitted for review and discussion. It provides information on certain physical and legal aspects of the parcel of land proposed for subdivision.

Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision as required by these regulations that furnish a basis for review by the Governing Body or its designated agent.

Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the Clerk and Recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16).

Amended Plat: The final drawing of any change to a platted subdivision filed with the Clerk and Recorder required to be prepared for filing for record with the Clerk and Recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16).

Vacated Plat: a plat which has been voided under the provisions of MCA 76-3-305, 7-5-2501, 7-5-2502, 7-14-2616 (1) and/or (2), 7-14-2617, 7-14-4114 (1) and/or (2) and 7-14-3115.

54. ***Private Improvement:*** Private improvements are the same types of improvements as defined under Public Improvements, except the structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.
56. ***Public Health and Safety:*** The prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.
57. ***Public Improvement:*** Any structure or facility constructed to serve the residents of a subdivision or the general public including but not limited to parks, streets and roads, sidewalks, curbs and gutters, street lighting,

utilities and systems for water supply, sewage (and solid waste) disposal and drainage.

58. ***Public Road or Street:*** A road or street for which a municipality, county or a state or federal agency has maintenance responsibility.
59. ***Recreational Camping Vehicle:*** A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.
60. ***Recreational Vehicle Park:*** A parcel or portion of a parcel of property used for public camping having rental space available for individual camping trailers, pickup campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
61. ***Recreational Vehicle Space:*** A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle for the exclusive use of its occupants.
62. ***Reviewing Authority:*** The DEQ or local Board of Health or Sanitarian as authorized under Title 76, Chapter 4, MCA.
63. ***Right-of-Way:*** A strip of land dedicated or acquired for use as a public way.
64. ***State:*** The State of Montana.
65. ***Street:*** A public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property. The term street shall include arterial, avenue, boulevard, circle, drive, highway, lane, parkway, place, road thoroughfare, or any other similar term.
66. ***Street Types:*** For the purposes of these regulations, street types are defined as follows:

Arterial: A street or road having the primary function of moving large volumes of traffic and the secondary function of providing access to adjacent land. Arterials have two to four lanes of moving traffic and provide limited access to abutting property.

Principal Arterial: Streets which serve the major centers of activity or a metropolitan area, the highest traffic volume corridors, and the longest trip desires, and which carry a high proportion of the total urban area travel on a minimum of mileage.

Minor Arterial: Streets which interconnect with and augment the principal

arterials, provide service to trips of moderate length at a lower level of travel mobility than principal arterials, and distribute traffic to geographic areas smaller than those identified for principal arterials.

Collector: A street or road performing equally the functions of moving traffic and providing access to adjacent land. Collector streets shall have two moving traffic lanes and two parking lanes.

Local Street: A street or road having the primary function of providing access to abutting properties, with a secondary function of moving traffic. Local streets have two moving lanes of traffic and may include one or two parking lanes.

Half-Street: A portion of the width of a street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street is to be fully constructed.

Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.

Loop: A local street which begins and ends on the same street, generally used for access to properties.

Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

67. *Subdivider:* Any person, firm, corporation or other entity who causes land to be subdivided or who proposes a subdivision of land.
68. *Subdivision:* A division of land or land so divided that creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.
69. *Subdivision Administrator:* The person or persons authorized by the Governing Body to perform the duties of review and administration set forth in these regulations.
70. *Subsequent Minor Subdivision:* any subdivision of five or fewer parcels that is not a first minor subdivision.

71. ***Subdivision Review Committee:*** A committee consisting of the Directors or their appointed representatives of the affected public agencies of Butte-Silver Bow including, but not limited to Planning, Public Works, Health Department and Community Development, Parks and Recreation Board; representatives of the utility companies and affected state agencies. The committee shall review preapplication and preliminary plats for compliance with all development standards, zoning criteria and other goals and objectives of Butte-Silver Bow.
72. ***Surveyor (Professional Land Surveyor):*** A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.
73. ***Swale:*** A drainage channel or depression designed to direct surface water flow.
74. ***Title Report (Abstract of Title, Subdivision Guarantee, or Platting Report):*** A report from a title service company on the condition of title to the property proposed for subdivision, which identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter.
75. ***Topography:*** General term to include characteristics of the ground surface such as plains, hills, mountains, slopes, and other physiographic features.
76. ***Townhouse:*** A single-family dwelling unit attached to one or more other single-family dwelling units, provided that only one such dwelling is located on a lot.
77. ***Townhouse Lot:*** Arrangement under which units share a common wall, and individuals own their own unit and hold separate title to the land beneath the unit.
78. ***Townhouse Subdivision:*** A division of land for purposes of creating "townhouses" as defined in this section that has associated with it, an undivided interest in common in a parcel of real property and a separate interest in the real property within the boundaries covered by the building unit.
79. ***Tract:*** A land area proposed to be subdivided.
80. ***Tract of Record:*** An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county Clerk and

Recorder's Office.

- (B) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:
- 1) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner(s) intention that the tracts be merged; or
 - 2) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.
- (C) An instrument of conveyance does not merge parcels of land under subsection (80)(b)(1) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument", or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner(s) intent to effect a merger of parcels.

81. **Traffic Control Device:** Any sign, signal, marking, or device placed or erected for the purpose of regulating, warning, or guiding vehicular traffic and/or pedestrians.
82. **Utility:** Includes, but is not limited to, telephone, natural gas, electricity, water and sewer, and cable television.
83. **Vicinity Sketch:** A map at scale identifying the location of the proposed subdivision, showing the boundary lines of all adjacent subdivisions, certificates of survey, and streets and other information necessary to determine the general location of the proposed subdivision.
84. **Wildlife:** Those animals that are not domesticated or tamed, or as may be defined in a Growth Policy.
85. **Wildlife Habitat:** The place or area where wildlife naturally lives or travels through

SECTION 2: SUBDIVISION CLASSIFICATION AND PROCEDURES

A. REQUIREMENTS

No subdivider shall proceed with any construction work or public improvements on a proposed subdivision, until the proper approval has been received from the appropriate division of the Butte-Silver Bow County Government and/or the State of Montana. Construction work undertaken prior to the preliminary plat approval subjects the subdivider to the possibility the work will have to be redone or removed. In addition, section 76-4-121, MCA, regulates subdivision activities.

B. CLASSIFICATION OF LAND DIVISIONS

These regulations recognize that there are different magnitudes or forms of land divisions as contained in the provisions of the Montana Subdivision and Platting Act and has classified these divisions as follows:

1. **Major Subdivision** - a land division containing less than 160 acres which does not qualify as a minor subdivision or an exemption.
2. **Minor Subdivision** - a land division proposing to create five (5) or less lots of record, when proper access to all lots is provided and when no land is to be dedicated to the public for parks or playgrounds.
3. **Minor Subdivision – Expedited Review** – A first division of land from a tract of record that proposes to create no more than two additional lots shall be classified as a Minor Subdivision – Expedited Review, when proper access to all lots is provided and when no land is to be dedicated to the public for parks or playgrounds, no additional streets will be dedicated to public use, the proposed subdivision does not pose any public health, safety or welfare issues, and when plats have been approved by the Department of Environmental Quality (DEQ) whenever DEQ approval is required.
4. **Subdivision Exemptions** - as provided in the Montana Subdivision and Platting Act and these regulations, there are nine categories of land divisions recognized within the subdivision exemption classifications. Those classifications are as follows:
 - a) Exemptions for certain divisions of land, as stated in MCA 76-3-201;
 - b) Exemption of structures on complying subdivided lands, as stated in MCA 76-3-202;
 - c) Exemption for certain condominiums, as stated in MCA 76-3-203;

- d) Exemption for conveyances of one or more parts of a structure or improvement, as stated in MCA 76-3-204;
- e) Exemption for airport and state-owned lands – exception, as stated in MCA 76-3-205;
- f) Exemptions for conveyances executed prior to July 1, 1974, as stated in MCA 76-3-206.
- g) Subdivisions exempt from public review but subject to surveying and filing requirements, as stated in MCA 76-3-207;
- h) Subdivisions exempt from filing and surveying requirements but subject to review provisions, as stated in MCA 76-3-208.
- i) Exemption from surveying and platting requirements for lands acquired for state highways, as stated in MCA 76-3-209.

C. TRANSFERS OF TITLE

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-3-303, MCA):

1. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
2. That under the terms of the contracts and the escrow agreement the payments made by the purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the B-SB Clerk and Recorder;
3. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the B-SB Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
4. That the contracts contain the following language conspicuously set out therein: “The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the B-SB Clerk and Recorder, title to the property cannot be transferred in any

manner;”

5. That the B-SB Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid; and
6. A copy of the contracts and escrow agreement described above must be submitted to the subdivision administrator. The purchase price may be blacked out.

SECTION 3: *PREAPPLICATION PROCESS*

A. *PURPOSE AND PROCEDURE*

1. The purpose for the preapplication review is to familiarize the subdivider with the subdivision regulations and development standards of Butte-Silver Bow and to identify how these regulations and standards relate to the proposed subdivision.
2. The subdivider or his authorized agent may meet with the Subdivision Review Committee at least three weeks prior to submitting a Preliminary Plat to the Planning Department.
3. The comments of the Subdivision Review Committee shall not constitute approval of a Preliminary Plat. Those comments shall constitute a preliminary general review of the compatibility of the proposed subdivision with the Butte-Silver Bow Subdivision Regulations and are in no way equal to the preliminary or final plat review.

B. *PREAPPLICATION REQUIREMENTS*

1. The subdivider shall provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan shall be legibly drawn showing in simple form, the layout and design of proposed division of land in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map or a survey drawing. The sketch must include the following information on the current status of the site, including:
 - a) Location;
 - b) Approximate tract and lot boundaries of existing tracts of record;
 - c) Description of general terrain;
 - d) Natural features on the land, including water bodies, floodplains geologic hazards and soil types;
 - e) Existing structures and improvements;
 - f) Existing utility lines and facilities serving the area to be subdivided;
 - g) Existing easements and rights of way;
 - h) Existing zoning or development regulation standards;

- i) Existing conservation easements;
 - j) Existing covenants or deed restrictions;
 - k) Existing noxious weeds.
2. Documentation on the current status of the site, including:
- a) Ownership information, such as a deed, option to buy or buy-sell agreement, including permission to subdivide;
 - b) Water rights, including location of Agricultural Water User Facilities;
 - c) Any special improvement districts; and
 - d) Rights of first refusal for the property.
3. Information on the proposed subdivision, including:
- a) Tract and proposed lot boundaries;
 - b) Proposed public and private improvements;
 - c) Location of utility lines and facilities;
 - d) Easements and rights of way; and
 - e) Parks and open space and proposed conservation easements.
4. At the pre-application meeting:
- a) The subdivision administrator shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations, floodplain regulations, building codes and fire codes;
 - b) The subdivision administrator shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have an interest in the proposed subdivision and that may be contacted for comment by the subdivision administrator or Planning Board on the subdivision application. The subdivision administrator shall also identify the time frames that the public utilities, agencies, and other entities are given to respond; and

- c) The subdivision administrator may identify particular additional information the subdivision administrator anticipates will be required for review of the subdivision application. This does not limit the ability of the subdivision administrator to request additional information at a later time.
- 5. Unless the subdivider submits a subdivision application within 6 months of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

SECTION 4: PRELIMINARY PLATS

A. PRELIMINARY PLAT REQUIRED

1. The subdivider shall submit to the Planning Board for review and approval, a Preliminary Plat of the proposed subdivision which conforms to the requirements of these regulations. The Preliminary Plat shall be prepared under the supervision of a Surveyor licensed to practice in Montana.

B. SUBDIVISION APPLICATION AND PRELIMINARY PLAT SUBMITTAL

1. Pursuant to the conclusions recommended in the preapplication procedure regarding his general proposal and objectives, the subdivider shall prepare or cause to be prepared, a Preliminary Plat together with the supplementary materials as specified in Section 4-C of these regulations.
2. A written application for approval of the Preliminary Plat together with the required fee as established in this ordinance and three (1) 24" x 36" copy and one (1) 11" x 17" copy of the Preliminary Plat and plat supplements shall be submitted to the Planning Board Staff.
3. Application for Preliminary Plat approval shall be made to the Planning Board Office on or before the application deadlines set forth in the Subdivision Application. Applications submitted after the deadline will be considered at the next regularly scheduled meeting.

C. PRELIMINARY PLAT FORM, CONTENTS AND SUPPLEMENTS

1. The subdivider shall submit to the Planning Board Office a subdivision application addressing these topics and containing the following materials, all described in more detail in forms provided by the subdivision administrator, as applicable:
 - a) Name and location of the subdivision, bar scale, true North arrow and date of preparation. Said name shall not duplicate or closely resemble the name of any other subdivision in the planning area;
 - b) Names of owner(s) and names of subdivider(s) and Engineer or Surveyor;
 - c) Names of adjoining subdivisions and certificates of survey;
 - d) Location of all existing physical features such as structures, utilities, ditches, rock outcroppings, reservations, easements, etc., on or contiguous to the tract;

- e) The approximate location of all section corners or legal subdivision corners of sections in proximity to the subdivision boundary;
- f) All proposed streets, alleys, avenues, roads, and highways, and the width of the right-of-way, tentative grades and proposed curvature of each with existing and proposed street names, and proposed location of intersections or other access points for any subdivision requiring access to arterial or collector highways;
- g) The approximate location, boundaries, dimensions and area of any parks, common grounds, or other grounds to be dedicated for public use;
- h) Any existing or proposed utilities located on or adjacent to the tract including:
 - (1) The approximate location, size and depth of sanitary and storm sewers;
 - (2) The approximate location and size of water mains and fire hydrants;
 - (3) The approximate location of natural gas, electric, and telephone lines, and streetlights;
 - (4) The location of the nearest mains and sewer lines where none are located on or adjacent to the tract.
- i) Lot lines, lot numbers, lot areas, and block numbers;
- j) Site data including number of residential lots, typical lot areas, acres of parks, etc;
- k) Sites, if any for multi-family dwellings, shopping centers, churches, industry or non-public uses exclusive of single-family dwellings;
- l) Tentative finished grades of each street shall be indicated by spot elevations;
- m) Net and gross acreage of land subdivided. Gross acreage constitutes the entire area of land contained in the subdivision. Net acreage is the gross acreage less that area designated as dedicated parkland and public right-of-way;
- n) Location of streams, lakes, swamps and land subject to flooding as determined from past history of flooding. Recommend a meander

line established not less than twenty (20) feet back from the ordinary high water mark of such waterways where applicable as determined by the professional land surveyor;

- o) Contour lines shall be provided for the tract according to the following requirements:

WHERE AVERAGE SLOPE IS:	CONTOUR INTERVALS SHALL BE:
Under 10%	2 feet (if all lots are over one acre in size, 5 feet)
Between 10% and 15%	5 feet
15% or greater	10 feet

In the case where the existing subdivision is to be further divided, a copy of the existing plat with the proposed redivision imposed thereon;

- p) Present zoning classification and/or proposed zoning classification of the plat and the adjoining property;
- q) Vicinity sketch;
- r) All plats shall conform to the following size: 24 x 36 inches;
- s) All plats shall be neatly drawn in a professional manner.
- t) Documentation of legal and physical access;
- u) Documentation of existing easements, including those for Agricultural Water User Facilities;

2. Supplementary and supporting data shall consist of written drafts including the following as applicable:

- a) Draft of protective and restrictive covenants whereby the subdivider proposes to regulate land use in the subdivision;
- b) If common property is to be deeded to a property owners' association, the subdivider shall submit a draft of the regulations which govern the association. These regulations shall, at a minimum, provide that:

(1) The property owners' association will be formed before any

property is sold;

- (2) If a homeowners' association is formed, membership is mandatory for each property buyer and any subsequent buyer;
 - (3) The reservation of common property will be perpetual;
 - (4) The association will be responsible for liability insurance, any applicable taxes or assessments, and the maintenance of any common property or facilities;
 - (5) Property owners must pay their prorated share of the cost of any common expenses and that any unpaid assessment charges by the association can constitute a lien on individual parcels;
 - (6) The association may adjust assessments to meet changing needs.
- c) When a tract of land is to be subdivided in phases, the subdivider must provide an overall plan indicating his intentions for the development of the remainder of the tract;
 - d) A current U.S. Geological Survey Topographic map, an aerial photograph or a location map indicating the subdivider's intentions for the development of the remainder of the tract, may be used to provide the information required in (c);
 - e) Sewage disposal, storm drainage and/or water. The subdivider shall provide a written statement from the utility agencies involved as to whether the services can be provided;
 - f) Environmental assessment as required in Section 17;
 - g) Name and addresses of adjacent property owners including those owners of property which lies across streets, alleys or other easements;
 - h) An Abstract Certificate of Title which shall be submitted to the County Attorney for review;
 - i) A report from the Examining Surveyor stating acceptability or corrections necessary to comply with the Montana Subdivision and Platting Act;
 - j) Lienholders' acknowledgement of subdivision;

- k) Transportation impact analysis or transportation plan;
 - l) Fire risk rating analysis and fire prevention plan;
 - m) Weed management plan and re-vegetation plan;
 - n) A form of Subdivision Improvements Agreement, if proposed;
 - o) Letter requesting a revocation of agricultural covenants;
 - p) Letter indicating locations of cultural or historic resources;
 - q) Variance request or approval;
 - r) Re-zoning application or approval;
 - s) Flood hazard evaluation;
 - t) Letter identifying and proposing mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials; and
 - u) Such additional relevant and reasonable information as identified by the Subdivision Administrator during the pre-application meeting that is pertinent to the required elements of this section.
3. Permission to Enter – The Governing Body or its designated agent(s) or affected agencies identified during the preapplication meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is approved conditionally. The submission of a subdivision application constitutes a grant of permission by the subdivider for the Governing Body, its agents, and affected agencies to enter the subject property. This consent applies to members of the public attending a noticed public meeting for a site visit.

D. REVIEW PROCESS

For both minor and major subdivisions, the initial review process is as follows:

- 1. Element Review

Within 5 working days of receipt of a subdivision application and fee, the subdivision administrator shall determine whether the application contains all of the applicable materials required by Section 4C and shall give written notice to the subdivider of the subdivision administrator’s determination.

 - a) If the subdivision administrator determines that elements are

missing from the application, the subdivision administrator shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the subdivision administrator until the application is resubmitted.

- b) The subdivider may correct the deficiencies and resubmit the application.
- c) If the subdivider corrects the deficiencies and resubmits the application the subdivision administrator shall have 5 working days to notify the subdivider whether the resubmitted application contains all the materials required by Section 4-C applicable.
- d) This process shall be repeated until the subdivider submits an application containing all the materials required by Section 4-C, or the application is withdrawn.

2. Sufficiency Review

Within 15 working days after the subdivision administrator notifies the subdivider that the application contains all of the required elements as provided in subsection 1. above, the subdivision administrator shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations and shall give written notification to the subdivider of the subdivision administrator's determination.

- a) If the subdivision administrator determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the subdivision administrator shall identify specific required information in its notification and return the application to the subdivider, and no further action shall be taken on the application by the subdivision administrator until the material is resubmitted.
- b) The subdivider may correct the deficiencies and resubmit the application, or withdraw the application.
- c) If the subdivider corrects the deficiencies and resubmits the application in accordance with 1. above, the subdivision administrator shall have 15 working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.
- d) 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 under the provisions of these regulations, or the application is withdrawn.

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 Governing Body and does not limit the ability of the subdivision administrator, Planning Board, or the Governing Body to request additional information during the review process.

A determination of sufficiency by the subdivision administrator pursuant to this subsection does not limit the DEQ from requiring additional water and sanitation information as part of the DEQ review of water and sanitation information.

3. **Applicable Regulations**

Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.

SECTION 5: FINAL PLAT

A. FINAL PLAT CONTENTS

1. After receiving Preliminary Plat approval, the subdivider may submit to the Governing Body a Final Plat of the proposed subdivision for review and approval as required by these regulations. The Final Plat shall conform to the Preliminary Plat as previously reviewed and approved by the Governing Body and shall incorporate all modifications required by its review. Final plats of subdivisions approved for phased development shall be filed sequentially in accordance with the approval.
2. Written application for approval of the Final Plat and all supplementary documents together with the required fee as established in this Ordinance, and one (1) 24" x 36" copy and one (1) 11" x 17" copy of the Final Plat shall be submitted to the Planning Department at least 30 working days prior to the expiration of the preliminary plat approval.

B. FINAL PLAT FORM, CONTENTS AND SUPPLEMENTS

1. The Final Plat shall comply with all the conditions of approval for the Preliminary Plat and Section 8.94.3001 through 8.94.3003 of the Administrative Regulations of the State of Montana. (The Montana Uniform Standards for Monumentation, Certificates of Survey and Final Subdivision Plats.)
2. A statement from the project surveyor or engineer outlining how each condition of approval has been satisfied.
3. The County Treasurer shall have certified that no real property taxes assessed and levied on the land to be subdivided are delinquent.
4. A copy of the Final Plat shall be submitted to the Examining Surveyor's Office to review for errors or omissions and a report from the Examining Surveyor certifying that the Final Plat is correct shall be submitted to the Planning Board Office with the Final Plat application.
5. A copy of the Final Plat and supplementary material as specified in these regulations, together with an Abstract Certificate of Title, may be submitted to the County Attorney for review and a report from the County Attorney's Office indicating that all said documents are satisfactory shall be submitted to the Planning Board Office for consideration with the Final Plat application.
6. A copy of the Final Plat together with a copy of the improvement plans including a detailed cost estimate for said improvements shall be submitted

to the Public Works Department for review and verification that all improvements comply with conditions of the Preliminary Plat approval and the improvement design standards of these regulations.

A report from the Public Works Department indicating that the improvement plans meet the requirements of the Preliminary Plat and design standards shall be submitted to the Planning Board Office for consideration with the Final Plat application.

7. The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat, as per uniform standards for final subdivision plats and monumentation:
 - a) A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision";
 - b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto;
 - c) North point;
 - d) Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing);
 - e) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto;
 - f) Witness monuments, basis for bearing, bearings and lengths of lines;
 - g) The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given;
 - h) Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:
 - (1) Radius of curve;
 - (2) Arc length;
 - (3) Notation of non-tangent curves.
 - i) Lengths of all lines shall be shown to at least tenths of a foot, and

all angles and bearing shown to at least the nearest minute;

- j) The location of all section corners of sections pertinent to the subdivision boundary;
- k) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat;" as appropriate, and the boundary completely indicated by bearings and distances.);
- l) All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways;
- m) The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use;
- n) Acreage of the subdivision, gross and net;
- o) A legal description of the perimeter boundary of the tract surveyed;
- p) All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown;
- q) The signature and seal of the Licensed Professional Land Surveyor responsible for the survey. The affixing of his seal constitutes a certification by the Surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto;
- r) Memorandum of oaths administered pursuant to section 76-3-405, MCA;
- s) Certification by the Governing Body that the final subdivision plat is approved, except where the plat shows changes to a files subdivision plat which are exempt from local government review under Section 76-3-207 (1) (e). Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207 (1) (e), MCA, approval by the local governing

board is not required for relocation of common boundary line or aggregation of lots.

C. FINAL PLAT REVIEW

1. The subdivision administrator shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The subdivision administrator will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee, and copies of the final plat have been received. Final plat applications will not be considered complete by the subdivision administrator until all conditions of preliminary approval have been satisfied.

D. AMENDING APPROVED PRELIMINARY PLATS BEFORE FINAL PLAT APPROVAL

If the subdivider proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the subdivider shall submit the proposed changes to the subdivision administrator for review.

1. Within 5 working days of receiving the proposed changes, the subdivision administrator shall determine whether the changes to the preliminary plat are material pursuant to subsection (4) below.
2. If the subdivision administrator determines the changes are material, the subdivision administrator may require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee.
3. If the subdivision administrator determines the changes are not material, the subdivision administrator shall accept the changes, notify the subdivider and the Governing Body of that decision and the Governing Body shall approve of those changes in a meeting for which notice has been given of non-material changes to the final plat.
 - a) The following changes, although not an exhaustive list, may be considered material:
 - (1) Configuration or number of lots;
 - (2) Road layout;
 - (3) Water and/or septic proposals;
 - (4) Configuration of park land or open spaces;
 - (5) Easement provisions;

- (6) Designated access;
 - (7) Proposed covenants; or
4. A subdivider whose proposed changes to the preliminary plat have been deemed material by the subdivision administrator may appeal the subdivision administrator's decision to the Governing Body by written notice within 10 working days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
 5. If the subdivider and subdivision administrator determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, the condition may be reviewed by the Governing Body through a properly noticed public hearing in order to determine if the condition may be waived or amended.

E. FINAL PLAT APPROVAL

1. The Final Plat, including all supplementary material and reports, a copy of the Subdivision Improvement Agreement as required by Section 11 of these regulations, shall be presented to the Governing Body for approval at its next regularly scheduled meeting.
2. The Governing Body shall examine every final subdivision plat and shall approve it if it conforms to the conditions of approval set forth on the preliminary plat and to the terms of the MSPA and these regulations adopted pursuant thereto; or deny it pursuant to (b) below.
 - a) If the final plat is approved, the Governing Body shall certify its approval on the face of the final plat. When applicable, a certificate of the Governing Body expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.
 - b) If the final plat is denied, the Governing Body shall write a letter stating the reason for denial and forward a copy to the subdivider. The Governing Body will return the final plat to the subdivider within 10 working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.
3. Approval and acceptance of land dedications shall be made by resolution of the Governing Body and shall be noted on the face of the Final Plat.
4. The Subdivision Improvement Agreement guaranteeing that all required

improvements will be installed by the subdivider shall be submitted with the final plat to the Planning Board for preliminary approval. Final acceptance of the Subdivision Improvement Agreement shall be executed by the County Attorney and Governing Body.

5. The decision to accept a cash-in-lieu of park land dedication, in applicable cases, shall be considered with the preliminary plat application. The amount of the cash-in-lieu shall be determined as provided in Section 76-3-606 of the Montana Subdivision and Platting Act and shall be approved by separate resolution of the Governing Body.
6. Upon receiving final approval and authorization of the preliminary plat by the Governing Body, the subdivider shall present the Final Plat to the Montana Department of Environmental Quality for final approval and authorization.

F. *FINAL PLAT FILING*

1. All final subdivision plats shall be reviewed for errors and omissions in calculations or drafting by an examining land surveyor before recording with the county clerk and recorder. When the survey data shown on the plat or certificate of survey meets the conditions set forth by or pursuant to these regulations, the examining land surveyor shall so certify in a printed or stamped certificate on the plat or certificate of survey. Such certificate shall be signed by him or her.

No land surveyor shall act as an examining land surveyor in regard to a plat or certificate of survey in which he has financial or personal interest.

2. Prior to filing with the Office of the Clerk and Recorder, the Final Plat shall be submitted to the Planning Board Office for review to ensure that all required signatures and other relevant data have been incorporated and that all preliminary plat conditions of approval have been met. The Planning Department will verify that all preliminary plat conditions have been met, by signing the face of the final plat.

Upon request of the subdivider and after verification by the Planning Board Office of the satisfaction of all preliminary plat conditions of approval, the Final Plat shall be submitted to the Clerk and Recorder's Office for filing. After filing, the Final Plat shall not be altered in any manner except as provided for in these regulations. The County Clerk and Recorder shall refuse to accept any plat for filing that fails to have approval in proper form or has been altered, and shall file the approved plat only if it is accompanied by the documents specified in Uniform Standards for Final Subdivision Plats.

3. The following documents shall accompany the approved final plat when filed with the County Clerk and Recorder:

- a) Certification of dedication of streets, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable;
- b) Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land;
- c) Copies of any covenants or deed restrictions relating to public improvements;
- d) Certification by the Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities;
- e) Copies of articles of incorporation and by-laws for any property owners' association;
- f) Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreements securing the future construction of any additional public improvements to be installed;
- g) Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a Registered Professional Engineer that all required improvements which have been installed are in conformance with the attached plans;
- h) Certification by the Governing Body expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification;
- i) Certification of Examining Land Surveyor where applicable;
- j) Copy of the state highway permit when a new street will intersect with a state highway.

G. CORRECTING FINAL PLATS

When a recorded plat does not definitely show the location or size of lots or blocks or the location or width of any street or alley, the Governing Body may at its own expense cause a new and correct survey and plat to be made and recorded in the office of the county clerk and recorder. The corrected plat must, to the extent

possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat referring to the original plat and noting the defect existing therein and the corrections made.

1. The Final Amended Plat submitted for approval shall comply with the Montana Subdivision and Platting Act, Title 76, Chapter 3, Local Regulations of Subdivisions. All corrections shall conform with Section 7: Subdivision Exemptions, of the Butte-Silver Bow Subdivisions Regulations. The face of the final plat shall include a statement describing the circumstance that necessitates the correction and why the correction would be in the public's interest.

H. AMENDING FILED PLATS

1. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration which increases the number of lots or modifies six or more lots, or abandons or alters a public road right-of-way or parkland dedication must be reviewed and approved by the Governing Body.
2. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The Governing Body may not approve an amended final plat without the written consent of the owners and lien holders of all lots which will be modified by the proposed amendment.
3. The Governing Body may not approve an amendment that will place a lot in non-conformance with the standards contained in Section 10 of these regulations or with local zoning regulations unless the Governing Body holds a public hearing on the amendment and issues a written variance from the standards pursuant to Section 17-A, Variances.
4. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats.

SECTION 6: *MINOR SUBDIVISION*

Subdivisions containing five or fewer parcels shall be reviewed as set forth in this section.

First minor subdivisions shall be reviewed pursuant to Subsection B and subsequent minor subdivisions shall be reviewed pursuant to Subsection G.

A. *FIRST MINOR SUBDIVISION REVIEW*

1. The pre-application process and initial review process set forth in Section 3 and Section 4
2. Sufficient documentary evidence from the public records demonstrating that the subdivision will be the first minor subdivision from a tract of record.
3. The Governing Body or its authorized agent may not hold a public hearing for a first minor subdivision.

B *FIRST MINOR SUBDIVISION EXCEPTIONS*

The following do not apply to first minor subdivisions:

1. Preparation of an environmental assessment;
2. Park land dedication;
3. Review of the subdivision application for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, if the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts.

C *FIRST MINOR SUBDIVISION REVIEW PROCESS*

1. The Governing Body shall approve, conditionally approve, or disapprove all minor subdivisions from a tract of record within 35 working days. The review period of 35 working days begins the day after the subdivision administrator notifies the subdivider or the subdivider's agent in writing that the subdivision application is sufficient for review.
2. Review and comment by public agencies or utilities may not delay the Governing Body's action on the subdivision application beyond the 35-working day review period. The Governing Body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the subdivision administrator or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-

application meeting, the subdivision administrator shall notify the subdivider of the contact and the time frame for response.

D. FIRST MINOR PLANNING BOARD CONSIDERATION AND RECOMMENDATION

1. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board shall base its recommendation on compliance of the subdivision application and preliminary plat with the following:

a) These regulations, including but not limited to the standards set forth in Section 10;

b) Applicable zoning regulations;

c) Other applicable regulations.

d) The MSPA, including whether the proposed subdivision has been designed so that it does not adversely impact the criteria defined below, pursuant to 76-3-608 (3), MCA, or that such adverse impacts have been avoided or mitigated to the maximum extent possible:

(1) Impact on agriculture

(a) Agriculture is defined as all aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market. Prime agricultural lands are defined under 82-4-203 (4), MCA.

(b) All subdivisions must be designed so they do not adversely impact agriculture, pursuant to the MSPA and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.

i) Proposed subdivisions that are within a designated urban growth area are considered to have a minimal effect on agriculture.

- ii) Proposed subdivisions or associated improvements that are located on or adjacent to prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service are considered to have an adverse impact on agriculture.
- iii) Proposed subdivisions or associated improvements that predominately border land defined as agricultural or timberland by the Montana Department of Revenue or state trust lands are considered to have an adverse impact on agriculture.

(2) Impact on agricultural water user facilities

- (a) Agricultural water user facilities are defined as those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.
- (b) All subdivisions must be designed so that they do not adversely impact agricultural water user facilities, pursuant to the MSPA and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions located on land with agricultural water user facilities or adjoining an agricultural water use facility are considered to have an adverse impact on agricultural water user facilities.
 - ii) Proposed subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are considered to have an adverse impact on agricultural water user facilities.
 - iii) Proposed subdivisions or associated

improvements that will alter access for maintenance of agricultural water user facilities are considered to have an adverse impact on agricultural water user facilities.

- iv) Proposed subdivisions or associated improvements that will alter the movement or availability of water are considered to have an adverse impact on agricultural water user facilities.

(3) Impact on local services

(a) Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens including but not limited to police, sheriff, fire, emergency, and public health services, as well as schools, busing, and roads.

(b) All subdivisions must be designed so that they do not adversely impact local services, pursuant to the MSPA, and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.

i) Proposed subdivisions that are contiguous to unincorporated town sites or within a designated urban growth area, will use existing utilities, will have safe and adequate access to existing road networks pursuant to Section 11-E-3-(e), and will meet applicable city zoning and building standards are considered to have a minimal impact on local services except as otherwise provided in subsection (6)(b)(vi).

ii) Proposed subdivisions that will require the extension of city or public sewer or water more than 300 feet are considered to have an adverse impact on local services.

iii) Proposed subdivisions that are not contiguous to unincorporated town sites or within a designated urban growth area will be considered to have an adverse impact on services including but not limited to police,

fire, and emergency services, school busing, and roads.

(4) Impact on natural environment

- (a) The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.
- (b) All subdivisions must be designed so that they do not adversely impact the natural environment pursuant to the MSPA and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions that are within a designated urban growth area and will use existing utilities are considered to have a minimal impact on the natural environment except as otherwise provided in subsections (ii) and (v) below.
 - ii) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, rivers, streams, lakes, wetlands, or other natural surface waters are considered to have an adverse impact on the natural environment which may be mitigated by meeting or exceeding standards pursuant to Section 11.
 - iii) Proposed subdivisions or associated improvements that are proposed on land with a high water table (less than 4 feet from the surface) or designated groundwater recharge areas are considered to have an adverse impact on the natural environment.
 - iv) Proposed subdivisions or associated improvements that are proposed in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 25 percent, are considered to have an adverse impact on the natural environment.

(5) Impacts on wildlife and habitat

- (a) Wildlife are defined as those animals that are not domesticated to tame. Wildlife habitat are defined as the place or area where wildlife naturally lives or travels through.
- (b) All subdivisions must be designed so that they do not adversely impact wildlife and wildlife habitat pursuant to the MSPA, and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions that are within a designated urban growth area are considered to have a minimal impact on wildlife and wildlife habitat except as other wise provided in subsections (iii) and (iv) below.
 - ii) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are considered to have an adverse impact on wildlife and wildlife habitat.
 - iii) Proposed subdivisions or associated improvements that are proposed in an area with rare, threatened, or endangered species, as identified by state or federal agencies are considered to have an adverse impact on wildlife.
 - iv) Proposed subdivisions or associated improvements that are proposed on or adjacent to land identified by state or federal agencies as critical habitat are considered to have an adverse impact on wildlife and wildlife habitat.
 - v) Proposed subdivisions or associated improvements that are proposed in locations that would interfere with known important or critical wildlife corridors are considered to have an adverse impact on wildlife and wildlife habitat.

(6) Impacts on public health and safety

- (a) Public health and safety is defined as the prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding; fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.
- (b) All subdivisions must be designed so that they do not adversely impact public health and safety pursuant to the MSPA, and as identified by not limited to the adverse impacts identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions that are within a designated urban growth area where existing police, fire, and emergency services can respond within 5 minutes for 90% of all emergencies and that meet or exceed the standards identified in Section 11 are likely to have a minimal impact on public health and safety.
 - ii) Proposed subdivisions or associated improvements that are located in an area identified as a medium to serve fire hazard area by a fire district are considered to have an adverse impact on public health and safety. If the level of fire hazard has not been determined for the site then the developer shall receive a determination from either the appropriate volunteer fire department or from the DNRC before submitting a subdivision application.
 - iii) Proposed subdivisions or associated improvements that are proposed on land with high-pressure gas lines or high voltage lines are considered to have an adverse impact on public health and safety.

- iv) Proposed subdivisions or associated improvements that are proposed on land or adjacent to Superfund or hazardous waste sites are considered to have an adverse impact on public health and safety.
- v) Proposed subdivisions or associated improvements that are proposed on or adjacent to abandoned landfills, mines, wells, waste sites, or sewage treatment plants are considered to have an adverse impact on public health and safety.
- vi) Proposed major or subsequent minor subdivisions located outside of areas where police, fire, and emergency services can respond within 5 minutes for 90 percent of all emergencies are considered to have an adverse impact on public health and safety.
- vii) Proposed subdivisions or associated improvements that are located in an area identified as a high seismic hazard areas are considered to have an adverse impact on public health and safety.
- viii) Any other adverse impacts on health or safety that may result from the proposed subdivisions or associated improvements.

2. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board may consider, without limitation, the following (as applicable):

- a) The subdivision application and preliminary plat;
- b) The summary of probable impacts and proposed mitigation;
- c) An officially adopted growth policy;
- d) Subdivision administrator's staff report and recommendation; and
- e) Any additional information authorized by law.

3. Within 10 working days after the Planning Board meeting, the Planning Board shall submit the following, in writing, to the subdivider and the

Governing Body:

- a) Recommended findings of fact based on the evidence in subsection 4(b) above that discuss and consider the subdivisions compliance with and impact on the items listed in subsection 4(a) of these regulations.
- b) A recommendation for approval, conditional approval (including any recommended conditions and/or mitigation measures), or denial of the subdivision application and preliminary plat; and
- c) A recommendation for approval or denial of any requested variances.
- d) The Planning Board or subdivision administrator shall collect public comment regarding the water and sanitation information required by the MSPA and these regulations. The Planning Board shall forward all comments regarding water and sanitation to the Governing Body.

E FIRST MINOR SUBDIVISION GOVERNING BODY DECISION AND DOCUMENTATION

1. The Governing Body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:
 - a) Provides easements for the location and installation of any planned utilities, within and to the proposed subdivision;
 - b) Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;
 - c) Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed;
 - d) Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights have been considered and will be accomplished before the final plat is submitted; and
 - e) Assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements have been considered and will be accomplished before the final plat is submitted.
2. In approving, conditionally approving, or denying a first minor subdivision

application, the Governing Body shall consider subsection 1 above and whether the proposed subdivision complies with:

- a) These regulations, including but not limited to, the standards set forth in Section 11;
- b) Applicable zoning regulations;
- c) Other applicable regulations;
- d) The MSPA, including but not limited to the following impacts:
 - (1) Impact on agriculture;
 - (2) Impact on agricultural water user facilities;
 - (3) Impact on local services
 - (4) Impact on the natural environment;
 - (5) Impact on wildlife and wildlife habitat; and
 - (6) Impact on public health and safety.
- e) Proposed mitigation.

3. Consideration – Evidence

- a) In making its decision to approve, conditionally approve, or deny a proposed first minor subdivision the governing body may consider and weigh the following, as applicable:
 - (1) The subdivision application and preliminary plat;
 - (2) The summary of probable impacts and proposed mitigation;
 - (3) An officially adopted growth policy;
 - (4) Subdivision administrator’s staff report and recommendations;
 - (5) Planning Board recommendation; and
 - (6) Any additional information authorized by law.

4. Water and Sanitation-Special Rules

- a) Water and sanitation information provided during the application review process, including public comment, may be used as a basis for a conditional approval or denial of a subdivision only if the Governing Body finds that the application does not comply with previously adopted subdivision, zoning, floodplain or other regulations.
 - b) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the subdivider shall obtain approval by the DEQ as a condition of approval of the final plat.
 - c) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the subdivider shall demonstrate that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot in order to obtain final plat approval.
 - d) The Governing Body shall request public comments regarding water and sanitation information and shall make any comments submitted, or a summary of the comments submitted, available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.
 - e) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the Governing Body to the:
 - (1) Reviewing authority provided in MCA, Title 76, Chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; or
 - (2) B-SB Health Department for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.
5. The Governing Body in rendering its decision to approve, conditionally approve, or deny the proposed subdivision shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the above subsections.
6. When the Governing Body approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider a letter, the letter shall:
- a) Contain information regarding the appeal process for the denial or imposition of conditions;
 - b) Identify the regulations and statutes that are used in reaching the

decision to approve, deny, or impose conditions and explain how they apply to the decision;

- c) Provide the facts and conclusions that the Governing Body relied upon in making its decision and reference documents, testimony, or other material that form the basis of the decision; and
- d) Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.
- e) Set forth the time limit for approval, pursuant to subsection g below.

7. Upon approval or conditional approval of the preliminary plat, the Governing Body shall provide the subdivider with a dated and signed statement of approval. The approval shall be in force for no more than three calendar years.

- a) At least 30 days prior to the expiration of the preliminary plat approval, the Planning Board may at its discretion and at the written request of the subdivider, extend its approval for a period of one additional year.
- b) The Governing Body may extend the approval for more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the Governing Body and the subdivider

8. After the application and preliminary plat are approved, the Governing Body may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires.

- a) The Governing Body may withdraw approval or conditional approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

F. FIRST MINOR AMENDED APPLICATIONS

1. If the subdivider changes the subdivision application or preliminary plat before the Governing Body makes its decision, the subdivider shall submit the amended application or preliminary plat to the subdivision administrator for review.

- a) Within 5 working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary

plat are material pursuant to subsection 4 below.

- b) The 35-working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.
 - c) If the subdivision administrator determines the changes are not material, the review period resumes when the subdivision administrator mails notice of the decision to the subdivider.
 - d) If the subdivision administrator determines the changes are material, the subdivision administrator shall either require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application or require the subdivider to present the changes to the Planning Board for consideration of the changes, only.
2. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period.
3. The following changes, although not an exhaustive list, may be considered material:
- a) Configuration or number of lots;
 - b) Road layout;
 - c) Water and/or septic proposals;
 - d) Configuration of parkland or open spaces;
 - e) Easement provisions;
 - f) Proposed covenants; or
 - g) Designated access.
4. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the Governing Body by written notice. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- a) The review period is suspended until the Governing Body decision on the appeal is made.
 - b) If the Governing Body concludes that the evidence and information

demonstrate that the changes to the subdivision application or preliminary plat are material, the Governing Body shall determine whether the subdivision application should be resubmitted or scheduled for rehearing in front of the Planning Board.

- c) If the Governing Body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are not material, the review period resumes as of the date of the decision.
- d) By appealing the decision of the subdivision administrator, the subdivider agrees to suspension of the review period.

G. FIRST MINOR SUBDIVISION FINAL PLAT

- 1. The final plat must include the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section 5.
- 2. Approval and acceptance of the final plat shall be made by resolution of the Governing Body and shall be noted on the face of the Minor Subdivision Plat.

H. SUBSEQUENT MINOR SUBDIVISION

- 1. A subsequent minor subdivision is any subdivision with five or fewer lots that is not a first minor subdivision. Subsequent minor subdivisions shall be reviewed as major subdivisions and must adhere to all the requirements and procedures of Section 7.

I. EXPEDITED REVIEW OF A FIRST MINOR SUBDIVISION

- 1. Criteria
A first minor subdivision qualifies for expedited review if the proposed subdivision meets the following criteria.
 - a) No more than two additional lots are created;
 - b) No land is dedicated to the public for parkland, playgrounds, or other;
 - c) Public uses and no additional streets will be dedicated to public use;
 - d) All lots have suitable access pursuant to County standards;
 - e) The proposed subdivision does not pose significant issues concerning public health, safety or welfare;

- f) Each lot can be or is already served by public sewer and/or water services, or approval from the DEQ has already been obtained and is submitted as part of the application; and
- g) The proposed subdivision complies with these regulations and all applicable zoning regulations.

2. Process

- a) The applicant shall request, in writing, consideration for expedited review at the time a pre-application meeting is requested.
- b) The subdivision administrator shall determine whether the application qualifies for the expedited review at the pre-application meeting.
- c) The subdivision administrator shall provide a letter to DEQ advising it that the application qualifies for expedited review, so no public hearing is required and no public comments are available.
- d) The applicant shall submit all required application materials identified in Section 4 of these regulations and the DEQ approval, for element review in accordance with the application deadline in these regulations as required.
- e) The application will be reviewed for the required elements and sufficient information as identified in Section 4-D.
- f) Once the subdivision administrator determines that the subdivision application is sufficient for review, the review period begins. The subdivision administrator shall review the application and make a recommendation for approval, conditional approval, or denial. The recommendation shall be forwarded to the applicant and the Governing Body no more than 15 working days after the application is deemed sufficient.
- g) If the subdivision administrator determines that the subdivision application does not meet the expedited review criteria, the subdivision administrator shall notify the subdivider of the decision within 5 working days of making that determination.

3. Approval

After receiving the recommendation from the subdivision administrator, the Governing Body shall adopt findings of fact for approval, conditional approval, or denial at its next scheduled meeting, but no later than 35

working days after the application is deemed sufficient. The Governing Body decision shall be documented pursuant to Section 6 E.

4. Final Plat Filing

Once the subdivision has been approved by the Governing Body and all conditions have been met if conditional approval was granted, the final plat can be prepared and filed.

SECTION 7: MAJOR SUBDIVISIONS

Subdivisions that qualify for major subdivision review are those divisions of land containing six or more lots, or subdivisions of five or fewer lots that do not otherwise qualify for review as first minor subdivisions under 76-3-609, MCA and these regulations.

A. SUBDIVISION APPLICATION AND PRELIMINARY PLAT SUBMITTAL

1. The subdivider shall submit to the Planning Department Office a subdivision application containing the materials identified in Section 4 and in the pre-application meeting.
2. The requirement for preparing an environmental assessment, does not apply, pursuant to 76-3-210, MCA, when:
 - a) The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA; and
 - b) The Governing Body has adopted zoning regulations pursuant to sections 76-2-301 through 76-2-32, MCA (county zoning pursuant to section 76-1-601(3)(e), MCA.
3. The Planning Board may waive the requirement for preparing any portion of the environmental assessment when the proposed subdivision is in an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA, and the proposed subdivision will be in compliance with the policy.
4. When an exemption from preparing any portion of the environmental assessment is sought, the applicant shall meet with the Planning Board, explain why the exemption is appropriate, and if granted the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review and shall be filed with the final plat.

B. TIME PERIOD FOR APPROVAL, CONDITIONAL APPROVAL OR DENIAL

1. Within 60 working days, the Governing Body shall approve, conditionally approve or deny the proposed subdivision according to subsection G of these regulations or 80 working days if the proposed subdivision contains 50 or more lots. The review period of 60 or 80 working days begins the day after the subdivision administrator notifies the subdivider or subdivider's agent in writing that the subdivision application is sufficient for review.

2. Review and comment by public agencies or utilities may not delay the Governing Body's action on the subdivision beyond the 60-working day review period. The Governing Body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the subdivision administrator or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the subdivision administrator shall notify the subdivider of the contact and the timeframe for response.

C PUBLIC HEARINGS AND NOTICES

The Planning Board and the Governing Body shall each hold a public hearing on the subdivision application when a hearing is required by these regulations.

1. The Planning Board and Governing Body shall give notice of the times, dates and locations of the hearings by publication in a newspaper of general circulation in the county not less than 15 days prior to the dates of the hearings.
2. The subdivider, each property owner of record, and each purchaser under contract for deed of the property immediately adjoining the land included in the plat shall be notified of the hearings by certified mail not less than 15 days prior to the date of the hearings by the Planning Board and the Governing Body.
3. The subdivider shall post notices at conspicuous places on the site of the proposed subdivision.

D PLANNING BOARD HEARING, CONSIDERATION AND RECOMMENDATION

1. The Planning Board shall conduct the public hearing and consider all relevant evidence relating to the proposed plat before preparing their final written findings of fact (also known as: Preliminary Plat Staff Analysis) and recommendations to the Governing Body.
2. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board may consider, without limitation, the following (as applicable):
 - a) The subdivision application and preliminary plat;
 - b) The environmental assessment;
 - c) Conformance with the local adopted Growth Policy and

transportation plan;

- d) Conformance with all sanitary requirements;
- e) Conformance with all requirements of the zoning laws in effect.
- f) The MSPA, including whether the proposed subdivision has been designed so that it does not adversely impact the criteria defined below, pursuant to 76-3-608 (3), MCA, or that such adverse impacts have been avoided or mitigated to the maximum extent possible:

(1) Impact on agriculture

- (a) Agriculture is defined as all aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market. Prime agricultural lands are defined under 82-4-203 (4), MCA.
- (b) All subdivisions must be designed so they do not adversely impact agriculture, pursuant to the MSPA and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions that are within a designated urban growth area are considered to have a minimal effect on agriculture.
 - ii) Proposed subdivisions or associated improvements that are located on or adjacent to prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service are considered to have an adverse impact on agriculture.
 - iii) Proposed subdivisions or associated improvements that predominately border land defined as agricultural or timberland by

the Montana Department of Revenue or state trust lands are considered to have an adverse impact on agriculture.

(2) Impact on agricultural water user facilities

(a) Agricultural water user facilities are defined as those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.

(b) All subdivisions must be designed so that they do not adversely impact agricultural water user facilities, pursuant to the MSPA and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.

i) Proposed subdivisions located on land with agricultural water user facilities or adjoining an agricultural water user facility are considered to have an adverse impact on agricultural water user facilities.

ii) Proposed subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are considered to have an adverse impact on agricultural water user facilities.

iii) Proposed subdivisions or associated improvements that will alter access for maintenance of agricultural water user facilities are considered to have an adverse impact on agricultural water user facilities.

iv) Proposed subdivisions or associated improvements that will alter the movement or availability of water are considered to have an adverse impact on agricultural water user facilities.

(3) Impact on local services

- (a) Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens including but not limited to police, sheriff, fire, emergency, and public health services, as well as schools, busing, and roads.
- (b) All subdivisions must be designed so that they do not adversely impact local services, pursuant to the MSPA, and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions that are contiguous to unincorporated town sites or within a designated urban growth area, will use existing utilities, will have safe and adequate access to existing road networks pursuant to Section 11-E-3-(e) and will meet applicable city zoning and building standards are considered to have a minimal impact on local services except as otherwise provided in subsection (6)(b)(vi).
 - ii) Proposed subdivisions that will require the extension of city or public sewer or water more than 300 feet are considered to have an adverse impact on local services.
 - iii) Proposed subdivisions that are not contiguous to unincorporated town sites or within a designated urban growth area will be considered to have an adverse impact on services including but not limited to police, fire, and emergency services, school busing, and roads.

(4) Impact on natural environment

- (a) The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.
- (b) All subdivisions must be designed so that they do not adversely impact the natural environment

pursuant to the MSPA and as identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.

- i) Proposed subdivisions that are within a designated urban growth area and will use existing utilities are considered to have a minimal impact on the natural environment except as otherwise provided in subsections (ii) and (v) below.
- ii) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, rivers, streams, lakes, wetlands, or other natural surface waters are considered to have an adverse impact on the natural environment which may be mitigated by meeting or exceeding standards pursuant to Section 11
- iii) Proposed subdivisions or associated improvements that are proposed on land with a high water table (less than 4 feet from the surface) or designated groundwater recharge areas are considered to have an adverse impact on the natural environment.
- iv) Proposed subdivisions or associated improvements that are proposed in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 25 percent, are considered to have an adverse impact on the natural environment.

(5) Impacts on wildlife and habitat

- (a) Wildlife are defined as those animals that are not domesticated to tame. Wildlife habitat is defined as the place or area where wildlife naturally lives or travels through.
- (b) All subdivisions must be designed so that they do not adversely impact wildlife and wildlife habitat pursuant to the MSPA, and as identified below, or that such adverse impacts have been avoided or

mitigated to the maximum extent possible.

- i) Proposed subdivisions that are within a designated urban growth area are considered to have a minimal impact on wildlife and wildlife habitat except as otherwise provided in subsections (iii) and (iv) below.
- ii) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are considered to have an adverse impact on wildlife and wildlife habitat.
- iii) Proposed subdivisions or associated improvements that are proposed in an area with rare, threatened, or endangered species, as identified by state or federal agencies are considered to have an adverse impact on wildlife.
- iv) Proposed subdivisions or associated improvements that are proposed on or adjacent to land identified by state or federal agencies as critical habitat are considered to have an adverse impact on wildlife and wildlife habitat.
- v) Proposed subdivisions or associated improvements that are proposed in locations that would interfere with known important or critical wildlife corridors are considered to have an adverse impact on wildlife and wildlife habitat.

(6) Impacts on public health and safety

- (a) Public health and safety is defined as the prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding; fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular

traffic safety hazards.

- (b) All subdivisions must be designed so that they do not adversely impact public health and safety pursuant to the MSPA, and as identified but not limited to the adverse impacts identified below, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.
 - i) Proposed subdivisions that are within a designated urban growth area where existing police, fire, and emergency services can respond within 5 minutes for 90% of all emergencies and that meet or exceed the standards identified in Section 11 are likely to have a minimal impact on public health and safety.
 - ii) Proposed subdivisions or associated improvements that are located in an area identified as a medium to severe fire hazard area by a fire district are considered to have an adverse impact on public health and safety. If the level of fire hazard has not been determined for the site then the developer shall receive a determination from either the appropriate volunteer fire department or from the DNRC before submitting a subdivision application.
 - iii) Proposed subdivisions or associated improvements that are proposed on land with high-pressure gas lines or high voltage lines are considered to have an adverse impact on public health and safety.
 - iv) Proposed subdivisions or associated improvements that are proposed on land or adjacent to Superfund or hazardous waste sites are considered to have an adverse impact on public health and safety.
 - v) Proposed subdivisions or associated improvements that are proposed on or adjacent to abandoned landfills, mines, wells, waste sites, or sewage treatment plants are considered to have an adverse impact on

public health and safety.

- vi) Proposed major or subsequent minor subdivisions located outside of areas where police, fire, and emergency services can respond within 5 minutes for 90 percent of all emergencies are considered to have an adverse impact on public health and safety.
 - vii) Proposed subdivisions or associated improvements that are located in an area identified as a high seismic hazard areas are considered to have an adverse impact on public health and safety.
 - viii) Any other adverse impacts on health or safety that may result from the proposed subdivisions or associated improvements.
3. After holding the public hearing and reviewing the evidence concerning the plat, the Planning Board shall act in an advisory capacity and submit its findings and recommendations to the Governing Body to approve, conditionally approve or deny the Preliminary Plat. This recommendation must be submitted in writing not more than ten (10) days after the public hearing. A copy of this recommendation shall also be mailed to the subdivider.
4. A recommendation for approval or denial of any requested variances.
5. Water and Sanitation Information
- a) The Planning Board or planning staff shall collect public comment regarding the water and sanitation information required by the MSPA and these regulations. The Planning Board shall forward all comments regarding water and sanitation to the Governing Body.

E GOVERNING BODY HEARING

1. After the Planning Board makes its recommendation, the Governing Body shall hold a public hearing on the subdivision application.
2. All comments and documents regarding the subdivision shall be submitted to the subdivision administrator, rather than to the Governing Body directly, to be forwarded to the Governing Body.
3. Upon an objection made at the hearing, the Governing Body shall determine whether public comments or documents presented for

consideration at the Governing Body's public hearing constitute either:

- a) Information or analysis of information that was presented at the Planning Board hearing on the subdivision application that the public has had a reasonable opportunity to examine and comment on, in which case the Governing Body shall proceed to its decision whether to approve, conditionally approve, or deny the proposed subdivision; or
 - b) New information or analysis of information that has never been submitted as evidence or considered by the Planning Board at a hearing on the subdivision application, in which case the Governing Body shall proceed as set forth in subsection (c) below.
 - c) If the Governing Body determines that public comments or documents presented at the hearing constitute new information or an analysis of information regarding the subdivision application that has never been submitted as evidence or considered by the Planning Board at the public hearing on the subdivision application, the Governing Body shall determine whether the public comments or documents are relevant and credible with regard to the Governing Body's decision, pursuant to subsections d) and e) below.
4. If the Governing Body determines the information or analysis of information is either not relevant or not credible, then the Governing Body shall approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information; or
- a) If the Governing Body determines the new information or analysis of information is relevant and credible, then the Governing Body shall schedule or direct the Planning Board to schedule a subsequent public hearing pursuant to subsection 1.
 - b) At the subsequent hearing the Planning Board or Governing Body shall consider only the new information or analysis of information that may have an impact on the finds and conclusions that the Governing Body will rely upon in making its decision on the proposed subdivision.
 - c) New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the Governing Body will rely upon in making its decision on the proposed subdivision.
 - d) New information or analysis of information is considered to be credible if it is based on one or more of the following:

- (1) Physical facts or evidence;
 - (2) Supported personal observations;
 - (3) Evidence provided by a person with professional competency in the subject matter; or
 - (4) Scientific data supported by documentation.
5. If a subsequent public hearing is held pursuant to subsection C-2, it must be held within 45 days of the Governing Body's determination to schedule a subsequent hearing. The Planning Board or Governing Body shall consider only the new information or analysis of information that may have an impact on the findings and conclusions that the Governing Body will rely upon in making its decision on the proposed subdivision.
- a) Notice of the time, date and location of the subsequent hearing shall be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the subsequent hearing.
 - b) At least 15 days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified mail to the subdivider, each adjoining landowner to the land included in the preliminary plat, and each purchaser under contract for deed of the property immediately adjoining the land included in the preliminary plat.
 - c) The subdivider shall post notice of the subsequent hearing at a conspicuous place on the site of the proposed subdivision.
6. If a subsequent public hearing is held, the 60-working day review period is suspended as of the date of the Governing Body's decision to schedule a subsequent hearing. The 60-working day review period resumes on the date of the Governing Body's next scheduled public meeting for which proper notice for the public meeting on the subdivision application can be provided.

F GOVERNING BODY DECISION AND DOCUMENTATION

1. The Governing Body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:
 - a) Provides easements within and to the proposed subdivision for the location and installation of any planned utilities;

- b) Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;
- c) Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided in these regulations;
- d) Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water right have been considered and will be accomplished before the final plat is submitted;
- e) Assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements have been considered and will be accomplished before the final plat is submitted; and
- f) Provides for the appropriate park dedication or cash-in-lieu.

2. In approving, conditionally approving, or denying a subdivision application and preliminary plat, the Governing Body shall consider subsection 1 above, and whether the proposed subdivision complies with:

- a) These regulations, including, but not limited to, the standards set forth in Section 10;
- b) Applicable zoning regulations;
- c) Other applicable regulations;
- d) The MSPA, including but not limited to the following impacts:
 - (1) Impact on agricultural;
 - (2) Impact on agricultural water user facilities;
 - (3) Impact on local services;
 - (4) Impact on the natural environment;
 - (5) Impact on wildlife and wildlife habitat;
 - (6) Impact on public health and safety; and
 - (7) Impact on public health and safety; and

- e) Proposed mitigation.
3. In making its decision to approve, conditionally approve, or deny a proposed subdivision, the Governing Body may consider and weight the following, as applicable:
- a) The subdivision application and preliminary plat;
 - b) The environmental assessment;
 - c) The summary of probable impacts and mitigation;
 - d) An officially adopted growth policy;
 - e) Comments, evidence and discussions at the public hearing(s);
 - f) Subdivision administrator's staff report and recommendations;
 - g) Planning Boards recommendation; and
 - h) Any additional information authorized by law.
4. Water and Sanitation – Special Rules
- a) Water and sanitation information provided during the application review process, including public comment, may be used as a basis for a conditional approval or denial of a subdivision only if the Governing Body finds that the application does not comply with previously adopted subdivision, zoning, floodplain or other regulations.
 - b) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the subdivider shall obtain approval by DEQ as a condition of approval of the final plat.
 - c) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the subdivider shall demonstrate that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot in order to obtain final plat approval.
 - d) The Governing Body shall collect public comments submitted regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.

- e) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the Governing Body to the:
 - (1) Reviewing authority provided in MCA, Title 76, Chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres, and
 - (2) B-SB Health Department for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.
- 5. The Governing Body in rendering its decision to approve, conditionally approve, or deny the proposed subdivision shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the above subsections.
- 6. When the Governing Body approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider a letter within 30 working days following a decision, the letter shall:
 - a) Contain information regarding the appeal process for the denial or imposition of conditions;
 - b) Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - c) Provide the facts and conclusions that the Governing Body relied upon in making its decision and reference documents, testimony, or other material that form the basis of the decision; and
 - d) Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approve.
 - e) Set forth the time limit for approval, pursuant to subsection g below.
- 7. Upon approval or conditional approval of the preliminary plat, the Governing Body shall provide the subdivider with a dated and signed statement of approval. The approval shall be in force for no more than three calendar years.
 - a) At least 30 days prior to the expiration of the preliminary plat approval, the Planning Board may at its discretion and at the written request of the subdivider, extend its approval for a period of one additional year.

- b) The Governing Body may extend the approval for more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the Governing Body and the subdivider
8. After the application and preliminary plat are approved, the Governing Body may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires.
- a) The Governing Body may withdraw approval or conditional approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

G. AMENDED APPLICATIONS

1. If the subdivider changes the subdivision application or preliminary plat after the subdivision administrator makes a determination of sufficiency but before the Planning Board hearing, the subdivider shall submit the amended application to the subdivision administrator for review.
- a) Within 5 working days of receiving the amended application or preliminary plat, the subdivision or preliminary plat, the subdivision application or preliminary plat are material, pursuant to subsection d) below.
 - b) The 60-working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.
 - c) If the subdivision administrator determines the changes are not material, the 60-working day review period resumes when the subdivision administrator mails the notice of the decision to the subdivider.
 - d) If the subdivision administrator determines the changes are material, the subdivision administrator shall either require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application or obtain written permission from the subdivider for an additional 15-working day period to evaluate the sufficiency of the proposed changes.
2. If the subdivider changes the subdivision application or preliminary plat after the Planning Board hearing but before the Governing Body hearing, the subdivider shall submit the amended application or preliminary plat to the subdivision administrator for review.

- a) Within 5-working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material pursuant to subsection d) below.
 - b) The 60-working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.
 - c) If the subdivision administrator determines the changes are not material, the 60-working day review period resumes when the subdivision administrator mails notice of the decision to the subdivider.
 - d) If the subdivision administrator determines the changes are material, the subdivision administrator shall either:
 - (1) Require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee; or
 - (2) Schedule a new Planning Board hearing to take comment on the amended application or preliminary plat. Notice of the subdivision administrator's determination to schedule a new Planning Board hearing shall be provided as set forth in subsection C-2. A supplemental staff report shall be prepared to address the changes to the original application.
 - e) If a new Planning Board hearing is held the 60-working day review period is suspended for the time period between notice of the subdivision administrator's determination and 10-working days after the date of the second Planning Board hearing.
3. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the 60-working day review period.
4. The following changes, although not an exhaustive list, may be considered material:
- a) Configuration or number of lots;
 - b) Road layout;
 - c) Water and/or septic proposals;

- d) Configuration of parkland or open spaces;
 - e) Easement provisions;
 - f) Proposed covenants; or
 - g) Designated access.
5. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the Governing Body by written notice. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- a) The review period is suspended until the Governing Body decision on the appeal is made.
 - b) If the Governing Body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the Governing Body shall determine whether the subdivision application should be resubmitted or scheduled for rehearing in front of the Planning Board.
 - c) If the Governing Body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are not material, the review period resumes as of the date of the decision.
 - d) By appealing the decision of the subdivision administrator, the subdivider agrees to suspension of the review period.

H. MAJOR SUBDIVISION FINAL PLAT

1. The final plat must include the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section 5.

SECTION 8: SUBDIVISION EXEMPTIONS

The Montana Subdivision and Platting Act (MSPA) provides that certain divisions of land, which would otherwise constitute subdivisions are exempt from local subdivision review and approval, unless the use of the exemption is an attempt to evade the MSPA.

The Governing Body and its agents, when determining whether an exemption is claimed for the purpose of evading the MSPA, shall consider all of the surrounding circumstances. These circumstances include the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction is completed and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

A. CLASSIFICATION OF EXEMPTIONS

As noted in Section 2 of these regulations, there are three categories of land divisions which have been exempted in the Montana Subdivision and Platting Act from public review and/or surveying requirements. These regulations have classified the Subdivision Exemptions as follows:

1. Class I Exemptions - Land divisions which are exempt from review and surveying or platting requirements.
2. Class II Exemptions - Subdivisions which are exempt from review but subject to surveying and filing requirements.

Class IIA - Land divisions not classified as exemptions under Class II.

3. Class III Exemptions - Subdivisions which are exempt from surveying or filing requirements but subject to review and approval.

B. CRITERIA FOR EXEMPTION CLASSIFICATION

1. Class I Exemptions - The following land divisions shall be exempt from public review and surveying or platting requirements:
 - a) Land divisions created by order of any court of record in the State of Montana or by the operation of law or which, 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. Before a court of record orders a division of land under subdivision, the court shall notify the Governing Body of pending division and allow that Governing Body to present written comment on the division;
 - b) Land divisions created to provide security for construction

mortgages, liens, refinancing, or trust indentures;

- (1) This exemption applies:
 - (a) To a division of land of any size;
 - (b) If the land that is divided is only conveyed to 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 the land was divided, to any party other than those identified in the preceding sentence subjects the division of land to the requirements of the MSPA and these regulations;
 - (c) To a parcel that is created to provide security under this subsection. The remainder of the tract of land, if applicable, is subject to the provisions of the MSPA and these regulations.
- (2) Statement of Intent – Under policies by many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a person who is buying a tract using financing or contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.
- (3) Use of Exemption – This exemption is not available to simply create a parcel without review by claiming that the parcel will be used for security to finance construction of a home or other structure on the proposed lot.

This exemption may not be properly invoked unless (1) the claimant is purchasing a larger tract through financing or a contract for deed (and thus does not hold title) and (2) a lending institution requires the landowner to hold title to a small parcel of the tract because the smaller tract is required as security for a building construction loan.

- (4) When this exemption is used, the landowner must submit to the subdivision administrator:

- (a) A statement of how many interests within the original tract will be created by use of the exemption;
 - (b) The deed, trust indenture or mortgage for the exempted interest (which states that the interest is being created only to secure a construction mortgage, lien or trust indenture);
 - (c) A statement explaining who will have title to and possession of the balance of the original parcel after title to the exempted interest is conveyed; and
 - (d) A signed statement from a lending institution that the creation of the interest is necessary to secure a loan.
- (5) The use of this exemption is presumed to have been adopted for the purpose of evading the Act if:
- (a) It will create more than one new building site;
 - (b) The financing is not for construction or improvements on the exempted parcel, or for re-financing;
 - (c) The person named in the “statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed” is anyone other than the borrower of funds for construction;
 - (d) Title to the exempted interest will not be initially obtained by the lending institution if foreclosure occurs;
 - (e) There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract;
 - (f) It appears that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose or;
 - (g) The division of land is created for the purpose of conveyance 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.

- c) Where a land division creates an interest in oil, gas, minerals or water which is now or hereafter severed from the surface ownership of real property;
- d) Land divisions created for cemetery lots;
- e) A land division is created by the reservation of a life estate;
- f) A land division is created by lease or rental for farming and agricultural purposes;
- g) An existing subdivision where the existing improvement is created for the sale, rent, lease, or other conveyance of one or more parts of a building, structure or other improvement located on one or more parcels of land;
- h) A division of land that is in a location over which the state does not have jurisdiction.
- i) A land division is created for the conveyance of condominiums constructed on land divided in compliance with these regulations if
 - (1) The approval of the original division of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in Section 13, Dedication of Public Parks and Open Space, are complied with; or
 - (2) The condominium proposal is in conformance with applicable local zoning regulations where local zoning regulations are in effect.
- j) The division of state-owned land unless the division creates a second or subsequent parcel for sale, rent, or lease for residential purposes after July 1, 1974;
- k) The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed;
- l) Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to

appropriate certificates of survey and plats when presented for recording.

- m) A division of land created by lease or rental of contiguous airport-related land owned by a city, a county, the state, or a municipal or regional airport authority, if the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier-related activities.

2. Class II Exemptions - The following divisions of land are exempt from public review but are subject to surveying and platting requirements and zoning regulations. A division of land may not be made under this section unless the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid. The Clerk and Recorder shall notify the subdivision administrator if a land division described in this section or 76-3-207(1), MCA, is submitted to the Clerk and Recorder prior to the survey being submitted to the subdivision administrator for evasion review:

- a) Divisions of land made outside of platted subdivisions for the purpose of relocating common boundaries or size of two adjoining properties. The intended purpose of this exemption is to allow a change in the location or the elimination of a boundary line between adjoining properties outside of a platted subdivision and to allow a one-time transfer of a tract to effect that relocation or elimination without subdivision review.

- (1) Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and, in case of a relocation, the new boundary. This must be accomplished by representing the existing boundary with a dashed line and the new boundary, if applicable, with a solid line. The appropriate certification set forth in ARM 23.183.1104 (1)(f) must be included on the certificate of survey. Certificates of survey showing the relocation of common boundary lines must be accompanied by a quit claim or warranty deed or recordable agreement from adjoining property owner for the entire newly described parcel(s) or that portion of the tract(s) that is being affected.

- (2) The proper use of the exemption for relocating common boundary lines is to establish a new boundary between adjoining parcels of land outside of a platted subdivision, without creating an additional parcel. The exemption may not be used if the division of land would result in the permanent creation of one or more additional parcels of land.

- (3) The use of this exemption is presumed to have been adopted for the purpose of evading MSPA if:
 - (a) The reviewing agent determines that the documentation submitted according to this section does not support the stated reason for relocation; or
 - (b) The proposed relocation creates a parcel of less than 160 acres which, prior to the relocation included more than 160 acres.
- b) For five or fewer lots within a platted subdivision for the purpose of relocating common boundaries, providing no additional lots are created;
 - (1) If the resulting lots are inconsistent with the approved subdivision and the uses in it, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
 - (2) If the resulting lots do not comply with existing zoning, covenants, and/or deed restrictions, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
- c) Divisions of land outside of platted subdivisions by gift, sale or agreement to buy and sell in which the parties to the transaction enter into a covenant running with the land and revocable only by the mutual consent of the local government and the property owner that the divided land shall be used exclusively for the production of livestock or agricultural crops and no residential, commercial or industrial buildings, which require water or sewer will be built on it;
 - (1) A certificate of survey that uses this exemption to create a parcel for agricultural use only requires a covenant running with the land in accordance with 76-3-207(1)(c), MCA, and a signed and acknowledged recitation of the covenant on the face of the survey. The certificate of survey must be accompanied by a separate, recordable, document reciting the covenant.
 - (2) “Agricultural purpose,” for purposes of these evasion criteria, means the use of land for raising crops, livestock, or timber, and specifically excludes residential structures and facilities for commercially processing agricultural

products. Agricultural lands are exempt from review by the DEQ, provide the applicable exemption under the Sanitation in Subdivisions Act is properly invoked by the property owner.

- (3) Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision.
 - (4) Residential, commercial, or industrial structures, including facilities for commercial processing of agricultural products, may not be utilized, constructed or erected on parcels created under this exemption unless the covenant is revoked.
 - (5) The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA:
 - (a) The parties to the transaction must enter into a covenant running with the land and revocable only by mutual consent of the Governing Body and the property owner that the divided land will be used exclusively for agricultural purposes. The covenant must be signed by the property owner, the buyer and the members of the Governing Body.
 - (b) The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial building have been or will be built on it.
 - (c) The parcel must meet the criteria for an agricultural designation under section 15-7-202, MCA.
- d) Divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family. The intent of this exemption is to allow a landowner to convey one parcel outside of a platted subdivision to each member of his or her immediate family, without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property. This exemption may be used only by grantors who are natural persons and not by non-corporal legal entities such as corporations, partnerships, and trusts.
- (1) A certificate of survey (or recording instrument of

conveyance) that uses this exemption to create a parcel for conveyance to a family member must show the name of the grantee, relationship to the landowner, and the parcel to be conveyed under this exemption, and the landowner's certification of compliance ARM 24.183.1104(1)(f). Also, the certificate of survey or instrument of conveyance must be accompanied by a deed or other conveying document.

- (2) One conveyance of parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review under the MSPA and these regulations. However, the use of the exemption may not create more than one new parcel per eligible family member.
 - (3) Any proposed use of the family gift or sale exemption to divide a tract that was previously created through the use of an exemption will be presumed to be adopted for purposes of evading the MSPA.
 - (4) The use of the family gift or sale exemption to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space or common marketing or promotional plan raises a rebuttable presumption that the use of the exemption is adopted for purposes of evading the MSPA
 - (5) A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption will result in the presumption the method of disposition is adopted for the purpose of evading the MSPA and these regulations.
 - (6) The use of the exemption to create more than one additional or remaining parcel of less than 160 acres in size is presumed to be adopted for the purpose of evading the MSPA and these regulations.
- e) Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
 - f) Aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels

have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

- B. Class IIA - Land divisions not classified as exemptions under Class II:
- a) Within a platted subdivision filed with the county clerk and recorder, a division of lots that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the Governing Body, and an amended plat must be filed with the county clerk and recorder;
 - b) A change in use of the land exempted under Class II (c), for anything other than agricultural purposes subjects the division to the provisions of the subdivision regulations.

A division of land may not be made under Class II or Class IIA unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

3. Class III Exemptions - Subdivisions created solely for rent or leasing purposes shall be exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act and these regulations but must be submitted for review and approval by the Governing Body before portions thereof may be rented or leased.

C. *FILING OF EXEMPTED SUBDIVISIONS*

- 1. Land divisions qualifying as Class I Exemptions may be filed with the Clerk and Recorder if all surveying and filing requirements have been met.
- 2. Land divisions qualifying as Class II and Class IIA Exemptions shall be reviewed by the following agencies prior to filing with the Clerk and Recorder.
 - a) The Examining Surveyor shall review all Class II and Class IIA Exemptions for compliance with the Montana Subdivision and Platting Act.
 - b) The Department of Environmental Quality shall review all Class II, Class IIA and Class III Exemptions for compliance with State laws related to water supplies, sewage disposal, solid waste disposal and drainage.
- 3. Land divisions qualifying, as Class III Exemptions must be reviewed as subdivisions and approved by the Governing Body prior to renting or

leasing any portion of the property.

SECTION 9: SUBDIVISION EXEMPTION DETERMINATION.

A. PROCEDURES AND REVIEW OF SUBDIVISION EXEMPTIONS

1. Submittal

Any person seeking exemption from the requirements of the MSPA shall submit to the Planning Department (1) a certificate of survey or, if a survey is not required, an instrument of conveyance, and (2) evidence of, and an affidavit affirming, entitlement to the claimed exemption. For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner,” and “owner” mean the seller of the parcel under the contract-for-deed (ARM 24.183.1104).

2. Review

When a division of land or aggregation for which an exemption is claimed is submitted to the Planning Department, the subdivision administrator shall cause the documents to be reviewed by the designated agents of the Governing Body (e.g., county attorney, sanitarian, treasurer, and clerk and recorder). The subdivision administrator and Governing Body agents shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the MSPA, the Montana Sanitation in Subdivisions Act, and these regulations..

- a) Landowners or their agents are encouraged to meet with the subdivision administrator to discuss whether a proposed land division or aggregation or use of an exemption is in compliance with the criteria in this section.
- b) The subdivision administrator shall make a written determination of whether the use of the exemption is intended to evade the purposes of the MSPA, explaining the reasons for the determination.

B. NOTICE TO BE GIVEN BY CLERK AND RECORDER OF CLAIMS FOR SUBDIVISION EXEMPTION

1. As provided in Section 76-3-301(2) of the Montana Subdivision and Platting Act, the Clerk and Recorder shall notify the Subdivision Review Committee, as designated agent of the Governing Body, of any Certificates of Survey submitted for land divisions or aggregation claiming exemption from subdivision review as stated in Section 8-B-2 of these regulations.

C. EXAMINATION OF EXEMPTION CLAIM

1. Upon receipt of notice from the Clerk and Recorder, the Subdivision Review Committee shall examine the claim for exemption.
2. Where the Subdivision Review Committee finds that the claim for exemption does not fall within the Criteria for Evasion Determination as set forth in subsection E below, the Subdivision Review Committee shall notify the Clerk and Recorder and the Subdivision Administrator that the exemption claim is in proper order.
3. Where the Subdivision Review Committee finds that the claim for exemption falls within the Criteria for Evasion Determination as set forth in subsection D below, the Subdivision Review Committee shall notify the subdivider, in writing, of their findings and submit these findings to the Governing Body for consideration at their next regularly scheduled meeting.
4. The Subdivision Review Committee shall notify the subdivider within thirty days of their findings and during the same time notify the subdivider of the time and place of the Governing Bodies next regularly scheduled meeting.

D. DECISION OF GOVERNING BODY

1. The Governing Body shall hold a summary review hearing to examine the findings, submitted by the Subdivision Review Committee, and any other additional evidence that may be submitted by the subdivider or his/her agent to determine if the claim for exemption from the subdivision regulations is being invoked for the purpose of evading the intent of the Subdivision and Platting Act.
 - a) Where the Governing Body determines that the claim for exemption is not being invoked to evade the intent of the Subdivision and Platting Act, the Governing Body shall authorize, in writing, the Clerk and Recorder to file the Certificate of Survey, providing it is otherwise in proper form.
 - b) Where the Governing Body determines that the claim for exemption is being invoked to evade the intent of the Subdivision and Platting Act, the Governing Body shall state, in writing, its findings and the land division shall be treated as any other subdivision.

E. CRITERIA FOR EVASION DETERMINATION

1. The Governing Body shall consider and may reject the claim for exemption where it is determined that the proposed exemption does not meet one of the three classifications described in Section 8, Subdivision Exemptions, of

these regulations or one of the exemption classifications described in Title 76, Chapter 3, Part 2 (Miscellaneous Exemptions) of the Montana Subdivision and Platting Act.

2. When the Governing Body rejects a claim for exemption, the subdivider must be notified in writing within ten (10) days of the final decision to reject.

F. APPEAL OF DETERMINATION

1. The determination by the Governing Body to reject a claim for exemption from the subdivision regulations, as provided in Title 76, Chapter 3, Part 2 (Miscellaneous Exemptions) of the Montana Subdivision and Platting Act, may be appealed to the District Court pursuant to the provisions of the Administrative Procedures Act, Section 2-4-601 et. seq. MCA.

G. REMAINING PARCELS OF LAND

Occasionally parcels of land are created after the rest of the land has been subdivided or after an exemption is used to divide the land. The term “remainder” has been used to refer to that portion of an original tract which is not itself created for transfer but which is left after other parcels are segregated for transfer.

A “remainder” less than 160 acres in size, contiguous to a proposed subdivision will be considered a lot in that subdivision and will not evade review as a “remainder.” If an exemption by a certificate of survey is used, the remaining tract of land is a separate parcel which must be surveyed.

H. IDENTIFICATION CODES

1. To assist in the implementation of the review process and to monitor those parcels by exemption the Clerk and Recorder may cause the following identification codes to be added to the numbering of recorded certificate of survey filed after the effective date of these regulations.

CO...Court order [76-3-201 (1)(a), MCA]
ME...Mortgage Exemption [76-3-201 (1)(b), MCA]
LE...Life Estate [76-3-201 (1)(e), MCA]
RB...Relocation of Common Boundary [76-3-201 (1)(a), MCA]
FC...Family Conveyance [76-3-201 (1)(b), MCA]
AE...Agricultural Exemption [76-3-207 (1)(c), MCA]
AL...Aggregation of Lots [76-3-207(e), MCA]
NS...Non-subdivision (i.e. > 160 acres, [76-3-104, MCA]
RT...Retracement (existing “Tract of Record”)[76-3-103(16), 76-3-206, 76-3-404,MCA]
RW...Right-of-Way or Utility Sites [76-3-201(1)(h), MCA]

SECTION 10: SPECIAL SUBDIVISIONS

A. GENERAL

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design by using cluster development concepts, enhancements of open space and use of natural features, promotion of economics in providing utilities and other services and the harmonious relationship of mixed land uses.

A subdivision created by rent or lease, including a mobile home/manufactured home or recreational vehicle park, is any tract of land divided by renting or leasing portions of it. The land is owned, however, as one parcel under single ownership (which can include a number of persons owning property in common). Plans, not plats, are submitted to the subdivision administrator for review. The plan shows spaces, not lots. The plan must comply with applicable zoning.

B. PROCEDURES FOR SUBDIVISIONS CREATED BY LEASE OR RENT

1. Subdivision Submittal and Review

- a) Subdivisions created by rent or lease, such as mobile home and recreational vehicle parks, are exempt from the survey and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the Governing Body before portions thereof may be rented or leased.
- b) Subdivisions created by rent or lease shall comply with the appropriate review approval procedures contained in Section 7 Major Subdivisions for all major subdivisions and Section 6 Minor Subdivision for all minor subdivisions.
- c) Before any portion of a rental or lease subdivision may be rented or leased, the subdivider shall have installed all required improvements or submit a bond subject to approval by the County Attorney, equal to one hundred ten percent (125%) of the engineered cost estimate of the improvements. Where staged or phased development is proposed, improvements for the later phases may be deferred by the Governing Body. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the Governing Body for its approval prior to the construction of improvements. The Governing Body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

- d) Recreational Vehicle Parks or Mobile Home Parks shall meet all the requirements of these regulations with the exception that boundaries for the individual mobile home or recreational vehicle spaces need not be surveyed. The boundaries for the spaces shall, however, be marked on the ground and shown on the Preliminary Plat. If at a later date, the subdivider proposes to sell individual mobile home or recreational vehicle spaces as lots, all surveying requirements for a land subdivision shall be met before any parcel is offered for sale.
- e) In lieu of filing a Final Plat, the subdivider shall submit a plan to the Planning Board conforming to the conditions and requirements of the approved Preliminary Plat to the Planning Board Office. The plan will be reviewed to assure that it conforms to the approved Preliminary Plat. The approved plan shall be maintained in the Planning Board Office.
- f) All subdivision qualifying for review under this section are subject to the review criteria described in Section 6 Minor Subdivision for all minor subdivisions and Section 7 Major Subdivisions for all major subdivisions.

C. *MOBILE HOME PARK STANDARDS*

1. General

- a) Mobile home parks shall meet the minimum requirements of the Montana Department of Public Health and Human Services as required by Title 50, Chapter 52, MCA, and all regulations adopted pursuant thereto and shall be approved and inspected by the Department of Environmental Quality. The Governing Body will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA.
- b) Mobile home parks may utilize the provisions outlined in this section for "Planned Unit Developments," to allow the developer creativity in mobile home park design.
- c) Preliminary Plan submittal shall meet all the requirements as outlined in *Section 4-C: PRELIMINARY PLAT FORM, CONTENTS, AND SUPPLEMENTS*, and the following standards. The plan shall show the lot layout and the typical location of the mobile home, recreational vehicle, or other unit on the lot.

2. Design Standards

a) Streets and Access

- (1) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Alignments and gradients of streets shall be adopted to the topography. Surfaces of streets shall be paved or graveled and well drained.
- (2) For private roads, the subdivider shall not be required to reserve right-of-way in excess of the roadway width.
- (3) Streets in a mobile home park may be dedicated to public use. Public streets and bridges shall comply with the minimum standards established by the Public Works Department and as described in Section 11-G and Section 11-H.
- (4) Private streets in mobile home parks shall be of adequate widths to accommodate the contemplated parking and traffic load. As a minimum, moving lanes must be ten (10) feet wide and parallel-parking lanes must be eight (8) feet wide.
- (5) Intersections of mobile home park streets with local streets or major arterials or highways shall be kept to a minimum and shall be designed so as to cause the least possible interference with traffic movement.
- (6) No more than two (2) streets may intersect at one point and shall intersect at right angles, except when topography dictates otherwise, and in no case shall the angle of intersection be less than seventy (70) degrees.
- (7) Two streets meeting a third street from opposite sides shall meet at the same point or their centerlines shall be off-set at least one-hundred twenty-five (125) feet.
- (8) Intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds of the individual roadways.
- (9) Culverts or bridges shall be provided by the subdivider where drainage channels intersect any street right-of-way. Where culverts are required, they shall extend at least across the entire improved width of the street.
- (10) Streets shall be designed to permit safe placement and

removal of mobile home units.

b) Lot Size

- (1) Lots or spaces shall meet minimum requirements of the Department of Public Health and Human Services.
- (2) The lot boundaries of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable with an engineer's scale and a tape is acceptable. Precise engineering of lot limits is not required on the plans or on the ground.
- (3) The size of the mobile home pad shall be suitable for the general market to be served and shall fit the dimensions of mobile homes anticipated.
- (4) A mobile/manufactured home pad may not occupy more than one-third (1/3) of the area of its space. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the area of a space.
- (5) The Governing Body may require that the mobile/manufactured home pad be improved to provide adequate support for the placement and tie-down on the mobile home.
- (6) A minimum of two off-street parking spaces must be provided on or adjacent to each mobile/manufactured home space. The driveway must be located to allow for convenient access to the mobile/manufactured home, and be a minimum of 10 feet wide.
- (7) The Governing Body may require that mobile home parks located adjacent to industrial or commercial land uses provide screening such as fences or landscaping along the property boundary line separating the park from such use.
- (8) Plantings may be required for buffering, screening, or soil erosion protection, and are subject to approval by the Governing Body. Existing trees and other vegetation shall be preserved where possible. A buffering screen may be required along the perimeters of a mobile home park which

abuts a highway arterial or frontage access road and existing residential uses.

- (9) Exposed ground surfaces in all parts of every mobile home space shall be paved, covered with stone or other solid material, or protected with a vegetative cover.
- (10) All mobile homes must be located at least twenty (20) feet from any property boundary line abutting upon a public street or highway right-of-way and at least ten (10) feet from other boundary lines of the park.
- (11) The mobile home pad must be located at least ten (10) feet from the rear property line.
- (12) No detached structure, such as a storage shed, may be located within five (5) feet of any home or its attached structures.
- (13) One guest parking space for each ten (10) mobile home lots must be provided. Group parking may be provided.
- (14) Each mobile home must be skirted within a reasonable amount of time after said mobile home is moved within the mobile home park. Said skirting must be of a fire-resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home.

c) Water Supply

- (1) All water supply systems shall meet the minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA and meet the requirements of the Butte-Silver Bow Public Works Department.
- (2) All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with state and local regulations and codes and shall be of a type and in location approved by the authority having jurisdiction.

d) Sewage Disposal

All sewage disposal systems shall meet the minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA and meet the requirements of the Butte-Silver Bow Public Works

Department.

e) Solid Waste

The mobile home park developer shall assure that facilities for collection and disposal are available and meet the regulations and minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA and meet the requirements of the Butte-Silver Bow Public Works Department.

f) Electrical Systems

Electrical system installation within a mobile home park shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installations shall be designed and constructed in accordance with the applicable provisions of the "National Electrical Code" (NFPA No. 70-1978).

g) Gas System

(1) Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation shall be designed and constructed in accordance with the appropriate provisions of the "National Fuel Gas Code" (NFPA Pamphlet 54-1981) and the "Standard for the Storage and Handling of Liquefied Petroleum Gases" (NFPA Pamphlet 58-19814).

(2) A readily identifiable and accessible shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection of the liquefied petroleum gas container.

(3) Each mobile home lot shall have an accessible, listed gas shutoff valve installed. Such valve shall not be located under a mobile home. Whenever the mobile home outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

h) Fire Protection

Every mobile home park shall be equipped at all times with fire control equipment in good working order of such type, size, and number and so located within the park as prescribed by the local fire authority or to satisfy reasonable fire regulations.

i) Park Land Requirement

Park Land Requirements for mobile home parks shall comply with the provisions of Section 13, Dedication of Public Parks and Open Space, unless otherwise described in Section 7, Subdivision Exemptions. In regards to parkland, each space shall be considered one lot.

j) Mail Delivery

If mail delivery will not be made to each individual lot, the mobile home park shall provide an off-street area for mail delivery within the park in cooperation with the United States Post Office.

D. RECREATIONAL VEHICLE PARK STANDARDS

1. General

a) Recreational vehicle parks shall meet the minimum standards outlined in Section 10-C-1-(a) through (c), for mobile homes parks.

2. Design Standards

a) Recreational vehicle parks shall conform to the design standards contained in Section 10-C-2-(a) through (i), for mobile home parks and the following requirements:

- (1) Recreational vehicle spaces shall be arranged to facilitate placement and removal of vehicles from individual spaces;
- (2) Accessory facilities shall be designed and located for safe and convenient use by occupants of the park;
- (3) Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structures, such as attached awnings, shall, for purposes of this separation requirement, be considered part of the recreational vehicle;
- (4) The density shall not exceed 24 recreational vehicle spaces per acre of gross site area;

- (5) All recreational vehicle spaces shall be located at least twenty (20) feet from a public street or highway right-of-way. One-way roads must be at least 15 feet wide.

E. CONDOMINIUMS

1. General Requirements

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act as follows:

- a) If no division of land will be created by a condominium subdivision, the subdivision must be reviewed under the procedures containing in Section 10-B Procedures For Subdivisions Created By Lease or Rent.
- b) Those condominium developments which will be constructed on land divided in compliance with the Montana Subdivision and Platting Act and these regulations will be exempted from further review by the Governing Body.
- c) Those condominium developments which will be constructed on land divided not fully complying with the Montana Subdivision and Platting Act and these regulations will be subject to full subdivision review and approval by the Butte-Silver Bow Planning Board and Governing Body to ensure that all standards and provisions of said regulations are met. These subdivision regulations will not apply to condominium subdivisions recorded prior to July 1, 1974.
- d) Condominium developments shall comply with those standards contained in *Section 11: DESIGN STANDARDS*, and all other standards and regulations which the Governing Body determines to be applicable to the developments.
- e) Condominium developments shall meet the minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA.
- f) Condominiums development shall comply with all provisions of the Unit Ownership Act, Title 70, Chapter 23, MCA, and all regulations adopted pursuant thereto by the Montana Department of Commerce, Business Development Division.
- g) The declaration of regulation of all condominium developments shall be submitted by the developer to the Governing Body for review to ensure that the land on which they will be located has been divided in full compliance with the Montana Subdivision and Platting Act and these regulations and is properly filed with the

Clerk and Recorder.

2. Procedures for Reviewing and Approving Condominium Developments:
 - a) The procedure for reviewing and approving condominium developments shall follow the requirements in *Section 3: PREAPPLICATION PROCESS; Section 4: PRELIMINARY PLATS and Section 5: FINAL PLAT.*

F. PLANNED UNIT DEVELOPMENTS

1. General Requirements

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design using a concept which clusters development to promote economies in providing services while preserving and enhancing open space and unique natural features. The Planned Unit Development (PUD) concept promotes the planning of a tract of land to allow for a single use such as residential or for a harmonious combination of uses, such as a mixture of residential, light industrial and commercial.

The submittal of a Planned Unit Development shall meet the following standards as outlined except as provided by Ordinance Numbers 53 and 338, the Butte-Silver Bow Zoning Ordinance.

- a) A written request that the plan of the proposed subdivision is to be reviewed as a PUD.
- b) The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety.
- c) Each residential Planned Unit Development shall provide open space as per the following:
 - a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
 - c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
 - d) 2.5% of the area of the land proposed to be subdivided into

parcels larger than 3 acres and not larger than 5 acres;

Such area may be developed to provide either active or passive recreation:

- (1) Held in common ownership by the owner(s) in the development area;
- (2) Dedicated to public use, if applicable by the Governing Body;
- (3) or a combination of (1) or (2) above.

The Governing Body may waive dedication and cash donation requirements when the subdivider agrees to create a property owners' association for the proposed subdivision and deed to the association, land to be held in perpetuity for uses as parks or playgrounds.

- d) To obtain designation of a subdivision as a PUD, the subdivider must provide the information as outlined in item (5) below with the submittal of a Preliminary Plat.
- e) The Preliminary Plat shall follow all the requirements in *Section 4: PRELIMINARY PLATS*, plus the following:
 - (1) A plan of the proposed subdivision showing the various uses and development planned;
 - (2) A description of open space, recreational facilities, roads and other facilities proposed to be under common ownership;
 - (3) A description of proposed restrictive covenants, if any;
 - (4) Proposed type(s) of ownerships upon completion of development;
 - (5) A statement on how provisions will be established to assure permanence and maintenance of common open space;
 - (6) In the case where a plan which calls for development time of 18 months or more for street and utility improvements, a schedule showing the time when such improvements will be completed shall be provided;
 - (7) A description of all proposed modifications.

- f) The Planning Board shall review the plan and within ten (10) days of the Planning Board Meeting, write a letter to the subdivider stating that the plan has or has not been designated a PUD. If designation as a PUD is disapproved, the reasons for disapproval shall be stated in the letter. Designation as a PUD does not constitute approval of the specific details or modifications proposed by the plan. In areas where no zoning exists, the board shall determine, in consultation with the subdivider and in accordance with the Growth Policy, the overall dwelling unit density.

The Planning Board shall determine that the development promoted the clustering of individual building sites, conforms to the definition and intent of this section and shall determine that one (1) or more of the following conditions are present:

- (1) The design of the subdivision should preserve to the maximum extent possible the natural characteristics of the land; including topography, vegetation, streams and other bodies of water;
 - (2) The design of the subdivision provides economies in the provision of roads and public improvements;
 - (3) The subdivision preserves productive agricultural land;
 - (4) The subdivision protects important historic sites or structures or areas of important wildlife habitat;
 - (5) The subdivision provides facilities for recreational purposes.
- g) Planning Unit Developments proposing to create five (5) or fewer lots shall be subject to the review criteria and procedures established for a minor subdivision as described in Section 6.
 - h) Planning Unit Developments proposing to create six (6) lots or more shall be subject to the review criteria and procedures established for a major subdivision as described in Section 7.

G. CLUSTER DEVELOPMENTS

1. General Requirements

The intent of this section is to allow a subdivider to cluster lots within a subdivision in a group of five or more lots in order to reduce capital maintenance cost for infrastructure through the use of concentrated public or private services and utilities, while allowing other lands to remain open

space.

Regardless of lot size, each lot created must meet the requirements of the Montana Department of Environmental Quality and the Butte-Silver Bow Health Department.

- a). Riparian Corridors (Big Hole River, Silver Bow Creek), Growth Policy Areas: Cluster Developments shall not be allowed within the Big Hole River and Silver Bow Creek riparian corridors as defined within the Growth Policy, unless the proposed cluster development preserves the river or creek riparian corridor as defined by the Growth Policy as open space to be contained within the required conservation easement area as described within Section.
- b) Maximum number of parcels allowed in a cluster development shall be no greater than twice the number of lots allowed by the guiding land use document for the property in question, with the limitation that at no time will the cluster development be allowed to occupy more than seventy-five percent (75%) of the total land area.
- c) An area of open space must be preserved that is at least as large as the area that will be developed through an irrevocable conservation easement, granted in perpetuity, as provided for in MCA, Title 76, Chapter 6, prohibiting further division of the parcel or;
 - (1) The proposal must provide a mechanism for the maintenance of the open space in perpetuity. The open space may be dedicated to a homeowners' association for the purpose of maintenance, and may be used for agricultural or other purposes that enhance the preserved area.
- d) Cluster Developments meeting the requirements of this section are exempt from the requirements of Section 16, Environmental Assessment.
- e) Cluster Developments meeting the requirements of this section are exempt from the requirements of Section 13, Dedication of Public Parks and Open Space.
- f) Except as provided in this section, the all other applicable provisions for minor (as per Section 6) and major subdivisions (as per Section 7) apply to cluster developments, including compliance with the review criteria described by Section 4).

2. Cluster Development – Design Standards for Mitigating Impacts on

Agriculture, Agricultural Water User Facilities, Local Service, Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety

a). If a proposed subdivision meets the following cluster development standards then there is a rebuttable presumption that the development will not have an adverse impact on the 76-3-608(3)(a), MCA, criteria and therefore the subdivision application does not need to complete an environmental assessment. Cluster development standards:

- (1) The proposed subdivision clusters structures together and away from open space;
- (2) Open space abuts neighboring open space and protects the most important and critical agricultural lands and wildlife habitat and corridors on the property;
- (3) Open space constitutes at least 50% of the development's property including all past and proposed future phases of the development;
- (4) Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development;
- (5) There is no minimum lot size other than those authorized under administrative rules adopted by the DEQ under Title 76, Chapter 4, MCA;
- (6) The maximum size of parcels, not designated as open space, allowed within a cluster development is five acres;
- (7) The development complies with all applicable zoning, subdivision, and building code regulations and state laws; and
- (8) Open space may contain dedicated parkland, wildlife, river, and stream buffers, and up to 1/3 of open space areas may be used for community water and community wastewater systems. 100-year floodplains and hillsides with slopes greater than 25% must be subtracted from the total amount of required open space.

a). A cluster development receives the following incentives:

- (1) Density bonuses allowing the developer to build:

- (a) 50% more units/lots than allowed under zoning if 50% to 75% of the development is placed in a perpetual conservation easement;
 - (b) 100% more units/lots than allowed under zoning if 75% or more of the development is placed in a perpetual conservation easement;
- (2) If a proposed subdivision meets the cluster development standards under 1. Then there is a rebuttable presumption that the development will not have an adverse impact on the 76-3-608(3)(a), MCA, criteria and therefore the subdivision application does not need to complete an environmental assessment.
- (3) Park dedication requirements for a clustered subdivision created under this section are waived.

SECTION 11: DESIGN STANDARDS

In laying out a subdivision, the developer shall comply with the following general principles and standards.

A. GENERAL STANDARDS

The design and development of subdivisions shall preserve the natural terrain, natural drainage, existing topsoil, trees and natural vegetation to the extent possible.

B. LANDS UNSUITABLE FOR SUBDIVISION

These are lands identified in the Growth Policy or which the Planning Board has found to be unsuitable for subdivision because of natural or human caused hazards identified during the subdivision review process. These lands must not be subdivided for building or residential purposes unless the hazards are eliminated, or will be overcome by approved design and construction techniques. Examples include, but are not limited to the following: flooding, steep slopes and/or areas that are prone for rock falls, landslides or avalanches high potential for wildfire, subsidence, high water table as defined by the Sanitation in Subdivision Act, polluted or non-potable water supply, high voltage lines, high pressure gas lines, air or vehicular traffic hazards or congestion, mine tailings, contaminated soils severe toxic waste, etc. In addition to specific hazards, there may be cases where a subdivision proposal has potential to place unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation. In other cases, a proposal may, for a variety of reasons, be detrimental to the health, safety or general welfare of existing or future residents. In these cases, the Governing Body has the authority to deny a subdivision request, based on its analysis of impacts and the inability to adequately mitigate the impacts. In cases where a subdivision is proposed in areas where mining has historically occurred in the Butte-Silver Bow designated Superfund area as defined by the Environmental Protection Agency (EPA), the applicant must contact the Butte-Silver Bow Reclamation Manager for a file search of their records, to help determine the extent, nature and impacts of the mining. The Reclamation Manager's response to the file search request must be included as part of the preliminary plat application. In cases where a subdivision is proposed outside of the Butte-Silver Bow designated Superfund site, but in an area where mining has historically occurred, the applicant must contact the Montana Department of Environmental Quality (DEQ) for a file search of their records, to help determine the extent, nature and impacts of the mining. The DEQ response to the file search request must be included as part of the preliminary plat application. Other related requirements are as follows:

- 1) Unless specifically allowed by the Butte-Silver Bow Reclamation Manager or the DEQ (and documented through a letter), construction on top of reclaimed lands in which waste materials have been buried or capped is prohibited. In some cases, such areas could potentially be used as open space providing the mine waste cap is not disturbed.
- 2) If the subdivision is located in areas where there are safety and/or subsidence issues associated with tunnels or mine shafts, the applicant must indicate the location and

demonstrate how potential adverse impacts of these features can be mitigated.

- 3) If mining waste or other potentially hazardous material are present or believed to occur on the property, the applicant must demonstrate how the potential hazard can be mitigated to protect human health and safety.

C. FLOODWAY PROVISIONS

1. Land located in the floodway of a flood of one hundred year frequency as defined by Title 76, Chapter 5, The Montana Floodway Management Act, or land deemed subject to flooding as determined by the Governing Body shall not be developed for building purposes, or other uses that may increase or aggravate flood hazards to life, health or property. Only land uses not involving permanent buildings, such as park or playground areas or camping sites, may be located in areas subject to flooding. Development shall be carried out in accordance with the Act and all regulations adopted pursuant thereto.
2. If any portion of a proposed subdivision is within 2000 horizontal feet and less than 20 vertical feet of a live stream draining in an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider shall furnish survey data as required by the Montana Requirement for Flood Hazard Evaluations (ARM Title 16, Chapter 16) as contained in Section 4 of these regulations. The floodway will be determined by the Water Resources Division, Montana Department of Natural Resources and Conservation, and that agency will certify in writing that available data indicates whether or not the proposed subdivision is in a flood hazard area.

D. EXCESSIVE SLOPE AND SOIL LIMITATIONS

For subdivisions which may encounter problems due to excessive slope or soil or groundwater limitations, the Governing Body may require the subdivider to submit evidence that no detrimental effects will occur or that special design will eliminate any potential problems.

E. DESIGN STANDARDS FOR MITIGATING IMPACTS ON AGRICULTURE, AGRICULTURAL WATER USER FACILITIES, LOCAL SERVICES, NATURAL ENVIRONMENT, WILDLIFE AND WILDLIFE HABITAT, AND PUBLIC HEALTH AND SAFETY.

1. Impacts on Agriculture

Proposed subdivisions shall mitigate adverse impacts on agriculture by meeting or exceeding the following design standards:

- a) Prime agricultural lands on adjacent properties will be protected

from adverse impacts by requiring that a 200 ft. open space buffer be established between any structures and adjacent prime agricultural lands.

- b) Prime agricultural lands located on the site will be protected from adverse impacts by requiring that at least 30% of the property be maintained as open space.
- c) Open space shall consist primarily of lands designated as prime agricultural lands.
- d) Open space will be protected in perpetuity through a conservation easement;
- f) Open space may contain dedicated parkland, wildlife, river, and stream buffers, and up to 1/3 of open space areas may be used for community water and community wastewater systems. 100-year floodplains and hillsides with slopes greater than 25% must be subtracted from the total amount of required open space.
- g) Protected lands will be clustered so that they abut neighboring open lands.
- h) The development will include a weed plan adopted by the B-SB Weed Department for the management of weeds within buffer, open space, and yards.

2. Impacts on agricultural water user facilities

Proposed subdivisions shall mitigate adverse impacts on agriculture water user facilities by meeting or exceeding the following design standard: the development shall be consistent with the provisions of 76-3-504, MCA.

3. Impact on local services

Proposed subdivisions shall mitigate adverse impacts on local services by meeting or exceeding the following design standards:

- a) Whenever feasible, all streets and alleys shall connect to other streets within the neighborhood/development and connect to existing or projected through streets, as part of an interconnected street network, outside of the development;
- b) All streets will be aligned in accordance with the B-SB transportation plan and the developer will either develop planned arterials and collectors in accordance with transportation plans or donate right-of-way for arterials and collectors in accordance with

transportation plans;

- c) The development shall meet the road standards established in the subdivision regulations;
- d) All developments shall waive their right to protest the creation of any special improvement districts or road improvement district; and
- e) All developments shall have safe and adequate access on county roads or state or federal highways within the traffic impact area of the development. Safe and adequate access exists when traffic volumes do not exceed the capacity of the road; when operating conditions on the road and at intersections do not fall below the specified or existing level of service (LOS); and when paved and unpaved sections and structures can accommodate projected traffic. If a LOS is not specified for any road section within the traffic impact area then the applicant shall work with the County to identify the existing LOS. Traffic impact area at a minimum must include:
 - (1) Internal roads;
 - (2) Adjacent roads;
 - (3) Off-site roads to the nearest county collector or arterial road or state or federal highway;
 - (4) Off-site roads where traffic from the development will account for at least ten percent of the average daily traffic on those roads;
 - (5) Intersections where traffic from the proposed development will account for at least five percent of the traffic volume on any approach leg of the intersection

If safe and adequate access cannot be provided or maintained within the traffic impact area, as result of the proposed development's projected traffic, then in order to mitigate those impacts the developer shall either construct the necessary improvements to ensure safe and adequate access or provide payment in lieu to the applicable department to cover the costs of constructing the improvements necessary to ensure safe and adequate access.

4. Impact on natural environment

Proposed subdivisions shall mitigate adverse impacts on the natural environment by meeting or exceeding the following design standards:

- a) All structures and roads shall meet the applicable setback standard (i.e. distance from the ordinary high water mark of the water body and any structures) and vegetated buffer standard, in which existing

native species may not be removed. Setback distances shall be measured from the ordinary high water mark of the water body and no structure shall be allowed within the setback area.

- (1) Type I watercourses as defined under MCA 23-2-301 – 250ft setback, 100ft buffer;
- (2) Type II water courses, generally defined as all main tributaries of type I water courses – 200 ft setback, 75 ft buffer;
- (3) Type III watercourses, generally defined as all tributaries of type II watercourses; all intermittent streams; and reservoirs – 100 ft setback, 50 ft buffer;
- (4) Type IV watercourses, which for these purposes are considered drainage channels capable of carrying or collecting storm water and snowmelt runoff, and irrigation district canals – 50 ft setback, 30 ft buffer;
- (5) Within a designated urban growth area – 75ft setback, 30 ft buffer

a) The following minimum buffer areas must be established from the boundary of a wetland identified by the County, the Army Corps of Engineers, U.S. Fish and Wildlife Service, DNRC, or FWP. If the subdivision application reveals a potential wetland on the site then the applicant is responsible for delineating the wetland’s boundaries on maps, plats, and site plans submitted as part of the subdivision application. Buffers from wetland boundaries within which structures and improvements may not be built, except for those for educational or scientific purposes, include:

- (1) Wetlands of one acre or less – 50 ft.
- (2) Wetlands of more than one acre – 100 ft.

5. Impacts on wildlife and habitat

Proposed subdivisions shall mitigate adverse impacts on wildlife and wildlife habitat by meeting or exceeding the following design standards:

a) Critical wildlife habitat and corridors will be protected from adverse impacts by requiring that a 200 ft open space buffer be established between any structures and any critical wildlife habitat and corridors;

- b) Open space will be protected in perpetuity;
- c) Protected lands will be clustered so that they abut neighboring open lands; and
- d) The development will include a weed plan adopted by the County for the management of weeds on the buffer, open space, and yards.

6. Impacts on public health and safety

Proposed subdivisions shall mitigate adverse impacts on public health and safety by meeting or exceeding the following design standards:

- a) No structure shall be located within the 100-year floodplain;
- b) No mixing zone from a septic or other wastewater treatment system shall be permitted to cross the developments property line;
- c) Subsequent minor and major subdivisions shall provide substantial and credible evidence that the cumulative impact of all of the water supply systems that will be used to supply the development will not harm any existing senior water rights.
 - (1) For developments that will be served by community water supply systems, the Governing Body may require that the subdivider receive a water right prior to final plat approval;
 - (2) For developments that will be served by single family wells that produce less than 35 gallons per minute, the subdivider must provide substantial and credible evidence that the cumulative impact of all the wells together as a connected system will not harm any existing senior water rights; or
 - (3) Developments that will be served by public water supply systems do not need to show any additional evidence other DEQ approval before final plat approval.
 - 4) Structures shall not be permitted in high fire hazard areas, or on 25% slopes, or at the apex of “fire chimneys;”
 - (5) Developments that will have impacts pursuant to subsection E. *Impacts of the Proposed Subdivision* shall meet the standards for wildland fire protection developed by DNRC and included in these subdivision regulations.
 - (6) Subsequent minor and major subdivisions that will an adverse impact pursuant to subsection E may be denied

approval by the Governing Body or the Governing Body shall require the subdivider and subsequent owners to disclose to potential buyers that “police, fire, and emergency services cannot respond within 5 minutes for 90% of all emergencies that might take place within this development” until such time as the subdivider or subsequent owners can demonstrate to the county commission that police, fire, and emergency services can respond within 5 minutes for 90% of all emergencies that might take place at the development.

- (7) The Governing Body may impose additional conditions to mitigate adverse impacts on public health or safety that may result from the proposed subdivision or associated improvements.

F. IMPROVEMENT DESIGN

Engineering plans, specifications, and reports required in conjunction with public improvements and other elements of the subdivision required by the Governing Body, shall be prepared by a Registered Land Surveyor or a Professional Licensed Engineer as their respective licensing laws allow, in accordance with the Montana Subdivision and Platting Act and these regulations.

G. BRIDGES AND CULVERTS

- 1. Culverts or bridges shall be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. All culverts shall extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity shall be determined by a qualified engineer. This shall include arrangements for driveway culverts.
- 2. Where it is deemed by the Planning Board or Governing Body that construction of bridges is necessary, the bridges shall conform with the following minimum standards:

	RURAL			NEW BRIDGES		
		<u>Arterial</u>	<u>Collector</u>	<u>Local</u>		
Width (curb-to-curb)		34 ft.	28 ft.	24 ft.		
Design Load (AASHO)		H-20	H-20	H-20		
Vertical Clearance		14.5 ft.	14.5 ft.	14.5 ft.		

URBAN & SUBURBAN**NEW BRIDGES**

	<u>Arterial</u>	<u>Collector</u>	<u>Local</u>
Width (curb-to-curb)	48 ft.	44 ft.	36 ft.
Vertical Clearance	14.5 ft.	14.5 ft.	14.5 ft.

H. STREETS AND ROADS – GENERAL DESIGN

1. Subdivision Access. To facilitate traffic, the provision of emergency services, and the placement of utility easements, the subdivider shall provide all subdivisions with six (6) or more lots with two (2) means of physical access. The subdivider may be required to provide a second access for minor subdivisions if the following conditions exist: The maximum cul-de-sac length standard is exceeded; the projected Average Daily Traffic (ADT) exceeds 40; or the topography or physical conditions so warrant.
2. Street and Road Design Standards, General. The design standards contained in these Regulations shall apply to all construction, reconstruction, and paving of roads dedicated to the public or a public road easement, roads within the B-SB maintained road system, and to roads improved through a rural improvement district process or a homeowners association. The variance procedure and standards of these Regulations shall apply to the above roads.
3. Paving Requirements. Roads within subdivisions that will carry greater than 100 trips per day shall be built to the paving standards in these Regulations and in accordance with the timing requirements below. Trips per day will be calculated on an average of eight (8) trips per day per single-family lot. Multiple-family units and commercial lots ADT's shall be based on the figures from the most current volume of the Institute of Traffic Engineers (ITE) Manual.
4. Access Road Standards. All off-site roads providing access to the proposed subdivision shall meet the following standards.
 - a) Right-of-way width and construction standards shall be as per the specifications of the Public Works Department and shall not be less than as shown in Table 1.
 - b) Subdivision access roads shall be dedicated to the public, or shall have a public easement, which meets the criteria of the Regulations.
 - c) The subdivider shall improve the access road(s) to the standards in Tables 1 and 2 of these Regulations based on the cumulative number of

trips per day generated by the subdivision and existing traffic. For major subdivisions, if the road(s) have one hundred (100) trips per day, or if a major subdivision will add traffic that causes trips on the access road(s) to exceed one hundred (100) trips per day the subdivider shall be required to improve the access road(s) (as determined by the Public Works Department) to current B-SB standards and pave the road. Trips per day shall be calculated on the average of eight (8) trips per day per single-family lot. Multiple-family units and commercial lots ADT's shall be based on the figures from the most current volume of the Institute of Traffic Engineers (ITE) Manual. Paving shall be done in accordance with the standards in these Regulations.

5. Right-of-Way Widths. Street right-of-way widths shall be as per the specifications of the Public Works Department and shall not be less than as shown in TABLE 1.
6. Street and Road Improvement Standards. All roadway improvements including pavement, curbs, sidewalks, and drainage shall be constructed as per the specifications of the Public Works Department and in accordance with the specifications and standards prescribed in TABLES 1 and 2 of these regulations unless alternative plans submitted by the developer specify equal to superior solutions as approved by the Governing Body.
7. Roads. The arrangement, character, width, grade, and location of all streets shall conform to the Growth Policy and Transportation Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
8. Preservation of Vegetation. Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening or soil erosion and are subject to approval by the Governing Body.
9. Alignment of Roads. Where the Growth Policy does not show such characteristics of the streets, said streets shall conform to one of the following situations:
 - a) Said streets shall provide for the continuation or extension of existing arterial or collector streets in surrounding areas;
 - b) Said streets shall conform to a plan for the neighborhood which has been approved by the Governing Body in order to meet a particular instance where topographical or other conditions preclude continuance of or conformance with existing street patterns.

10. Local Streets. The layout of local streets shall be so arranged that use of said streets for purposes of through movement of traffic will be discouraged.
11. Collector Streets. Collector streets shall be so located that said streets afford smooth traffic flow from local streets to arterial streets.
12. Arterial Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the Governing Body may recommend local streets, reverse frontage with screen plantings contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be deemed necessary for adequate protection of residential properties and to afford separation of through and local traffic.
13. Hammerheads. The use of hammerhead turn arounds shall not be permitted.
14. Reserve Strips. Controlling access to streets through employment of reserve strips shall be prohibited except where control of such strips is definitely placed with the City and County under conditions specified by the Governing Body.
15. Alignment of Streets. Streets which are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide. In cases where straight continuations are not physically possible, such centerlines shall be continued by a centerline offset of not less than one hundred twenty-five (125) feet.
 - a) The subdivider shall arrange roads to provide for the continuation of roads between adjacent subdivided properties (lands or parcels created by a recorded subdivision plat) when such continuation is necessary for the convenient movement of traffic, connection of neighborhoods, effective provision of emergency services and utilities.
 - b) When a new subdivision adjoins Un-Subdivided Land (lands or parcels not created by a recorded subdivision plat) and access to the Un-Subdivided Land must pass through the new subdivision, the subdivider shall provide rights-of-way and construct B-SB standard roads so as to allow suitable access to the Un-Subdivided Land.

This requirement shall be waived by the Governing Body when the Public Works Department finds that one of the following criteria is met:

- a) Topography or other physical conditions would make it impracticable to provide access to adjacent un-subdivided property.
- b) Adequate public access is otherwise available to the adjacent un-

subdivided properties.

c) When the adjoining un-subdivided property is under public ownership.

This requirement shall be waived by the Governing Body if the adjoining un-subdivided property is subject to a conservation easement or other legally restrictive covenant as confirmed by the Butte-Silver Bow County Attorney's office.

16. Curve Tangents. Streets with curves shall incorporate appropriate tangents where necessary as determined by the Governing Body in consultation with a professional engineer.
17. Deflecting Streets. When continuing street lines deflect from each other at any one point by more than five (5) degrees, they shall be connected by a curve with a radius adequate to ensure stopping sight distance at the centerline of the street of not less than two hundred (200) feet for local streets and three hundred (300) feet for collector streets, and of such greater radii as the Governing Body shall determine for arterial streets and special cases.
18. Street Intersections. Local streets shall be laid out so as to intersect as nearly as possible at right angles and no local street shall intersect any other local street at an angle of less than eighty (80) degrees. Such angle of 80 degrees or greater shall be retained for at least one hundred (100) feet back from the intersection. Any street intersection involving arterial and/or collector streets shall intersect at ninety (90) degrees and such angle of 90 degrees shall be retained for at least one hundred (100) feet back from the intersection and shall provide a minimum of 300 feet sight distance. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Governing Body.
19. Intersections, Hilltops. Hilltop intersections are prohibited, except where no alternatives exist. Intersections on local roads within 100 feet of a hilltop are prohibited. Intersections on arterial and collector roads within 200 feet of a hilltop are prohibited.
20. Corner Radius. Lot corners at all street intersections shall be rounded with a radius of twenty (20) feet or of a greater radius where the Governing Body deems it necessary in order to promote the objectives of these regulations.
21. Half Streets. Half streets are prohibited except where essential to the development of the subdivision and where the Governing Body is assured that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street

shall be platted within such tract.

22. **Dead-End Roads.** No dead-end roads shall be permitted without an approved turn around. Where roads terminate, the subdivider shall provide a cul-de-sac. Cul-de-sacs shall have a minimum of a forth-five foot (45') radius. Where a future street extension is proposed, a temporary cul-de-sac shall be provided with a minimum radius of forty-five feet (45'). The length of a dead-end road permitted by these regulations is based upon the following criteria:
 - a) Maximum of a 1,000-foot (1,000') dead-end road with a cul-de-sac is permitted if:
 - 1) The topography of the property is classified as level (slope range of zero (0%) percent to 15%); and
 - 2) The fire hazard rating for the property is classified as low to moderate by an on-site inspection by a recognized fire fuel or fuel management specialist; and
 - 3) When the number of trips per day does not exceed 32 trips per day and the proposed lots cannot be further subdivided; and
 - 4) Road does not exceed the minimum grade standards identified in Table 2.
 - b) Maximum of a 700-foot dead-end road with a cul-de-sac is permitted if:
 - 1) Topography of the property is classified as steep slope (slope in excess of 15%); and
 - 2) Fire hazard rating for the property is classified as moderate to high by an on-site inspection by a recognized fire fuel or fuel management specialist; and
 - 3) When the number of trips per day does not exceed 48 trips per day and the proposed lots cannot be further subdivided, and
 - 4) Road does not exceed the maximum grade standards identified in Table 2.
23. **Street Names.** Names of new streets aligned with existing streets shall be the same as those of the existing streets. Street names for non-continuing streets shall not be duplicated or be confused with existing street names. Street name signs shall be provided and placed by the subdivider as specified by the Governing Body at all street intersections.
24. **Driveways, Residential.** Residential driveways shall not have direct access to arterials and major highways.
25. **Maintenance of Streets/Roads.** All roads shall be maintained by an individual property owner(s), by a property owners' association, or a Rural Improvement District. Each plat and instrument of conveyance shall

contain the following statement: “The purchaser and/or owner of this lot or parcel understands and agrees that road construction, maintenance and snow removal shall be the obligations of the owner, homeowners’ association, or Rural Improvement District and that the consolidated City and County of Butte-Silver Bow, State of Montana, is in no way obligated until the Council of Commissioners accept the road(s) as dedicated to the public use and agree to maintain said road(s).

26. Streets and roads for Commercial and Industrial Subdivisions:

- a) Streets for Commercial Subdivisions - Streets serving business developments and accessory parking areas shall be planned to connect with arterial streets so as not to generate traffic on local streets. Intersections of driveways from parking areas with arterials for collector streets shall be designed to cause the least possible interference with traffic movement on streets and shall be located not less than one hundred twenty-five (125) feet from the intersection of an arterial or collector street with any other street. Spacing between driveways shall be at least two hundred (200) feet. The Governing Body may require marginal access streets to provide maximum safety and convenience.
- b) Streets for Industrial Subdivisions - Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall not connect to local, residential, or collector streets. The intersections of service streets from parking areas with arterial or collector streets shall be at least one hundred twenty-five (125) feet apart. Where a proposed street intersects a State Highway, the street must conform to the current "Approach Standards for Montana Highways" regulations as set forth by the Montana Department of Transportation.

TABLE 1

URBAN							
STREET TYPE	MIN. ROW	LANE WIDTH	PARK WIDTH	ROADWAY WIDTH	PAVEMENT WIDTH	MEDIAN WIDTH	B-B CURB WIDTH
MINOR ARTERIAL							
2 Lane Plus Parking	80 FT	14 FT	10 FT	48 FT	45 FT		49 FT
4 Lane/No Parking	80 FT	11 FT		48 FT	45 FT		49 FT
4 Lane Plus Median	80 FT	11 FT		61 FT	48 FT	16 FT	62 FT
COLLECTOR							
2 Lane Plus Parking	60 FT	12 FT	10 FT	44 FT	41 FT		45 FT
4 Lane/No Parking	60 FT	10 FT		44 FT	41 FT		45 FT
LOCAL							
Residential	51 FT	10 FT	8 FT	36 FT	33 FT		37 FT

SUBURBAN/RURAL					
STREET TYPE	MIN. ROW	LANE WIDTH	SHOULDER WIDTH	ROADWAY WIDTH	PAVEMENT WIDTH
ARTERIAL	80 FT	14 FT	10 FT	40 FT	36 FT
COLLECTOR	60 FT	12 FT	10 FT	30 FT	26 FT
LOCAL I Serving Lots Up to 2 Acres	60 FT	12 FT	10 FT	28 FT	24 FT
LOCAL II Serving Lots Over 2 Lots	60 FT	12 FT	10 FT	28 FT	24 FT (Gravel may be used in lieu of paving.)
CUL-DE-SACS					
RADIUS			LENGTH		
45 FT MINIMUM			1000 FT MAXIMUM (To nearest street intersection.)		

27. Street grades shall not exceed the following with due allowance for reasonable vertical curves and intersection treatment. Street centerline horizontal curves shall be designed for the following minimum speeds, as shown in *TABLE 2*, unless otherwise signed for a lesser speed.

TABLE 2

	URBAN/SUBURBAN			RURAL		
	ARTERIAL	COLLECTOR	LOCAL	ARTERIAL	COLLECTOR	LOCAL
MAXIMUM GRADE Flat & Rolling	7%	8%	9%	6%	7%	9%
Hilly	9%	10%	11%	8%	9%	11%
DESIGN SPEED OF ROAD Flat & Rolling	40 MPH	30 MPH	20 MPH	60 MPH	40 MPH	30 MPH
Hilly	40 MPH	30 MPH	20 MPH	50 MPH	30 MPH	20 MPH
MINIMUM STOPPING SIGHT DISTANCE	375 FT	200 FT	150 FT	475 FT	350 FT	150 FT
CURVATURE Maximum Curve	10°	19°	53°	10°	19°	53.5°
MAXIMUM RADIUS	561 FT	300 FT	120 FT	561 FT	300 FT	120 FT

I. ALLEYS

1. In commercial and industrial districts, alleys may be provided except in cases where the Governing Body waives such requirements. If such waiver is granted, definite provisions must be made for service access, i.e., off-street loading, unloading and parking. Said provisions must be consistent with and adequate for the proposed uses.
2. The minimum width of an alley in commercial and industrial districts shall be at least twenty (20) feet.
3. Alleys in residential subdivisions shall be consistent with adjacent subdivisions or additions. In which case, the minimum width shall be at least sixteen (16) feet. For residential developments in suburban and rural areas, alleys shall be discouraged unless consistent with the adjacent development.
4. Intersection and sharp alignment changes in alleys shall be avoided.
5. Dead-end alleys shall be avoided. However, if such alley is necessary, it shall be provided with adequate access and turnaround space as prescribed by the Governing Body.

J. EASEMENTS

1. Easements shall be provided for utilities, drainage and vehicular or pedestrian access. Easements, other than public utility and vehicular easements, shall be centered along rear and side lot lines where practical and shall be at least ten (10) feet in width. Vehicular easements may be

located any where on the property and shall be at least twenty (20) feet in width and comply with the provisions of Section 11(H- The required easement for public utilities shall be specified by the B-SB Public Works Department. Easements requiring maintenance shall be given special consideration.

2. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, whether natural or relocated, there shall be provided a storm water easement and/or sewer drainage right-of-way which conforms substantially with the one of such watercourse, and such further width as will be adequate for the purpose. Provisions of parallel streets or parkways for the watercourse may also be required.
3. In addition to showing the location of the utility easements on the Final Plat with dashed lines, the following statement shall be on the Final Plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area dedicated on this Plat and 'Utility Easement' to have and to hold forever."
4. The subdivider shall be required to establish easements for irrigation water ways for lots 1 acre or larger when the land or owners are legally entitled to the water under an appropriated water right or permit. The subdivider shall also be required to file and record ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines and facilities in the subdivision.

K. WATER COURSE AND IRRIGATION EASEMENTS

1. Except as noted in subsection 2, below, the subdivider shall establish within the subdivision ditch easements that:
 - a) Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - b) Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

- c) Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The subdivider need not establish irrigation easements as provided above if:
 - a) The average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the Governing Body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or
 - b) The water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and
 - c) The fact the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
3. The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and file and record with the B-SB Clerk and Recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. A minimum width of 10 feet is required on each side of irrigation canals and ditches for maintenance purposes.

L. DISPOSITION OF WATER RIGHTS

If a subdivision will create lots averaging less than five acres in size, the subdivider shall submit evidence with the final plat that the subdivider has:

1. Reserved all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;

2. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
3. Reserved and severed all surface water rights from the land proposed for subdivision.

M. BLOCKS

1. The lengths, widths, and shapes of blocks shall be designed with due regard for:
 - a) provision of adequate building sites suitable to the special needs of the type of use contemplated;
 - b) applicable zoning requirements as to lot sizes and dimensions;
 - c) needs for convenient access, circulation, control, and safety of street traffic.
2. Blocks shall be wide enough to allow for two tiers of lots unless the topography or other factors dictate otherwise or the Governing Body approves the design of irregularly shaped blocks indented by cul-de-sacs.
3. Block lengths shall not exceed sixteen hundred (1600) feet or be less than five hundred (500) feet.
4. All blocks shall be identified with, numbers, letters or arabic numerals.

N. LOTS

1. The lot size, depth, shape and orientation and the setback lines shall be appropriate for the location of the subdivision, for the type of development use contemplated, and for underlying existing zone classification or Growth Policy District.
2. Residential lots, except mobile home or recreational vehicle parks shall have a minimum lot frontage of sixty (60) feet and a minimum lot area of six thousand (6,000) square feet or as otherwise specified in the Butte-Silver Bow Municipal Code, Title 17, Zoning or by within the Growth Policy.

- a) Lots abutting cul-de-sacs - Because the utility of the entire area of lots abutting a cul-de-sac is decreased due to the irregularity of its shape, the following minimum standards shall be met:

Lots which abut on a cul-de-sac shall have a minimum lot width of sixty (60) feet measured across at the building setback line.
- b) Mobile home or recreational vehicle lots shall conform to the Design Standards, Section 9-C: Mobile Home Park Standards and D: Recreational Vehicle Park Standards.
3. Lots in commercial zones shall have a minimum lot width as specified in the commercial zoning districts of the Butte-Silver Bow Municipal Code.
4. Residential lots, where not served by public sewer and/or public water, shall comply with the regulations of the Montana Department of Environmental Quality as follows:
 - a) When either an individual water supply system or an individual sewage system is proposed and the other service is proposed to be provided by an approved public water or sewage system, the minimum lot size shall be 20,000 square feet of area provided that the applicant demonstrates that the subdivision will not result in violation of the water quality act, Title 75, Chapter 5, MCA, and the applicant or representative provides information from qualified professional consultants indicating no sanitary problems will occur (ARM 16.16.301). All subdivisions falling under this definition shall have a minimum width of one hundred (100) feet.
 - b) In cases where residential lots have neither public water service nor public sewer service, minimum dimensions shall be one hundred fifty (150) feet in width and one (1) acre in area.
5. Nothing in these subdivision regulations shall be construed as preventing the Montana Department of Environmental Quality or the Butte-Silver Bow Health Department, after studying the existing conditions, from requiring that all or any portion of such subdivision shall not be built or that the minimum lot sizes set forth in these regulations are inadequate and must be increased to ensure the protection of the public health.
6. Each lot shall front or abut on a street which is to be dedicated to the public and conform to the requirements of these regulations. Lots not having frontage on a public street shall be provided access by an easement or private street approved by the Governing Body. Alleys may not be used to provide the primary means of access to a lot.
7. No single lot shall be divided by a public street, road, alley or

right-of-way. Lots divided by easements shall be reviewed on a case-by-case basis as to their acceptability by the Governing Body.

8. Corner lots shall:
 - a) Have driveway access to the same street or road as interior lots;
 - b) Encompass a larger area to permit appropriate building setbacks from an orientation to both streets;
 - c) Shall be of sufficient area to provide acceptable visibility for traffic safety.
9. Except where essential to separate residential development from traffic arteries, or to overcome specific topographic or orientation disadvantages, double frontage, reverse frontage, and reverse corner lots should be avoided. Where lots abut said traffic arteries, or other disadvantageous uses, a planting screen of a minimum width of ten (10) feet shall be provided along such lines of abutment and shall allow no right of access.
10. Lines of side lots shall be substantially at right angles or radial to curved street or road lines.

SECTION 12: REQUIRED IMPROVEMENTS

A. GENERAL

The following improvements may be required in all new subdivisions reviewed by the Governing Body. The method by which the following improvements will be installed shall be acceptable to the Governing Body and in conformance with plans and specifications prepared.

B. STREETS

The following minimum standards shall be observed when the Governing Body determines that the subdivider shall install streets:

1. Grading: All streets and alleys within the subdivision shall be excavated or filled to three-tenths (0.3) of a foot (plus or minus) of the grade established by the Department of Public Works.
2. Subgrades: Roadway subgrades shall be free of sod, vegetation or other organic matter, soft clay or other objectionable materials subject to the approval of the Department of Public Works.
3. Base: The type of base required will vary with the nature of the existing soil types and materials and with the particular type of traffic to be accommodated. The base shall be as specified by the Department of Public Works.
4. Street Surfacing: Street surfaces shall be paved for all subdivisions that will carry greater than 100 trips per day and shall be built to the paving standards of the Butte-Silver Bow Public Works Department and in accordance with the timing requirements below. Trips per day will be calculated on an average of eight (8) trips per day per single-family lot. Multiple-family units and commercial lot ADT's shall be based on the figures from the most current volume of the Institute of Traffic Engineers (ITE) Manual. All surfaces must meet the specifications of the Department of Public Works. All streets and alleys within the subdivision shall be excavated or filled to three-tenths (0.3) of a foot (plus or minus) of the grade established by the Department of Public Works.

C. SIDEWALKS

1. Concrete sidewalks or pedestrian walkways/trail systems or combinations thereof shall be provided for in the following subdivisions:
 - a) All subdivisions located within an R-1, R-2 and R-3 zoning district shall construct concrete boulevard sidewalks on both sides of the

street. Walkways and trails are considered as alternatives to sidewalks in common areas and connections between cul-de-sacs.

- b) All subdivisions within the R-1S and R-4S zoning districts with lot frontages of less than one hundred seventy-five (175) feet or more than five hundred (500) Average Daily Trips (ADT) shall construct concrete boulevard sidewalks or paved boulevard walkways on both sides of the street. All subdivisions within the R-1S and R-4S zoning districts with lot frontages of one hundred seventy-five (175) feet or greater or less than five hundred (500) Average Daily trips (ADT) shall construct concrete boulevard sidewalks or paved boulevard pedestrian walkways on one side of the street and shall waive the right to protest an SID/RSID for future public improvements.
- c) All subdivisions outside of designated zoning districts shall provide internal pedestrian connection, pedestrian connections to school bus stops and to adjoining neighborhoods.

- 2. Handicap wheelchair ramps shall be installed at all intersections as specified and approved by the Department of Public Works when sidewalks are required.
- 3. All sidewalks shall be constructed to the specifications provided by the Department of Public Works.

D. CURBS

Integral curbs and gutters shall be constructed in accordance with the specifications of the Department of Public Works and where required shall be installed on both sides of the street.

E. SANITARY SEWERS

- 1. Sewage Disposal
 - a) All subdivisions shall be provided with or connect to adequate sewage disposal systems which meet the minimum standards of the Montana State Department of Environmental Quality and where necessary are approved by the Governing Body, the Butte-Silver Bow Metropolitan Sewer District.
 - b) Where the subdivision is within the service area of a public sanitary sewer system, the subdivider must install complete sanitary sewer facilities in accordance with the requirements of the jurisdiction involved and the Montana Department of Environmental Quality. The subdivider must submit plans and specifications for the

proposed facilities to the jurisdiction involved and to the Montana Department of Environmental Quality, and must obtain their approvals.

- c) If the subdivision is within 1500 feet of an existing public system, and the system can absorb the additional load, the subdivider may be required to make application to the sewer district involved for inclusion in the service area and install sanitary sewer system facilities as required.
- d) Where lots cannot be served by existing public systems, the Governing Body may require that a central sewage system be installed.
- e) Where lots cannot be served by the extension of an existing public sanitary sewer system, the subdivider shall obtain approval of lot sizes for individual septic tanks and disposal field from the State Department of Environmental Quality. All appropriate data and comments from local health officers must accompany the request for approval.

2. Solid Waste

The subdivider shall assure that provisions for the collection and disposal of solid waste are available and meet the regulations and minimum standards of the Montana Department of Environmental Quality, adopted pursuant to Title 76, Chapter 4, Part 1. The means of solid waste collection and disposal must be subject to approval of the Governing Body.

F. WATER SUPPLY SYSTEM

1. All subdivisions shall be provided with or connect to adequate water disposal systems which meet the minimum standards of the Montana State Department of Environmental Quality and where necessary are approved by the Governing Body. Responsibility for maintenance may be included as part of the public improvements agreement.
2. If the subdivision is within 1500 feet of an existing public system, and the system can absorb the additional load, the subdivider may be required to make application to the district involved for inclusion in the service area and install a complete water distribution system.
3. Where lots cannot be served by existing public systems, the Montana State Department of Environmental Quality may require that a central water supply system be installed.
4. Where lots cannot be served by the extension of existing water supply

systems, the subdivider shall obtain approval for an alternative water supply system and lot sizes for such proposals from the State Department of Environmental Quality.

5. Fire hydrants and size of waterlines shall be installed within the subdivision in conformance with specifications of the Department of Public Works, the Butte-Silver Bow Fire Department, and the recommendations of the Board of Fire Insurance Underwriters.

G. STORM DRAINAGE

1. Adequate provisions for storm water drainage shall be provided in accordance with standards specified by the Department of Public Works and the Montana Department of Environmental Quality. In cases where drainage from the project creates impacts on upstream or downstream systems, the Governing Body may require off-site improvements to mitigate these problems.

H. TRAFFIC CONTROL DEVICES

1. Street name signs shall be placed at all street intersections according to the specifications of the Department of Public Works.
2. All traffic control devices which the Governing Body may deem necessary to mitigate traffic and/or pedestrian safety issues, shall be installed according to the specifications of the Department of Public Works.

I. UTILITIES

1. Utilities, including electricity, cable television, and telephone shall be placed underground wherever practical, excepting fire hydrants, cable closures, alignment markers, etc. Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate, so far as practicable, the necessity for disturbing such surfacing for the connection of individual services. Overhead utility lines shall be located at the rear property line where practical. Utility facilities including street lights, shall be designed by utility firms in cooperation with the subdivider subject, however, to all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

J. MAIL DELIVERY

1. The Planning Department shall provide addresses for each proposed lot after the final plat is filed with the Clerk and Recorder's Office. All

Addresses shall be in compliance with the Locatable Address Ordinance 10.52.

2. Where mail delivery will not be provided to each individual lot, an off-street mail receptacle shall be provided by the subdivider as approved by the United States Postal Service.

K. DRAINAGE FACILITIES

1. The drainage system and facilities required for any run-off affecting the subdivision is subject to approval by the Governing Body. Subdivisions containing lots less than 20 acres in size also must meet the minimum drainage standards of the Montana Department of Environmental Quality.
2. Curbs and gutters or swales may be required as determined by the Governing Body according to the character of the area (rural or urban), density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended according to current specifications of local and state authorities.
3. Culverts or bridges of adequate size must be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. All culverts must extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and culvert's capacity must be determined by a registered engineer. This must include arrangements for driveway culverts.
4. The subdivider must provide suitable drainage facilities for any surface run-off affecting the subdivision; these facilities must be located in street right-of-way or in perpetual easements of appropriate widths and are subject to approval by the Governing Body.
5. Each culvert or other drainage facility must be large enough to accommodate potential run-off from upstream drainage areas.
6. Drainage systems must not discharge into any sanitary sewer facility.
7. The grading and drainage system must be designed and certified by a licensed professional engineer.
8. The Governing Body may require the subdivider to grant easements to prevent encroachment or disruption of drainageways or facilities. Drainage easements must be drawn on the plat and a signed statement granting the easements must appear on the plat.

L. WEED CONTROL

1. Developers shall be responsible for weed control within all subdivisions. At the time the preliminary subdivision plat is submitted to the Planning Department, the Department shall notify the Weed Control Supervisor. The County Weed Control Supervisor shall be available to assist the developer with specifications on weed control measures to be implemented and with the preparation of a weed control plan. An acceptable weed control plan shall be submitted to the Weed Control Supervisor for review and approval prior to filing the final plat with the Clerk and Recorder.
2. The applicant will be required to submit a bond in the amount of money necessary to implement the weed control plan as determined by the Weed Control Supervisor.

M. COMPLETION OF IMPROVEMENTS

1. The Governing Body may require the subdivider to design the subdivision to reasonably minimize potential significant adverse impacts identified through the review required by Section 4(D)(6). The Governing Body shall issue written findings to justify the reasonable mitigation required.
2. When requiring mitigation under Section O(1), the Governing Body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
3. The subdivider shall provide or cause to be provided financial surety to the Governing Body and the Department of Public Works to guarantee the completion of minimum improvements in accordance with the specifications of these regulations. The Governing Body shall reduce bond requirements commensurate with the completion of improvements.
 - a) In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements under Section 11, (O) (1), the Governing Body may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.
 - b) Approval by the Governing Body of a final plat prior to the completion of required improvements and without the provision of the security required under subsection (2) is not an act of a legislative body.
4. The subdivider shall include a time schedule describing the plans to

complete all required improvements. All improvements must be installed within two (2) years from the date of Final Plat approval and/or at such time when transfer of title has been made on fifty percent (50%) of the lots within the subdivision.

5. Failure to complete the installation of required improvements, as provided for in these regulations, may result in the withdrawal of the approval of the subdivision and/or in the Governing Body foreclosing on the bond submitted for the public improvements and using that money to complete the installation of the required public improvements.

SECTION 13: GUARANTEE OF PUBLIC IMPROVEMENTS

A. SUBDIVISION IMPROVEMENT AGREEMENT

As a condition for approval of the Final Plat, the subdivider shall have installed all of the required improvements as stipulated in *Section 11: DESIGN STANDARDS* and *Section 12: REQUIRED IMPROVEMENTS* or shall enter into a written subdivision improvements agreement approved by the County Attorney guaranteeing the construction and installation of all required improvements in conformance with all policies, standards, and resolutions adopted by the Governing Body. The agreement shall stipulate which type of security arrangements the subdivider elects to use and the time schedule the subdivider proposes to accomplish the required improvements and shall include the subdivider's warranty against defects of these improvements for a period of one year from the date of their written acceptance by the Governing Body.

The Governing Body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security under subsection B for purposes of filing a final plat. The requirement is applicable to approved preliminary plats.

B. SECURITY GUARANTEE

If the subdivider chooses to enter into a subdivision improvements agreement, guaranteeing the public improvements, the cost of installation of the public improvements shall be obtained by the subdivider. The amount of the guarantee shall be calculated by multiplying 125% by the bid. The Governing Body shall at the subdivider's option allow the subdivider to provide a financial security guarantee from the following listed methods:

1. Escrow Account

The subdivider shall deposit cash or collateral readily convertible to cash at face value, either with the Governing Body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank with which funds are to be deposited, are subject to the approval of the Governing Body. Where an escrow account is to be employed, the subdivider shall file with the Governing Body his agreement with the bank guaranteeing the following:

- a) That the funds in the escrow account are to be held in trust until released by the Governing Body and may not be used or pledged by the subdivider as security for any obligation during that period.
- b) And that in case the subdivider fails to complete the required improvements, the bank shall immediately make the funds in

escrow available to the Consolidated City and County of Butte-Silver Bow for the completion of these improvements.

- c) The subdivider shall also provide account statements to the Governing Body or its designated agent periodically as specified by the Governing Body.

2. Reserved.

3. Sequential Development

Where a subdivision is to be developed in phased portions, the Governing Body may waive the guarantee of improvements for those portions of the subdivision proposed to be developed at a later time. In such cases, the Governing Body shall grant Final Plat approval to only one portion at a time. Final Plat approval for each succeeding portion shall be contingent upon the completion of all contracted improvements in each preceding portion and acceptance of those improvements by the Governing Body. Completion of improvements for each phase must be guaranteed through the use of one of the methods outlined in these regulations.

4. Special Improvement District

The Governing Body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special district created pursuant to Title 76, Chapter 12, MCA. The agreement shall provide that the improvement district will be created prior to the sale, lease or rental of any lots created within the subdivision and shall establish a time frame for the initiation and completion of all required improvements.

An agreement to finance improvements through the creation of a special improvement district constitutes a waiver by the subdivider or the owners of the property where other than the subdivider, of the right to protest or petition against, the creation of the district under Section 7-12-2109, MCA.

5. Letter of Credit

Subject to the approval of the Governing Body, the subdivider shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be deposited with the Governing Body and shall certify the following:

- a) That the creditor guarantees funds in an amount equal to the cost, as estimated by the subdivider and approved by the Governing Body, of completing all required improvements;

- b) That if the subdivider or creditor fails to complete the specified improvements within the required period, the creditor will pay to the Consolidated City and County of Butte-Silver Bow immediately with no further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter;
- c) That this letter of credit may not be withdrawn, or reduced in amount, until released by the Governing Body.

6. Surety Performance Bond

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the Governing Body and countersigned by a Montana agent. The bond shall be payable to the Consolidated City and County of Butte-Silver Bow, State of Montana. The bond shall be in effect until completed improvements are accepted by the Governing Body.

7. Any other method that may be acceptable to the Governing Body.

C. TIME LIMITS

Prior to Final Plat approval, the subdivider and the Governing Body shall agree upon a deadline for the completion of all required improvements, such deadline not to exceed two (2) years from the date of Final Plat approval or when fifty percent (50%) of the lots have been sold. The Governing Body may extend that deadline for one (1) additional year if the subdivider presents substantial reason for the extension.

D. INSPECTION AND CERTIFICATION

- 1. Upon completion of required improvements, the subdivider shall file with the Governing Body a statement certifying that:
 - a) All required improvements are complete;
 - b) These improvements are in compliance with the minimum standards specified by the Governing Body for their construction;
 - c) A certificate by the Licensed Professional Engineer (PE) responsible for preparing the improvement plans that all improvements have been installed in conformance with the specifications and that the PE provide engineering oversight during the construction process;
 - d) The subdivider knows of no defect in those improvements;

- e) These improvements are free and clear of any encumbrances of liens;
- f) A schedule of actual construction costs has been filed with the Governing Body;
- g) All applicable fees and surcharges have been paid.

E. RELEASE OF SUBDIVISION AGREEMENT

1. The Governing Body may provide for inspection of all required improvements by a Licensed Professional Engineer (PE) before releasing the subdivider from the subdivision improvements agreements.

Upon completion of the inspection, the Licensed Professional Engineer shall file with the Governing Body, a statement either certifying that the improvements have been completed in the required manner or listing the defect(s) in those improvements.

If the inspecting engineer has certified that the improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed above, the Governing Body shall release the subdivider from the subdivision improvements agreement.

2. As improvements are completed, the subdivider may apply to the Governing Body for release of part of the security. The portion of security released shall not exceed the portion of the work completed. Provided, however, no release of security shall be for an amount less than twenty (20) percent of the total security agreement and the improvement security shall not be reduced to an amount less than twenty (20) percent of the total security until all improvements have been completed and accepted.
3. If the Governing Body determines that any improvements are not constructed in compliance with specifications, it shall furnish the subdivider with a list of specific deficiencies and may withhold collateral sufficient to ensure such compliance. If the Governing Body determines that the subdivider will not construct any or all of the improvements in accordance with specifications, or within required time limits, it may withdraw collateral and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. Unused portions of these funds shall be returned to the subdivider or crediting institution, as is appropriate.

F. PAYMENT FOR EXTENSION OF CAPITAL FACILITIES

1. A subdivider may be required to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. A subdivider may not be required to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

SECTION 14: DEDICATION OF PUBLIC PARKS AND OPEN SPACE

A. GENERAL REQUIREMENTS

1. Except as provided in Section 7 of these regulations, a residential subdivision shall meet the requirements of park dedication or cash donation equal to:
 - a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
 - c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
 - d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.
2. A park dedication may not be required for:
 - a) a minor subdivision;
 - b) land proposed for subdivision into parcels larger than 5 acres;
 - c) subdivision into parcels that are nonresidential;
 - d) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or
 - e) a subdivision in which only one additional parcel is created.
3. The Governing Body, in consultation with the subdivider and the Planning Board may determine suitable locations for parks and playgrounds, may determine whether the park dedication must be a land donation and cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.
4. In accordance with the provisions of subsections 4-b) and 4-c), the Governing Body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

- a) The Governing Body may use the dedicated money to acquire, develop, or maintain, parks or recreation areas or for the purchase of public open space or conservation.
- b) The Council of Commissioners may use the dedicated money to acquire, develop, or maintain parks or recreational areas or for the purchase of public open space or conservation easements only if;
 - (1) The park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision.
- c) The Governing Body may not use more than 50% of the dedicated money for park maintenance.

5. The local Governing Body shall waive the park dedication requirement if:

- a) The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development;
- b) The area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection 1; and
- c) The preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values.

The provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under subsection A above.

- d) The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections 5-a) and b) above, is reduced by an amount equal to or exceeding the area of the dedication required and subsection A above; or
 - (1) The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
 - (2) The area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of

dedication required under subsection A.

6. The local Governing Body may waive the park dedication requirement if:
 - a) The subdivider provides land outside the subdivision that affords long-term protections of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
 - b) The area of land to be subject to long-term protection, as provided in subsection (6)(a), equals or exceeds the are of dedication required under subsection (A).
7. Subject to the approval of the local Governing Body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided under subsection A to a school district, adequate to be used for school facilities or buildings.
8. For the purposes of this section:
 - a) "Cash donation" is the fair market value of the unsubdivided, unimproved land; and
 - b) "Dwelling unit" means a residential structures in which a person or persons reside.

**SECTION 15: UNIFORM STANDARDS FOR
MONUMENTATION, CERTIFICATES OF
SURVEY, AND FINAL SUBDIVISION PLATS**

A. UNIFORM STANDARDS FOR MONUMENTATION

1. The following standards shall govern monumentation of land surveys:
 - a) All permanent control monuments or monuments set to control or mark the boundaries of any division shall be of not less than one-half inch (1/2") in diameter by twenty-four inches (24") in length with a cap of not less than one and one-quarter inch (1 1/4") in diameter marked in a permanent manner with the name and/or registration number of the Registered Land Surveyor or Engineer in charge of the survey. A cap of the above dimensions may be set firmly in concrete;
 - b) Prior to the filing of any Subdivision Plat or Certificate of Survey for record, the Land Surveyor shall confirm the location of sufficient monuments to reasonably assure the perpetuation or reestablishment of any corner or boundary or retracement of the survey. The Surveyor shall clearly identify on the face of the Plat or Certificate of Survey all monuments used in the survey, and the descriptions shall be sufficient to identify the monuments without reference to another record of survey;
 - c) All monuments must be set prior to the filing of a Plat or Certificate of Survey. It is the responsibility of the subdivider and surveyor to reset any monuments disturbed or moved during construction or development activity.
 - d) Monuments not less than three-eighths inch (3/8") in diameter and eighteen inches (18") in length and marked with the name and/or registration number of the Registered Land Surveyor or Engineer in charge of the survey shall be set at the following locations:
 - (1) At each corner and angle point of all lots, blocks or parcels of land created;
 - (2) At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line;
 - (3) At every point of curve, point of tangency, point of reverse curve, or point of compounded curve on each right-of-way line established.

- e) When the placement of a required monument at its proper location is impractical, the Surveyor may set a reference monument near that point. Such a reference monument has the same status as other monuments of record if its location is properly shown. Where any point requiring monumentation has been previously monumented, the location of the existing monument shall be confirmed by the Land Surveyor or Engineer if used, and if so confirmed, shall likewise be considered a monument of record when properly shown and described on the Certificate or Plat filed;
- f) If the Land Surveyor or Engineer uses any previous established monuments, that person must confirm the location of the monument. If properly confirmed and shown and described on the filed Certificate or Plat, such a monument shall be considered a monument of record;
- g. It shall be the responsibility of the Governing Body to require the replacement of all monuments removed in the course of construction.

B. UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

1. A Certificate of Survey may not be filed by the County Clerk and Recorder unless it complies with the following requirements:
 - a) Certificates of Survey shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 18 inches by 24 inches overall to include a 1½ inch margin on the binding side;
 - b) One signed mylar copy or equivalent shall be submitted;
 - c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
2. The Certificate of Survey shall show on its face or on separate sheets referenced on its face the following information:
 - a) A title block including the quarter section, section, township, range, principal meridian and county of the surveyed land. Space shall be provided on the Certificate of Survey for the Clerk and Recorder's filing information. A Certificate of Survey shall not bear the title "plat," "subdivision," or any title other than "Certificate of Survey";

- b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining Certificates of Survey previously recorded and ties thereto;
- c) Date survey was completed and a brief description of why the Certificate of Survey was prepared, such as creation of a new parcel, retracement of section line, retracement of existing tract of land;
- d) North point;
- e) Scale bar (may not be less than 1"=200' with the scale being sufficient to legibly represent the required data on the Certificate of Survey submitted for filing);
- f) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto;
 - (1) If additional monuments are to be set after the certificate of survey is filed, these monuments must be shown by a distinct symbol, and the certificate of survey must bear a certification by the surveyor as to which they will be set.
 - (2) All monuments found during a retracement that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).
- g) The location of any corners of sections or divisions of sections pertinent to the survey;
- h) Witness monuments, basis of bearing, bearings and length of lines;
- i) The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a closing meander traverse shall be given;
 - (1) The courses along a meander line are shown solely to provide a basis for calculating the acreage of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
 - (2) For purposes of this rule a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

- j) Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:
 - (1) Radius of curve;
 - (2) Arc length;
 - (3) Notation of non-tangent curves.
- k) Length of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute;
- l) A narrative legal description of the parcel surveyed as follows:
 - (1) If the parcel surveyed is either an aliquot part of a U.S. Government section or a U.S. Government lot, the information required by this subsection is the aliquot or government lot description of the parcel.
 - (2) If the survey depicts the retracement or division of a parcel or lot that is shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the parcel or lot number of the parcel surveyed.
 - (3) If the parcel surveyed does not fall within (1) or (2) above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the parcel surveyed.
 - (4) If the certificate of survey establishes the boundary of a parcel containing one or more interior parcels, the information required by this subsection is the legal description of the encompassing parcel.
 - (5) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.
- m) All parcels created by the survey, designated by number or letter, and the dimensions and area of each parcel. (Excepted parcels shall be marked "not included in this survey".);
- n) The location of any easement that will be created by reference to the certificate of survey.
- o) The dated signature and seal of the Registered Land Surveyor

responsible for the survey. The affixing of that persons seal constitutes a certification by the Surveyor that the Certificate of Survey has been prepared in conformance with the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16) and the regulations adopted pursuant thereto;

- p) Memorandum of oaths administered pursuant to Title 76, Chapter 3, Part 4, MCA.
- q) Space for the county clerk and recorder's filing information.

3. Procedures for division of land exempted from public review as subdivisions and Certificates of Survey for divisions of land meeting the criteria set out in Title 76, Chapter 3, Part 2 (207), MCA, must meet the following requirements:

- a) Certificates of Survey of a division of land which would otherwise be a subdivision but which is exempted from public review under Title 76, Chapter 3, Part 2 (207), MCA, may not be filed by the County Clerk and Recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted from public review as a subdivision and citing the applicable exemption;
- b) Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the Certificate of Survey may not be filed unless it bears a signed and acknowledged copy of the covenant;
- c) For an exemption as a gift or sale to a member of the immediate family, the Certificate of Survey must bear a certificate of the property owner that the exempted division of land meets the criteria for use of the exemption specified in local regulations and the following provisions. The Certificate of Survey must also indicate the name of the grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee;
 - (1) For a gift to any member of the immediate family authorized under Title 76-3-207(b), one conveyance of a parcel of land to each member of the landowner's immediate family is eligible for exemption from review and approval of the Governing Body.
- d) For an exemption as a relocation of a common boundary line, the Certificate of Survey must bear the signature of all landowners whose parcels are changed by the relocation. The Certificate of Survey must show that the exemption was used only to change the

location of a boundary line dividing two parcels, and must clearly distinguish the prior boundary location (shown, for example, by a solid line or a notation).

- e) A survey document that modifies lots in a platted and filed subdivision and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d) or (e), MCA, must be entitled “amended plat of the (name of the subdivision)”, but for all other purposes is to be regarded as a certificate of survey. The document must contain a statement signed by the property owner that approval of the local government body is not required and citing the applicable exemption.
 - f) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must bear, or be accompanied by, a certification by the county treasurer that all taxes and special assessments assessed and levied on the surveyed land have been paid.
4. A Certificate of Survey exempt from the surveying and filing requirements maybe filed with the Clerk if it meets the requirements for form and content for Certificates contained in this section and bears a Certificate of the Surveyor performing the survey stating the applicable exemption from the Act.
5. Within 180 days of the completion of a survey, the Registered Land Surveyor responsible for the survey, whether privately or publicly employed, shall prepare and submit for filing a Certificate of Survey in the county in which the survey was made if the survey:
- a) Provides material evidence not appearing on any map filed with the County Clerk and Recorder or contained in the records of the United States Bureau of Land Management;
 - b) Reveals a material discrepancy in such map;
 - c) Discloses evidence to suggest alternate locations of line or point;
 - d) Establishes one or more lines not shown on a recorded map, the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.
6. A Certificate of Survey will not be required for any survey which is made by the United States Bureau of Land Management or which is preliminary or which will become part of a subdivision plat being prepared for recording under the provisions of this chapter.

7. A Surveyor who completes a survey that establishes or defines a section line and creates a parcel that crosses the established or defined section line so that an irrigation district assessment boundary is included in more than one section shall note on the survey the acreage of the farm unit or created parcel in each section. The Surveyor shall notify the appropriate irrigation district of the existence of the survey and the purpose of the survey. For purpose of this section, "irrigation district" means a district established pursuant to Title 85, Chapter 7, MCA. The requirements of this section apply only to surveys for which the survey determines that, based on available public records, the survey involves land:
 - a) traversed by a canal or ditch owned by an irrigation district; or
 - b) included in an irrigation district.

C. UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

1. Final subdivision plats may not be approved by the Governing Body or filed by the Clerk and Recorder unless it complies with the following requirements:
 - a) final subdivision plats must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1 ½-inch margin on the binding side.
 - b) One signed mylar copy or equivalent shall be submitted;
 - c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
 - d) A survey that modifies a filed subdivision plat must be entitled "amended plat of (lot, block and name of subdivision being amended)," and unless it is exempt from subdivision review by 76-3-201 or 76-3-207(1)(d) or (e), MCA, may not be filed with the Clerk and Recorder unless it meets the filing requirements for final subdivision plats specified in this rule.
2. A final plat submitted for approval must show or contain, on its face or on separate sheets referred to on the plat, the following information. The surveyor may, at their discretion, provide additional information regarding the survey.
 - a) A title or title block indicating the quarter-section, section, township, range, principal meridian, county and , if applicable city

or town , in which the subdivision is located. The title of the plat must contain the words “plat” and either “subdivision” or “addition”.

- b) The name of the person(s) who commissioned the survey and the name(s) of the owner of the land to be subdivided it other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions, and the numbers of an adjoining certificates of survey previously filed.
- c) A north arrow.
- d) A scale bar. (The scale must be sufficient to legibly represent the required information and data on the plat.)
- e) The location of, and other information relating to all monuments found, set, rest, replaced or removed as required by ARM 24.183.1101(1)(c).
 - (1) If additional monuments are to be set after the platis filed, the location of these monuments must be shown by a distinct symbol, and the plat must bear a certification by the surveyor as to the reason the monuments have not been set and the date by which they will be set.
 - (2) All monuments found during a retracement that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).
- f) The location of any section corners or corners of divisions of sections pertinent to the survey.
- g) Witness and reference monuments and basis of bearings. For purposes of this rule the term “basis of bearings” means the surveyor’s statement as to the origin of the bearings shown on the plat. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the plat shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.
- h) The bearings, distances and curve data of all boundary lines. If the subdivision is bounded by an irregular shoreline or body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.
 - (1) The courses along a meander line are shown solely to

provide a basis for calculating the acreage of a parcel with one or more riparian boundaries as the parcel existed at the time of survey.

- (2) For purposes of these regulations a line that indicates a fixed boundary of a parcel is not a “meander or “meander line’ and may not be designated as one.
 - i) Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be so labeled, the plat must include the bearings of radial lines or chord length and bearing.
 - j) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.
 - k) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the subdivision.
 - l) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (excepted parcels must be marked “Not included in this subdivision” or “Not included in this plat,” as appropriate, and the bearings and lengths of these excepted boundaries must be shown.)
 - m) All streets, alleys, avenues, roads and highways; their widths (if ascertainable) from public records, bearings and area; the width and purpose of all road rights-of-way and all other easements that will be created by the filing of the plat; and the names of all streets, roads and highways.
 - n) The location, dimensions and areas of all parks, common areas and other grounds dedicated for public use.
 - o) The total acreage of the subdivision.
 - p) A narrative legal description of the subdivision as follows;
 - (1) If the parcel being subdivided is either an aliquot part of a U.S. Government section or a U.S. Government lot, the information required by this subsection is the aliquot or government lot description of the parcel.

- (2) If the plat depicts the division of a parcel or lot that is shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the parcel or lot number of the parcel surveyed.
 - (3) If the parcel surveyed does not fall within (1) or (2) above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the parcel surveyed.
 - (4) If the plat establishes the boundary of a subdivision containing one or more interior parcels, the information required by this subsection is the legal description of the perimeter boundary of the subdivision.
- q) The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-10 through 76-3-625, MCA) and the regulations adopted under that Act.
 - r) A memorandum of any oaths administered under 76-3-405, MCA.
 - s) The dated, signed and acknowledged consent to the subdivision of the owner of the land being subdivided. For purposes of this rule when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms “owner” and “owner of the land” refers to the seller under the contract-for-deed.
 - t) Certification by the Governing Body that the final subdivision plat is approved.
 - u) Space for the clerk and recorder’s filing information.
3. The following documents must appear on the face of or accompany the approved final plat when it is presented to the Clerk and Recorder for filing:
- a) If applicable, the owner’s certificate of dedication of streets, parks, playground easements or other public improvements.
 - b) If applicable, a certificate of the Governing Body expressly accepting any dedicated land, easements or improvements. An acceptance of a dedication is ineffective without this certification.

- c) A certificate of a title abstractor, showing the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.
- d) Copies of any covenants or deed restrictions relating to the subdivision.
- e) If applicable, a certificate from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities.
- f) A certificate from the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.
- g) Unless otherwise provided by local subdivision regulations, copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.
- h) If applicable, the certificate of the examining land surveyor.
- i) If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.
- j) The certification of the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

SECTION 16: FLOOD HAZARD EVALUATION

A. GENERAL REQUIREMENTS

1. In areas located within the floodway of a flood of one hundred year frequency as defined by Title 76, Chapter 5, MCA, or land deemed subject to flooding as determined by the Governing Body, or if any portion of a proposed subdivision is within 2000 horizontal feet and less than 20 vertical feet of a live stream draining an area of 25 square miles or more, and no official flood way delineation or flood way studies of the stream have been made, the subdivider shall submit the following survey data in delineating the one hundred year frequency floodway. The flood way will be determined by the Water Resources Division, Department of Natural Resources and Conservation. This requirement shall be waived by the Governing Body where the subdivider has contacted the Water Resources Division and that agency has certified in writing that the proposed subdivision is not in a flood hazard area.
 - a) A copy of the plat showing contour intervals.
 - b) The location and elevation of a temporary benchmark established within the subdivision and referenced to sea level elevations with appropriate elevation adjustments.
 - c) A minimum of four (4) surveyed valley cross sections of stream according to the following requirements:
 - (1) Cross sections shall include the stream channel and floodplain on both banks;
 - (2) One cross section shall be taken at a point on the stream from which it could be extended through the subdivision;
 - (3) Three (3) cross sections shall be taken downstream from the subdivision, each approximately 1,000 feet apart, but in no case may the vertical drop between cross sections exceed 5.0 feet. The cross section farthest downstream should be located at a natural constriction or bridge location between the subdivision and the lowest cross section;
 - (4) Distances between cross sections are to be determined by stadia, distance meters or other acceptable methods of distance determination;
 - (5) The overbank cross sections are to be extended to obtain a vertical rise of fifteen (15) feet above the water surface.

- d) If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the subdivision.
- e) Descriptions and sketches of all bridges within the reach, showing unobstructed waterway openings and elevations.
- f) Elevations of the water surface determined by survey as part of each valley cross section.
- g) Cross sections plotted on cross section paper of ten (10) divisions to the inch using any convenient, identified scale for vertical and horizontal distance.
- h) A profile sheet prepared on cross section paper of ten (10) divisions to the inch, showing the observed water surface profile, location of cross section, subdivision's boundaries, riverbank profile, and thalweg (lowest point of the channel bottom along the reach of stream).
 - (1) A location map, such as U.S. Geological Survey 7 1/2 minute quad or similar map, showing the proposed subdivision, the locations of the cross sections, and any gauging stations.
- i) The one hundred year floodline shall be shown on the Preliminary Plat.

SECTION 17: ENVIRONMENTAL ASSESSMENT

A. GENERAL REQUIREMENTS

When required, the environmental assessment must accompany the preliminary plat and must include:

For a major subdivision:

1. A description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use with the area of the proposed subdivision;
2. A summary of the probable impacts of the proposed subdivision based on the criteria described in Section 7Df).
3. A community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and
4. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under MCA 76-3-501 as may be required by the Governing Body.

For a minor Subdivisin:

1. The requirement of preparing an environmental assessment does not apply to the first minor subdivision created from a tract of record.
2. Subsequent minor subdivisions shall provide a summary of the probable impacts of the proposed subdivision based on the criteria described in Section 4-D-6.

B. ENVIRONMENTAL ASSESSMENT EXEMPTIONS

1. Subdivision located totally within jurisdictional areas that have adopted all of the following are considered to be in the public's best interest and are exempt from the requirement of an environmental assessment:
 - a) A growth policy;
 - b) Zoning Regulations;
 - c) A strategy for development, maintenance, and replacement of

public infrastructure.

2. The Planning Board may exempt a proposed subdivision from the requirement for completion of the any portion of the environmental assessment if:
 - a) The subdivision is proposed in an area defined by the Growth Policy and the proposed subdivision is in compliance with that policy; or
 - b) The subdivision will contain fewer than 10 parcels and less than 20 acres.
 - c) When an exemption is granted under this section, the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review. The same written statement of reason shall apply when such an exemption is not granted.

SECTION 18: ADMINISTRATIVE PROVISIONS

A. VARIANCES

1. The Governing Body may grant reasonable variances from the Design and Improvement Standards of these regulations when it determines that literal compliance with such standards will result in undue hardship to the subdivider. Such a variance may be granted when the Governing Body finds that the variance will not involve detriment to the public health, safety, that exceptional topographic or other physical conditions impede development according to the subdivision and that the variance will not in any manner vary from the provisions of the Zoning Ordinance, where a variance request would fall under the jurisdiction of the Zoning Board of Adjustment.
 - a) When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts upon which the issuance of the variance was based.
 - b) The conditions on which the request for a variance(s) is based are unique to the property on which the variance is sought and are not applicable generally to other property.
2. The Governing Body will not by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.
3. Procedure:
 - a) In addition to the preliminary plat application, the subdivider shall submit a written statement describing the requested variance and the facts of hardship upon which the request is based. The variance submittal shall also include the following:
 - (1) The subdivider shall submit documentation prepared by a licensed professional engineer or a licensed professional surveyor describing the details and specifications of the proposed variance, when applicable.
 - (2) The subdivider shall submit a statement describing why the proposed variance will not be contrary to public interest.
 - (3) The subdivider shall submit the appropriate documentation certified by a licensed professional engineer or licensed professional land surveyor that the proposed variance would

not create any public health and safety concerns.

- b) The Planning Board shall make a recommendation to the Council of Commissioners to deny, approve or conditionally approve the requested variance, In concert with their recommendation on the preliminary plat.
- c) The Council of Commissioners shall take action to deny, approve or conditionally approve the variance requested.

4. Conditions:

- a) The Council of Commissioners may require such conditions as necessary to protect the public health and safety and to secure substantial compliance with the objectives of the Subdivision Regulations.

5. The results of the variance shall be described on the face of the final plat within a Variance Title Block that shall include the following:

- a) Description of the variance requested.
- b) Description of the action taken by the Council of Commissioners to approve, conditionally approve or deny the requested variance.
- c) List of the conditions of approval, if relevant.
- d) Description of the justification for denial, if relevant.
- e) Date of the Council of Commissioners action on the variance request.

B. VIOLATION

- 1. Except as provided for in Title 76-3-303, MCA, every Final Subdivision Plat must be filed for record with the Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner or offered for sale or transfer. If illegal transfers of any manner are made, the County Attorney shall commence action to enjoin further sales, transfers, or offers of sale or transfer and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of such action shall be imposed against the person transferring or offering to transfer the property.

C. PENALTY FOR VIOLATION

Any person who shall violate any of the procedures of these regulations or the Montana

Subdivision and Platting Act is guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in jail for not more than three (3) months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of these regulations of the Montana Subdivision and Platting Act shall be deemed a separate and distinct offense.

D. APPEALS

1. A person who has filed with the Governing Body an application for subdivision under this chapter may bring an action in district court to sue the Governing Body to recover actual damages caused by a final action, decision, or order of the Governing Body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.
2. A party identified in subsection (3) who is aggrieved by a decision of the Governing Body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days from the date of the written decision, appeal to District Court.
3. The following parties may appeal under the provisions of subsection (2):
 - a) The subdivider;
 - b) A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within Butte-Silver Bow County, where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
 - c) The county commissioners of the county where the subdivision is proposed; and
4. For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

E. VACATING RECORDED PLAT

Any plat prepared or recorded as provided in this section may be vacated either in whole or in part as provided by Section 7-5-2501, 7-5-2502, 7-14-2616 (1) and (2), 7-14-2617, 7-14-4114 (1) and (2), and 7-14-4115, MCA, and upon such vacation the title to the street and alleys of the vacated portions must revert to the owners of the properties within the platted areas adjacent to such vacated portions; provided, however, that whenever any pole line, pipeline, or any other public or private facility that is located in a vacated street or alley at the time of the revision of the title thereto, the owner of said public or private

utility facility shall have an easement over the vacated land to continue the operation and maintenance of the public utility easement.

The Governing Body or the district court, as provided in 7-5-2502, MCA, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

F. SUBDIVISION REAPPLICATION

The resubmittal of a previously denied subdivision application must meet the following regulations:

1. Substantial change to the application must have occurred after denial of the subdivision and before reapplication;
2. The reasons for denial, as stated by the Planning Board and/or Governing Body, must be adequately mitigated prior to resubmittal;
3. The Planning Board, will determine whether or not a subdivision reapplication meets the reapplication criteria.

G. SCHEDULE OF FEES

A schedule of fees, charges, and expenses to be paid by subdividers to defray the expense of the subdivision review and any inspections necessary for plat approval is contained in these regulations. The schedule of fees shall be posted in the Planning Department. No action shall be taken on applications or appeals until all applicable fees have been paid in full. Applications for subdivision approval shall not be accepted unless accompanied by all applicable fees.

FEE SCHEDULE

1. PRELIMINARY PLAT REVIEW

To cover costs of reviewing plans, advertising, holding public hearings, and other activities associated with the review of the subdivision proposal, the subdivider shall pay a non-refundable fee at the time of the application for preliminary plat approval. The fees, payable to Butte-Silver Bow County are as follows:

Number of Proposed Lots or Dwellings	Fee
1-5 (First minor subdivision)	\$500.00

6 or more (major subdivisions)
or subsequent minor subdivisions \$500.00 plus
\$50.00 per lot plus all additional and
direct charges for advertising,
certified letters and peer review of
technical information

2. FINAL PLAT REVIEW AND INSPECTION

To cover the cost of on-site inspection of the subdivision and review of the final plat and supplementary materials, the subdivider shall pay a non-refundable fee at the time of application for final approval to Butte-Silver Bow County at the following rate:

Final plat approval \$500.00

FEES FOR VACATING OR AMENDING A PLAT

The property owners petitioning for the vacation or amendment of a filed subdivision plat shall pay all direct costs incurred by the Governing Body in vacating or amending the plat.

SECTION 19: ADOPTION

A. EFFECTIVE DATE

These regulations shall become effective on the dates indicated in the approvals given by the Consolidated City and County of Butte-Silver Bow, State of Montana. These regulations shall remain in effect until modified, amended, or rescinded by the Governing Body.

B. RESOLUTION OF APPROVAL - BUTTE-SILVER BOW PLANNING BOARD

Adoption of these regulations is recommended by the Butte-Silver Bow Planning Board, by resolution of said Board.

Planning Resolution No. 1, March 26, 1981

C. RESOLUTION OF APPROVAL - CONSOLIDATED CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA

Be it resolved that these regulations are approved by the Council of Commissioners of the consolidated City and County of Butte-Silver Bow, State of Montana.

Ordinance No. 178, February 2, 1983*

*Updates:

Ordinance No. 253, November 13, 1985

Ordinance No. 476, May 18, 1994

Ordinance No. 02-8, June 19, 2002

Ordinance No. 09-2, March 18, 2009

Ordinance No. 09-05, September 2, 2009

APPENDIX

APPENDIX A

FIRE PROTECTION STANDARDS

A. GENERAL

A-1.1 Scope

This section of the Butte-Silver Bow Subdivision regulations presents the minimum planning, construction, maintenance elements for subdivisions to provide for the protection of life and property from emergency incidents.

A-1.2 Purpose

All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and natural resource areas.

A-2 Definitions

Total Square Feet of Structure: This is the structure's footprint time the number of floors. This includes all building spaces attached to the structure.

Accessory Building or Structure: Any building or structure used incidentally to another building or structure.

Alternative: A system, condition, arrangement, material, or equipment submitted to the Fire Protection Authority Having Jurisdiction (FPAHJ) as a substitute for a code requirement.

Approved: Acceptable to the Fire Protection Authority Having Jurisdiction.

Aspect: Compass direction toward which a slope faces.

Building: Any structure used or intended for supporting any occupancy.

Combustible: any material that, in the form in which it is used and under conditions anticipated, will ignite and burn (see Noncombustible).

Defensible Space: A designated area around a home or other structure the size of which is dependent on the vegetation, proximity to tree crowns, slope and distance to adjacent buildings. Within this area, all weeds, dry grass, slash, flammable debris and flammable fuel is removed. This managed buffer surrounding buildings and structures is designed to reduce the chances of a fire spreading to or from the building or

structures.

Dry Hydrant: An arrangement of pipe permanently connected to a year around water source other than a piped, pressurized water supply system that provides a ready means of water supply for fire-fighting purposes and that utilizes the drafting (suction) capability of fire department pumpers.

Dwelling: One or multiple living units, each providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Multiple living units must be approved through subdivision review and approval.

Evacuation: The temporary movement of people and their possessions from locations threatened by wildland fire or other emergencies that may threaten citizens.

Fire Hydrant: A valved connection on a piped year around pressured water supply system having one or more outlets that is used to supply hose and fire department pumpers with water.

Fire Lane: A means of access or other passageway designated and identified to provide access for emergency apparatus where parking is not allowed.

Fire Resistant Landscaping: Vegetation management that removes flammable fuels from around a structure to reduce exposure to radiant heat. The flammable fuels may be replaced with green lawn; gardens; certain individually spaced, green, ornamental shrubs; individually spaced and pruned trees, decorative rock or stone; or other non-flammable or flame resistant materials.

Fire Resistive or Fire Resistant Construction: Construction to resist the spread of fire, details of which are usually found in applicable state fire and building codes.

Fuel Break: An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting.

Fuel Hazard Rating: A measure of the fire behavior and the difficulty of fire control in non-fire-resistive materials.

Fuel Loading: The volume of fuel in a given area generally expressed in tons per acre.

Fuel Modification: Any manipulation or removal of fuels to reduce the likelihood of ignition or the resistance to fire control.

Fuels: All combustible material within the wildland/urban interface, including vegetation and structures.

Greenbelt: An area with fire-resistive vegetation (planted or native), maintained to cause a reduction in fire intensity, and used for other than fire protection (golf course, cemetery, park, playground, mowed park, orchard, etc.).

Ground Fuels: All combustible materials such as grass, duff, loose surface litter, tree or shrub roots, rotting wood, leaves, peat, or sawdust that typically support combustion.

Hammerhead T: A roadway that provides a “T” shaped, three-point turnaround for emergency equipment that is no narrower than the road it serves.

Hazard: a fuel complex defined by kind, arrangement, volume, condition, and location, that determines the ease of ignition and/or of resistance to fire control.

Ladder Fuels: Fuels that provide vertical continuity allowing fire to carry from surface fuels into crowns of trees or shrubs with relative ease.

Life Risk: Events, actions, or situations created by emergency incidents that have the potential to cause serious injury or death to people.

Life Safety: Actions taken to prevent the endangerment of people threatened by emergency incidents or by activities associated with the management.

Listed: Equipment, materials, or services included in a list published by an organization that is UL listed and is concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets identified standards or has been tested and found suitable for a specified purpose.

Mitigation: Action that moderates the severity of a fire hazard or risk.

Noncombustible: A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire.

Public Access Easement: A thoroughfare that has been dedicated for public use.

Rated Roof: A roof constructed with a “roof covering assembly” that is listed as meeting the requirements for Class A or B fire rated “roof covering assembly

materials”.

Roadway: An open way for passage of vehicles giving access to one or more parcels. As defined in the road standards section of these regulations, there are four main classifications in Butte-Silver Bow; local roads, minor collectors, major collectors, and arterials.

Setback: Distance between a structure and the closest property boundary.

Shall: Indicates a mandatory requirement.

Should: Surface of a road adjacent to the traffic lane.

Slope: Upward or downward incline or slant, usually calculated as a percent of slope [rise or fall per 100 feet (30.45 m) of horizontal distance].

Street or Road Identification Signs: Any sign containing words, numbers, directions, or symbols that provides information to emergency responders.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Traffic Lane: That portion of a roadway that provides a single land of vehicle travel in one direction.

Turnaround: A portion of a roadway, unobstructed by parking, that allows for a safe reversal of direction for emergency equipment (see cul-de-sac and hammerhead T).

Vegetation Management Plan: A vegetation management plan reduces the amount of fuel available for wildland fires, reducing the probability of a rapidly spreading wildland fire. Elements of the plan include removal of slash, snags, other ground fuels, ladder fuels and dead trees, and thinning of live vegetation.

Water Supply: A source of water for fire-fighting activities.

Wildland Fire: An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving structures.

Wildland/Urban Interface: An area where improved property and wildland fuels meet.

A-3 Fire Protection

A-3.1 Fire Protection Plan

All proposed subdivision shall provide a complete Fire Protection Plan prior to the preliminary plat application. The Fire Protection Plan must address all requirements of Appendix A of the Butte-Silver Bow Subdivision Regulations.

A-3.2 Adequate Fire Protection

The subdivision shall be designed to address the following:

- a) The placement of structures in such a manner so as to minimize the potential for flame spread and to permit efficient access for fire fighting equipment;
- b) The presence of adequate fire fighting facilities on site;
- c) An adequate water supply and water distribution system to fight fires on-site;
- d) The availability, through a fire protection district or other means, of fire protection adequate to respond to fires that may occur within a subdivision.

A-4 Wildland/Urban Interface

Special standards are required for subdivisions proposed in wildland/urban interface areas.

A-4.1 Wildland/Urban Interface Areas

The areas of existing wildland/urban interface are determined by using the Butte-Silver Bow Community Wildfire Protection Plan (CWPP). Developers should consult the CWPP to ensure a complete understanding of the wildland/urban interface. Only existing wildland/urban interface areas within Butte-Silver Bow have been mapped within the CWPP. For those subdivisions that will be located in an area that has not been mapped as existing wildland/urban interface in the CWPP, but exhibits the same risk factors as the mapped wildland/urban interface areas, the B-SB Fire Department (BSBFD) will require the completion of a Wildland Fire Risk and Hazard Severity Assessment form by a recognized fire or fuels management specialist approved by the BSBFD for the proposed subdivision.

A-4.2 Additional Requirements

High fire hazard areas include heads of draws, excessive slopes, dense forest growth or other hazardous wildfire components. For subdivisions proposed in areas presently

classified as wildland/urban interface in the Butte-Silver Bow Community Wildfire Protection Plan (CWPP), or in areas that have been given a Moderate, High or Extreme rating on the Wildland Fire Risk and Hazard Severity Assessment Form, the following standards shall apply:

A-4.2.1 Roof Coverings. Class A or B fire rated roofing materials are required.

A-4.3 Accesses and Evacuation.

A-4.3.1 Roadside Vegetation – Maintain Roadside vegetation to protect roads from radiant heat, so they can be used both as escape routes and fire breaks. A recognized fire or fuels management specialist from the list of approved qualified fire protection professionals maintained by the B-SB Planning Department shall be used to determine how much vegetation to clear based on local conditions. At a minimum the following standards shall apply:

- a. Thin trees to ten (10') feet between crowns.
- b. Remove ladder fuels and prune tree limbs up to fifteen (15') feet, or one-third of the live crown of the tree, whichever is less.
- c. Remove dead vegetation, logs, snags, etc. Remove snags to a distance that prevents them from falling into cleared right-of-way or on roads.
- d. In the clear zone and where practical, reduce brush, grass, and other vegetation and maintain it at a maximum of 12 inches high, in perpetuity.

A-4.3.2 Roadways. Access to all major subdivisions shall be provided by a minimum of two approach routes, located as remotely from each other as possible to assure more than one escape route for residents and access routes by emergency vehicles.

A-4.3.3 Access & Evacuation. Access for emergency responders and evacuation shall be provided for all buildings. Routes shall provide ingress for fire department apparatus in establishing a defensive perimeter around building(s) and shall be designed and constructed to allow simultaneous egress for the evacuating public. Access routes shall be deemed driveways or roadways. Fire apparatus shall be able to park on a roadway, driveway, or fire apparatus parking area within 150 feet of all parts of the exterior of the building. The roadway, driveway, or fire apparatus parking shall be engineered and constructed to safely support a 20-ton, two-axle fire apparatus.

A-4.3.4 Obstructions. Landscaping or other obstructions placed around structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations. Filler valves for buried residential propane tanks shall be

located below the ground surface to avoid possible shearing by heavy equipment. The clearing of brush, dead trees, fallen branches and other flammable debris or material on the ground for a distance of one hundred (100) feet from the perimeter of all structures.

A-4.3.5 Easements. Where necessary, the applicant shall obtain or provide evidence that an attempt was made to obtain an easement from adjacent property owners to operate emergency vehicles.

A-4.3.6 Bridges and Cattle Guards. Bridges and cattle guards should be built to a design load of 20 tons and constructed of non-flammable materials and shall meet the requirements of Section 10F of these regulations.

A-4.3.7 Perimeter Access. Subdivisions shall be designed to allow emergency vehicles access to areas behind structures by:

- a. Providing a perimeter roadway approved by the BSBFD along the wildland side of the development; or
- b. Providing a fuel break, designed by a recognized fire or fuels management specialist approved by the BSBFD, and accessible to fire apparatus.

A-4.3.8 Driveways to Structures. To allow for emergency vehicle access to structures, the property owner shall provide a driveway meeting the following requirements as approved by the BSBFD: a minimum unobstructed driving surface of twelve (12) feet for driveways less than three hundred (300) feet long and a sixteen (16) foot driving surface for any driveway over three hundred (300) feet long; a vertical clearance of fifteen (15) feet; and a four (4) foot zone of reduced vegetation on each side of the driving surface. If a driveway with less than a sixteen (16) foot wide driving surface is approved by the BSBFD, turnouts shall be designed and constructed every three hundred (300) feet along the driveway's length.

- a. For all building or structure sites on driveways over three hundred (300) feet in length, the property owner shall provide a turnaround including but not limited to a drive-through, cul-de-sac or hammerhead turn-a-round.
- b. A turn-a-round shall be within fifty (50) feet of the building or structure when there is no community water system with fire hydrants. A turn-a-round shall be within one hundred fifty (150) when there is a community water system with fire hydrants.
- c. All gates, bridges, culverts, cattle guards and all related constructs affecting access shall be a minimum of two (2) feet wider on each side of the driveway. The entire driveway shall have a 20-ton minimum rating for two-axle trucks,

including all bridges, culverts, cattle guards and all other constructs of the driveways.

A-4.4 Vegetation Management. A vegetation management plan shall be prepared by a recognized fire or fuels management specialist selected from a list of “qualified fire protection professionals” developed and maintained by the B-SB Planning Department. The intent of the vegetation management plan is to reduce fuel loading and hazard rating and provide continuous maintenance of the fuel load:

- To protect life and property.
- To reduce the potential for a fire on improved property from spreading to wildland fuels and from a fire in wildland fuels from spreading to the structures.
- To provide a safe working area for emergency responders.

A-4.4.1 Vegetation Management Plan. Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the development. A vegetation management plan shall include at least the following information:

- a. Copy of the site plan for the development.
- b. Methods and timetables for controlling, changing or modifying areas on the property, including roadside vegetation. Element of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, dead trees, and thinning of live trees.
- c. Defensible Space – Refer to Guideline 201.0 and Appendices A through D, of the Fire Protection Guidelines for Wildland/Residential Interface Development 1993.
- d. Fuel Breaks & Greenbelts – Refer to Guideline 204, Fuel Breaks and Greenbelts of the FIRE PROTECTION GUIDELINES FOR WILDLAND/RESIDENTIAL INTERFACE DEVELOPMENT 1993 or the most recently adopted guidelines.
- e. A plan for continuously maintaining the proposed fuel-reduction defensible space, fuel breaks & greenbelts measures and responsibility of maintenance defined.

A.5 Building Density Requirements. Densities in areas of steep slope or dense forest growth should be reduced through minimum lot standards as follows:

Minimum Lot Size (Acres)

Percent Slope	Open Grass	Forest & Brush
0-10	1	2
10-20	2	3
20-25	3	4
Over 25	5	not permitted

A-6 Building Sites. Building sites shall not be located on slopes greater than 25 percent and at the apex of “fire chimneys” (topographic features, usually drainways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).

A-7 Open Space. Open space, parkland and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.

A-8 Shake Roofs. Wood shakes or shingles will not be allowed.

A-9 Gas Storage Tanks. Gas storage tanks should be located at least twenty (20) feet from residential structures.

A-10 Water Supply. The location of a fire-fighting water source and each access to that source shall be identified using the BSBFD Dry Hydrant Sign Standard and shall indicate whether it is a fire hydrant on non-municipal system, a dry hydrant, or another type of water supply. Access and construction for water supplies shall, at a minimum, be built to the same standards of a driveway constructed for defensible space purposes.

A-10.1. Fire Protection Requirements for Major Residential Subdivisions (49) or less lot/parcels. For major residential subdivision, the subdivider/property owner shall provide one of the following fire protection packages:

A-10.1.1 Fire protection water supply system capable of 1,000 gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrant(s), for a minimum of 120 minutes. The distribution of fire hydrants shall meet the requirements of the current edition of the Fire Code, as adopted by the State of Montana; or

A-10.1-2 Fire protection water tank(s), constructed from plastic, concrete, fiberglass or other materials, approved by the BSBFD. The capacity of the tanks shall be a minimum of 30,000 gallons with a pump capable of delivering 1,000-gallons-per-minute at 20 psi from an approved fire hydrant. The maximum travel distance to the

edge of the lot line furthest from a hydrant on a route approved by the BSBFD shall be 1,000 feet. The tank(s) shall have an automatic water supply to maintain the required capacity; or

A-10.1.3 Installation in every residential or combination use structure, a fire protection sprinkler system. The fire sprinkler system shall be connected to a public water supply, if available, and the system shall be engineered by a licensed engineer (P.E.), installed and fully operational and compliant with the current edition of the applicable NFPA standard and one of the following fire protection water supply packages:

- a. Fire protection water tank(s), or ponds, of 30,000 gallon capacity with a pump capable of delivering 500 gallons-per-minute at 20 psi from an approved fire hydrant with a maximum approved travel distance from the furthest edge of the lot line from the hydrant to tank of 5,000 feet. The tank(s) shall have an automatic water supply to maintain the required capacity. Back-up power or a draft connection is also required; or
- b. Fire protection water supply system capable of 500 gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrants, for 120 minutes. Fire hydrants shall be installed no more than 1000-foot intervals.

A-10.2 Fire Protection Requirements for Major Residential Subdivisions (50 or more lot/parcels). For major residential subdivision, the subdivider/property owner shall provide one of the following fire protections packages:

A-10.2.1 Fire protection water supply system capable of 1,000 gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrant(s), for a minimum of 120 minutes. The distribution of fire hydrants shall meet the requirements of the current edition of the Fire Code, as adopted by the State of Montana; or

A-10.2.2 Installation of every residential or combination use structure, a fire protection sprinkler system. The fire sprinkler system shall be connected to a public water supply, if available, and the system shall be engineered by a licensed engineer (P.E.), installed and fully operational and compliant with the current edition of the applicable NFPA standard and one of the following fire protection water supply packages:

- a. Fire protection water supply system capable of 1,000 gallons-per-minute at 20 psi, through an approved public water system, with fire hydrants, for 60 minutes. Fire hydrants shall be installed no more than 1,000 foot intervals; or

- b. Fire protection water supply system capable of 500 gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrants, for 120 minutes. Fire hydrants shall be installed no more than 1,000 foot intervals.

A-10.3 Fire Protection Requirements for One Lot Minor Residential Subdivisions. For a one (1) lot minor subdivision, the subdivider/property owner shall provide one of the following fire protection packages:

A-10.3.1 An underground tank or pond of 10,000 gallons capable of delivering 1,000 gallons-per-minute from an approved fire hydrant with a maximum travel distance from the furthest lot line to the hydrant of 1,000 feet; or

A-10.3.2 Installation in every residential or combination use structure, a fire protection sprinkler system. The fire sprinkler system shall be connected to a public water supply, if available and the system shall be engineered by a licensed engineer (P.E.), installed and fully operational and compliant with the current edition of the applicable NFPA standard or one of the following fire protection water supply packages:

- a. Fire protection water supply system capable of 1,000 gallons-per-minute at 20 psi, through an approved public water system, with fire hydrants, for 60 minutes. Fire hydrants shall be installed no more than 1,000 foot intervals; or
- b. Fire protection water supply system capable of 500 gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrants, for 120 minutes. Fire hydrants shall be installed no more than 1000-foot intervals.

A-10.4 Fire Protection Requirements for Two through Five-Lot Minor Residential Subdivisions. For a two-lot to five-lot minor residential subdivision, the subdivider/property owner shall provide one of the following fire protection packages:

A-10.4.1 A storage tank(s) or pond of 30,000 gallons with a pump capable of delivering 1,000 gallons-per-minute at 20 psi from an approved fire hydrant. The maximum travel distance from the lot most distant from the hydrant to the hydrant shall be 1,000 feet. The tank(s) shall have an automatic water supply to maintain required capacity. The tank(s) can be underground, on the ground, or elevated; or

A-10.4.2 Installation in every residential or combination use structure, a fire protection sprinkler system. The Fire Sprinkler System shall be connected to a public water supply, if available and the system shall be engineered by a licensed P.E., installed and fully operational and compliant with the current edition of the applicable NFPA standard or one of the following fire protection water supply packages:

- a. Storage tank or pond of 10,000 gallon capacity with a pump capable of delivering 500 gallons-per-minute at 20 psi from an approved fire hydrant with a maximum approved travel distance from the furthest edge of the lot line from the hydrant to tank of 5,000 feet; or
- b. Fire protection water supply system capable of 1,000 gallons-per-minute from draft through an approved fire hydrant system, for 120 minutes. Maximum travel distance from the edge of the lot line furthest from the hydrant to the tank, on a route approved by the BSBFD, shall be 5,000 feet.

A-10.5 Fire Protection Requirements for Commercial Subdivisions and Buildings. Commercial buildings and buildings which are used for purposes other than dwellings or as lodging houses which accommodate 10 persons or less shall provide the following fire protection features;

A-10.5.1 Each commercial structure that is required to provide fire detection and/or fire protection sprinkler systems, shall have installed a lock box to hold keys to the exterior or interior doors. The lock box make and model, and the location shall be approved by the BSBFD. The lock box shall contain current contact information for a local, responsible party or parties who will respond to fire alarms or fire sprinkler system alarms.

A-10.5.2 A fire protection water supply shall be provided that meets or exceeds the minimum required fire flow and flow duration for buildings as described in the current edition of the Fire Code, as adopted by the State of Montana.

A-11 Fire Protection Covenants

A-11.1.1 Maintenance of Fire Protection Water Supply Features and Fire Department Use. (for example: water systems, fire hydrants, draft sites, fill sites, buried tanks or open ponds) – Fire protection water supplies must be maintained to their original performance capability in perpetuity by the owners of the water system. Performance of all fire protection features shall be tested annually by;

The BSBFD or a subcontractor hired and paid for by the FPAHJ. The owners of the system. The results of the annual testing shall be provided to the BSBFD and the owners as soon as possible. The BSBFD shall have unrestricted use, in perpetuity (at no cost to the BSBFD) of the fire protection features including but not limited to water sources, pumps, and hydrants.

A-11.1.2 Maintenance of Fire Protection Features. Fire protection features must be maintained to their original performance capability in perpetuity by the property owners. (For example: defensible spaces, driveway routes, fuel breaks, fuel

modification plan, greenbelts, etc.)

A-11.1.3 Mapping. A map of the subdivision shall be provided to the BSBFD and BSB Geographic Information System (GIS) Departments indicating streets, street names, fire protection features, lot line, and if required, buildable area envelopes.

A-11.1.4 Travel Routes to Fire Protection Water Supply Features. Travel routes to fire protection water supply features shall be approved by the BSBFD.

A-11.1.5 Fire Protection Sprinkler/Fire Alarm System Project Tracking Process. Fire protection sprinkler/fire alarm project tracking process is required by the BSBFD, where a structure has a fire protection sprinkler system installed as a part of a subdivision fire protection plan. The tracking process may be administered by the BSBFD. The tracking process requirements are as follows:

- a. The property owner shall provide a 14-day written notice of intent to build a structure with fire protection sprinkler system, and where applicable, fire alarm system, engineered by a P.E.
- b. The property owner shall provide written verification by a PE that the fire protection sprinkler system and, where applicable, fire alarm system, are installed and fully operational prior to enclosure with sheet rock or interior all covering installation. The BSBFD shall be permitted to witness the testing with a minimum of 48 hours advanced notice.
- c. The subdivider or property owner shall provide written certification to the BSBFD, by a P.E. and the subdivider or property owner that all fire protection requirements have been met prior to final occupancy. The BSBFD shall be permitted to witness the checklist inspections required in this section. The subdivider or property owner shall provide the BSBFD with 48 hours notice of the checklist inspections.
- d. Occupancy shall be permitted only when all fire protection requirements have been met as determined by the BSBFD.

A-11.1.6 Back-Up-Power Requirements for Water Distribution Systems Providing Fire Protection Water Supply.

- a. Back-up power is required for water distribution systems supplying a fire hydrant(s) or fire sprinkler systems for the wells and/or pumps if there is not any storage tanks or ponds as part of the system. The subdivider/property owner shall provide, at their expense, a back-up power supply and automatic transfer switching system for the fire protection water supply system that

supplies the fire sprinkler systems in the buildings and hydrants. The back-up power supply system shall be engineered by a P.E. licensed in Montana. The P.E. designing the back-up power system shall certify in writing that the back-up power supply system will be capable for the duration of the capacity of the water supply. Documentation of the proposed back-up power supply system shall be provided to the BSBFD 30-days prior to final plat approval. The back-up power system design documentation shall include certification of the system capacity and design by signature of the P.E. licensed in Montana. Prior to installation, the back-up power sources and automatic transfer switching systems, shall meet the requirements of, and be approved by, the BSBFD. The subdivider may be required to pay for an independent validation review of the fire protection water system back-up power system they propose to the BSBFD by a P.E. licensed in Montana and selected by the BSBFD.

Back-up power, meeting the requirements of **Section A-1.6(a)** f Appendix A, or a draft connection, meeting requirements of the BSBFD, is required for water distribution systems supplying a fire hydrant(s), or fire sprinkler systems for the wells and/or pumps if there are storage tanks or ponds as part of the system.

APPENDIX B

ADMINISTRATIVE MATERIALS

ADMINISTRATIVE MATERIALS "A"

PRELIMINARY SUBDIVISION PLAT APPLICATION

PART I GENERAL DESCRIPTION AND INFORMATION

1. Name of the proposed subdivision _____
2. Location (City and/or County) _____
Legal description: _____ 1/4 _____ 1/4 of Section ____ Township Range _____
3. Type of water supply system:
 - a. Individual surface water supply from spring _____
 - b. Multiple-family water supply system (3-14 connections and fewer than 25 people) _____
 - c. Service connection to multiple-family system _____
 - d. Service connection to public system _____
 - e. Extension of public main _____
 - f. New public system _____
 - g. Individual well _____
4. Type of wastewater treatment system:
 - a. Individual or shared on-site septic system _____
 - b. Multiple-family on-site system (3-14 connections and fewer than 25 people) _____
 - c. Service connection to multiple-family system _____

- d. Service connection to public system _____
 - e. Extension of public main _____
 - f. New public system _____
5. Is information included which substantiates that there will be no degradation of state waters or that degradation will be nonsignificant?

6. Descriptive Data:
- a. Number of lots or rental spaces _____
 - b. Total acreage in lots being reviewed _____
 - c. Total acreage in streets or roads _____
 - d. Total acreage in parks, open space, and/or common facilities _____
 - e. TOTAL gross acreage of subdivision _____
 - f. Minimum size of lots or spaces _____
 - g. Maximum size of lots or spaces _____
7. Indicate the proposed use(s) and number of lots or spaces in each:
- _____ Residential, single family
- _____ Residential, multiple family
- _____ Types of multiple family structures and numbers of each (e.g. duplex)
- _____ Planned Unit Development (Number of units _____)
- _____ Condominium (Number of units _____)
- _____ Mobile Home Subdivision (Number of spaces _____)
- _____ Recreational Vehicle Subdivision (Number of spaces _____)
- _____ Commercial or Industrial

_____ Other (please describe) _____

8. Provide the following information regarding the development:
- a. Current land use _____
 - b. Existing zoning or other regulations _____
 - c. Depth to ground water at the time of year when water table is nearest to the natural ground surface within the drainfield area

 - d. Depth to bedrock or other impervious material in the drainfield area

 - e. If a tract of land is to be subdivided in phases, an overall development plan indicating the intent for the development of the remainder of the tract.
 - f. Drafts of any covenants and restrictions to be included in deeds or contracts for sale. Drafts of homeowners' association bylaws and articles of incorporation, if applicable. (Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DEQ to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DEQ can issue final approval.)
 - g. Indicate whether the mineral rights have been severed from the property:
Yes _____ No _____
 - h. Indicate whether water rights have been severed from the property: Yes _____
No _____
9. Is the applicant claiming an exemption under Section 7-A-2 of the subdivision regulations from the requirement to prepare an environmental assessment? Yes _____ No _____

Name, address, and telephone number of designated representative, if any (e.g., engineer, surveyor).

Name

Phone

Address (Street or P.O. Box, City, State, Zip Code)

Name, address, and telephone number of owner(s).

Name

Address (Street or P.O. Box, City, State, Zip Code)

Date

Phone

Signature of owner

Name, address, and telephone number of subdivider if different than owner(s).

Name

Address (Street or P.O. Box, City, State, Zip Code)

Date

Phone

Signature of subdivider

The application must be signed by the owner of the land proposed for subdivision or the responsible officer of the corporation offering the same for sale.

PART II PRELIMINARY PLAT FORM, CONTENTS AND SUPPLEMENTS

1. Preliminary Plat Subdivision Application Form:
The subdivider shall submit a completed subdivision application form that is signed by the landowner(s) of record.

2. Preliminary Plat Review Fee:
The subdivider shall submit the required review fee as identified in the pre-application meeting and in Section 18-G of the subdivision regulations.

3. Preliminary Plat Form, Contents, and Supplements:
The subdivider shall submit an 11” by 17” and an 18” by 24” (or 24” by 36”) preliminary plat completed by a land surveyor.

The following information must be provided on the preliminary plat or in supplements to the preliminary plat:

- a. The subdivision or development name (the title must contain the words “plat” and/or “subdivision”)
- b. The legal description, including Section, Township, and Range, and any underlying survey data;
- c. A north arrow;
- d. The scale used on the plat;
- e. The certification of a professional land surveyor;
- f. The certification of a professional engineer (if the preliminary plat application or data includes engineering plans or specifications);
- g. The names of all owners of record and the subdivider [if different from the owner(s)];
- h. The date the preliminary plat is completed;
- i. Proposed lot layout with approximate dimensions and sizes;
- j. Lots and blocks identified by number or letter;
- k. The use of each lot, if other than for single-family residential;
- l. The exterior boundaries of the parcel proposed for subdivision with bearings, distances, and curve data indicated outside of the boundary lines. When the plat is bounded by an irregular shoreline or body of water, the bearings and distances of a closing meander traverse shall be given;
- m. All existing streets, roads, highways, avenues, alleys, and/or access easements within or adjacent to the subject property;
- n. All proposed streets, roads, alleys, avenues, and easements; the width of the easement or right-of-way, grades, curvature of each;
- o. Existing and proposed road and street names;
- p. Proposed location of intersections for any subdivision requiring access to state or local streets, roads, avenues, alleys, or highways;
- q. The names of adjoining platted subdivisions and recording information from adjoining subdivisions, certificates of survey, or unplatted lands;
- r. The approximate location of all section corners or legal subdivision corners of

- s. sections pertinent to the subdivision boundary;
 - s. Approximate area, location, boundaries, and dimensions of all parks, common grounds, and other grounds dedicated for public use;
 - t. The total gross area of the subdivision and the total net area, exclusive of public areas and rights-of-way;
 - u. Existing and proposed infrastructure and proposed utilities including:
 - (1) The approximate location, size, and depth of existing and proposed sanitary and storm sewers;
 - (2) The approximate location, size, and depth of existing and proposed water mains, lines, wells, and facilities; and
 - (3) The approximate locations of gas lines, fire hydrants or firefighting water storage facilities, electric and telephone lines, and streetlights.
4. A vicinity sketch showing:
- a. The approximate locations of all existing buildings, structures, and other improvements;
 - b. Ownership of lands immediately adjoining a subdivision, and existing buildings, structures and other improvements on those lands; and
 - c. Any existing or proposed zoning of the tract and adjacent lands, if applicable.
5. A topographic map:
- a. For any land area which will be subdivided or disturbed, contour intervals of 2' where the average slope is less than 10%; intervals of five feet where the average slope is greater than 10% and less than 15%; and intervals of ten feet where the average slope is 15% or greater.
 - b. Slopes greater than 25% shall be shown as no-build zones.
6. A grading and drainage plan that includes:
- a. Proposed grades of all streets and roads;
 - b. Proposed drainage facilities for all lots, blocks, and other areas displaying accurate dimensions, courses, and elevations;
 - c. Existing and proposed contours, using the contour requirements of a topography map;
 - d. Graded slopes;
 - e. Proposed storm water drainage designed in accordance with standards specified by the Department of Public Works and the Montana Department of Environmental Quality; and
 - f. Construction procedures, slope protection, or information describing the ultimate destinations of storm runoff used to minimize erosion; and
 - g. Slope Stability Report shall be completed if the proposed subdivision includes areas with the potential for landsliding or slope instability. The report must be completed by a qualified soil or geotechnical engineer and indicate the locations, character, and extent of all areas of all slope stability, and these areas shall be shown on the plat.

7. Engineering plans for all public and private improvements;
8. Overall development plan and if the improvements are to be completed in phases, the approximate area of each phase shall be shown on the plat.
9. Abstract of Title (or Title Report) dated not more than 90 days prior to the date of submittal;
10. Lien holders' Acknowledgement of Subdivision for each lien holder identified on the Abstract of Title or Title Report;
11. Documentation of legal and physical access;
12. Documentation of existing easements, including those for Agricultural Water User Facilities;
13. Existing covenants and deed restrictions;
14. Existing water rights;
15. Existing mineral rights;
16. Names and addresses of all adjoining property owners;
17. A proposed road plan and profile that includes:
 - a. Street names (to be approved by the B-SB Addressing Coordinator.)
 - b. Right-of-way or easement widths;
 - c. Pavement widths;
 - d. Street grades;
 - e. Pavement and base thickness;
 - f. Typical cross sections for each type of road;
 - g. Road profiles and cross sections for all proposed streets and roads which have grades exceeding 5%, or cuts and fills exceeding 3'.
 - h. The type and location of sidewalks and curbs (where required);
 - i. The minimum site distances at corners;
 - j. The minimum curb radiuses at corners;
 - k. For cul-de-sac streets:
 - (1) widths of turn around radiuses;
 - (2) minimum right-of-way widths at the turnarounds;
 - (3) minimum pavement or road surface width at the turnarounds;
 - (4) total lengths of the streets.
 - l. The locations and characteristics of bridges and culverts;
 - m. The locations and dimensions of adjoining lots and open spaces;
 - n. The locations and widths of easements and dedicated land, which provide a buffer between the subdivision lots and streets;
 - o. Typical grading and location of intersections with private driveways; and

- p. Description of how the roads will be maintained.
- 18. Approach/access/encroachment permits from Montana Department of Transportation or the local jurisdiction;
- 19. Proposed easements;
- 20. Proposed disposition of water rights, as required by Section 11-L of the subdivision regulations;
- 21. Proposed disposition of mineral rights;
- 22. Parkland dedication calculations, including a property valuation assessment or appraisal if cash-in-lieu of parkland is proposed;
- 23. Environmental Assessment and/or Summary of Probable Impacts including:
 - a. proof that the subdivider has submitted for review copies of the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of the local, state, and federal government identified during the pre-application meeting or subsequently identified as having an interest in the proposed subdivision; and
 - b. an explanation of how the subdivider has responded to the comments of the subdivision administrator at the pre-application meeting.
- 24. Transportation Impact Analysis or Transportation Plan;
- 25. Fire Risk Rating Analysis and Fire Prevention Plan as required in Appendix A of the subdivision regulations;
- 26. Weed Management Plan and Re-vegetation Plan;
- 27. FIRM or FEMA panel map and/or letter identifying floodplain status and other hydrologic characteristics including surface water bodies, designated floodplain and areas of riparian resource, as required in Section 11-G of the subdivision regulations and paragraph 34 of this Part II.
- 28. Required water and sanitation information, including:
 - a. Provide the following attachments to the preliminary plat:
 - (1). A vicinity map or plan that shows:
 - a) The location, within 100 feet outside of the exterior of the property line of the subdivision and on the proposed lots, of:
 - 1. floodplains;
 - 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 c.; and
 7. the representative drainfield site used for the soil profile description as required under subsection c.; 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, as provided below, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rule published by the DEQ;
- (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 DEQ pursuant to 76-4-104;

b. Water Supply

- (1) High Groundwater Report indicating there is not a problem with high groundwater present on the property proposed for subdivision. When evidence of high groundwater is present, the developer must submit plans that are prepared by a professional engineer to mitigate the problem;
- (2) A vicinity map or plan that shows:
- a) the location, within 100' outside of the exterior property line of the subdivision and on the proposed lots of:
 1. floodplains;
 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 c. below.
 - b) the location, within 500' outside the exterior property line of the subdivision, of public water and sewer facilities;
- (3) 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 in the Administrative Rules of Montana, or 76-4-101 et seq., MCA, including the following information:
- a) If an **individual water supply system** is proposed for each parcel:
 1. Indicate the distance to the nearest public water system.

2. Attach a copy of the lot layout showing the proposed location of each spring, well, or cistern and indicating the distance to existing or proposed wastewater treatment systems.
 3. Evidence of sufficient water quality in accordance with rules adopted by the DEQ pursuant to 76-4-104;
- b) For a **multiple user water system**:
1. If an existing system is to be used:
 - a. identify the system and the person, firm, or agency responsible for its operation and maintenance;
 - b. indicate the system's capacity to handle additional load and its distance from the development;
 - c. provide evidence that permission to connect to the system has been granted;
 2. provide the following attachments:
 - a. map or plat showing location, sizes, and depth of any existing water supply lines and facilities which may directly serve parcels within the proposed development;
 - b. provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.38.305 and Circular DEQ 3.
 3. evidence of sufficient water quality in accordance with rules adopted by the DEQ pursuant to 76-4-104;
- c) Where a new system is proposed:
- a. Provide evidence of adequate water availability, unless cisterns are proposed:
 - i. obtained from well logs or testing of onsite or nearby wells;
 - ii. obtained from information contained in published hydrogeological reports; or
 - iii. as otherwise specified by rules adopted by the DEQ pursuant to 76-4-104;
 - b. indicate who will install the system, who will bear the costs, when it will be completed, and who will own it;
 - c. provide all information required in ARM 17.36.330-336 and Circular DEQ-3.
 - d. Evidence of sufficient water quality in accordance with rule adopted by the DEQ pursuant to 76-4-104;
- d) For a **public water system**:
1. If an existing system is to be used:
 - a. identify the system and the person, firm, or agency responsible for its operation and maintenance;
 - b. indicate the system's capacity to handle additional load and its distance from the development;
 - c. provide evidence that permission to connect has been

granted;

- d. provide the following as attachments:
 - i. a map or plat showing the location, sizes, and depth of any existing water lines and facilities which will directly serve parcels within the proposed development;
 - ii. plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328-330 and Circular DEQ-1 or Circular DEQ-3.
 - iii. Evidence of sufficient water quality in accordance with rule adopted by the DEQ pursuant to 76-4-104;
2. If a new system is proposed:
- a. Provide evidence of adequate water availability:
 - i. obtained from well logs or testing of onsite or nearby wells;
 - ii. obtained from information contained in published hydrogeological reports; or
 - iii. as otherwise specified by rules adopted by the DEQ pursuant to 76-4-104;
 - b. indicate who will install the system, who will bear the costs, when it will be completed, and who will own it;
 - c. provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328-330 and Circular DEQ-1 or Circular DEQ-3.
 - d. Evidence of sufficient water quality in accordance with rules adopted by the DEQ pursuant to 76-4-104;

c. Wastewater Treatment System

- (1) For new onsite wastewater treatment systems, evidence of suitability that at a minimum includes:
 - a) a soil profile description from a representative drainfield site identified on the vicinity map that complies with the standards published by DEQ;
 - 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 section (2) above.

1. For all new wastewater treatment systems a preliminary analysis of potential impacts to ground water quality 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 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.

- (2) If **individual wastewater treatment systems** are proposed for each parcel:
- a). Indicate the distance to the nearest public wastewater treatment system.
 - b). Provide all information required in ARM 17.36.320-345 and in Circular DEQ-4 for conventional systems or Circular DEQ 5 for alternative systems.
 - c). evidence of suitability as provided in subsection (a) of this section
 - d). preliminary analysis of potential impact to ground water as provided in subsection (b) of this section.
- (3) For a **multiple-user wastewater treatment** system:
- a) If an existing system is to be used:
 1. identify the system and the person, firm, or agency responsible for its operation and maintenance;
 2. indicate the system's capacity to handle additional load and its distance from the development;
 3. provide evidence that permission to connect to the system has been granted;
 4. provide the following attachments:
 - a. a map or plat showing the location, sizes, and depth of any existing sewer lines and facilities which will directly serve parcels within the proposed development; and
 - b. plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320-345 and Circular DEQ-4 or Circular DEQ-5.
 - b) If a new system is proposed:
 1. indicate who will install the system, who will bear the costs, when it will be completed, and who will own it;
 2. provide all information required in ARM 17.36.320-326 and Circular DEQ-4 or Circular DEQ-5.
 3. evidence of suitability as provided in subsection (a) of this

section.

4. preliminary analysis of potential impact to ground water as provided in subsection (b) of this section.

(4) For a **public wastewater treatment system**:

- a) If an existing system is to be used:
 1. identify the system and the person, firm, or agency responsible for its operation and maintenance;
 2. indicate the system's capacity to handle additional load and its distance from the development;
 3. provide evidence that permission to connect to the system has been granted;
 4. provide the following attachments:
 - a. a map or plat showing the location, sizes, and depth of any existing sewer lines and facilities which will directly serve parcels within the proposed development;
 - b. plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 and Circular DEQ-2 or Circular DEQ-4.

d. **Storm Water**

- (1) Describe measures for the collection and disposal of storm run-off from streets and roads within the subdivision.
- (2) Indicate the type of road surface proposed.
- (3) Describe facilities for stream or drainage crossing (e.g., culverts, bridges).
- (4) Describe how surface run-off will be drained or channeled from parcels.
- (5) Indicate whether storm run-off will enter state waters and describe any proposed treatment measures. (A storm-water discharge permit may be required)
- (6) Describe any existing or proposed streambank or shoreline alteration, and any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration.
- (7) Provide the grading and storm water or drainage plan as required by section II-3 Preliminary Plat Supplements, subsection (e) of this appendix.

e. **Solid Waste**

- (1) Describe the proposed method of solid waste collection and disposal.
- (2) If use of an existing collection system or disposal facility is proposed, indicate the name and location of the facility.
- (3) If on-site disposal of solid waste is proposed, provide the information required in ARM 17.36.309(2).

29. A form of Subdivision Improvements Agreement, if proposed;

30. Letter requesting a revocation of agricultural covenants;

31. Letter indicating locations of cultural or historic resources;

32. Variance request or approval;
33. Re-zoning application or approval;
34. When required, a flood hazard evaluation which contains the following detailed information: [to be submitted to the Water Resources Division, Department of Natural Resources]:
 - a. Certification by a registered professional engineer;
 - b. An overall scaled plan view with identified scale for vertical and horizontal distance showing the following:
 - (1) Watercourse
 - (2) Floodplain boundaries
 - (3) Location of property
 - (4) Contours
 - (5) Cross-sections
 - (6) Bridges or other contractions in the floodplains
 - (7) USGS gauging stations (if any);
 - c. The location and elevation of a temporary benchmark(s) established within the subdivision and referenced to mean sea level with appropriate elevation adjustment.
 - d. Cross-sectional information which contains the following information:
 - (1) Elevations and stations that are determined at points representing significant breaks in ground slope and at changes in the hydraulic characteristics of the floodplain (i.e., points where ground cover, soil, or rock conditions change). Elevations must be reported in NAVD 88 or NGVD 29 datum.
 - (2) Each cross-section must cross the entire floodplain. The cross-section alignment should be perpendicular to the general flow of the watercourse (approximately perpendicular to contour lines). Occasionally, wide floodplains require a dog-leg alignment to be perpendicular to the anticipated flow lines. Shots should be taken at the water's edge and measurements taken (if elevation shots cannot be taken) to determine the channel bottom shape. Cross sections must be accurately located on a USGS 7 ½ minute quad sheet.
 - (3) The number of cross-sections needed, and the distance between cross-sections, will vary depending on the site, the slope of the watercourse, the slope of the channel, and the hydraulic characteristics of the reach. A minimum of four cross sections are required over the entire reach with at least two cross-sections at the property where the elevations are desired. Additional cross-sections must be taken at bridges, control structures, or natural constrictions in topography. [Photogrammetric methods may be used in lieu of cross sections whenever appropriate and when reviewed and approved by the county.]

- e. A description and sketch of all bridges within the reach, showing unobstructed waterway openings and elevations.
 - f. Elevation of the water surface is to be determined by survey as part of each valley cross section.
 - g. Supporting Documentation, such as engineering reports of computer computations, calculations, and assumptions that may include:
 - i. Hydrology (research of published hydrology or calculations showing how hydrology was derived)
 - ii. Input files (hardcopy and on diskette)
 - iii. Output files (diskette only)
35. Letter identifying and proposing mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials; and
36. Such additional relevant and reasonable information as identified by the Subdivision Administrator during the pre-application meeting that is pertinent to the required elements of this section.

PART III ENVIRONMENTAL ASSESSMENT

Information specified in this Part must be provided in addition to that required in parts I and II of this application form, unless the proposed subdivision qualifies for an exemption under Section 7-A-2 of the subdivision regulations.

Describe the following environmental features, provide responses to each of the following questions and provide reference materials as required.

1. Surface Water

Locate on a plat overlay or sketch map:

- a. Any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicate the names and sizes of each).
- b. Any artificial water systems such as canals, ditches, aqueducts, reservoirs, and irrigation systems (also indicate the names, sizes and present uses of each).
- c. Time when water is present (seasonally or all year).
- d. Any areas subject to flood hazard, or in delineated 100 year floodplain.

- e. Describe any existing or proposed streambank alteration from any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type and purpose of alteration, and permits applied for.

2. Groundwater

Using available data, provide the following information:

- a. The minimum depth to water table and identify dates when depths were determined. What is the location and depth of all aquifers which may be affected by the proposed subdivision? Describe the location of known aquifer recharge areas which may be affected.
- b. Describe any steps necessary to avoid depletion or degradation of groundwater recharge areas.

3. Topography, Geology and Soils

- a. Provide a map of the topography of the area to be subdivided, and an evaluation of suitability for the proposed land uses. On the map identify any areas with highly erodible soils or slopes in excess of 15% grade. Identify the lots or areas affected. Address conditions such as:
 - (1) Shallow bedrock
 - (2) Unstable slopes
 - (3) Unstable or expansive soils
 - (4) Excessive slope
- b. Locate on an overlay or sketch map:
 - (1) Any known hazards affecting the development which could result in property damage or personal injury due to:
 - A. Falls, slides or slumps -- soil, rock, mud, snow.
 - B. Rock outcroppings
 - C. Seismic activity.
 - D. High water table
- c. Describe measures proposed to prevent or reduce these dangers.
- d. Describe the location and amount of any cut or fill more than three feet in depth. Indicate these cuts or fills on a plat overlay or sketch map. Where cuts or fills are necessary, describe plans to prevent erosion and to promote vegetation such as replacement of topsoil and grading.

4. Vegetation

- a. On a plat overlay or sketch map:
 - (1) Indicate the distribution of the major vegetation types, such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
 - (2) Identify the location of critical plant communities such as:
 - A. Stream bank or shoreline vegetation
 - B. Vegetation on steep, unstable slopes
 - C. Vegetation on soils highly susceptible to wind or water erosion
 - D. Type and extent of noxious weeds
- b. Describe measures to:
 - (1) Preserve trees and other natural vegetation (e.g. locating roads and lot boundaries, planning construction to avoid damaging tree cover).
 - (2) Protect critical plant communities (e.g. keeping structural development away from these areas), setting areas aside for open space.
 - (3) Prevent and control grass, brush or forest fires (e.g. green strips, water supply, access.)
 - (4) Control and prevent growth of noxious weeds

5. Wildlife

- a. Identify species of fish and wildlife use the area affected by the proposed subdivision.
- b. On a copy of the preliminary plat or overlay, identify known critical wildlife areas, such as big game winter range, calving areas and migration routes; riparian habitat and waterfowl nesting areas; habitat for rare or endangered species and wetlands.
- c. Describe proposed measures to protect or enhance wildlife habitat or to minimize degradation (e.g. keeping buildings and roads back from shorelines; setting aside wetlands as undeveloped open space).

Part IV SUMMARY OF PROBABLE IMPACTS

Summarize the effects of the proposed subdivision on each topic below. Provide responses to the following questions and provide reference materials as required:

1. Effects on Agriculture

- a. Is the proposed subdivision or associated improvements located on or near prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service? If so, identify each area on a copy of the preliminary plat.
- b. Describe whether the subdivision would remove from production any agricultural or timber land.
- c. Describe possible conflicts with nearby agricultural operations (e.g., residential development creating problems for moving livestock, operating farm machinery, maintaining water supplies, controlling weeds or applying pesticides; agricultural operations suffering from vandalism, uncontrolled pets or damaged fences).
- d. Describe possible nuisance problems which may arise from locating a subdivision near agricultural or timber lands.
- e. Describe effects the subdivision would have on the value of nearby agricultural lands.

2. Effects on Agricultural Water User Facilities

- a. Describe conflicts the subdivision would create with agricultural water user facilities (e.g. residential development creating problems for operating and maintaining irrigation systems) and whether agricultural water user facilities would be more subject to vandalism or damage because of the subdivision.
- b. Describe possible nuisance problems which the subdivision would generate with regard to agricultural water user facilities (e.g. safety hazards to residents or water problems from irrigation ditches, head gates, siphons, sprinkler systems, or other agricultural water user facilities).

3. Effects on Local Services

- a. Indicate the proposed use and number of lots or spaces in each:

_____ Residential, single family
 _____ Residential, multiple family
 _____ Types of multiple family structures and number of each (e.g. duplex, 4-plex)
 _____ Planned unit development (No. of units)
 _____ Condominium (No. of units)
 _____ Mobile Home Park
 _____ Recreational Vehicle Park
 _____ Commercial or Industrial
 _____ Other (Please describe _____)

- b. Describe the additional or expanded public services and facilities that would be demanded of local government or special districts to serve the subdivision.
 - (1) Describe additional costs which would result for services such as roads, bridges, law enforcement, parks and recreation, fire protection, water, sewer and solid waste systems, schools or busing, (including additional personnel, construction, and maintenance costs).
 - (2) Who would bear these costs (e.g. all taxpayers within the jurisdiction, people within special taxing districts, or users of a service)?
 - (3) Can the service providers meet the additional costs given legal or other constraints (e.g. statutory ceilings on mill levies or bonded indebtedness)?
 - (4) Describe off-site costs or costs to other jurisdictions may be incurred (e.g. development of water sources or construction of a sewage treatment plant; costs borne by a nearby municipality).
- c. Describe how the subdivision allows existing services, through expanded use, to operate more efficiently, or makes the installation or improvement of services feasible (e.g. allow installation of a central water system, or upgrading a country road).
- d. What are the present tax revenues received from the unsubdivided land?
 - (1) By the County \$ _____
 - (2) By the municipality if applicable _____
 - (3) By the school(s) \$ _____
- e. Provide the approximate revenues received by each above taxing authority if the lots are reclassified, and when the lots are all improved and built upon. Describe any other taxes that would be paid by the subdivision and into what funds (e.g. personal property taxes on mobile/manufactured homes are paid into the County general fund).
- f. Would new taxes generated from the subdivision cover additional public costs?
- g. How many special improvement districts would be created which would obligate local government fiscally or administratively? Are any bonding plans proposed which would affect the local government's bonded indebtedness?

4. Effects on the Historic or Natural Environment

- a. Describe and locate on a plat overlay or sketch map known or possible historic, paleontological, archaeological or cultural sites, structures, or objects which may

be affected by the proposed subdivision.

- b. How would the subdivision affect surface and groundwater, soils, slopes, vegetation, historical or archaeological features within the subdivision or on adjacent land? Describe plans to protect these sites.
 - (1) Would any streambanks or lake shorelines be altered, streams rechanneled or any surface water contaminated from sewage treatment systems, run-off carrying sedimentation, or concentration of pesticides or fertilizers?
 - (2) Would groundwater supplies likely be contaminated or depleted as a result of the subdivision?
 - (3) Would construction of roads or building sites require cuts and fills on steep slopes or cause erosion on unstable, erodible soils? Would soils be contaminated by sewage treatment systems?
 - (4) Describe the impacts that removal of vegetation would have on soil erosion, bank, or shoreline instability.
 - (5) Would the value of significant historical, visual, or open space features be reduced or eliminated?
 - (6) Describe possible natural hazards the subdivision could be subject to (e.g., natural hazards such as flooding, rock, snow or land slides, high winds, severe wildfires, or difficulties such as shallow bedrock, high water table, unstable or expansive soils, or excessive slopes).
- c. How would the subdivision affect visual features within the subdivision or on adjacent land? Describe efforts to visually blend the proposed development with the existing environment (e.g. use of appropriate building materials, colors, road design, underground utilities, and revegetation of earthworks).

5. Effects on Wildlife and Wildlife Habitat

- a. Describe what impacts the subdivision or associated improvements would have on wildlife areas such as big game wintering range, migration routes, nesting areas, wetlands, or important habitat for rare or endangered species.
- b. Describe the effect that pets or human activity would have on wildlife.

6. Effects on the Public Health and Safety

- a. Describe any health or safety hazards on or near the subdivision, such as: natural hazards, lack of water, drainage problems, heavy traffic, dilapidated structures,

high pressure gas lines, high voltage power lines, or irrigation ditches. These conditions, proposed or existing should be accurately described with their origin and location identified on a copy of the preliminary plat.

- b. Describe how the subdivision would be subject to hazardous conditions due to high voltage lines, airports, highways, railroads, dilapidated structures, high-pressure gas lines, irrigation ditches, and adjacent industrial or mining uses.
- c. Describe land uses adjacent to the subdivision and how the subdivision will affect the adjacent land uses. Identify existing uses such as feed lots, processing plants, airports or industrial firms which could be subject to lawsuits or complaints from residents of the subdivision.
- d. Describe public health or safety hazards, such as dangerous traffic, fire conditions, or contamination of water supplies which would be created by the subdivision.

Part V Community Impact Report

Provide a community impact report containing a statement of estimated number of people coming into the area as a result of the subdivision, anticipated needs of the proposed subdivision for public facilities and services, the increased capital and operating cost to each affected unit of local government. Provide responses to each of the following questions and provide reference materials as required.

1. Education and Busing

- a. Describe the available educational facilities which would serve this subdivision.
- b. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the affected school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system. If not, estimate the increased expenditures that would be necessary to do so.

2. Roads and Maintenance

- a. Estimate how much daily traffic the subdivision, when fully occupied, will generate on existing streets and arterials.
- b. Describe the capability of existing and proposed roads to safely accommodate this increased traffic.
- c. Describe increased maintenance problems and increased cost due to this increase in volume.

- d. Describe proposed new public or private access roads including:
 - (1) Measures for disposing of storm run-off from streets and roads.
 - (2) Type of road surface and provisions to be made for dust.
 - (3) Facilities for streams or drainage crossing (e.g. culverts, bridges).
 - (4) Seeding of disturbed areas.
- e. Describe the closing or modification of any existing roads.
- f. Explain why road access was not provided within the subdivision, if access to any individual lot is directly from arterial streets or roads.
- g. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision? Identify the owners of any private property over which access to the subdivision will be provided.
- h. Estimate the cost and completion date of the system, and indicate who will pay the cost of installation, maintenance and snow removal.

3. Water, Sewage, and Solid Waste Facilities

- a. Briefly describe the water supply and sewage treatment systems to be used in serving the proposed subdivision (e.g. methods, capacities, locations).
- b. Provide information on estimated cost of the system, who will bear the costs, and how the system will be financed.
- c. Where hook-up to an existing system is proposed, describe estimated impacts on the existing system, and show evidence that permission has been granted to hook up to the existing system.
- d. All water supply and sewage treatment plans and specifications will be reviewed and approved by the Department of Environmental Quality (DEQ) and should be submitted using the appropriate DEQ application form.
- e. Describe the proposed method of collecting and disposing of solid waste from the development.
- f. If use of an existing collection system or disposal facility is proposed indicate the name and location of the facility.

4. Fire and Police Protection

- a. Describe the fire and police protection services available to the residents of the proposed subdivision including number of personnel and number of vehicles or type of facilities for:
 - (1) Fire protection -- is the proposed subdivision in an existing fire district? If not, will one be formed or extended? Describe what fire protection procedures are planned?
- b. Can the fire and police protection service needs of the proposed subdivision be met by present personnel and facilities? If not, describe the additional expenses that would be necessary to make these services adequate, and who would pay the costs?

5. Payment for extension of Capital Facilities

Indicate how the subdivider will pay for the cost of extending capital facilities resulting from expected impacts directly attributable to the subdivision.

ADMINISTRATIVE MATERIALS "B"
FINAL PLAT APPROVAL FORM

Date _____

1. Name of Subdivision _____
2. Location: _____ 1/4 Section _____ Township _____ Range _____ For Amended Plats: Lot(s) _____ Block(s) _____ Subdivision _____
3. Name, address and telephone number of subdivider:

4. Name, address and telephone number of persons of firms providing services and information (e.g.: surveyor, engineer, designer, planning consultant, attorney):

5. Descriptive Data:
 - a. Gross area in acres _____
 - b. Number of lots or rental spaces _____
 - c. Existing zoning or other regulations _____
6. Date Preliminary Plat Approved: _____
7. Any Conditions? _____ (If Yes, attach list of conditions.)
8. Any Deed Restrictions or covenants? _____ (If Yes, attach a copy.)
9. All improvements installed? _____ (If No, attach a subdivision improvements agreement or guarantees.)
10. List of materials submitted with this application:
 - a. _____
 - b. _____
 - c. _____

- d. _____
- e. _____
- f. _____

I do hereby certify that all the statements and information and the statements and information contained in all exhibits transmitted herewith are true. I hereby apply to the Governing Body of Butte-Silver Bow County for approval of the final plat of _____
(Name of Subdivision).

Subdivider

FOR OFFICIAL USE ONLY

- 1. Application Number _____
- 2. Date Application Submitted _____
- 3. Date by which Final Plat must be approved or rejected _____

SAMPLE FORMS AND CERTIFICATES

Certificate of Completion of Public Improvements

Certificate of Surveyor – Final Plat

Certificate of Dedication – Final Plat

Certificate of Consent to Dedication by Encumbrances

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption

Covenant for Use With the Five Acre, Single Family Dwelling Exemption

Certificate of Examining Land Surveyor Where Required – Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval – County

Certificate of Filing by Clerk and Recorder

Certificate of Completion of Public Improvements Agreement
(To be submitted with application for approval of final subdivision plat)

CERTIFICATE OF COMPLETION

I, _____, and I, _____, a registered professional engineer licensed to practice in the State of Montana, hereby certify that the following public improvements, required as a condition of approval of _____, have been installed in conformance with the attached engineering specifications and plans: (List the improvements actually installed).

Signature of Subdivider

Date

Signature of Professional Engineer

Date

Registration No. _____

Address (Engineers Seal)

Certificate of Surveyor – Final Plat

State of Montana)
) ss.
County of Silver Bow)

I, _____, a registered Land Surveyor, do hereby certify that I have performed the survey shown on the attached plat of _____; that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this _____ day of _____, 20____.

(Seal)

Surveyor
Registration No. _____

Address

Certificate of Dedication – Final Plat

(I)(We), the undersigned property owners(s), do hereby certify that (I)(We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in Butte Silver Bow County, to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as _____, and lands included in all streets, avenues, alleys and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this _____ day of _____, 20____.

(Acknowledged and notarized signatures of all record owners of platted property)

Consent to Dedication by Encumbrances, If Any

(I)(We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my)(our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this _____ day of _____, 20____.

(Acknowledged and notarized signatures of all encumbrancers of record)

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

I, Butte Silver Bow, Sally Hollis, of Butte, Montana, do certify that the following order was made by the Council of Commissioners of Butte Silver Bow at a meeting thereof held on _____ day of _____, 20____, and entered into the proceedings of said body to-wit: “Inasmuch as the dedication of park land within the platted area of _____ (subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the Council of Commissioners that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA.”

In witness whereof, I have hereunto affixed the seal of Butte Silver Bow, Montana this _____ Day of _____, 20____.

(Seal)

(Signature of Clerk)

Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption of the Montana Subdivision and Platting Act

_____ (Subdivider), referred to herein as the subdivider, hereby certifies that all of the parcels with _____ (Subdivision) contain five acres or more and that the Subdivider will enter into a covenant to run with the land and revocable only by mutual consent of the owners of the parcels in question and the Governing Body of Butte Silver Bow, that the parcels in the subdivision will never be subdivided into parcels of less than five acres and that only single family dwellings and associated outbuildings will be constructed on any single lot or parcel within the boundaries of the subdivision and only one single lot or parcel within the subdivision. A copy of this covenant is attached hereto:

Date

Notarized Signature of Subdivider

Declaration of Covenant

(to be filed with final plat where the five-acre, single family dwelling exemption applies)

THIS DECLARATION made on the date hereafter set forth, by
_____, (Subdivider).

WITNESSETH

THAT WHEREAS, Declarant is the owner of certain property known as
_____, (Subdivision) in Butte Silver Bow, State of Montana, which is more particularly described in attached Exhibit A.

NOW THEREFORE, _____ (subdivider) hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following covenant which shall run with the real property and be binding on all parties having any heirs, successors and assigns, and shall bind each owner thereof. The covenant may be revoked for any or all parcels within the subdivision by mutual consent of the parcels in question and the Governing Body of Butte Silver Bow.

TO WIT:

No parcels within _____ (Subdivision) may be re-subdivided into parcels containing less than five acres and only single family dwellings and their associated outbuildings may be constructed within the boundaries of the subdivision, and only one such dwelling may be constructed on any present or future parcel within the constructed subdivision. For the purpose of this restriction "single family dwelling" shall mean a building under one roof designated and intended for use and occupancy as a residence by a single family.

The Governing Body of Butte Silver Bow is deemed to be a party to and may enforce its covenant.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this _____ day of _____, 20____.

Signature of Subdivider
Acknowledgement and Notarization of Signature

Certificate of Examining Land Surveyor Where Required – Final Plat

I, _____, (Examining Land Surveyor), acting as an Examining Land Surveyor for Butte Silver Bow, Montana, do hereby certify that I have examined the final plat of _____ (Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this _____ day of _____, 20_____.

Signature

Name of Surveyor
Registration No. _____
Butte Silver Bow

Certificate of County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that no real property taxes assessed and levied on the land described below and encompassed by the proposed _____ (Subdivision) are delinquent:

(legal description of land)

Dated this _____ day of _____, 20_____.

(Seal)

County Treasurer
Butte Silver Bow, Montana

Certificate of Final Plat Approval

The Council of Commissioners of Butte Silver Bow, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 20____.

(Signatures of Commissioners)

ATTEST:

(Seal of County)

Clerk and Recorder
Butte Silver Bow, Montana

Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)
) ss.
County of Silver Bow)

Filed for record this _____ day of _____, 20____.

Clerk and Recorder

Clerk and Recorder, Silver Bow County, Montana