

**BEAVERHEAD
COUNTY
SUBDIVISION
REGULATIONS**

*Ordinance # 2010-01
Effective: February 25, 2010*

*Prepared to comply with the
Montana Subdivision and Platting Act
(Incorporates the 2009 amendments to the Montana Subdivision
and Platting Act)*

1000-323013
\$15.00

Beaverhead County Subdivision Regulations:

<i>Final Reading:</i>	<i>January 25, 2010</i>
<i>Effective Date</i>	<i>February 25, 2010</i>

ORDINANCE NO.: 2010-01

ORDINANCE REVISING BEAVERHEAD COUNTY
SUBDIVISION REGULATIONS

WHEREAS, the Montana Subdivision and Platting, Act, Title 76, Chapter 3, Montana Code Annotated authorizes subdivision regulations; and

WHEREAS, the Beaverhead County Commissioners previously adopt Beaverhead County Subdivision Regulations by Ordinance #2008-03 for the purpose of regulating subdivisions in Beaverhead County, Montana; and

WHEREAS, the Beaverhead County Planning Board has prepared and submitted to the Beaverhead County Commission certain proposed revisions to the Subdivision Regulations;

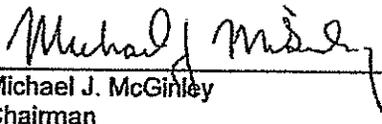
WHEREAS, the Beaverhead County Commission, before adopting said proposed revisions to the regulations held a public hearing on January 4, 2010 and gave public notice of the intent to adopt said regulations and of the public hearing by publication of the time and place of public hearings in The Dillon Tribune Examiner of not less than 15 days or more than 30 days prior to the date of hearing; and

WHEREAS, said proposed revisions to the Regulations are proper and appropriate, have the general support of the public and are appropriate to administer, regulate, and enforce subdivisions within Beaverhead County, Montana.

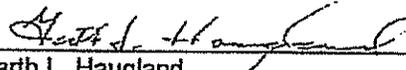
IT IS HEREBY RESOLVED that those certain revisions to the Beaverhead Subdivision Regulations submitted to the Beaverhead County Commission are hereby adopted.

THIS ORDINANCE shall be effective thirty (30) days from the final passage and approval.

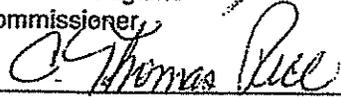
PASSED BY the Board of County Commissioners for Beaverhead County, Montana, this 25 day of JANUARY, 2010.



Michael J. McGinley
Chairman



Garth L. Haugland
Commissioner



C. Thomas Rice
Commissioner

ATTEST:


Debra L. Scott
Beaverhead County Clerk and Recorder

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DEFINITIONS

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

1. **ACCESS (LEGAL AND PHYSICAL):** Legal access means that each lot in a subdivision 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. 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.
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, carbon sequestering, 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. **BLOCK:** A group of lots, tracts or parcels within well-defined and fixed boundaries.
6. **CERTIFICATE OF SURVEY:** A drawing of a field survey prepared by a professional land surveyor for the purpose of disclosing facts pertaining to boundary locations.
7. **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 while allowing other lands to remain undeveloped. [76-3-103(2), MCA].

8. **COMPREHENSIVE PLAN, MASTER PLAN, OR GROWTH POLICY:** means a comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to Title 76, Chapter 1, MCA, before October 1, 1999, or a policy that was adopted pursuant to Title 76, Chapter 1, MCA, on or after October 1, 1999.
9. **CONDOMINIUM:** A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project, with the land and other parts of the project held in common ownership or use with owners of the other units, pursuant to Title 70, Chapter 23, MCA.
10. **COVENANT (RESTRICTIVE COVENANT):** A limitation contained in a deed or other document that restricts or regulates the use of the real property.
11. **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. [76-3-103(3), MCA].
12. **DEQ:** The Montana Department of Environmental Quality.
13. **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 MSPA. 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. [76-3-103(4), MCA].
14. **DWELLING UNIT:** Any structure or portion thereof providing complete, independent and permanent living facilities for one household.
15. **EASEMENT:** Authorization by a property owner for another to use, or restriction on the right of the owner to use, all or a portion of the owner's property for a specified purpose.
16. **ENGINEER (PROFESSIONAL ENGINEER):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.
17. **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].

18. **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].
19. **FLOOD OF 100 YEAR FREQUENCY:** A flood magnitude which has a one percent chance of occurring in any given year, or is a flood magnitude which is expected to recur on the average of once every 100 years [76-5-103 (9), MCA].
20. **FLOODPLAIN:** The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency [76-5-103 (10), MCA].
21. **FLOODWAY:** The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage [76-5-103 (11), MCA].
22. **GOVERNING BODY:** The governing authority of a county, city, town, or consolidated local government organized pursuant to law [76-3-103 (7), MCA].
23. **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.
24. **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.

25. LOCAL SERVICES: 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.
26. LOT: A parcel, plot, or other land area created by subdivision for sale, rent, or lease.
27. LOT MEASUREMENT:
 - a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
 - b. Lot Width -- The average width of the lot.
 - c. Lot Frontage -- The width of the front lot line.
 - d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way or access easements.
28. LOT TYPES:
 - a. Corner Lot: A lot located at the intersection of two streets.
 - b. Interior Lot: A lot with frontage on only one street.
 - c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
 - d. 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.
29. MAJOR SUBDIVISION: A subdivision that creates six or more lots.
30. MINOR SUBDIVISION: A subdivision that creates five or fewer lots
31. 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.

32. **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.
33. **MOBILE (MANUFACTURED) HOME PARK:** A tract of land that provides or will provide spaces for two or more mobile homes.
34. **MOBILE (MANUFACTURED) HOME PAD:** That area of a mobile home space which has been prepared for the placement of a mobile home.
35. **MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS:** Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.
36. **MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
37. **MSPA:** Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.
38. **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.
39. **OPEN SPACE:** Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.
40. **OVERALL DEVELOPMENT PLAN:** The plan of a subdivision design proposed to be subdivided in stages.
41. **PAVING:** Hot mix asphalt, cold mix asphalt or concrete.
42. **PLANNED UNIT DEVELOPMENT (P.U.D.):** A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a

prearranged relationship to each other and having open space and community facilities in common ownership or use [76-3-103 (10), MCA].

43. **PLANNING BOARD:** A planning board formed pursuant to Title 76, Chapter 1, MCA.
44. **PLAT:** A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.
 - a. **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 that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.
 - b. **Final Plat:** The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).
 - c. **Amended Plat:** The final drawing of any change to a filed platted subdivision, or any lots within a filed platted subdivision.
 - d. **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.
45. **PRE-APPLICATION SKETCH (OR DRAWING):** A legible drawing showing approximate boundaries, dimensions, areas, distances and other pertinent information of a proposed subdivision, all as more particularly set forth in section II-A-4 (b).
46. **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.
47. **PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve more than one lot in a subdivision which is dedicated to the public or otherwise acquired by a government entity for public use. Examples of typical public improvements include parks, streets or roads, sidewalks, curbs,

gutters, and street lighting, utilities, and systems for water supply, sewage disposal, drainage, or fire protection.

48. **PUBLIC ROAD OR STREET:** A road or street is public if its right-of-way has been dedicated or acquired for public use.
49. **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.
50. **PRIVATE ROAD:** A road is private if its right-of-way has neither been dedicated nor acquired for public use. A private road may be open to use by the general public or public access may be restricted.
51. **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.
52. **RECREATIONAL VEHICLE PARK:** A tract of land available to and principally used by the public for camping, where persons can park recreational vehicles for camping and sleeping purposes.
53. **RECREATIONAL VEHICLE SPACE:** A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.
54. **REVIEWING AUTHORITY:** The DEQ or local Board of Health or Sanitarian as authorized under Title 76, Chapter 4, MCA.
55. **RIGHTS-OF-WAY:** A linear public way established or dedicated for public purposes by a duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority or by operation of law, intended to be occupied by a street, non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, or other similar uses.
56. **STATE:** The State of Montana.

57. **STREET TYPES:** For purposes of these regulations, street types are defined as follows:

- a. **Alley:** A public or private way reserved as a secondary means of access to the rear or side of lots, which abut on and are served by public roads.
 - b. **Arterial:** A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and should provide only limited access to abutting property.
 - c. **Collector:** A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and up to two parking lanes.
 - d. **Local Streets:** A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.
 - e. **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.
 - f. **Cul-de-sac:** A Street having only one outlet for vehicular traffic and terminating in a turn-around area.
 - g. **Loop:** A local street which begins and ends on the same street, generally used for access to properties.
 - h. **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.
57. **SUBDIVIDER:** Any person, firm or corporation, or other entity which causes land to be subdivided or which proposes a subdivision of land [76-3-103(15), MCA]. When used in these regulations, the term "subdivider" may also include the property purchaser on a contract for deed or its agent, or the landowner's agent, if the landowner has provided the County Planner written notification that the landowner's agent is authorized to act on the landowner's behalf and to receive notices regarding local government decisions concerning the subdivision.

59. **SUBDIVISION:** A division of land or land so divided which 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 re-subdivision 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 [76-3-103(16), MCA].
60. **COUNTY PLANNER:** The person or persons authorized by the governing body to perform the duties of review and administration set forth in these regulations.
61. **SUBSEQUENT MINOR SUBDIVISION:** Any subdivision of five or fewer parcels that is not a first minor subdivision.
62. **SURVEYOR (PROFESSIONAL LAND SURVEYOR):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.
63. **SURVEYOR (EXAMINING LAND SURVEYOR):** A professional land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
64. **SWALE:** A drainage channel or depression designed to direct surface water flow.
65. **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.
66. **TOPOGRAPHY:** General term to include characteristics of the ground surface such as plains, hills, mountains, slopes, and other physiographic features.
67. **TOWNHOUSE LOT:** Arrangement under which units share a common wall, and individuals own their own units and hold separate title to the land beneath the unit.

68. **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 [76-3-103(17)(a), MCA].
69. **VICINITY SKETCH:** A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.
70. **WILDLIFE:** Those animals that are not domesticated or tamed, or as may be defined in a Growth Policy.
71. **WILDLIFE HABITAT:** The place or area where wildlife naturally lives or travels through.

SUBDIVISION REGULATIONS

I. GENERAL PROVISIONS

I-A. Title

These regulations will be known and may be cited as “The Subdivision Regulations of Beaverhead County;” hereinafter referred to as “these regulations.”

I-B. Authority

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (“MSPA”). [Title 76, Chapter 3, MCA.].

I-C. Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the 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; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA).

These regulations are intended to comply with Part 5 of the MSPA, and are intended to promote:

1. The orderly development of the jurisdictional area.
2. The coordination of roads within subdivided land with other roads, both existing and planned.
3. The dedication of land for roadways and for public utility easements.
4. The improvement of roads.
5. The provision of proper physical and legal access, including obtaining necessary easements.
6. The provision of adequate open spaces for travel, light, air, and recreation.

7. The provision of adequate transportation, water, drainage, and sanitary facilities.
8. The avoidance or minimizing of congestion.
9. The avoidance of subdivisions which would involve unnecessary environmental degradation.
10. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation, or other public improvements.
11. The avoidance of excessive expenditure of public funds for the supply of public improvements and services.
12. The manner and form of making and filing of any plat for subdivided lands.
13. 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.

I-D. Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Beaverhead County. It should also be noted that the Town of Lima has adopted Beaverhead County's Subdivision Regulations for its jurisdictional area.

If a proposed subdivision lies within one mile of a third class city or town or within two miles of a second-class city or within three miles of a first class city, the county governing body must submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat must be submitted to, and approved by, both the city or town and the county governing bodies.

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.

When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality will combine public hearings and otherwise coordinate the subdivision review process and annexation procedures whenever possible.

These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply. Other regulations include, but are not limited to, zoning

regulations, floodplain regulations, building codes, development codes, and fire codes.

I-E. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

II. GENERAL PROCEDURES

II-A. Preliminary Plats

II-A-1. Construction Timing

Any construction work done on a proposed subdivision prior to the governing body granting conditional approval of the preliminary plat is done with the developer's knowledge that the work may not meet the standards and conditions of preliminary plat approval.

II-A-2. 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):

- a. 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;
- b. That under the terms of the contracts and the escrow agreement the payments made by 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 county clerk and recorder;
- c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county 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;

- d. 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 county clerk and recorder, title to the property cannot be transferred in any manner;"
- e. That 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; and

II-A-3. Permission to Enter

The governing body or its designated agent(s) or affected agencies identified during the pre-application 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.

II-A-4. Pre-application Process

- a. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the County Planner. The County Planner is the authorized agent designated by the governing body to review subdivision applications. The meeting shall occur within 30 days after the subdivider submits a written request for the meeting to the County Planner.
- b. At the time of the pre-application meeting request, the subdivider shall provide to the County Planner a sketch of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions.
 - i. The sketch may be a freehand sketch drawn directly on a print of a topographic map of the area proposed for division at a scale of 1 inch to 400 feet or larger that is adequate to show the property and must include the following:
 - A. Information on the current status of the site, including:
 - 1. location;
 - 2. approximate tract and lot boundaries of existing tracts of record;
 - 3. description of general terrain;

4. natural features on the land, including water bodies, floodplains geologic hazards, and soil types;
5. existing structures and improvements;
6. existing utility lines and facilities serving the area to be subdivided;
7. existing easements and rights of way;
8. existing zoning or development regulation standards;
9. existing conservation easements;
10. existing covenants or deed restrictions;

B. Documentation on the current status of the site, including:

1. ownership information, such as a deed, option to buy or buy-sell agreement, including permission to subdivide;
2. water rights, including location of Agricultural Water Facilities;
3. any special improvement districts; and
4. rights of first refusal for the property.

ii. 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.

c. At the pre-application meeting:

- i. the County Planner 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;

- ii. the County Planner 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 County Planner or planning board on the subdivision application. The County Planner shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond; and
 - iii. the County Planner shall identify particular additional information the County Planner anticipates will be required for review of the subdivision application. This does not limit the ability of the County Planner to request additional information at a later time.
- d. Unless the subdivider submits a subdivision application within 360 days of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

II-A-5. Subdivision Application and Preliminary Plat Submittal

The subdivider shall submit to the governing body or to the agent or agency designated by the governing body a subdivision application addressing these topics and containing the following materials, all described in more detail in forms provided by the County Planner, as applicable:

1. A completed and signed Subdivision Application Form;
2. The required review fee;
3. A preliminary plat; (18 copies)
4. A Vicinity Sketch;
5. A topographic map;
6. Preliminary engineering plans for all Public and Private Improvements;
7. Overall development plan if development is in phases;
8. Documentation of legal and physical access;
9. Documentation of existing easements, including those for Agricultural Water User Facilities;
10. Existing covenants and deed restrictions;
11. Existing water rights;
12. Names and addresses of all adjoining property owners;
13. Preliminary proposed road plans and profiles;
14. Encroachment permits from Montana Department of Transportation or the local jurisdiction;
15. Proposed easements;

16. Proposed disposition of water rights;
17. Environmental assessment and/or summary of probable impacts;
18. Fire mitigation plan;
19. Weed management plan and re-vegetation plan;
20. Property owners' association documents and draft covenants;
21. FIRM or FEMA panel map and letter identifying floodplain status;
22. Required water and sanitation information;
23. Letter indicating locations of cultural or historic resources;
24. Variance request or approval;
25. Flood hazard evaluation;
26. 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
27. Such additional relevant and reasonable information as identified by the County Planner during the pre-application meeting that is pertinent to the required elements of this section.

II-A-6. Review Process

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

a. Element Review

- i. Within 5 working days of receipt of a subdivision application and fee, the County Planner shall determine whether the application contains all of the applicable materials required by section II-A-5 and shall give written notice to the subdivider of the County Planner's determination.
 - A. If the County Planner determines that elements are missing from the application, the County Planner shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the County Planner 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 County Planner shall have 5 working days to notify the subdivider whether the resubmitted application contains all the materials required by section II-A-5, as applicable.
 - D. This process shall be repeated until the subdivider submits an application containing all the materials required by section II-A-5, or the application is withdrawn.

b. Sufficiency Review

- i. Within 15 working days after the County Planner notifies the subdivider that the application contains all of the required elements as provided in subsection (a) above, the County Planner 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 County Planner's determination.
 - A. If the County Planner determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the County Planner 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 County Planner 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 (i)(B) above, the County Planner 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.
- ii. A determination that an application contains sufficient information for review as provided in this subsection (b) 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 County Planner, planning board, or the governing body to request additional information during the review process.
- iii. A determination of sufficiency by the County Planner 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.

c. 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.

II-B. Final Plats

II-B-1. Final Plat Contents

The final plat submitted for approval must conform to the preliminary plat as previously reviewed and approved by the governing body and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents must comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development shall be filed sequentially in accordance with the approval.

II-B-2. Final Plat Initial Review

a. Final Plat Submittal

The final plat approval application form and all supplementary documents must be submitted to the County Planner at least 30 working days prior to the expiration of preliminary plat approval. The submittal shall include, as applicable:

- i. the final plat application;
- ii. the final plat review fee;
- iii. a verification from the project's surveyor, developer, or engineer outlining how each condition of approval has been satisfied;
- iv. a Title Report or updated Abstract ;
- v. the DEQ or local Environmental Health Department approval;
- vi. the final Grading and Drainage Plan, including all road plans and profiles, state or local encroachment permits, and the Traffic Impact Analysis (if required);
- vii. all engineering plans;

- viii. any homeowner association documents, including bylaws, covenants, and/or declarations;
- ix. one 11" x 17" and one 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats set forth in Appendix A.

b. Review by County Planner

- i. The County Planner shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The County Planner 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 County Planner until all conditions of preliminary approval have been satisfied.
- ii. If the County Planner determines that the final plat differs from the approved or conditionally approved preliminary plat, the applicant shall be required to submit an amended application pursuant to Section II-B-5.
- iii. The County Planner may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped signed certificate on the plat.

II-B-3. Restrictive Covenants – Approval, Content and Enforcement by Governing Body

- a. The governing body may require that some or all restrictive covenants governing the use of land within the subdivision, whether proposed by the subdivider or required by the governing body, be set forth in a separate heading identifying them as plat approval covenants, and indicating: "These covenant(s) may not be repealed or amended without prior written consent of the Beaverhead County Commissioners."
- b. The governing body may require that all restrictive covenants it has required as a condition of plat approval contain the following language: "Beaverhead County is a party to this restrictive covenant and may enforce its terms."
- c. Restrictive covenants will be required on all subdivisions of three (3) or more lots, or if common property is to be deeded to a property owners' association,

the covenants and by-laws which govern the association must, at a minimum, provide for the:

- i. Formation of a property owners' association concurrently with the filing of the final subdivision plat. Articles of Incorporation shall be filed with the Secretary of State's office;
- ii. Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
- iii. Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;
- iv. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
- v. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
- vi. Adjustment of assessments to meet changing needs;
- vii. Means of enforcing the covenants, and of receiving and processing complaints;
- viii. Transition of control of the association from the Declarant to the homeowners.
- ix. Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and
- x. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

II-B-4. Public Improvements Agreement; Guaranty

As a condition of approval of the final plat, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. The County Commissioners may require up to 100% completion of improvements related to public health and safety, such as roads, fire fighting facilities and installation of utilities, before agreeing to the use of a subdivision improvements agreement. This requirement applies to preliminary plats approved prior to the adoption of these regulations. No construction or placement of structures on the lots may occur until certain improvements related to

public health and safety, as determined by the County Commissioners, such as roads or fire fighting facilities, have been installed and engineering plans have been filed. This requirement applies to preliminary plats approved prior to the adoption of these amended regulations.

If the subdivider chooses to enter into a subdivision improvements agreement, guaranteeing the public improvements through a bond or letter of credit, three bids for 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 highest bid. As the public improvements are installed, the subdivider shall provide a letter to the governing body indicating such, and including a copy of the engineered plans. The county engineer or consulting engineer designated by the governing body shall review and certify all public improvements have been installed in conformance with the plans and specifications. Prior to the release of the guarantee, a copy of the plans, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed in the clerk and recorder's office with reference to the final subdivision plat.

II-B-5. Amending Approved Preliminary Plats Before Final Plat Approval

- a. 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 County Planner for review.
 - i. If the Planning Board determines the changes are material, the Planning Board may require the subdivider to begin the subdivision review process again, and require payment of a new application fee.
 - ii. If the Planning Board determines the changes are not material, the Planning Board shall accept the changes and notify the subdivider and the governing body of its decision.
- b. The following changes, although not an exhaustive list, may be considered material:
 - i. configuration or number of lots;
 - ii. road layout;
 - iii. water and/or septic proposals;
 - iv, configuration of park land or open spaces;
 - v. easement provisions;

- vi. designated access; or
 - vii. change to conditions of approval.
 - viii. changes to proposed covenants
- c. A subdivider whose proposed changes to the preliminary plat have been deemed material by the Planning Board may appeal the Planning Board'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.
- d. If the subdivider and Planning Board 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.

II-B-6. Final Plat Approval

a. Approval by the Governing Body

The governing body shall examine every final subdivision plat and shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations, or deny it pursuant to (ii) below.

- i. 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.
- ii. 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.

b. Inaccurate Information

The governing body may withdraw approval of a final plat if it determines that material information by the subdivider is inaccurate.

II-B-7. Final Plat Filing

After it is approved, the final plat may not be altered in any manner except as provided in II-B-8. The county clerk and recorder may not accept any plat for filing that does not bear the governing body's approval in proper form or that has been altered. The clerk and recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, contained in Appendix A.

II-B-8. Amending Filed Plats

- a. 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.
- b. 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.
- c. The governing body may not approve an amendment that will place a lot in non-conformance with the standards contained in Section VI 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 XI-B, Variances.
- d. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats (Appendix A).

III. REVIEW AND APPROVAL PROCEDURES FOR MINOR SUBDIVISIONS

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

First minor subdivisions shall be reviewed pursuant to section III-A and subsequent minor subdivisions shall be reviewed pursuant to section III-B.

III-A. First Minor Subdivision Review

The pre-application process and initial review process set forth in Section II, General Procedures, apply to this section.

III-A-1. First Minor Subdivision Application and Preliminary Plat Submittal

- a. The subdivider shall submit to the governing body or to the agent or agency designated by the governing body a subdivision application containing the materials identified in section II-A-5 and in the pre-application meeting, and
- b. sufficient documentary evidence from the public records demonstrating that the subdivision will be the first minor subdivision from a tract of record;

III-A-2. First Minor Subdivision Exceptions

The following do not apply to first minor subdivisions:

- a. preparation of an environmental assessment;
- b. parkland dedication;
- c. public hearing requirements; and
- d. 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.

III-A-3. First Minor Subdivision Review Process

a. Time Period for Approval, Conditional Approval, or Denial

Within 35 working days, the governing body shall approve, conditionally approve or deny the proposed subdivision according to Section III-A-6 of these regulations, unless the subdivider and the County Planner agree to an extension or suspension of the review period, not to exceed one year. The review period of 35 working days begins once the County Planner has given notice to the subdivider that the subdivision application is sufficient for review. Notification constitutes the date when the reviewing agent or agency sends the notice to the subdivider.

b. Public Agency and Utility Review

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 County Planner 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 County Planner shall notify the subdivider of the contact and the timeframe for response.

III-A-4. First Minor Planning Board Consideration and Recommendation

a. Recommendation

i. Consideration-Standards

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 VI;
- B. applicable zoning regulations;
- C. The MSPA, including but not limited to 76-3-608(3), as delineated in section III-A-6 (a) and (b)(iv) of these regulations; and
- D. other applicable regulations.

ii. Consideration-Evidence

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 mitigation;
- C. Beaverhead County Growth Policy;
- D. County Planner's staff report and recommendation; and
- E. any additional information authorized by law.

iii. Written Recommendation

Within 10 working days after the public 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 (a)(ii) above that discuss and consider the subdivision's compliance with and impact on the items listed in subsection (a)(i) 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 (See Section XI-B).

b. Water and Sanitation Information

The planning board or County Planner 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.

III-A-5. Subdivider's Preference for Mitigation

No later than two working days before the meeting at which the governing body is to consider the subdivision application and preliminary plat, the subdivider is encouraged to submit in writing to the County Planner the subdivider's comments on and responses to the planning board's recommendations. The governing body will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preferences for mitigating the impacts of the proposal. [76-3-608(5)(b), MCA].

III-A-6. First Minor Subdivision Governing Body Decision and Documentation

a. Prerequisites to Approval

The governing body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

- i. provides easements for the location and installation of any planned utilities, both on and off site;

- ii. 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;
- iii. 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 by section II-B-4 of these regulations; and
- iv. assures that the requirements of 76-3-504 (1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Section VI-O have been considered and will be accomplished before the final plat is submitted.
- v. assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements as set forth in Section VI-N have been considered and will be accomplished before the final plat is submitted.

b. Consideration – Standards

In approving, conditionally approving, or denying a first minor subdivision application, the governing body shall consider subsection (a) above and whether the proposed subdivision complies with:

- i. these regulations, including but not limited to, the standards set forth in Section VI;
- ii. applicable zoning regulations;
- iii. other applicable regulations;
- iv. the MSPA, including but not limited to the following impacts:
 - A. impact on agriculture;
 - B. impact on agricultural water user facilities;
 - C. impact on local services;
 - D. impact on the natural environment;
 - E. impact on wildlife,
 - F. impact on wildlife habitat; and
 - G. impact on public health and safety.

v. proposed mitigation.

c. Consideration – Evidence

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:

- i. the subdivision application and preliminary plat;
- ii. the summary of probable impacts and mitigation;
- iii. The Beaverhead County Growth Policy;
- iv. County Planner's staff report and recommendations;
- v. planning board recommendation; and
- vi. any additional information authorized by law.

d. Water and Sanitation-Special Rules

- i. 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.
- ii. For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body shall require approval by the DEQ as a condition of approval of the final plat. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.
- iii. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body shall condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location

for a septic system or drain fields will be available when the lots are developed.

- iv. The governing body shall collect 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.
- iv. 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:
 - A. reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; or
 - B. local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.
- e. Documentation of Governing Body Decision
 - i. In rendering its decision to approve, conditionally approve, or deny the proposed subdivision the governing body shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the above subsections.
 - ii. When the governing body approves, denies, or conditionally approves the proposed subdivision, it shall within 30 working days following the oral decision send the subdivider a letter, with the appropriate signature, and make the letter available to the public. 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 materials 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 (f) below.
- f. Subdivision Application and Preliminary Plat Approval Period
- i. 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 governing body 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, provided for in Section II-B-4.
 - ii. 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.
 - iii. 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.

III-A-7. First Minor Subdivisions – Amended Applications

- a. 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 County Planner for review.
 - i. Within 5 working days of receiving the amended application or preliminary plat, the County Planner shall determine whether the changes to the subdivision application or preliminary plat are material, as determined in subsection (c) below.

- ii. The 35-working day review period is suspended while the County Planner considers the amended application or preliminary plat.
 - iii. If the County Planner determines the changes are not material, the 35-working day review period resumes when the County Planner mails notice of the decision to the subdivider.
 - iv. If the County Planner determines the changes are material, the County Planner may require the subdivider to schedule a new pre-application meeting and resubmit the application and preliminary plat as a new subdivision application.
- b. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsection (a)(ii).
- c. The following changes, although not an exhaustive list, may be considered material:
- i. configuration or number of lots;
 - ii. road layout;
 - iii. water and/or septic proposals;
 - iv. configuration of parkland or open spaces;
 - v. easement provisions;
 - vi. designated access; and
 - vii. changes to proposed covenants.
- d. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the County Planner may appeal the County Planner's decision to the governing body. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- i. The 35-working day review period is suspended until the governing body decision on the appeal is made.
 - ii. 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 may require the

subdivision application and preliminary plat to be resubmitted pursuant to subsection (a)(iv).

- iii. 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 35-working day review period resumes as of the date of the decision.
- iv. By appealing the decision of the County Planner, the subdivider agrees to suspension of the 35-working day review period provided in subsection (d)(i).

III-A-8. First Minor Subdivision Final Plat

The final plat must include the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section II-B, Final Plats.

III-B. Subsequent Minor Subdivisions

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. All the requirements and procedures of Section IV of these regulations must be followed for subsequent minor subdivisions. However, a park dedication is not required.

IV. REVIEW AND APPROVAL PROCEDURES FOR MAJOR SUBDIVISIONS

IV-A. Review and Approval Procedures for 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.

The pre-application process and initial review process set forth in Section II, General Procedures, apply to this section.

IV-A-1. Subdivision Application and Preliminary Plat Submittal

- a. The subdivider shall submit to the governing body or to the agent or agency authorized by the governing body a subdivision application containing the materials identified in Section II-A-5 and in the pre-application meeting.

IV-A-2. Time Period for Approval, Conditional Approval, or Denial

- a. Within 60 working days, or 80 working days for proposals containing 50 or more lots, the governing body shall approve, conditionally approve or deny the proposed subdivision according to Section IV-A-8 of these regulations, unless the subdivider and the County Planner agree to an extension or suspension of the review period, or a subsequent public hearing is held pursuant to Section IV-A-7 of these regulations. A subdivision application is deemed submitted for review, and the 60 or 80 working day period begins when the County Planner notifies the subdivider or the subdivider's agent in writing that the application contains sufficient information to conduct the review.
- b. Public Agency and Utility Review
Review and comment by public agencies or utilities may not delay the governing body's action on the subdivision application beyond the 60 or 80 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 County Planner 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 County Planner shall notify the subdivider of the contact and the timeframe for response.

IV-A-3. Public Hearings and Notices – In General

a. Hearings

The Planning Board will conduct a public hearing for all subsequent minor subdivisions and all major subdivisions.

The Governing Body will also conduct a public hearing on all major subdivisions, but may choose not to hold a public hearing on subsequent minor subdivisions when:

- i. no members of the public appeared at the public hearing held by the Planning Board and /or;
 - ii. there is no opposition to the proposed subsequent minor subdivision, or concerns expressed by the public at the public hearing held by the Planning Board.
- b. Notice
- i. 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.

- ii. At least 15 days prior to the dates of the hearings, the planning board and the governing body shall give notices of the hearings 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 property immediately adjoining the land included in the preliminary plat.
- iii. When it is determined that the governing body will conduct a public hearing on a subsequent minor subdivision, the hearing date will be announced at the Planning Board Hearing.

IV-A-4. Planning Board Hearing, Consideration and Recommendation

a. Hearing

After the subdivision application is deemed to have all the required elements and contain detailed, supporting information that is sufficient to allow for review, and the County Planner has prepared a staff report, the planning board shall schedule and hold a public hearing on the subdivision application.

b. Recommendation

i. Consideration-Standards

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 with the following:

- A. these regulations, including but not limited to the standards set forth in Section VI;
- B. applicable zoning regulations;
- C. The MSPA, including but not limited to 76-3-608(3), as delineated in sections IV-A-8(a) and (b)(iv) of these regulations; and
- D. other applicable regulations.

ii. Consideration-Evidence

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. the summary of probable impacts and mitigation ;
- D. Beaverhead County Growth Policy;
- E. information provided at public hearing(s);
- F. County Planner's staff report and recommendation; and
- G. any additional information authorized by law.

iii. Written Recommendation

Within 10 working days after the public hearing, 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 (b)(ii) above that discuss and consider the subdivision's compliance with and impact on the items listed in subsection (b)(i) above of these regulations; and
- B. a recommendation for approval, conditional approval (including any recommended conditions and/or mitigation measures), or denial of the subdivision application and preliminary plat.
- C. a recommendation for approval or denial of any requested variances.(see Section XI-B).

c. Water and Sanitation Information

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.

IV-A-5. Subdivider's Preference for Mitigation

No later than two working days before the meeting or hearing at which the governing body is to consider the subdivision application and preliminary plat, the subdivider is encouraged to submit in writing to the County Planner the subdivider's comments on and responses to the planning board's recommendations. The governing body will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preference.

IV-A-6. Governing Body Hearing

- a. After the planning board makes its recommendation, the governing body will hold a public hearing on the subdivision application if it is a major subdivision. The governing body may choose to hold a public hearing on a subsequent minor subdivision application.
- b. All comments and documents regarding the subdivision shall be submitted to the County Planner, rather than to the governing body directly, to be forwarded to the governing body.
- c. The governing body shall determine whether public comments or documents presented for consideration at the governing body's public hearing constitute either:
 - i. 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 on which the public has had a reasonable opportunity to comment, in which case the governing body shall proceed to its decision whether to approve, conditionally approve, or deny the proposed subdivision; or
 - ii. 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 (d) below.
- d. 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 (e) and (f) below.

- i. 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
 - ii. 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 Section IV-A-7.
 - iii. At the subsequent hearing the planning board 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.
- e. 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.
 - f. New information or analysis of information is considered to be credible if it is based on one or more of the following:
 - i. physical facts or evidence;
 - ii. corroborated personal observations;
 - iii. evidence provided by a person with professional competency in the subject matter; or
 - iv. scientific data.

IV-A-7. Subsequent Public Hearing

- a. If a subsequent public hearing is held pursuant to section IV-A-6, it must be held within 45 days of the governing body's determination to schedule a subsequent hearing. The planning board 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.
 - i. 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.

- ii. 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 property immediately adjoining the land included in the preliminary plat.
- b. 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.

IV-A-8. Governing Body Decision and Documentation

a. Prerequisites to Approval

The governing body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

- i. provides easements for the location and installation of any planned utilities;
 - ii. 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;
 - iii. 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 by section II-B-4 of these regulations; and
 - iv. assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Section VI-O have been considered and will be accomplished before the final plat is submitted.
-
- v. assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements as set forth in Section VI-N have been considered and will be accomplished before the final plat is submitted.
 - vi. Provides for the appropriate park dedication or cash-in-lieu.

b. Consideration-Standards

In approving, conditionally approving, or denying a subdivision application and preliminary plat, the governing body shall consider subsection (a) above, and whether the proposed subdivision complies with:

- i. these regulations, including, but not limited to, the standards set forth in Section VI;
- ii. applicable zoning regulations;
- iii. other applicable regulations;
- iv. the MSPA, including but not limited to the following impacts:
 - A. impact on agriculture
 - B. impact on agricultural water user facilities
 - C. impact on local services
 - D. impact on the natural environment
 - E. impact on wildlife
 - F. impact on wildlife habitat;
 - G. impact on public health and safety; and
- v. proposed mitigation.

c. Consideration-Evidence

In making its decision to approve, conditionally approve, or deny a proposed subdivision, the governing body may consider and weigh the following, as applicable:

- i. the subdivision application and preliminary plat;
- ii. the environmental assessment;
- iii. the summary of probable impacts and mitigation;
- iv. Beaverhead County Growth Policy;

- v. comments, evidence and discussions at the public hearing(s);
- vi. County Planner's staff report and recommendations;
- vii. planning board recommendation; and
- viii. any additional information authorized by law.

Notwithstanding the foregoing, the governing body may not consider any information regarding the subdivision application that is presented after the final public hearing (which may include a subsequent hearing if any) when making its decision to approve, conditionally approve, or deny the proposed subdivision.

d. Water and Sanitation-Special Rules

- i. 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.
- ii. For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body shall require approval by the DEQ as a condition of approval of the final plat. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.
- iii. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body shall condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.
- iv. 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.

- v. 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:
 - A. reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and
 - B. local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

e. Documentation of Governing Body Decision

- i. In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the governing body shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the preceding subsections.
- ii. When the governing body approves, denies, or conditionally approves the proposed subdivision, it shall within 30 working days following the oral decision send the subdivider a letter, with the appropriate signature, and make the letter available to the public. 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 materials 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 (f) below.

f. Subdivision Application and Preliminary Plat Approval Period

- i. 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 governing body 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 a longer approval period is included as a specific condition of a written Subdivision Improvements Agreement between the governing body and the subdivider, provided for in Section II-B-4.
- ii. 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, at which time a new application shall be required.
 - ii. 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.

IV-A-9. Amended Applications

- a. If the subdivider changes the subdivision application or preliminary plat after the County Planner makes a determination of sufficiency pursuant to section II-A-6 but before the Planning Board hearing, the subdivider shall submit the amended application to the County Planner for review.
 - i. Within 5 working days of receiving the amended application or preliminary plat, the County Planner shall determine whether the changes to the subdivision application or preliminary plat are material, pursuant to subsection (d) below.
 - ii. The 60 or 80 -working day review period is suspended while the County Planner considers whether the changes to the subdivision application or preliminary plat are material.
 - iii. If the County Planner determines the changes are not material, the 60 or 80-working day review period resumes when the County Planner mails notice of the decision to the subdivider.
 - iv. If the County Planner determines the changes are material, the County Planner shall either require the subdivider to schedule a new

pre-application meeting and resubmit the application as a new subdivision application or proceed with the 60 or 80 -working day review period upon certification from the County Planner that the application is sufficient for review.

- b. 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 County Planner for review.
 - i. Within 5 working days of receiving the amended application or preliminary plat, the County Planner shall determine whether the changes to the subdivision application or preliminary plat are material pursuant to subsection (d) below.
 - ii. The 60 or 80 -working day review period is suspended while the County Planner considers whether the changes to the subdivision application or preliminary plat are material.
 - iii. If the County Planner determines the changes are not material, the 60 or 80 -working day review period resumes when the County Planner mails notice of the decision to the subdivider.
 - iv. If the County Planner determines the changes are material, the County Planner shall either:
 - A. 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
 - B. schedule a new Planning Board hearing to take comment on the amended application or preliminary plat. Notice of the County Planner's determination to schedule a new planning board hearing shall be provided as set forth in section IV-A-3. A supplemental staff report shall be prepared to address the changes to the original application
 - v. If a new Planning Board hearing is held pursuant to subsection (b)(iv)(B) above, the 60 or 80 -working day review period is suspended for the time period between notice of the County Planner's determination and 10 working days after the date of the second Planning Board hearing.
- c. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsections (a)(ii) and (b)(ii).

- d. The following changes, although not an exhaustive list, may be considered material:
- i. configuration or number of lots;
 - ii. road layout;
 - iii. water and/or septic proposals;
 - iv. configuration of park land or open spaces;
 - v. easement provisions; and
 - vi. designated access;
 - vii. Changes to the proposed covenants.
- e. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the County Planner may appeal the County Planner'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.
- i. The 60 or 80 -working day review period is suspended until the governing body decision on the appeal is made.
 - ii. 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 pursuant to subsections (b)(iv)(A) or (B).
 - iii. 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 60 or 80 -working days review period resumes as of the date of the decision.
 - iv. By appealing the decision of the County Planner, the subdivider agrees to suspension of the 60 or 80 -working day review period provided in subsection (i) above.

IV-B. Major Final Plats

The final plat must have the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section II-B, Final Plats.

V. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

V-A. Purpose

The 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 exemptions are found in Part 2 of Title 76, Chapter 3. These regulations address the more commonly used exemptions.

V-B. General Criteria to Determine Whether a Proposal 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.

V-C. Divisions of Land Entirely Exempt from the Requirements of These Regulations and the Montana Subdivision and Platting Act [76-3-201, MCA]

The governing body will examine the divisions of land set forth in this section to determine whether or not the requirements of the MSPA and these regulations apply to the division. The fee for this examination is set forth in Section XI-A. The requirements of these regulations and the MSPA do not apply unless the method of disposition is adopted for the purpose of evading these regulations or the MSPA, or as otherwise specifically provided, when:

- a. A division of land is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in the state pursuant to the law of eminent domain, Title 70, Chapter 30. Before a court of record orders a division of land, the court shall notify the governing body of the

pending division and allow the governing body to present written comments on the subdivision.

- b. A division of land is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.

i. 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.

ii. 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.

iii. 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.

iv. Required Materials

When this exemption is to be used, the following will be required before the mylar copy of the C.O.S. will be filed:

- A. a signed and notarized statement from a lending institution that the creation of the parcel is necessary to secure a loan will be required to appear on the face of the C.O.S.

v. Rebuttable Presumptions

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. A division of land creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
 - d. A division of land creates cemetery lots;
 - e. A division of land is created by the reservation of a life estate;

- f. A division of land is created by lease or rental for farming and agricultural purposes;
- g. A division of land is in a location over which the state does not have jurisdiction; or
- h. A division of land is created for public rights-of-way or public utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of the MSPA and these regulations.

V-D. Divisions of Land Which May be Exempt from Review and Surveying

- a. Generally condominiums are subject to review as subdivisions, but under certain circumstances they may be exempt from review, provided they are constructed on land subdivided in compliance with these regulations (or on lots within incorporated cities and towns) and the MSPA, and:
 - i. The approval of the original subdivision of land expressly contemplated the construction of the condominiums and 76-3-621, MCA, is complied with; or
 - ii. The condominium proposal is in conformance with applicable zoning regulations.
- b. Generally, subdivisions created by rent or lease are exempt from the surveying and filing requirements of the MSPA and these regulations, but must be submitted for review and approved by the governing body before portions may be rented or leased.
 - i. When the land upon which an improvement is situated has been subdivided in compliance with the MSPA, the sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the MSPA or these regulations;
 - ii. The sale, rent, lease, or other conveyance of one or more parts of a building, structure or other improvement, whether existing or proposed, is not a division of land and is not subject to the requirements of the MSPA or these regulations.
- c. A division of land created by lease or rental of contiguous airport related land owned by a city, county, the state, or a municipal or regional airport authority is not subject to the MSPA or these regulations, provided that the lease or rental is for onsite weather or air navigation facilities, the

manufacture, maintenance, and storage of aircraft, or air carrier related activities.

- d. A division of state-owned land is not subject to the MSPA or these regulations unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- e. The MSPA and these regulations do not apply to deeds, contracts, leases, or other conveyances which were executed prior to July 1, 1974.
- f. 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, MCA, and are exempted from the surveying and platting requirements of the MSPA and these regulations. A survey or plat for the recordation of an instrument transferring title to a remainder that was created when the state obtained property for a highway right-of-way is not required. [44 A.G. Op. 25 (1992)]. 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.

V-E. Divisions of Land Exempt from Review but Subject to Survey Requirements and Zoning Regulations

Unless the method of disposition is adopted for the purpose of evading these regulations or the MSPA, the following divisions of land are not subdivisions under these regulations and the MSPA, but are subject to the surveying requirements of 76-3-401, MCA, and zoning regulations adopted under Title 76 chapters 2 or 3. 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 County Planner 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 County Planner for evasion review.

V-E-1. Relocation of Common Boundary [76-3-207(1)(a), MCA]

a. **Statement of Intent**

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.

b. Required Information

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 24.183.1104 (1)(f) [Appendix A] 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 owners for the entire newly described parcel(s) or that portion of the tract(s) that is being affected.

c. Use of Exemption

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.

d. Rebuttable Presumptions

The use of this exemption is presumed to have been adopted for the purpose of evading the MSPA if:

- i. the reviewing agent determines that the documentation submitted according to this section does not support the stated reason for relocation; or
- ii. the proposed relocation creates a parcel of less than 160 acres which, prior to the relocation included more than 160 acres.

V-E-2. A Gift or Sale to a Member of the Immediate Family [76-3-207(1)(b), MCA]

a. Statement of Intent

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. The term "immediate family" means the spouse, children (by blood or adoption), or parents of the grantor [76-3-103(8), MCA]. 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.

b. Required Information

A certificate of survey (or recording of an 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)] found in Appendix A. Also, the certificate of survey or instrument of conveyance must be accompanied by a deed or other conveying document.

c. Use of Exemption

One conveyance of a 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.

The family member who is the grantee of the parcel created by the use of this exemption cannot transfer ownership of the parcel for a period of eighteen (18) months from the date the survey is filed. Conveyance of the parcel sooner than 18 months will subject the parcel to be reviewed as a subdivision by the Planning Board.

d. Rebuttable Presumptions

- i. 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.
- ii. 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.
- iii. 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.

V-E-3. Divisions of Land Proposed for Agricultural Use Only [76-3-207(1)(c), MCA]

a. **Statement of Intent**

This exemption is intended to allow a landowner to create a parcel for gift, sale, or agreement to buy and sell, outside a platted subdivision, without local review if the parcel will be used only 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.

b. **Required Information**

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. [ARM 24.183.1104(f)(iii) in the Appendix] The certificate of survey must show on the face of the plat language reciting the covenant and the appropriate signature blocks.

c. **Use of Exemption.**

- i. "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, provided the applicable exemption under the Sanitation in Subdivisions Act is properly invoked by the property owner.
- ii. Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision.
- iii. 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.

d. **Rebuttable Presumptions.**

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:

- i. 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.

- ii. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial, or industrial buildings have been or will be built on it.
- iii. The parcel must meet the criteria for an agricultural designation under section 15-7-202, MCA.

V-E-4. Relocation of Common Boundaries Involving Platted Subdivisions [76-3-207 (1)(d), (e), (f), and (2)(a) (b), MCA]

a. Statement of Intent

- i. The MSPA allows certain revisions to subdivisions platted since July 1, 1973, which include relocation of common boundaries and the aggregation of lots for five or fewer lots within a platted subdivision or the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision (but a restriction or requirement on either continues to apply), without review.
- ii. If a change is made to a platted subdivision which results in an increase in the number of lots or redesigns or rearranges six or more lots, the governing body must review and approve the amended plat and an amended plat must be filed with the clerk and recorder.

b. Use of exemption

Relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision [76-3-207(1)(e), MCA] is allowed, because no additional parcels are created. Subdivision review is not necessary because the relocation does not create any additional division of land.

c. Rebuttable presumption

- i. 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.
- ii. 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.

V-E-5. Aggregation of Lots or Parcels (76-3-207 (1)(f),MCA)

a. **Statement of Intent**

Aggregation of parcels on a certificate of survey or of lots on a subdivision plat is allowed provided the boundaries of the original parcel or lot are eliminated and the boundaries of the larger aggregated parcel or lot are established.

b. **Use of exemption**

This exemption may be used without a boundary line relocation but a restriction or requirement on the original platted lot or original unplatted parcel continues to apply. A notarized statement on the amended plat or certificate of survey must reflect these restrictions/requirements, including any applicable zoning, covenants and/or deed restrictions.

c. **Rebuttable presumption**

- i. If a resulting lot is inconsistent with the approved conditions of subdivision approval, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.
- ii. If a resulting lot or parcel does 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.
- iii. If the amended plat or certificate or survey does not show fewer lots of parcels than originally, the use for the exemption will be presumed to have been adopted for the purposed of evading the MSPA.

V-F. Procedures and Review of Subdivision Exemptions

V-F-1. Submittal

Any person seeking exemption from the requirements of the MSPA shall submit to the County Planner (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)

V-F-2. Review

When a division of land for which an exemption is claimed is submitted to the County Planner, the County Planner 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 County Planner 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 County Planner to discuss whether a proposed land division or use of an exemption is in compliance with the criteria in this Section V.
- b. The County Planner 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.
- c. If the County Planner finds that the proposed use of the exemption complies with the statutes and the criteria set forth in this section, the County Planner shall advise the clerk and recorder to file the certificate of survey or record the instrument of conveyance and accompanying documents. If the County Planner finds that the proposed use of the exemption does not comply with the statutes and the criteria in this Section V, the County Planner shall advise the clerk and recorder not to file or record the documents, and the materials will be returned to the landowner.
- d. The County Planner shall consider all of the surrounding circumstances when determining whether an exemption is claimed for the purpose of evading the MSPA. These circumstances may include but are not limited to: 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.

V-F-3. Appeals

- a. Any person whose proposed use of an exemption has been denied by the County Planner because the proposed division of land has been deemed an attempt to evade the MSPA, and these regulations, may appeal the County Planner's decision to the governing body. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the MSPA or these regulations, and, thereby rebut a presumption.

- b. If the governing body concludes that the evidence and information overcome the presumption that the exemption is being invoked to evade the MSPA or these regulations, it may authorize the use of the exemption in writing. A certificate of survey claiming an exemption from subdivision review, which otherwise is in proper form, and which the governing body has found not to be an attempt to evade the MSPA or these regulations, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the governing body.
- c. If the person proposing to use an exemption chooses not to rebut a presumption when the County Planner deems the use of the exemption an attempt to evade the MSPA and these regulations, or if the governing body determines that the proposed use of an exemption was for the purpose of evading the MSPA or these regulations, the landowner proposing to use the exemption may submit a subdivision application for the proposed land division.

V-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 40 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.

A landowner claiming that a parcel is a “remainder” shall present evidence that the parcel is in fact intended to be retained and not to be transferred. Examples of such evidence include the existence of the landowner’s residence on the parcel or building plans for a structure to be built by or for the landowner.

V-H. Identification Codes

To assist in the implementation of this 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 certificates 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]
- BA ... Boundary Adjustment -Relocation of Common Boundary [76-3-207(1)(a), MCA]
- FT ... Family Conveyance [76-3-207(1)(b), MCA]
- AE ... Agricultural Exemption [76-3-207(1)(c), MCA]
- OS ... Occasional Sale (used prior to April 6, 1993)
- AL ... Aggregation of Lots [76-3-207(e), MCA]
- BR ... Boundary Retracement
- EA ... Easement

VI. DESIGN AND IMPROVEMENT STANDARDS

All subdivisions approved by the governing body must comply with the provisions of this section, except where granted a variance pursuant to Section XI-B, Variances. The governing body may not grant variances from the provisions of Section VI-D, Floodplain Provisions. For subdivisions created by rent or lease, planned unit developments, and condominiums, refer to sections VII, VIII, and IX of these regulations.

VI-A. Conformance with Regulations

The design and development of a subdivision must conform with any applicable zoning or other regulations.

VI-B. Natural Environment and Agriculture

The design and development of subdivisions must provide satisfactory building sites, which are properly related to topography, and should, to the extent possible, preserve the natural terrain, natural drainage, existing topsoil, trees and other existing vegetation, as well as cultural and historic features.

- a. To protect water quality, quantity, public health and safety, as well as protect natural floodplain drainage systems and riparian areas along the Beaverhead, Red Rock, and Big Hole Rivers; building sites shall be located at least 150 feet from the ordinary high water mark of the Beaverhead, Red Rock, and Big Hole Rivers.

All subdivision development on the Big Hole River must also comply with Ordinance No: 2005-1, Big Hole River Conservation Development Standards and Permitting Process.

Any new lot created along the Beaverhead, Big Hole, and Red Rock Rivers shall have a minimum of 300 feet of frontage width.

All other surface water features (springs, creeks, ponds, lakes, streams, etc.) excepting manmade irrigation waterways shall have a 50-foot building setback and a 100-foot minimum drain field setback.

- b. To protect the economic viability of agriculture within Beaverhead County, the planning board and/or governing body may require mitigation measures as necessary when land used primarily for agricultural purposes is proposed for residential or commercial development. In determining whether mitigation measures will be required the planning board shall consider:

- i. Current land use;
 - ii. Size of the parcel;
 - iii. Location (proximity to other agriculture or communities);
 - iv. Potential for future agricultural uses;
 - v. Size of the proposed development; and
 - vi. Any other information relevant to determining affect of proposed development to agriculture in Beaverhead County.
- c. The Planning Board and/or governing body may require an Agriculture Management Plan for the property. The Agriculture Management Plan shall be developed by the owner working in conjunction with an independent private agricultural management professional and shall be approved by the governing body. The Agriculture Management Plan must address the following issues;
- i. Description of the parcel(s) and location;
 - iv. Current operation of the ranch and/or farm, including description of crops and livestock present.
 - v. Soils survey;
 - vi. History of operations;
 - vii. A general description of a three-year plan of operation, that includes livestock and crop activities;
 - viii. Proposed plan for future operation;
 - ix. Mitigation plan for interaction between residential development and agricultural operations.
 - x. Irrigation and water rights held;
 - xi. Access to the property and description of any easements;
 - xii. Weed Control;
 - xiii. Possibilities for expansion of agricultural operations; and;

- xiv. Any other information relevant to the viability of agriculture on the ranch and/or farm.

When an Agriculture Management Plan is required an affirmative covenant will be placed on the property obligating the developer to update the Agriculture Management Plan every three years. At that time, the planning board will review the update to the Agriculture Management Plan and evaluate the viability of agriculture on the ranch and/or farm. Whether viable as a stand alone unit or not, agricultural land will be available for use at market value by local producers

- d. To ensure that sufficient land is available to use for agricultural purpose, and to support agriculture and agriculture related businesses; the planning board and/or governing body may require that a percentage of land proposed for development be made available for agricultural opportunities through use of covenants or other deed restrictions.

The planning board and/or governing body may require a covenant obligating the developer or landowner to either actively use the land for agriculture or make the land available or lease at market prices for agricultural uses as a condition of plat approval.

- e. To protect the natural environment, reduce erosion, and preserve vegetation and topsoil; all subdivisions that will allow large animals will be required to complete a Safe Stocking Rate Determination Grazing/Confinement Plan.

This Plan will need to be approved by the Beaverhead County Extension Agent and filed with the Final Plat.

VI-C. Lands Unsuitable for Subdivision

Land that the governing body determines is unsuitable for subdivision because of natural or human caused hazards such as flooding, high potential for wildfires, snow avalanches, rock falls, land slides, steep slopes in excess of 25%, subsidence, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, air or vehicular traffic hazards or congestion, or because of unreasonable burdens on the general public such as the need for excessive expenditures of public funds, or other features which may be detrimental to the health, and safety, of existing or future residents may not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques.

VI-D. Floodplain Provisions

A proposed subdivision adjacent to the Town of Lima must comply with the town of Lima's Floodplain Ordinance, and must be consistent with the ordinance's provisions.

Land located in the floodway of a 100-year flood event as defined by Title 76, Chapter 5, MCA, or other land determined by the governing body to be subject to flooding may not be subdivided for building or residential purposes or other uses that may increase or aggravate flood hazards to life, health or welfare, or that may be prohibited by state or local floodplain or floodway regulations.

If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a live stream draining 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 provide in detail to the floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation, a flood hazard evaluation, including the calculated 100 year frequency water surface elevations and/or 100 year floodplain boundaries. This detailed evaluation must be performed by a licensed professional engineer experienced in this field of work. After the floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the subdivider must submit it to the planning board (or County Planner) along with the Environmental Assessment required for the preliminary plat.

The above requirement is waived if the subdivider contacts the Water Resources Division and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

VI-E. Improvement Design

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or a professional land surveyor as their respective licensing laws allow in accordance with the MSPA and these regulations.

VI-F. Lots

Each lot must contain a satisfactory building site and conform to health department regulations, applicable zoning regulations and these regulations.

- a. No lot may be divided by a municipal or county boundary line.
- b. No lot may be divided by a public road, alley or utility right-of-way or easement.

- c. Each lot must abut and have access to a public or private street or road. Alleys may not be used to provide the primary access to a lot.
- d. Corner lots must have driveway access to the same street or road that provides access to interior lots.
- e. Corner lots must be designed to provide acceptable sight distances for safe vehicular movement.
- f. No lot may have an average depth greater than three times its average width.
- g. Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.
- h. Through lots are prohibited except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.
- i. All subdivisions having either public or private streets/roads shall have the lot lines extended to the center of the road right-of-way or easement. The county will not be responsible for maintaining the same.

VI-G. Blocks

- a. Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
- b. Unless impractical, block length must not be more than 1,600 feet.
- c. Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation, or unless the governing body approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.
- d. Rights-of-way for adequate and safe pedestrian access, at least 10 feet wide, must be provided where deemed essential to provide circulation to schools, playgrounds, shopping, transportation, and other community facilities.

VI-H. Streets and Roads

Note: Public and Private Streets/Roads, Homeowners Association

Public Streets/Roads

Public roads shall lie within rights-of-ways or easements which have been dedicated to the public. Property owner's property line shall extend to centerline of adjacent street or road. An approved homeowners association shall maintain public subdivision roads, rights-of-ways, and easements, until dedication to the public or other public agency.

Private Streets/Roads

Private roads/streets shall lie within private roadway rights-of-ways or easements. An approved homeowners association shall maintain these roads, until dedication to the public or other public agency.

Homeowners Association

A homeowners association or corporation shall be formed for all subdivisions having roads, parks and/or common areas. The homeowners association or corporation and its covenants, bylaws and easements shall be recorded concurrent with or prior to the time of final plat approval. The Homeowners Association shall have language in their by-laws that allows for the collection of dues to: maintain and grade roadways, install and maintain drainage improvements, dust abatement application, snow removal, and noxious weed control as well as other responsibilities of the Association.

Special Improvement District (S.I.D.) Waiver

The governing body will require landowners in subdivisions located within a one (1) mile radius of the City limits of Dillon to waive the right to protest the creation of a Special Improvement District for City services and/or infrastructure improvements.

a. Design

- i. Roads and approaches must meet the design specifications in "The American Association of State Highway and Transportation Officials (AASHTO) Book, "Policy on Geometric Design of Highways and Streets" and the Beaverhead County Minimum Road Construction Standards. (Table 1)

- ii. All roads and drainage facilities shall be designed by a professional engineer. The engineer shall be required to certify before final plat approval that the roads and storm drainage facilities have been constructed to the required design specifications and construction standards.
 - a) An access that serves two or more residences including existing residences is considered a road and must comply with these requirements if the residences share the access more than 50 feet beyond the right-of-way boundary.
 - b) An access that only serves one residence is considered a driveway and is not subject to these regulations.

Roads and Driveways accessing a county road are required to get an Access Permit from the Beaverhead County Road Department, and comply with any design and construction standards that may be a part of the permit.
 - c) A shared approach that serves no more than two residences is also allowed, and is also subject to the same conditions as (b) above. A shared approach is defined as that portion of the access extending from the edge of the existing roadway to a point not more than 50 feet beyond the right-of-way boundary.
- iii. Where streets terminate, either a cul-de-sac or "T" turnaround must be provided at the terminus. Cul-de-sacs and "T" turnarounds must conform to the design specifications in Table 1.
- iv. All streets/roads within a subdivision shall be dedicated to the public or designated private streets/roads, and the ownership will be shown on the final plat. Roadways dedicated to the public can be accepted for public use, but Beaverhead County shall not be responsible for maintaining the same, unless expressly agreed to by the County.
- v. Residential driveways shall not have direct access to primary highways or major collectors. For extreme circumstances the Montana Department of Transportation or Beaverhead County Road Department may issue their respective road approach permit.
- vi. Local streets must be designed so as to discourage through traffic.

- vii. Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the governing body may require frontage roads or other treatment as may be necessary to adequately protect residential properties and to separate arterial and local traffic. School bus pullouts or turn-arounds may also be required as a matter of public safety.
- viii. Half streets are prohibited except when they are essential to the development of the subdivision and when the governing body is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.
- ix. The alignment of all streets and roads must provide adequate sight distances.
- x. Intersections. The following requirements apply to intersections:
 - A. streets must intersect at 90-degree angles except when topography prohibits this alignment. In no case may the angle of an intersection be less than 60 degrees to the centerline of the roadway being intersected.
 - B. two streets meeting a third street from opposite sides must be offset at least 125 feet for local roads and 300 feet for arterials or collectors.
 - C. no more than two streets may intersect at one point.
 - D. intersections of local streets with major arterials or highways must be avoided.
 - E. intersections must be designed to provide adequate visibility for traffic safety based on the designed operating speeds of the intersecting roadways.
 - F. hilltop intersections are prohibited, unless 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. If no alternative to a hilltop intersection exists, additional traffic control devices will be required.
 - G. the grade of approaches to major highways may not exceed five percent.

- xi. Names of new streets or roads aligned with existing streets must be the same as those of the existing streets. Proposed street names may not duplicate or cause confusion with existing street names. An addressing system shall be developed in conformance with Section 7B (Subdivision Standards) of the Beaverhead County Addressing Ordinance.
- xii. Proposed road plans and profiles are required at the time of preliminary plat submittal and are subject to acceptance by the County Planner.
- xiii. Each subdivision of six or more lots shall provide two different ingress-egress routes built to Beaverhead County subdivision road and/or emergency access standards (refer to Tables 1&2) that provide access to the nearest collector or arterial road.
- xiv. All areas disturbed during construction shall be re-vegetated by the subdivider with seed and fertilizer mixture and rate approved by Beaverhead County. A detailed revegetation plan shall be submitted as part of the drawings and specifications. The plan shall contain sufficient information to ensure the County Commission that all areas of disturbed soil will be completely re-vegetated. The plan shall address weed control during the revegetation process. The Beaverhead County Extension Office should be consulted for seed and fertilizer rates/mixtures.

b. Improvements and Construction Standards

- i. All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage must be constructed in accordance with the specifications and standards prescribed in these regulations and the Montana Public Works Standards.
- ii. Roadway sub-grades must be free of topsoil, sod, vegetation or organic matter, soft clay, and other substandard materials. Sub-grades must be properly rolled, shaped, and compacted, and must be approved by the governing body.
- iii. Streets and roads must be designed to ensure proper drainage. This may require surface crowning, culverts, curbs and gutters, drainage swales and storm drains.
- iv. Where access from a public road to the subdivision will cross properties not owned by the subdivider, the subdivider must obtain proper easements of sufficient width to satisfy the requirements of Table 1.

Easements must be granted by each property owner in a signed and notarized document. (Administrative Materials Section E contains a model road access easement).

The location of any road easement must be shown on the plat or on a supplemental map. The existence of easements must be noted on the face of the final plat and on any deeds or other instruments conveying lots within the subdivision.

- v. Existing trees and other vegetation must be preserved whenever appropriate. Plantings may be required for buffering, screening, or prevention of soil erosion and are subject to approval by the governing body.
- vi. Streetlights will be required in subdivisions proposed within or adjacent to areas with existing street lighting. Street lighting may be required in other areas when necessary to protect public safety.
- vii. Street or road signs and traffic control devices of the size, shape, and height approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the *Manual on Uniform Control Devices* available from the Montana Department of Transportation.
- viii. When required by the United States Postal Service, the developer must provide an off-street area for mail delivery.
- ix. All roads shall be designed and inspected through the course of construction and certified as built to Beaverhead County approved subdivision road standards by a licensed professional engineer when completed.
- x. Subdivisions utilizing public roadways will be required to waive the right to protest the future creation of a Rural Improvement District.
- xii. All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage shall be constructed in accordance with the specifications and standards prescribed in these regulations, using materials approved by the governing body. The sub-divider and/or homeowners shall comply with the following requirements: 1). One to five parcels meet the minimum design and construction standards. 2). Six to 20 parcels meet the recommended minimum design and construction standards and provide effective long-term dust suppression treatment on internal roads. 3). 21 plus parcels meet the

recommended minimum design and construction standards for paved roads when:

1. The primary access of the proposed subdivision is from a paved State or County road, and
 2. The proposed subdivision is within 1 mile of the incorporated city limits of Dillon, and,
 3. The Planning Board and Board of County Commissioners determines that because of location, size, anticipated future use, and physical environment of the proposed subdivision, paving will be required.
- xiii. Where a subdivision is accessed by a substandard County maintained road(s), the sub-divider shall contribute to the County an amount equal to the pro rata share of the improvements necessary to bring said road(s) up to the appropriate road standard. If the County does not use the contribution within seven years, the County shall reimburse the sub-divider upon the written request from the sub-divider.
- The subdivision contribution will be that portion of the anticipated improvements that are required and are directly attributable to the impact with the proposed subdivision based on benefit.
- xiv. All subdivisions with an access road or driveway intersecting a paved County or State road shall have a paved approach paved back to the right-of-way boundary. Paving is defined as hot mix asphalt, cold mix asphalt, or concrete.
- xv. All subdivision access driveways shall be constructed to meet the minimum design standards for emergency access roads as shown in Table 2, Streets and Roads, Improvements and Construction Standards.

Table 1: Beaverhead County Road Design Standards

<u>Minimum Design Standards</u>	<u>Local Road</u>	<u>Local Road</u>	<u>Minor Collector</u>	<u>Major Collector</u>
	Less than 32 TPD	32 to 100 TPD	100-300 TPD	300 + TPD
	1-4 Lots	5-12 Lots	13 to 39 Lots	40 + Lots
1. Minimum right-of-way width	50 to 60 ft.	60 ft.	60 ft.	60 ft.
2. Minimum roadway width	20 to 22 ft.	22 to 24 ft.	24 ft.	24 to 28 ft.
3. Minimum approach radius at Intersections G	See G Below	See G Below	See G Below	See G Below
4. Maximum grades B	10%	10%	8%	8%
5. Stopping sight distance A	See A Below	See A Below	See A Below	See A Below
6. Angle of Intersecting Centerlines	at least 75°	at least 75°	at least 75°	at least 75°
7. Cul-de-sac				
a. Maximum length C	1,000 ft.	1,000 ft.	NA	NA
b. Minimum outside right-of-way	50 ft.	50 ft.	NA	NA
c. Minimum outside roadway radius	35 ft.	35 ft.	NA	NA
8. New Bridges				
a. Curb-to-curb width minimum D	16 to 24 ft.	24 to 26 ft.	26 to 28 ft.	28 to 32 ft.
b. Design load (AASHTO) minimum E	HS-20	HS-20	HS-20	HS-25
c. Vertical clearance	14.5 ft.	14.5 ft.	14.5 ft.	14.5 ft.
9. Paving Requirements F	--	--	20+ Lots	Required

A- The designing engineer will use current A.A.S.H.T.O. Standards as a guideline for stopping sight distance at each intersection.

B- Grades of 10% shall not exceed 100 feet in length.

C- Measured to center of cul-de-sac.

D- Roadway surface on bridge should not be less than roadway it connects to.

E- American Association of State Highway Transportation Officials.

F- Montana Public Works Standards

G- 75°-intersection, 55' approach radius; 90°-intersection, 50' approach radius.

Design Criteria

Design Vehicle: S.U. – Single Unit Truck

Design Speed: 25 M.P.H.

Crushed Aggregate Grading for
1-inch minus surface material:

Sieve	Grading
1"	100
¾"	70-98
½"	
* No.4	36-60
No. 8	25-47
No. 30	12-31
No.200	6-15

* At least 50% by weight of the particles retained in the No. 4 Sieve shall have at least one mechanically fractured face.

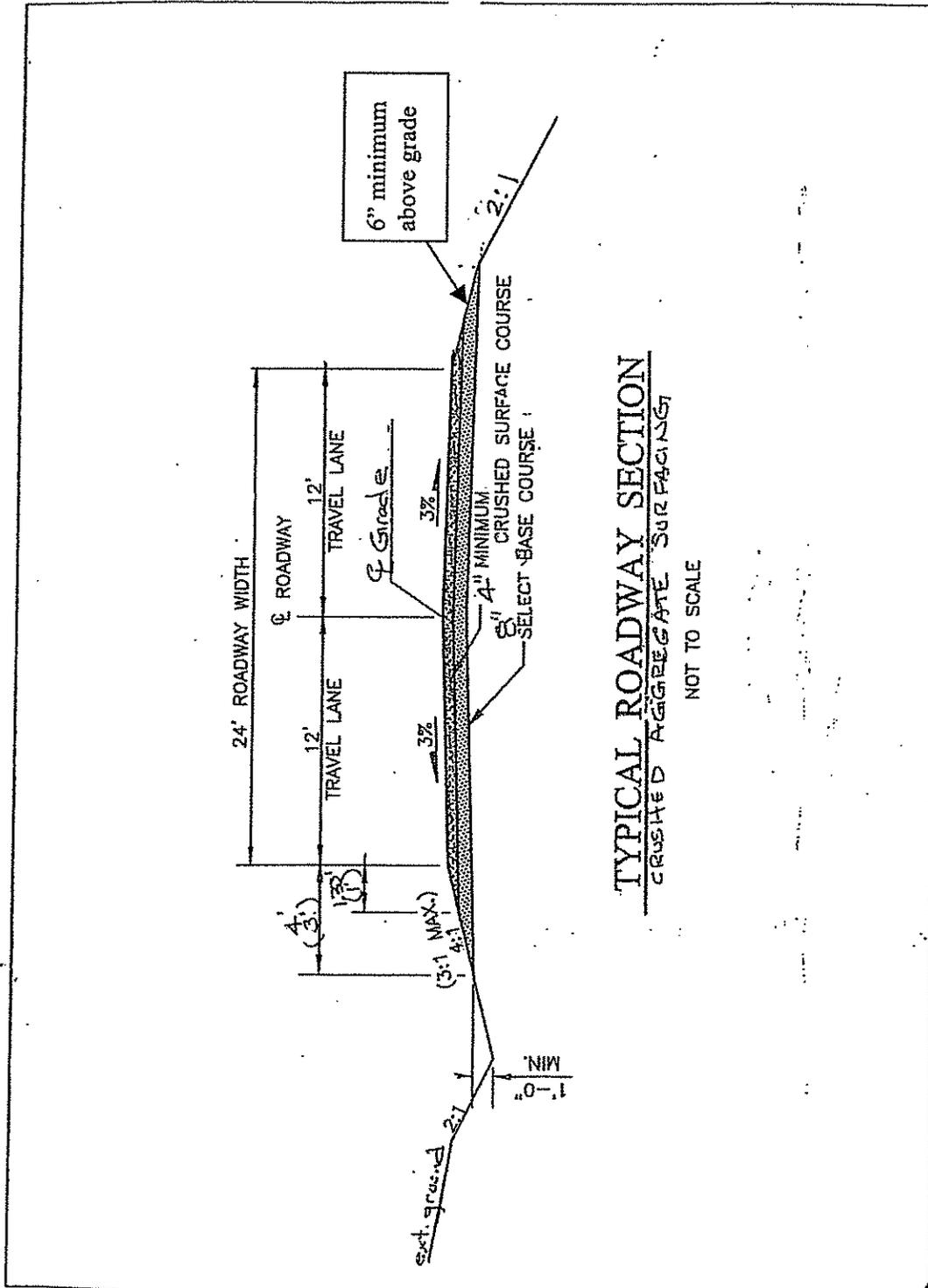
Table 2
Driveways and Emergency Access Road – Design Standards

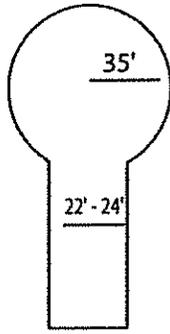
“Year Round All Weather Design”*	
Minimum Right-of-Way Width	30 feet
Minimum Roadway Width	12 feet
Minimum Material Depth	4 inches
Maximum Material Size	3 inches

- **May require culverts, delineators, raised surface, etc. depending on site-specific conditions.**
- **Needs to meet maximum grade in regular road standards and design vehicle.**

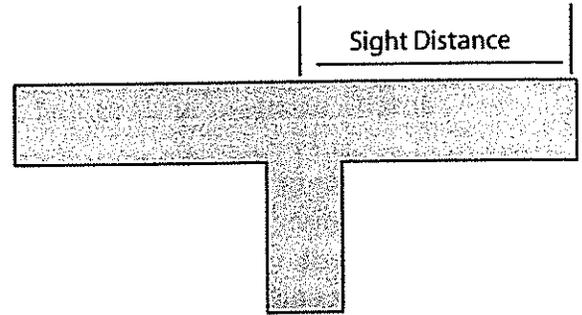
FIGURE 1

BEAVERHEAD COUNTY MINIMUM ROAD
CONSTRUCTION STANDARDS*
(TYPICAL CROSS-SECTION)

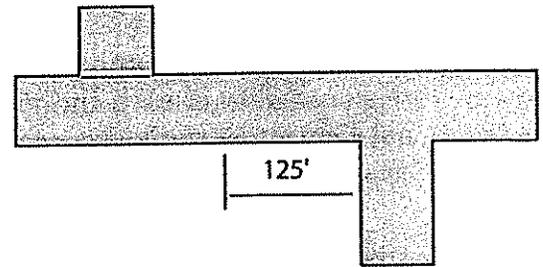
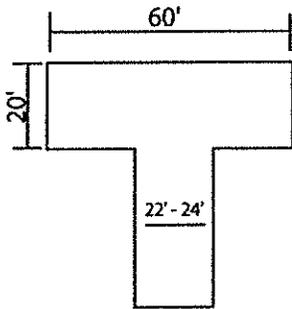




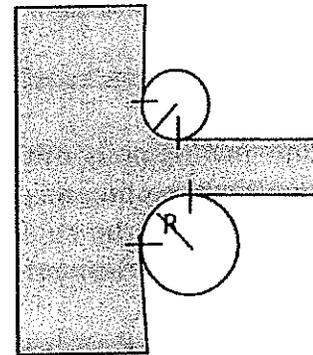
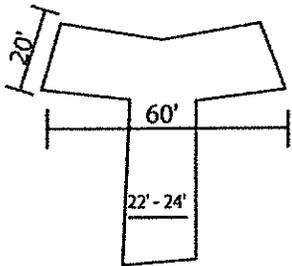
Cul-de-sac



Sight Distance



Intersection Offset



Curb Radius

VI-I. Drainage Facilities

- a. The drainage system and facilities required for any surface run-off affecting the subdivision are subject to approval by the governing body. Subdivisions containing lots less than 20 acres in size must also be reviewed and approved under Title 76, Chapter 4, MCA, by the DEQ.

- b. Curbs and gutters or swales will be required based on the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended in conformance with current specifications of local and state authorities.
- c. Culverts or bridges of adequate size shall be provided and installed by the sub-divider where drainage channels intersect any street right-of-way or easement. Bridges shall be no narrower than the driving portion of the road serving each end, and have a minimum load limit of not less than 40,000 pounds (20 tons). Minimum culvert sizes shall be 15 inches in diameter for driveways and 18 inches in diameter for roads. 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 licensed professional engineer. This shall include arrangements for driveway culverts. The cost and installation of driveway culverts shall be the responsibility of each individual lot owner. Culvert size and length and notification of the lot owner's responsibility shall be clearly stated in the covenants.
- d. The subdivider must provide suitable drainage facilities for any surface runoff affecting the subdivision. These facilities must be located in street rights-of-way or in perpetual easements of appropriate widths.
- e. Drainage systems must not discharge into any sanitary sewer facility.
- f. Drainage systems must be designed and certified by a professional engineer.
- g. The governing body may require the subdivider to grant easements to prevent encroachment or disruption of drainage ways or facilities. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat.

VI-J. Water Supply Systems

- a. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of supplying domestic water to each lot in the subdivision must comply with the design standards adopted by the Montana DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.303, and 17.36.305. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. The governing body may not approve the final plat of a subdivision containing lots of less than 20 acres in size, unless the subdivision has been

approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA.

- c. Any central water supply system must provide adequate and accessible water for fire protection.

VI-K. Sewage Treatment Systems

- a. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of disposing of sewage from each lot in the subdivision must comply with the design standards adopted by the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.312, and 17.36.320 through 17.36.326. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. For subdivisions that will create one or more parcels containing less than 20 acres, the subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA before the governing body can approve the final plat.
- c. For subdivisions containing parcels containing 20 acres or more, the subdivider shall have demonstrated that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot before the governing body may approve the final plat.

VI-L. Solid Waste

- a. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of must comply with the standards adopted by the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.309. By this reference this DEQ standard is incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. Before the governing body will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by the DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act sections 76-4-101, *et seq.*, MCA.
- c. For subdivisions that will create one or more parcels containing 20 acres ore more and less than 160 acres, the proposed method of storing and disposing of solid waste generated within the subdivision in the subdivision must comply with the local environmental health department regulations.

VI-M. Utilities

- a. The subdivider must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision.
- b. Utilities must be placed underground, wherever practical. Underground utilities, if placed in a street right-of-way, must be located between the roadway and the right-of-way line to simplify location and repair of lines. Underground facilities must be installed after the street has been brought to grade and before it is surfaced.
- c. Where practical, overhead utility lines must be located at the rear property line.
- d. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.
- e. Utility easements located between adjoining lots must be centered on lot lines. If easements are placed in the street, they must be located between the roadway and the right-of-way line.
- f. Utility easements must be 15 feet wide unless otherwise specified by a utility company or governing body.
- g. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body, or local or state highway department.
- h. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear 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, cable 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 designated on this plat as ‘Utility Easement’ to have and to hold forever.”

VI-N. Water Course and Irrigation Easements (76-3-504 MCA)

- a. Except as noted in subsection (b), below, the subdivider shall establish within the subdivision ditch easements that:
 - i. 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;
 - ii. are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - iii. 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.

- b. The subdivider need not establish irrigation easements as provided above if:
 - i. 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
 - ii. 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
 - iii. 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.

- c. 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 county 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.

VI-O. Disposition of Water Rights (76-3-504 MCA)

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:

- a. 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;
- b. 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
- c. reserved and severed all surface water rights from the land proposed for subdivision.

VI-P. Park Land Dedication – Cash in Lieu – Waivers – Administration

Parkland dedication or cash in-lieu will be required for all major subdivisions, and all second or subsequent minor subdivisions.

- a. Except as provided below, the final plat of a residential subdivision must show that the subdivider has dedicated to the governing body a cash or land donation equal to:
 - i. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - ii. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre;

- iii. 5% of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres; and
 - iv. 2.5% of the area of the land proposed to be subdivided into parcels larger than three acres and not larger than five acres.
- b. A park dedication is not required for:
- i. minor subdivisions;
 - ii. subdivision lots larger than five acres;
 - iii. nonresidential subdivision lots;
 - iv. subdivisions in which parcels of land will not be created, other than subdivisions that will provide permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or
 - v. subdivisions which will create only one additional parcel.
- c. The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, 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. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision.
- d. The governing body will waive the park dedication requirement if it determines that:
- i. 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; and
 - 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 VI-P;
 - ii. A. the proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or

natural resources; agricultural interests; or aesthetic values;
and

- B. 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 VI-P(a) above;
- iii. A. the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (d)(i) and (ii) above, is reduced by an amount equal to or exceeding the area of the dedication required under subsection VI-P(a); or
- iv. A. 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
B. 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 VI-A-16(a).
- e. The local governing body may waive the park dedication requirement if:
 - i. 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
 - ii. The area of land to be subject to long-term protection, as provided in subsection (e)(i), equals or exceeds the area of dedication required under subsection VI-P(a).
- f. 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 VI-P(a) to a school district, adequate to be used for school facilities or buildings.
- g. The governing body will administer funds dedicated to the public under this section in accordance with 76-3-621, MCA.
- h. For the purposes of this park dedication requirement:
 - i. "cash donation" means the fair market value of the unsubdivided, unimproved land; and

- ii. “dwelling unit” means a residential structure in which a person or persons reside.
- iii. Beaverhead County’s Subdivision Parkland Market Value Determination Policy (Resolution #2007-25) will be used to determine the amount of cash donation.

A Montana State Certified General appraiser shall determine the fair market value of the unsubdivided, unimproved land. A copy of the appraisal report shall be provided to the governing body for calculating the cash-in-lieu donation prior to final plat approval.

The Commissioners may request an additional appraisal by a Montana State Certified General Appraiser, and set the fair market value after considering both determinations.

The appraiser fee shall be the responsibility of the subdivider.

VI-Q. Fire Protection

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 forest or woodland areas as per guidelines outlined in Fire Protection Guidelines For Wildland Residential Interface Development. These guidelines have been adopted by the Montana Fire Chiefs Association, the Montana County Fire Wardens Association, and the Montana Fire Districts Association.

“Firewise” development standards developed by the National Wildland/Urban Interface Fire Protection Program may also be used as guidelines.

Measures must include:

- a. The placement of structures in such a manner so as to minimize the potential for flame spread to permit efficient access for fire fighting equipment.
- b. The County Planner, Local Fire Department and County Fire Warden will review the proposed subdivision and make recommendations to the governing body on the adequacy of fire protection in the area. *Note: Beaverhead Fire District #2 – Dillon Volunteer Fire Dept. has adopted the NFPA Uniform Fire Code as its guideline.

- c. The presence of adequate fire fighting facilities on-site will be required on all subdivisions creating 3 or more lots of a parent parcel of land, or when a second or subsequent subdivision of a parent parcel of ground creates a total of 3 or more lots including the original subdivision lots from the original tract of record. This total number of lots from the original tract of record will be used to determine the size of the required water supply.
- (1). 3 - 5 lots - a 5,000-gallon water supply in the form of a cistern, reservoir, or fill pond located in an appropriate approved location within the subdivision.

Fire protection for Major Subdivisions

- (2). 6-10 lots; A pressurized water system to include a well and pump capable of producing 200 gallons of water per minute with a minimum pressure of 20 PSI for a minimum of two hours. An overhead fill station may be required to in order to fill Department water tenders.
- Or an approved 10,000 gallon year round water source with approved 6" and 2 ½" dry hydrant type fittings capable of flowing 1000 g.p.m. located not more than 1200 feet by roadway footage from furthest point of any structure located in the subdivision.
- (3). 10-20 lots; A pressurized water system to include a well and pump capable of producing 250 gallons of water per minute with a minimum pressure of 20 PSI for a minimum of two hours. An overhead fill station may be required to in order to fill Department water tenders.
- Or an approved 15,000 gallon year round water source with approved 6" and 2 ½" dry hydrant type fittings capable of flowing 1000 g.p.m. located not more than 2000 feet by roadway footage from furthest point of any structure located in the subdivision.
- (4). 20 lots and over; A pressurized water system to include a well and pump capable of producing 500 gallons of water per minute with a minimum pressure of 20 PSI for a minimum of two hours. An overhead fill station may be required to in order to fill Department water tenders.
- Or an approved 30,000 gallon year round water source with approved 6" and 2 ½" dry hydrant type fittings capable of flowing 1000 g.p.m. located not more than 2600 feet by roadway footage from furthest point of any structure located in the subdivision.

NOTE:

If the subdivisions covenants have an enforceable statute mandating that all habitable structures be sprinkled according to National Fire Protection Association (NFPA) standards for residential structures, then up to one half of the water supply requirements will be waived.

- (5). Water Storage Tank Requirements. All supply tanks will be constructed from plastic, concrete, fiberglass capable of holding and maintaining the required water supply. The tank must be built and installed as to last a minimum of 30 years. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the Authority Having Jurisdiction and the County Planner.

Supply capacities may be furnished as a combination of tanks as long as individual tanks are not smaller than 5,000 gallons.

The inlet and outlets of each tank shall include freeze protection measures if necessary.

- (6). Water Supply Maintenance. The homeowner's bylaws and covenants will provide for replacement and maintenance of each water storage tank. The bylaws shall assign the responsibility of maintaining the subdivision's fire water supply system to the Homeowners Association. The bylaws will state that it is the responsibility of the subdivider and the property owners to ensure that the water supply system continually meets its original design criteria. Each subdivision and /or Homeowners Association will be required to submit an annual water supply maintenance report and checklist to the AHJ to ensure the system is functional. If the Authority Having Jurisdiction (AHJ) determines that the property owners within the subdivision are not adequately meeting the requirements for the water supply system maintenance the AHJ may maintain or repair the system. The cost of such maintenance may be levied against the real property within the subdivision and may be foreclosed in any manner allowed by law.
- (7). Fire Department Access. The covenants for the subdivision will state that the fire department will have access to all water system sites for fire suppression, training and for testing of the system.

The water source must have an approved circular turnaround with a minimum easement width of 120 feet and a minimum road-top surface of 70 feet in diameter.

- (8). Commercial or Industrial Lots. For any subdivision containing commercial or industrial lots the NFPA water requirements will be used. Water amounts shall be determined by the size and building construction type of each commercial or industrial building.

Water supply system increases or decreases. Fire flow requirements may be modified by the AHJ when the development of a full fire flow requirements are impracticable or where conditions indicate an unusual susceptibility to group fires or conflagrations.

- d. All major subdivisions shall provide two access roads to assure adequate escape routes for residents and access for fire fighting and other emergency response vehicles. One of these roads may be built to emergency access road standards.
- e. Special standards for subdivisions proposed in areas of high fire hazard will be determined as per guidelines outlined in DNRC Fire Risk Ratings for Existing and Planned Developments.

VI-R. Noxious Weeds

A Beaverhead County Weed Management Plan approved by the Beaverhead County Weed Board will be filed with the Weed Board prior to final subdivision approval. **This plan will also require the posting of a bond.** This plan will include the name and address of the property owner or applicant, the legal description and location of the property, vicinity or other map locating the property and ownership, noxious weed data that will include:

- i. Types of noxious weeds present on property
- ii. Approximate number of acres infested with noxious weeds
- iii. Anticipated land use and other environmental concerns
Subdivision Weed Management Plan Review and Approval Applications will
not be accepted unless accompanied by applicable fees.

After reviewing the Weed Management Plan and making an onsite inspection of the subdivision site, the Beaverhead County Weed Board will approved or reject the application. If the plan is approved, an approval letter will be sent to the property owner or applicant and the Beaverhead County Planning Board

If the plan is rejected, the applicant has the following options:

- i. The Weed Management Plan may be revised by the applicant and resubmitted to the Weed Board for review.
- ii. The applicant may request assistance from the Weed Board or its representative in revising the Weed Management Plan.
- iii. The applicant may request an administrative hearing pursuant to sec. 7-22-110, MCA

The Beaverhead County Weed Board considers the Subdivision Weed Management Plan process a positive means of continuing awareness and education for landowners to be knowledgeable of and responsible for their noxious weed problems. It is the Beaverhead County Weed Board's desire to persist with effective management of the state and county declared noxious weeds, as stated in the Montana County Noxious Weed Control Act.

- iv. Planned weed control activities
- v. Plans for future weed control for a period of 3 to 5 years.
- vi. Signature(s) of property owner(s) must appear on application and must be notarized.

The Beaverhead County Weed Board, or its representative, will inspect the proposed subdivision with consideration given to the filed Weed Management Plan as a reference for noxious weeds infesting the subdivision acreage.

A fee will be paid by the developer to defray the expenses of the onsite inspection of the proposed subdivision and the review of the Subdivision Weed Management Plan. All fees will be paid to Beaverhead County Weed Control.

VI-S. Public Entity Requirements

Proposed subdivisions located adjacent to a town or district providing water, sewer, or other service, may be subject to specific requirements imposed by the entity as a condition for connecting to the entities system, which would be preferred.

**VII. LAND SUBDIVISIONS CREATED BY RENT OR LEASE
AREAS THAT WILL PROVIDE MULTIPLE SPACES FOR
RECREATIONAL CAMPING VEHICLES OR MOBILE HOMES**

VII-A. Definition

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 County Planner for review. The plan shows spaces, not lots. The plan must comply with applicable zoning.

**VII-B. Subdivisions That Will Provide Multiple Spaces for Recreational
Camping Vehicles or Mobile/Manufactured Homes**

a. Recreational Camping Vehicles

Developments which are subject to subdivision review because they will provide two or more spaces for recreational camping vehicles will be reviewed under section VII-F Recreational Vehicle Park Standards, below.

b. Mobile/Manufactured Homes

Developments which are subject to subdivision review because they will provide two or more spaces for mobile/manufactured homes will be reviewed under section VII-E Mobile/Manufactured Home Park Standards, below.

c. Subdivisions for Lease or Rent, Generally

- i. Land subdivision created by rent or lease will be reviewed under the procedures described in Section IV, Major Subdivisions, or Section III, Minor Subdivisions, as may be appropriate, except that the subdivider shall submit an unsurveyed final plan drawn to scale, rather than a final plat, following the Final Plat procedure in Section II.
- ii. Land subdivisions created by rent or lease are subject to the applicable standards contained in Section VI.

VII-C. Procedures for Review

VII-C-1. Review and Approval

Subdivisions which will provide multiple spaces for recreational camping vehicles or mobile homes and subdivisions created for rent or lease are exempt from the

surveying and filing requirements of the MSPA. However, these subdivisions must be submitted for review and approved by the governing body before portions of the subdivision may be rented or leased.

a. Submittal

The subdivider shall submit a completed application in accordance with Section II-A-5 and a plan of the proposed development, conforming to the requirements for preliminary plats.

b. Review

The procedure used to review subdivisions for rent or lease will depend on the number of spaces within the proposed subdivision. Proposed subdivisions containing six or more spaces must be reviewed pursuant to Section IV of these regulations. Proposed subdivisions containing five or fewer spaces must be reviewed pursuant to Section III of these regulations. The subdivider shall submit to the County Planner the preliminary plans, profiles, tentative grades, and specifications for proposed improvements. The plan must show the space layout and the proposed location of the mobile home, recreational vehicle, or other unit on the land included in the plan.

VII-C-2. Improvements

The subdivider shall install all required improvements before renting or leasing any portion of the subdivision. The governing body or its agents will inspect all required improvements in order to assure conformance with the approved construction plans and specifications.

VII-C-3. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a final plan to the County Planner complying with the requirements of Final Plats in Section II. The final plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the (office of the city clerk, clerk and recorder, planning or other).

VII-C-4. DPHHS License

If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a "trailer court," "work camp," "youth camp," or "campground" as those terms are defined in section 50-52-102, MCA, 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.

VII-D. Design Standards for Subdivision Spaces Created by Rent or Lease

VII-D-1. Design Standards

Subdivisions created by rent or lease must comply with the provisions of Section VI.

VII-D-2. Additional Provisions

The governing body may require provision for:

- a. storage facilities on the lot or in compounds located within a reasonable distance;
- b. a central area for storage or parking of boats, trailers, or other recreational vehicles;
- c. landscaping or fencing to serve as a buffer between the development and adjacent properties;
- d. an off-street area for mail delivery; and
- e. street lighting.

VII-E. Mobile/Manufactured Home Park Standards

VII-E-1. Mobile/Manufactured Home Spaces

- a. Mobile/manufactured home spaces must be arranged to permit the safe and practical placement and removal of mobile homes.
- b. All mobile/manufactured homes must be located at least 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park.
- c. The mobile/manufactured home pad must be located at least 10 feet from the street that serves it.
- d. The size of the mobile/manufactured home pad must be suitable for the general market to be served and must fit the dimensions of mobile/manufactured homes anticipated.

- e. 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.
- f. The governing body may require that the mobile/manufactured home pad be improved to provide adequate support for the placement and tie-down of the mobile home.
- g. No mobile/manufactured home or its attached structures, such as awnings and carports, may be located within 20 feet of any other mobile home or its attached structures.
- h. No detached structure, such as a storage shed, may be located within five feet of any mobile/manufactured home or its attached structures.
- i. 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.
- j. One guest parking space must be provided for each 3-mobile/manufactured home spaces. Group parking may be provided.
- k. The limits of each mobile/manufactured home space must be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of space limits on the ground must be approximately the same as those shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground.
- l. Each mobile/manufactured home must be skirted within 30 days after it is moved to a space within the mobile/manufactured home park. The skirting must be of a fire-resistant material similar to that of the mobile/manufactured home exterior.

VII-E-2. Streets

Streets within a mobile/manufactured home park must meet the standards specified in Section VI-H Streets and Roads. Streets must be designed to allow safe placement and removal of mobile homes.

- a. Streets must be designed to provide safe access to public roads.
- b. Roads within the mobile/manufactured home park must be designed to provide safe traffic circulation and parking.
- c. One-way roads must be at least 15 feet wide; two-way roads must be at least 24 feet wide.

VII-E-3. Electrical Systems

Electrical systems must be designed and installed 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 must be designed and constructed in accordance with the applicable state electrical standards.

VII-E-4. Gas Systems

- a. Gas equipment and installations must 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 must be designed and constructed in accordance with the applicable 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 58-1981).
- b. A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system must be installed near to the point of connection of the liquefied petroleum gas container.
- c. Each mobile/manufactured home lot must have an accessible, listed gas shutoff installed. This valve must not be located under a mobile home. Whenever the mobile home lot gas outlet is not in use, the shutoff valve must be plugged to prevent accidental discharge.

VII-F. Recreational Vehicle Park Standards

VII-F-1. Recreational Vehicle Spaces

- a. Spaces in recreational vehicle parks must be arranged to allow for the safe movement of traffic and access to spaces.

- b. Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking.
- c. Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.
- d. No recreational vehicle space may be located less than 25 feet from any public street or highway right-of-way.

VII-F-2. Density

The density of a recreational vehicle park must not exceed 25 recreational vehicle spaces per acre of gross site area.

VIII. PLANNED UNIT DEVELOPMENTS

VIII-A. Purpose

The purpose of this section is to provide flexibility in applying certain subdivision standards, allowing the subdivider creativity in subdivision design. Section 76-3-103(10), MCA defines a planned unit development as “a land development project consisting of residential clusters, industrial parks, shopping centers or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.”

a. Criteria for Designation

The planning board shall review the information and proposed plan and, before designating the subdivision a P.U.D., shall determine that the development plan promotes the clustering of individual building sites, conforms to the definition and intent of this section, and does one or more of the following:

- i. Preserves to the maximum extent possible the natural characteristics of the land including topography, vegetation, streams and other bodies of water.
- ii. Provides economies in the provision of roads and other public improvements.
- iii. Preserves productive agricultural land, open space, or riparian areas.

- iv. Protects areas of important wildlife habitat or important historic sites or structures.
 - v. Provides developed facilities for recreational purposes.
- b. Notification of subdivider

The planning board shall review the plan and within 10 days of the planning board meeting, write a letter to the subdivider stating that the plan has or has not been designated a P.U.D. If designation as a P.U.D. is disapproved, the reasons for disapproval shall be stated in the letter.

- c. Designation is not Approval

Designation as a P.U.D. does not constitute approval of the specific details or modifications proposed by the plan.

VIII-B. Procedures

If the governing body designates a proposed development plan as a PUD, the preliminary plat may then be submitted for review. Submittal must comply with requirements and procedures contained in the following Sections:

IV. Major Subdivisions

II-B Applicable sections for Final Plats

VIII-C. Standards

VIII-C-1. Design Standards

PUDs must comply with the standards contained in Section VI Design and Improvement Standards. However, the governing body may modify the design and improvement standards contained in Section VI-F Lots, Section VI-G Blocks, Section VI-H Streets and Roads, and Section VI-P Park Land Dedication upon request of the subdivider when the plan for a PUD includes provisions for efficient traffic circulation, adequate light, air, and open space. In such cases, no application for a variance under Section XI-B Variances of these regulations is necessary.

VIII-C-2. Streets

The arrangement, type, extent, width, grade and location of all streets must be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety.

VIII-C-3. Open Space

Each PUD must comply with the requirements of Section VI-P(d) of these regulations. The open space must be:

- a. Owned by a property owners' association; or
- b. Dedicated to public use, if acceptable to the governing body; or
- c. A combination of (a) and (b) above.

The governing body may waive dedication or 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 use as parks or playgrounds.

IX. CONDOMINIUMS

IX-A. Procedures

Unless exempted by section 76-3-203, MCA, all condominium developments are subdivisions subject to the terms of the MSPA as follows:

IX-A-1. Review Where Land Will Not Be Divided

If no division of land will be created by a condominium subdivision, the subdivision must be reviewed under the procedures contained in Section VII, Subdivisions Created by Rent or Lease, with the following exception: final approval will not be given until the subdivider has either installed all required improvements, or has entered into a subdivision improvements agreement pursuant to Section II-B-4 Public Improvements Agreement; Guaranty.

IX-A-2. Condominium Subdivisions Involving Land Divisions

If a proposed condominium development will involve a division of land, the subdivision must be reviewed under the procedures contained in Sections:

IV-A Review and Approval Procedures for Major Subdivisions

II-B Applicable sections for Final Plats.

IX-B. Standards

IX-B-1. Design Standards

Condominium developments must comply with applicable standards contained in Section VI, Design and Improvement Standards.

IX-B-2. Unit Ownership Act

Condominium developments must comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA.

X. CLUSTER DEVELOPMENT

Beaverhead County has adopted a growth policy that meets the requirements of 76-1-601, MCA, and further adopts the following to promote cluster development and preserve open space.

X-A. Cluster Development, Option I

- a. As authorized by 76-3-509, MCA, the following apply to subdivisions proposed under this section:
 - i. An area of open space must be preserved that is at least as large as the area that will be developed.
 - ii. Open space must be preserved through an irrevocable conservation easement, granted in perpetuity as provided in Title 76, Chapter 6, prohibiting further subdivision of the parcel.
 - iii. Unless the subdivision will be provided with community sewer or water, each lot in the cluster must be a minimum of one acre.
 - iv. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development.
 - v. The maximum number of parcels permissible in a cluster development is the maximum number of parcels that are authorized by the administrative rules adopted by the DEQ under Title 76, Chapter 4, MCA.

- vi. The maximum size of parcels allowed within a cluster development is 5 acres.
- b. Park dedication requirements for clustered subdivisions created under this section are waived.

X-B. Cluster Development, Option II

- a. The following apply to cluster developments created under this option:
 - i. The development must preserve an area of open space that is at least as large as the area that will be developed.
 - ii. 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.
 - iii. Unless the subdivision will be served by a community sewer or water system, each lot in the cluster must be a minimum of one acre in size.
 - iv. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development.
- b. Park dedication requirements are waived for clustered subdivisions created under this section.

IX. GENERAL COMMERCIAL AND INDUSTRIAL DEVELOPMENT STANDARDS

IX-A. Development Standards Scope:

These standards shall apply to all commercial and industrial subdivisions, and all commercial lots within subdivisions.

IX-A-I. Intent:

These standards are intended to provide for minimum standards for commercial activities that affect the physical aspects of the county. They are intended to preserve property values, and promote the public health, safety, and welfare.

IX-A-2. Minimum Standards:

Plans for commercial or industrial lots shall incorporate the following standards:

- a) Lot area shall be two acres or more in size.
- b) Off-street parking: One space per every 250 square feet of floor area shall be provided. Required parking shall be located so as to preclude backing maneuvers onto any public right-of-way, and shall not be located within any setback area. All off-street parking and driveways shall be paved; improvement plans shall be approved by the Beaverhead County Road Manager.
- c) Setbacks: The following minimum setbacks shall apply:
 - Front setback..... 40 feet
 - Setback from adjacent property.....50 feet
 - Setback from irrigation ditch.....50 feet

For the purpose of measuring setbacks, all protruding portions of buildings or structures shall be part of the building or structure.

IX-A-3. Commercial and Industrial Landscaping Standards:

- a. Landscaping standards scope: These standards shall apply to all commercial, and industrial subdivisions, and all commercial lots within subdivisions.
- b. Intent: The intent of these standards is to: enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings; encourage preservation of existing trees and vegetation on proposed building sites; and control erosion from site disturbance.
- c. Definition: Landscaping shall mean some combination of planted, living trees, shrubs, hedges, vines, ground cover, flowers and lawns suitable for the climate, exposure, and site condition. In addition, the combination or design may include earth sculpture, cobble, bark, mulch, edgers, flower tubs, rock and such structural features as fountains pools art works, screens, walls, fences or benches, but such objects alone shall not meet the requirements of this provision. The selected combination of object sand plants for landscaping purposes shall be arranged in a harmonious manner compatible with the building and its surroundings.

- d. Landscaping area:* Landscaping area shall be the area of the lot or lots less the total area occupied by all buildings on the site. For new site development, landscaping shall be provided according to the following schedule:

<u>Landscaping Area</u> *(as defined above)	<u>Minimum Landscaping Requirements</u>
Up to twenty-two thousand (20,000) square feet	Ten percent (10%) of landscaping area
Twenty-two thousand (22,000) square feet to five (5) acres	Eight percent (8%) of landscaping area
Five (5) acres to ten (10) acres	Six percent (6%) of landscaping area
Ten (10) acres and over	Four percent (4) of landscaping area

- e. Screening: Where landscaped screening is required by the planning director, said screening shall consist of shrubs, evergreen trees, or fencing, or a combination thereof closely spaced and maintained at a height of at least four (4) feet, unless otherwise specified.
- f. Maintenance: Provisions shall be made in the bylaws of the property owners association or other appropriate mechanism for review and approval of site landscaping plans and maintenance.

XI. COMMERCIAL AND INDUSTRIAL SIGN STANDARDS

- a. Sign standards scope: These standards shall apply to all commercial and industrial subdivisions, and all commercial lots within subdivisions.
- b. Intent: These standards are intended to provide for the proper erection, design, and placement of all signs and sign structures not located within a building. Design standards are established in order to achieve the proper relationship of signs to their environment, enhance the outward appearance of the community as a whole, and secure pedestrian and vehicular safety.

- c. General Provisions: Plans for commercial signs shall be submitted to the property owners' association for review. Their restrictive covenants shall incorporate the following sign standards:
- 1) Nothing in these standards shall be interpreted as prohibiting or excluding such signs as are required by law. This includes legal notices and advertisements prescribed by law or posted by any lawful officer or agent.
 - 2) Any sign attached to an exterior window of a building, on the external or internal side of the window, shall be regulated by these standards.
 - 3) All signs shall be maintained by the owner and kept in good repair and shall be painted and repainted at reasonable intervals. The surface of the ground under and about any free-standing on or off premise sign shall be kept clear of weeds, rubbish, and flammable waste material.
 - 4) The supporting members of a roof sign or projecting sign shall appear to be free of any extra bracing angle iron, guy wires, cables, etc. The supports shall appear to be an architectural and integral part of the building. Supporting columns of round, square, or shaped steel members may be erected if required bracing, visible to the public, is minimized or covered.
 - 5) Signs not in use, by reason of change of occupancy or vacation of the building or use, shall be removed within ninety (90) days by the owner of the sign.
 - 6) Illuminated signs, shall be illuminated in such a manner that the light there from shall shine only on the sign on the property on which it is located and shall not shine onto any other property, in any direction, except by indirect reflection. No lighting arrangement shall be permitted which, by reason of brilliance or reflected light, is a detriment to surrounding properties or prevents the reasonable enjoyment of residential uses.
 - 7) No projecting sign, marquee sign, or under marquee sign shall have a vertical clearance of less than eight (8) feet, and no such sign shall have a vertical clearance of less than fourteen (14) feet where it extends over any vehicular driveway or parking area.
 - 8) Projecting signs shall not extend more than ten (10) feet which distance shall be measured horizontally between the outer extremity of the sign and the wall or structure to which it is attached. Where

projecting signs are permitted to extend over public property, the sign may not project beyond ten (10) feet, or within two (2) feet of the curb line, whichever is less.

- 9) No sign shall project or extend into a public right-of-way unless provisions are herein made.

XI. ADMINISTRATIVE PROVISIONS

XI-A. Fee Schedule

XI-A-1. Preliminary Plat Review

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

<u>Number of Proposed Lots, Spaces, or Units</u>	<u>Fee</u>
First Minor Subdivision (1-2 lots)	<u>\$800.00</u>
First Minor Subdivision (3-5 lots) per lot	<u>\$1,500.00</u> plus <u>\$100.00</u>
All Other Subdivisions (including subsequent Minors of 1-5 lots, and Major Subdivisions of 6 lots or more per lot	<u>\$2,500.00</u> plus <u>\$100.00</u>

XI-A-2. Other Reviews

Plat Review – All Surveys	<u>\$200.00</u>
Community Planning Subdivision Lot Fee	<u>\$ 50.00</u> per residential lot <u>\$250.00</u> per commercial lot

Mobile/Manufactured Home Parks and Spaces
Fee schedule above based on spaces

Condominiums
Fee schedule above based on units

Variance Request Review Fee \$100.00

XI-A-3. 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 the county treasurer or planning department at the following rate:

First Minor Subdivisions 1-5 lots	\$250.00
All other Subdivisions including subsequent Minors of 1-5 lots, and all Major subdivisions of 6 or more lots	\$500.00

XI-B. Variances

XI-B-1. Variances Authorized

The governing body may grant variances from Section VI, Design and Improvement Standards, of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations.

The Planning Board or the County Commissioners will conduct a public hearing on any variance request for all major subdivisions and second or subsequent minor subdivisions prior to taking action on the preliminary plat.

The governing body will not approve a variance unless it finds that:

- a. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
- b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed;
- c. The variance will not cause a substantial increase in public costs; and
- d. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

XI-B-2. Variances from Floodway Provisions Not Authorized

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.

XI-B-3. Procedure

The subdivider shall include with the submission of the preliminary plat a written statement describing and justifying the requested variance. The planning board will consider the requested variance and recommend its approval or denial to the governing body.

XI-B-4. Conditions

In granting variances, the governing body may impose reasonable conditions to secure the objectives of these regulations.

XI-B-5. Statement of Facts

When a variance is granted, the motion to approve the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

XI-C. Amendment of Regulations

Before the governing body amends these regulations it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than 15 days or more than 30 days before the date of the hearing.

XI-D. Administration

XI-D-1. Enforcement

Except as provided in 76-3-303, MCA, and these regulations, every 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. If unlawful transfers are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the MSPA and these regulations. The cost of this action shall be imposed against the party not prevailing.

XI-D-2. Violation and Penalties

Any person, firm, corporation, or other entity who violates any of the provisions of the MSPA or these regulations is guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in jail for not more than three 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 the MSPA or these regulations shall be deemed a separate and distinct offense.

XI-D-3. Appeals

- a. A person who has filed with the governing body an application for a subdivision under the MSPA and these regulations 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 the MSPA that is arbitrary or capricious.
- b. A party identified in subsection (d) below who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days after the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
- c. 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.
- d. The following parties may appeal under the provisions of subsection (b) above:
 - i. the subdivider;
 - ii. a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
 - iii. the county commissioners of the county where the subdivision is proposed; and

- iv. one of the following municipalities:
 - A. a first-class municipality as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;
 - B. a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits;
 - C. a third-class municipality, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

APPENDIX A: UNIFORM STANDARDS FOR MONUMENTATION,
CERTIFICATES OF SURVEY, AND FINAL SUBDIVISION
PLATS

24.183.1101 UNIFORM STANDARDS FOR MONUMENTATION

1. The following standards govern the monumentation of land surveys:
 - a. The terms "monument" and "permanent monument" as used in these regulations mean any structure of masonry, metal or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
 - b. All metal monuments must be at least one-half inch in diameter and 18 inches in length with a cap not less than 1 inch in diameter marked in a permanent manner with the license number of the surveyor in charge of the survey and either the name of the surveyor or the company employing the surveyor. Metal monuments marking a public land survey corner as described in 70-22-101, MCA, must be at least 24 inches long and 5/8 inch in diameter with an appropriately stamped metal cap at least 2 inches in diameter. A monument marking a public land survey corner may also consist of a cap as described in this rule set firmly in concrete.
 - c. Before a subdivision plat or certificate of survey may be filed for record the surveyor shall confirm the location of as many monuments as, in the surveyor's professional judgment, are necessary to reasonably assure the perpetuation of any corner or boundary established by the survey and to enable other surveyors to reestablish those corners and boundaries and retrace the survey. The surveyor shall clearly identify on the face of the plat or certificate of survey all monuments pertinent to the survey, and the descriptions of these monuments must be sufficient to identify the monuments.
 - d. The surveyor shall set all monuments prior to the filing of a plat or certificate of survey except those monuments that will be disturbed by the installation of improvements or that, because of severe weather conditions, may, in the surveyor's judgment, be more appropriately and accurately set after the weather has improved. In these two circumstances the surveyor may set monuments after the survey document is filed if the surveyor certifies on the survey document that the monuments will be set by a specified date. The surveyor shall set monuments, the placement of which has been deferred because of severe weather conditions, within 240 days of the date on which the survey document was filed.
 - i. If during the later monumentation of the corners of a plat or certificate of survey that were not monumented before the plat or certificate was filed, the surveyor finds that it is necessary to set a reference monument to a corner, the surveyor shall prepare and file an amended certificate of survey or subdivision plat.

- ii. The failure of the surveyor to set the monuments by the date certified on the record of survey will be deemed a violation of these rules.
- e. The surveyor shall set monuments at the following locations:
 - i. At each corner and angle point of all lots, blocks and parcels of land created by the survey.
 - ii. At every point of intersection of the outer boundary of a subdivision with an existing road right-of-way line of record or a road right-of-way line created by the survey.
 - iii. At every point of curve, point of tangency, point of reversed curve, point of compounded curve and point of intersection on each road right-of-way line created by the survey.
 - iv. At the intersection of a boundary line and a meander line. Meander line angle points need not otherwise be monumented.
- f. If the placement of a required monument at its proper location is physically impractical, the surveyor may set a reference or witness monument. This monument has the same status as other monuments of record if its location is properly shown. If the surveyor relies upon any existing monument in conducting a survey, he or she shall confirm the location of the monument and show and describe it on the resulting certificate of survey or subdivision plat.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

1. A certificate of survey may not be filed by a county clerk and recorder unless it complies with the following requirements:
 - a. A certificate of survey 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 copy on cloth-backed material or on 3-mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.
 - c. If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.
 - d. A certificate of survey must show or contain on its face or on separate sheets referred to on its face the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

- i. A title or title block including the quarter-section, section, township, range, principal meridian and county, and, if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not bear the title "plat," "subdivision" or any title other than "Certificate of Survey."
- ii. The name(s) of the person(s) who commissioned the survey and the names of any adjoining platted subdivisions and the numbers of any adjoining certificates of survey previously filed.
- iii. The date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line or retrace an existing parcel of land.
- iv. A north arrow.
- v. A scale bar. (The scale must be sufficient to legibly represent the required information and data.)
- vi. The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101(1)(c).
 - A. 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.
 - B. 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).
- vii. The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey.
- viii. 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 in the certificate of survey. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the certificate of survey shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.
- ix. The bearings, distances and curve data of all boundary lines. If the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.

- A. 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.
 - B. 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.
- x. 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 certificate of survey must include the bearings of radial lines or chord length and bearing.
 - xi. 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.
 - xii. A narrative legal description of the parcel surveyed as follows:
 - A. 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.
 - B. 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.
 - C. If the parcel surveyed does not fall within (1)(d)(xii)(A) or (B), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the parcel surveyed.
 - D. 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.
 - E. 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.

- xiii. Except as provided by (1)(f)(iv), all parcels created by the survey, designated by number or letter, and the dimensions and area of each parcel. (Excepted parcels must be marked "Not included in this survey.") If a parcel created by the survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification.
 - xiv. The location of any easement that will be created by reference to the certificate of survey.
 - xv. 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 certificate of survey has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-101 through 76-3- 625, MCA) and the regulations adopted under that Act.
 - xvi. A memorandum of any oaths administered under 76-3-405, MCA.
 - xvii. Space for the county clerk and recorder's filing information.
- e. Certificates of survey that do not represent a division of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must bear a statement as to their purpose and must meet applicable requirements of this rule for form and content.
 - f. Procedures for divisions of land exempted from public review as subdivisions. Certificates of survey for divisions of land meeting the criteria set out in 76-3-207, MCA, must meet the following requirements:
 - i. A certificate of survey of a division of land that would otherwise be a subdivision but that is exempted from subdivision review under 76-3-207, 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 is exempt from review as a subdivision and citing the applicable exemption.
 - ii. If 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 recitation of the covenant.
 - iii. If a certificate of survey invokes the exemption for gifts and sales to members of the landowner's immediate family, the certificate must indicate the name of the proposed grantee, the relationship of the grantee to the landowner and the parcel to be conveyed to the grantee.
 - iv. If a certificate of survey invokes the exemption for the relocation of common boundary lines:

- A. The certificate of survey must bear the signatures of all landowners whose parcels will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of or eliminate a boundary line dividing two or more parcels, and must clearly distinguish the prior boundary location (shown, for example, by a dashed or broken line or a notation) from the new boundary (shown, for example, by a solid line or notation);
 - B. The certificate of survey must show the boundaries of the area that is being removed from one parcel and joined with another parcel. The certificate of survey may, but is not required to, establish the exterior boundaries of the resulting parcels. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation;
 - C. If a boundary line will be completely eliminated, the certificate must establish the boundary of the resulting parcel.
- v. 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 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.
 - vi. 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.
 - vii. For purposes of (1)(f), when the 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.
- g. Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in 76-3-201, 76-3-205 and 76-3-209, MCA, and divisions of federally owned land made by a United States government agency are not required to be surveyed, nor must a certificate of survey or subdivision plat showing these divisions be filed with the clerk and recorder. A certificate of survey of one of these divisions may, however, be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule and bears a certificate of the surveyor

performing the survey citing the applicable exemption from the Act or, when applicable, that the land surveyed is owned by the federal government.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

1. A final subdivision plat may not be approved by the governing body or filed by the county 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 1/2-inch margin on the binding side.
 - b. One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.
 - c. If more than one sheet must be used to adequately depict the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to 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 county 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 his or her 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 if other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions, and the numbers of any 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, reset, replaced or removed as required by ARM 24.183.1101(1)(c).

- i. If additional monuments are to be set after the plat is 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.
 - ii. 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.
 - i. 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.
 - ii. 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:
 - i. 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.
 - ii. 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 number of the parcel or lot affected by the survey.
 - iii. If the parcel surveyed does not fall within (2)(p)(i) or (ii), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.
 - iv. If the plat establishes the boundaries 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 (76-3-101 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 county 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. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed or file them with a government official other than the county clerk and recorder, or both.
 - 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.

APPENDIX B: ADMINISTRATIVE MATERIALS

Subdivision Plat Application

Part I General Description And Information

1. Name of the proposed subdivision

2. Location Beaverhead
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. Name of solid waste garbage disposal site and hauler:

6. Is information included which substantiates that there will be no degradation of state waters or that degradation will be nonsignificant?

7. 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

8. 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)

9. 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_____

10. Is the applicant claiming an exemption under Section IV-A-1 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

Signature of owner

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

Date

Phone

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

Name

Signature of subdivider

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

Date

Phone

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 XI-A 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 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:
 - i. The approximate location, size, and depth of existing and proposed sanitary and storm sewers;
 - ii. The approximate location, size, and depth of existing and proposed water mains, lines, wells, and facilities; and
 - iii. The approximate locations of gas lines, fire hydrants or firefighting water storage facilities, electric and telephone lines, and street lights.
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. Calculations for a ten year frequency one-hour storm and a method to mitigate adverse impacts for a 100-year frequency one-hour storm; 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 land sliding 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. Names and addresses of all adjoining property owners;
 16. A proposed road plan and profile that includes:
 - a. Street names.
 - 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:
 - i. widths of turn around radiuses;
 - ii. minimum right-of-way widths at the turnarounds;
 - iii. minimum pavement or road surface width at the turnarounds;
 - iv. 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.
- 17. Encroachment permits from Montana Department of Transportation or the local jurisdiction;
- 18. Proposed easements;
- 19. Proposed disposition of water rights, as required by Section VI-O of the subdivision regulations;
- 20. Parkland dedication calculations.
- 21. 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 County Planner at the pre-application meeting.
 - c. the owners names and addresses of adjacent property.
- 22. Transportation Impact Analysis or Transportation Plan; when applicable
- 23. Fire Risk Rating Analysis or comment from Fire Department
- 24. Weed Management Plan and Re-vegetation Plan;
- 25. Property owners' Association Documents shall accompany the preliminary plat, and at a minimum shall provide the information, form, and contents included in Section II-B-3 of the subdivision regulations;
- 26. 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 VI-D of the subdivision regulations and paragraph 35 of this Part II.
- 29. Required water and sanitation information, including:
 - a. Provide the following attachments to the preliminary plat:
 - i. 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 (X); and
 - 7. the representative drainfield site used for the soil profile description as required under subsection (C)(4); and
 - B. The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities.
 - ii. 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;

- iii. 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

- i. 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;
- ii. 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.i.C.1 below.
 - B. the location, within 500' outside the exterior property line of the subdivision, of public water and sewer facilities;
- iii. 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;
- iv. 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 hydro geological 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;
- C. 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.

- ii. 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 hydro geological 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
 - i. 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, as provided in section C.1.(a)(i)(G), 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 (ii) 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.

- ii. **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.
- iii. **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.
- iv. **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.

c. Storm Water

Unless an exemption is claimed thru D.E.Q. Administrative Rules provide the following:

- i. Describe measures for the collection and disposal of storm run-off from streets and roads within the subdivision.
- ii. Indicate the type of road surface proposed.
- iii. Describe facilities for stream or drainage crossing (e.g., culverts, bridges).
- iv. Describe how surface run-off will be drained or channeled from parcels.
- iv. Indicate whether storm run-off will enter state waters and describe any proposed treatment measures. (A storm-water discharge permit may be required)
- iv. Describe any existing or proposed stream bank 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.
- iv. 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

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

30. A form of Subdivision Improvements Agreement, if proposed;
31. Letter requesting a revocation of agricultural covenants;
32. Letter indicating locations of cultural or historic resources;
33. Variance request or approval;
34. Re-zoning application or approval;
35. 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:
 - i. Watercourse
 - ii. floodplain boundaries
 - iii. location of property
 - iv. contours
 - v. cross-sections
 - vi. bridges or other contractions in the floodplains
 - vii. 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:
 - i. 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.
 - ii. 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.
 - iii. 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)

36. 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
37. Such additional relevant and reasonable information as identified by the County Planner 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 IV-A-1.b 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 stream bank 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:
 - i. Shallow bedrock

- ii Unstable slopes
 - iii Unstable or expansive soils
 - iv Excessive slope
- b. Locate on an overlay or sketch map:
 - i 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:
 - (i) Indicate the distribution of the major vegetation types, such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
 - (ii) 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:
 - (i) Preserve trees and other natural vegetation (e.g. locating roads and lot boundaries, planning construction to avoid damaging tree cover).
 - (ii) Protect critical plant communities (e.g. keeping structural development away from these areas), setting areas aside for open space.
 - (iii) Prevent and control grass, brush or forest fires (e.g. green strips, water supply, access.)
 - (iv) 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 timberland.
- 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.

- i. 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).
- ii. Who would bear these costs (e.g. all taxpayers within the jurisdiction, people within special taxing districts, or users of a service)?
- iii. Can the service providers meet the additional costs given legal or other constraints (e.g. statutory ceilings on mill levies or bonded indebtedness)?
- iv. 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?

- i. By the County \$ _____
- ii. By the municipality if applicable _____
- iii. 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 boding 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, pale ontological, 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.
 - i. Would any stream banks 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?
 - ii. Would groundwater supplies likely be contaminated or depleted as a result of the subdivision?
 - iii. 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?
 - iv. Describe the impacts that removal of vegetation would have on soil erosion, bank, or shoreline instability.
 - v. Would the value of significant historical, visual, or open space features be reduced or eliminated?
 - vi. Describe possible natural hazards the subdivision be 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 feedlots, 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:
 - i. Measures for disposing of storm run-off from streets and roads.
 - ii. Type of road surface and provisions to be made for dust.
 - iii. Facilities for streams or drainage crossing (e.g. culverts, bridges).
 - iv. 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:
 - i 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?
 - ii Law --Enforcement protection – Which of --is the proposed subdivision within the jurisdiction of a County Sheriff or municipal police department
- 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.

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 (city or 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 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 of Examining Land Surveyor Where Required – Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval – County

Certificate of Final Plat Approval – City

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, (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), 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 (Name of Subdivision), 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)

(Acknowledged and notarized signatures of all encumbrances of record)

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

I, (Name of City or Town Clerk), (County Clerk and Recorder) of (Name of City or County), Montana, do certify that the following order was made by the (Governing Body) of (Name of City or County) at a meeting thereof held on the _____ 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 (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (Name of Governing Body) 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 (Name of City or County), Montana this _____ day of _____, 20 ____.

(Seal)

(Signature of Clerk)

Certificate of Examining Land Surveyor Where Required – Final Plat

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for (City or County), Montana, do hereby certify that I have examined the final plat of (Name 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. _____

(City or County)

Certificate of County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) have been paid:

(legal description of land)

Dated this _____ day of _____, 20 ____.

(seal)

(Signature of County Treasurer) Treasurer,
_____ County, Montana

Certificate of Final Plat Approval – County

The County Commission of _____ County, 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)

(Seal of County)

ATTEST:

(Signature of Clerk and Recorder)

_____, Montana

Certificate of Final Plat Approval – City

The (Commission) (Council) of the City (Town) of (Name of City or Town), 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 ____.

by (Signature of City or Town Clerk)
Clerk

(Signature of Mayor)
Mayor

Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)
) ss.
County of _____)

Filed for record this _____ day of _____, 20 ____, at _____ o'clock.

(Signature of Clerk and Recorder)
County Clerk and Recorder, _____ County, Montana

Subdivision Improvements Agreement; Guaranty Subdivision Improvement Agreement

The parties to this Subdivision Improvements Agreement ("this agreement") are _____ ("the Developer") and Beaverhead County.

WHEREAS, the Developer desires to defer construction of improvements described in Attachment (); and

WHEREAS, the purpose of this Agreement is to protect Beaverhead County and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the Subdivision, or for the benefit of lot or home buyers in the Subdivision; and

WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by state law and the County subdivision regulations.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Effective Date: The effective date of this Agreement is the date that final subdivision plat approval is granted by the County.
2. Attachments: The Attachments cited herein are hereby made a part of this Agreement.

Developer's Obligations

3. Improvements: The Developer will construct and install, at his own expense, those subdivision improvements listed in Attachment () of this Agreement. The Developer's obligation to complete the improvements arises upon approval of the final subdivision plat, is not conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and is independent of any obligations of the County contained in this Agreement.
4. Security: To secure the performance of his obligations under this Agreement, the Developer will deposit with the County on or before the effective date, an Irrevocable Letter of Credit (or other financial security acceptable to the local officials) in the amount of \$_____. The letter of credit will be issued by (lending institution), be payable at sight to the County at any time upon presentation of (1) a sight draft drawn on the issuing lending institution in the amount up to \$ _____, (2) a signed statement or affidavit executed by an authorized County official stating that the Developer is in default under this Agreement; and (3) the original copy of the letter of credit.

5. Standards: The Developer will construct the required improvements according to the standards and specifications required by the County as specified in Attachment () of this Agreement.
6. Warranty: The Developer warrants that each and every improvement will be free from defects for a period of 1 year from the date that the County accepts the dedication of the last improvement completed by the Developer.
7. Commencement and Completion Periods: The Developer will complete all of the required improvements within (2) years from the effective date of this Agreement.
8. Compliance with Law: The Developer will comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.

Beaverhead County's Obligations

9. Inspection and Certification:
 - a. The County will provide for inspection of the improvements as they are completed and, where found acceptable, will certify those improvements as complying with the standards and specifications set forth in Attachment () of this Agreement. The inspection and certification will occur within 14 days of notice by the Developer that the improvements are complete and that he desires County inspection and certification. Before requesting County certification of any improvement the Developer will present to the County valid lien waivers from all persons providing materials or performing work on the improvement.
 - b. Certification by the County does not constitute a waiver by the County of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.
10. Notice of Defect: The County will provide timely notice to the Developer whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment (), or is otherwise defective. The Developer will have 30 days from the date the notice is issued to remedy the defect. The County may not declare a default under this Agreement during the 30-day remedy period unless the Developer clearly indicates he does not intend to correct the defect. The Developer will have no right to correct the defect in, or failure of, any improvement found after the County accepts dedication of the improvements.
11. Reduction of Security: After the acceptance of any improvement, the amount that the County is entitled to draw on the letter of credit will be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment (). At the request of the Developer, the County will execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all of the improvements the balance

that may be drawn under the credit will be available to the County for the one-year warranty period plus an additional 90 days.

12. Use of Proceeds: The County will use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

Other Provisions

13. Events of Default: The following conditions, occurrences or actions constitute a default by the Developer during the completion period:
- a. failure to complete construction of the improvements within two years of final subdivision plat approval;
 - b. failure to remedy the defective construction of any improvement within the remedy period;
 - c. insolvency of the Developer or the filing of a petition for bankruptcy;
 - d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.
14. Measure of Damages: The measure of damages for breach of this Agreement is the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment () is prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the Developer's liability. The County may complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.
15. Local Government Rights Upon Default:
- a. Upon the occurrence of any event of default, the County may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost [as shown in Attachment ()] of all improvements previously certified by the County. The County may complete improvements itself or contract with a third party for completion, or the County may assign the proceeds of the letter of credit to a subsequent developer who has acquired the Subdivision and who has the same rights of completion as the County if and only if the subsequent developer agrees in writing to complete the unfinished improvements.
 - b. In addition, the County may suspend final plat approval. During this suspension the Developer may not sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the County until the improvements are completed and certified by the County.

16. Indemnification: The Developer agrees to indemnify and hold the County harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Developer is not an employee or agent of the County.
17. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the County and by the Developer.
18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, is entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each will bear its own costs in their entirety.
19. Third Party Rights: No person or entity who is not party to this Agreement has any right of action under this Agreement, except that if the County does not exercise its rights within 60 days following an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the County to exercise its rights.
20. Scope: The Agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this Agreement is binding on the parties.
21. Time: For the purpose of computing the commencement and completion periods, and time periods for County action, times in which war, civil disasters, acts of God or extreme weather conditions occur will not be included if the events prevent the Developer or the County from performing the obligations under this Agreement.
22. Assigns: The benefits of this Agreement to the Developer may not be assigned without the express written approval of the County. Such approval may not be withheld unreasonably, but any unapproved assignment is void. There is no prohibition on the right of the County to assign its rights under this Agreement.

The County will release the original Developer's letter of credit if it accepts a new security from any developer or lender who obtains the property. However, no action by the County constitutes a release of the original developer from his liability under this Agreement.

23. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal the illegality shall not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision were never part of the Agreement.

Dated this ____ day of _____, 20____.

Beaverhead County Commissioners

Developer

Acceptable Forms Of Improvements Guarantees

Comment:

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider fail to install the required the improvements. A suggested irrevocable letter of credit and commentary are included as part of this Appendix. The other common guaranties are also explained below.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125 percent of the estimated total cost of installing all required improvements.

1. Letter of Credit

Subject to governing body approval, the subdivider shall provide the governing body a letter of credit from a bank or other reputable institution or individual certifying the following:

- a. That the creditor guarantees funds in an amount equal to 125% of the cost, as approved by the governing body, of completing all required improvements.
- b. That if the subdivider fails to complete the specified improvements within the required period, the creditor shall immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash 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.

2. 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 where funds are to be deposited must be approved by the governing body.

Where an escrow account is to be used, the subdivider shall give the governing body an 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. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

3. Property Escrow

The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used, accounting for the possibility of a decline in its value during the guarantee period, must be established by a licensed real estate appraiser or securities broker, as applicable, at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

When property is offered as an improvement guarantee, the subdivider shall:

- a. Enter an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement must be placed on file with the county clerk and recorder.
- b. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.
- c. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

4. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

5. Surety Performance Bond

The bond must 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 must be payable to the County (City) of _____. The bond must be in effect until the completed improvements are accepted by the governing body.

6. Special Improvements 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 or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision shall be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA.

An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and shall be deemed to run with the land.

Comment:

Local officials should be cautious in accepting special improvement districts or rural improvement districts as forms of improvements guaranties. In a number of cases in Montana, the subdivider has been unable to pay the assessments, and the city or county has had to bear the cost of completing the required improvements. These problems occur most frequently where improvement districts are formed as a means to provide improvements on raw land, and local officials may want to avoid creating improvement districts for undeveloped property.

Local officials should consult a bond underwriter before accepting an improvement district as a form of improvements guaranty.

Letters of credit may be revocable, so it is important to express that the letter of credit is irrevocable. Because the letter of credit does not incorporate the subdivision improvement agreement, the issuer of the credit cannot raise objections to the demand for payment. If the letter of credit specifies that the local government need only present a signed statement or affidavit that the subdivider is in default, the local government need not present proof of default or signed statements from any other party.

Under the letter of credit the local government is committed to use the funds for completion of the improvement.

It is important that the expiration date of the letter of credit allows the local government a reasonable amount of time after the improvements completion deadline to inspect the improvements and, if defects are found, prepare proper drafts and present a notice of default to the lending institution.

Lending institutions may be reluctant to issue letters of credit to be in force for long periods of time. Typically, improvements can be completed in 18-24 months, and an additional 1 year warranty period is appropriate to allow the local government to monitor for defects or failures. Following the warranty period an additional 90 days is reasonable to give local officials time to submit any drafts and documentation to draw funds, if necessary.

A "sight draft" commits the payor to make payment at the time the draft is presented, or on sight. Other types of drafts allow a waiting period or approval before the payor must make the payment.

MODEL

IRREVOCABLE LETTER OF CREDIT

Letter of Credit No. ____

Name of Local Government Date
Address

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # ____ for the account of (Subdivider), available by your drafts at sight up to an aggregate amount of \$ _____. Should (Subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for (name of subdivision) we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to expiration date and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

"Drawn under (lending institution), Letter of Credit # ____ dated (date of Letter of Credit)," and the amount drawn endorsed on the reverse hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts shall be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Lending Institution)

(Signature and Title of Official)

APPENDIX C: FIRE PROTECTION GUIDELINES AND RISK RATING FOR WILDLAND INTERFACE DEVELOPMENT

PART I INTRODUCTION

101 Wildfire Protection

In Montana, summer typically brings the fire season _ the result of low rainfall, high temperatures, low humidities, and summer thunderstorms. Nevertheless, major wildfires can occur at any time of the year. Varied topography, semi-arid climate, and numerous human- related sources of ignition make this possible. But Montanans can readily protect lives, property, natural resources, and scenic beauty and greatly facilitate the work of fire suppression organizations by following the guidelines offered in this publication.

Both the Montana Department of State Lands and State Fire Marshal recommend that these guidelines be adopted by local government, fire protection agencies, planners, developers, and homeowners. But because Montana is so large and diverse in terrain, vegetation and weather, it is important that the guidelines be applied with flexibility and in consultation with local fire experts. In some cases, certain trade-offs may be possible. For example, residential sprinklers may be used to compensate for a reduction in driveway width; a wide road with numerous turnouts may suffice, rather than a separate road for access and egress which may not be possible or very expensive to construct. Although our goal must be the protection of life, property, and resources, there may be several alternatives to achieving that end.

102 Wildland Residential Interface

Since the mid-1960's, and particularly in the last 10 to 15 years, people have subdivided and developed wildlands for residential, recreational and commercial uses. This development has created many communities mixed with wildland vegetation. Fire Protection Specialists call these areas the Wildland Residential Interface (WRI).

A WRI fire situation exists anywhere that structures are located close to natural vegetation. A fire can spread from the vegetation to structures or vice-versa. A WRI can vary from a large housing development adjacent to natural vegetation to a structure(s) surrounded by natural vegetation. There are two general categories of WRI:

1. Boundary WRI - An area where a clearly defined, linear boundary of homes meets wildland vegetation. Typically, we find this sort of interface on the fringe of large towns.

2. Intermix WRI - An area where structures are scattered among or mixed with wildland vegetation, without a clearly defined boundary. Typically, we find the intermix WRI in rural areas where people have subdivided wildlands into small parcels of 1 to 40 acres.

103 Common Problems

Fire protection agencies, local governments, developers, planners, and landowners must work together to improve fire protection in the WRI. Some common problems are:

1. Responsibilities and jurisdictions of different fire protection agencies are sometimes unclear.
2. The responsibilities of the developer, planner, and landowner are not well defined. Few people who live, plan, and develop in the interface recognize the wildfire hazards. Consequently, they seldom invest in appropriate fire prevention measures.
3. Frequently no agency takes the responsibility for adopting or enforcing local and State fire regulations.
4. Firefighters often find inadequate roads, insufficient water, and a build-up of natural fuels.
5. Some WRI areas have no organized fire protection agency.

Wildfire disasters in WRI areas are common in many parts of the nation, and the problem is increasing. This can be corrected only through comprehensive planning that includes housing development design, fuels management, and public education. A fire suppression organization by itself will not suffice.

The following guidelines describe how to reduce risk by reducing and managing the buildup of fuels, building and maintaining adequate road systems, providing adequate water to firefighters, and using fire-resistant materials and designs for homes and outbuildings.

PART II GUIDELINES

200 Application

The following guidelines apply to all developments in the WRI, including residential, commercial, and recreational developments on private, State, and Federal lands. The guidelines should be used in conjunction with local fire authorities to safeguard homes and developments in a specific locale.

201 Vegetation Reductions And Clearance

Trees, brush and dense undergrowth are the primary fire hazards. This vegetation can ignite readily, burn with intense heat, and promote rapid spread of fire. Vegetation must be managed so as to reduce exposure of structures to flames and radiant heat during a wildfire. The reduction of flammable vegetation and other hazards around buildings provides a "defensible space" for firefighters and residents. As a minimum, developers and landowners should:

1. **Create a defensible space by:**
 - a. Determining the slope of the building site.
 - b. Use the vegetation-slope charts (Appendices A-D) as a guide. Reduce and remove vegetation around each building according to the slope. Single ornamental trees or shrubs need not be removed as long as all vegetation near them is reduced according to the guideline. Ornamental trees and shrubs should not touch any buildings.
 - c. When planting select trees, shrubs, and vegetation that limit or retard fire spread as suggested below:
 - i. **Perennial:** Choose hardy perennial flowers that are adapted to our climate. These green, leafy, succulent plants are difficult to burn. Watering and regular weeding improves fire resistance.
 - ii. **Shrubs:** Evergreen shrubs such as dwarf conifers or junipers tend to ignite easily; avoid them unless well spaced.
 - iii. **Trees:** Deciduous trees can be clumped, scattered, or planted in greenbelts or windbreak patterns. Evergreen trees tend to ignite easily and should be

spaced in accordance with the landscaping guidelines. (Appendices A-D).

- d. Montana Fire Hazard Reduction Law requires that any person who creates a slash fire hazard as a result of logging or thinning must reduce or manage the hazard. Contact the Montana Department of State Lands for legal requirements and assistance in reducing any identified hazards.

2. Roadside Vegetation:

Maintain roadside vegetation to protect roads from radiant heat, so they can be used both as escape routes and firebreaks (Figure 1). Local conditions will dictate how much vegetation to clear. It is suggested that developers, landowners, and local officials:

- a. Thin trees to 10 feet between crowns.
- b. Remove ladder fuels and prune tree limbs up to 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.

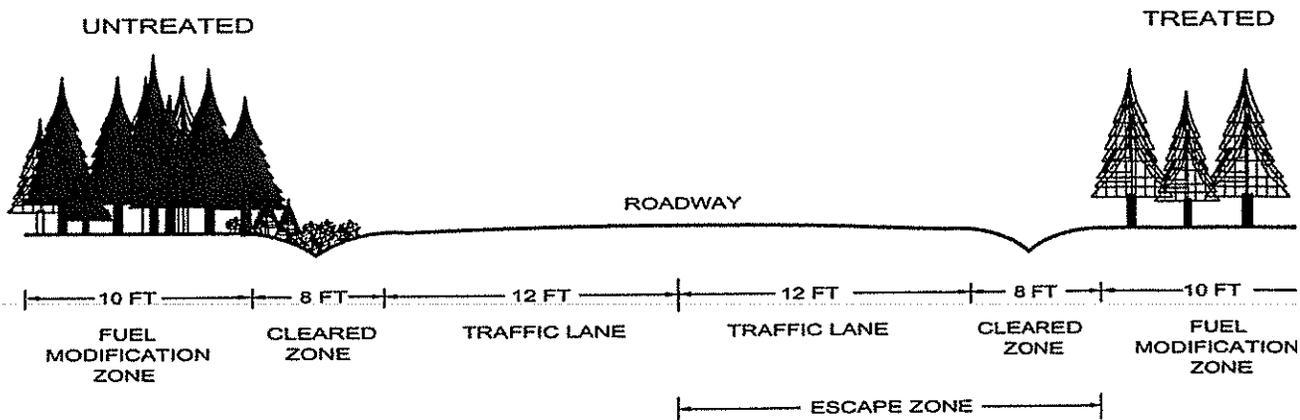


Figure 1 Recommended treatment for roadside vegetation

In an emergency, all road systems shall provide for unobstructed traffic circulation for residents, firefighters, and fire equipment. This requires wide, well-constructed roads with sufficient turnarounds to prevent getting stuck off the road, and to allow simultaneous access by emergency vehicles and escape by local residents. Turns must be designed and hill grades established with truck traffic in mind. Fire departments must be able to drive close to residences. Narrow, private roads, while picturesque and inexpensive to build, reduce access and limit the ability of emergency vehicles to respond quickly.

1. Access Routes

All developments should have more than one access route. Access routes should allow two-way traffic so fire equipment can move in and people move out of an area in an emergency. Access route design should consider escape routes and safety zones. Roads should be designed to meet county standards, if the standards allow for adequate two-way traffic.

2. Primary Roads

Primary roads should be designed and built as follows (Figure 2):

- a. An adequate right-of-way, consisting of:
 - i. Two 12-foot wide driving lanes.
 - ii. Two 8-foot wide zones clear of vegetation. [see Section 201(2).]
 - iii. Two 10-foot wide zones of reduced vegetation. [see Section 201(2).]

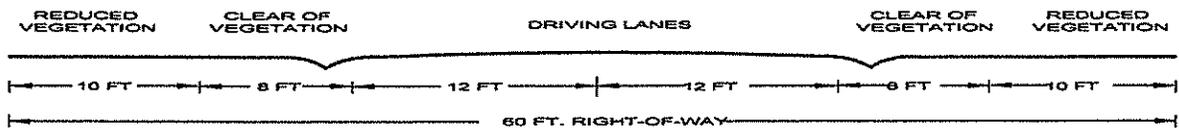


Figure 2 Primary road right of way

3. Secondary Roads

Secondary roads should be designed and built as follows (Figure 3):

- a. An adequate right-of-way, consisting of:
 - i. Two 10-foot wide driving lanes.
 - ii. Two 4-foot wide zones clear of vegetation. [See Section 201 (2).]
 - iii. Two 8-foot wide zones of reduced vegetation. [See Section 201 (2).]

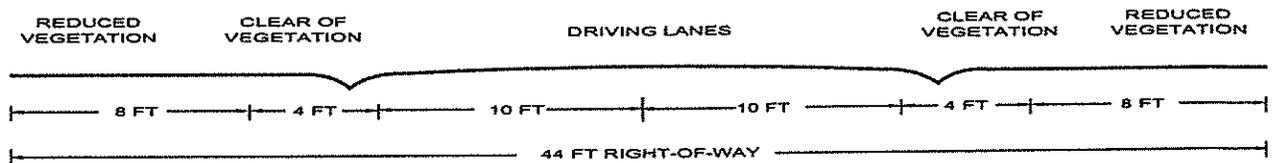


Figure 3 Secondary road right-of-way

4. Rights-of-way

Strive to dedicate all rights-of-way to the county in which they are built. If the county is not accepting rights-of-way, an agency or organization should be designated to be responsible for right-of-way maintenance.

- a. Easements and rights-of-way should be of sufficient width to accommodate the traveled way, shoulders, parking spaces, vegetation modification, and other local requirements along the road or street.

5. Emergency Service Access to Individual Lots and Driveways

Driveways should be constructed as follows (Figure 4):

- a. A minimum unobstructed driving surface of 12 feet and a vertical clearance of 15 feet for driveways less than 300 feet and a 16 foot driving surface for any driveway over 300 feet.
- b. A 4-foot wide zone of reduced vegetation on each side of the driving surface is desirable.
- c. Turnaround space should be provided at all building or structure sites on driveways over 300 feet in length.
 - i. A turnaround should be within 50 feet of the building or structure when there is no community water supply with fire hydrants.
 - ii. A turnaround should be within 150 feet of the building or structure when there is a community water supply with fire hydrants.
- d. If the driveway is less than 16 feet wide turnouts, should be designed and constructed every 300 feet along the driveway's length.
- e. The opening through a gate should be two feet wider than the road.

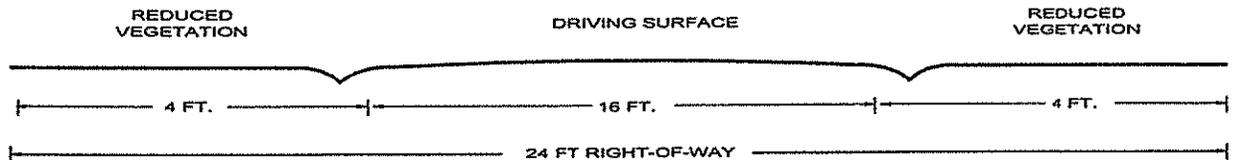


Figure 4 - Individual lots and driveway access

6. Cul-de-sacs

- a. In areas of extreme fire hazard classification, as determined by the local fire authority, the length of a road ending in a cul-de-sac T shall not exceed 600 feet (Figure 5). In all other areas the maximum length will be 1,000 feet.
- b. End all cul-de-sacs with a clearance of at least 90 feet in diameter (45' radius).

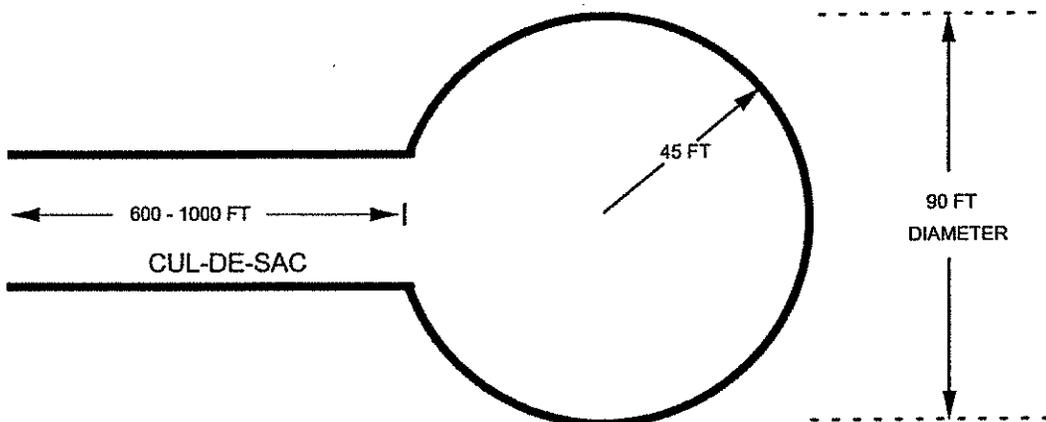
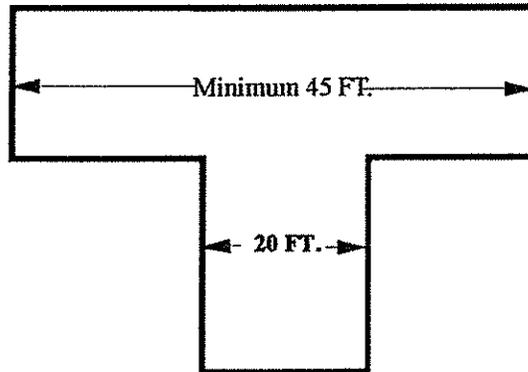


Figure 5 - Cul-de-sac specifications.

7. Hammerhead T Turnarounds

- a. Hammerhead-T designed turnarounds must provide emergency vehicles with a 3-point turnaround capability. In areas of extreme fire hazard classification, as determined by the local fire authority, the length of a road ending in a Hammerhead T shall not exceed 600 feet (Figure 6). In all other areas the maximum length will be 1,000 feet.
- b. Maintain a minimum of 45 feet in length and 20 feet in width of turnaround area.



8. Road Grades

Road grades often will determine what type of emergency fire equipment (if any) can access an area. The desirable road grades should be no greater than 8 percent. However, many factors influence the building of roads, and an 8 percent grade is not always possible or practical. Roads greater than 10 percent may be allowed upon approval by the local fire authority and should consider the following:

- a. Roads with grades steeper than 10 percent should only be allowed when there is no alternative and upon approval of the local fire authority.
- b. In steep areas where roads cannot be built on grades of 10 percent or less, keep the steeper roads as short as possible.
- c. All roads with a grade steeper than 10 percent should be graded and surfaced and of sufficient design to support the weight of 20-ton vehicles.

9. Road and Driveway Intersections

- a. Build road intersections as close to 90 degrees as possible (Figure 7).
- b. Build all roads straight for a distance of 80 feet from any intersection.
- c. Avoid building an intersection at an angle less than 45 degrees.

10. Road Curve Radius

Fire equipment is as varied as road conditions. Consult the local fire authority and design the road to accommodate present and planned developments in terms of getting fire equipment in and people out in the case of an emergency. In general, build road curves in a radius of 100 feet or more (Figure 7).

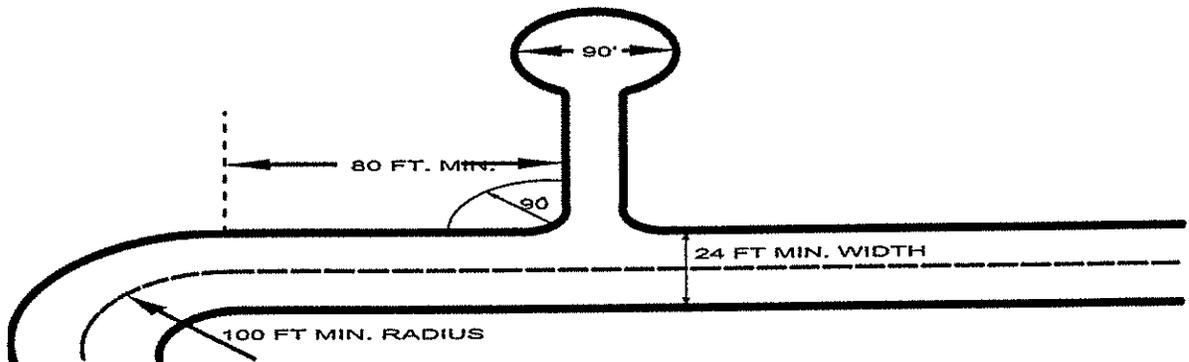


Figure 7 Road curve specifications

11. Bridges

- a. Build bridges as wide as the roads or driveways they connect (Figure 7).
- b. At primary entrances and exits of developed areas, build or reinforce all bridges to a design load of 40 tons (80,000 pounds) minimum.
- c. Build or reinforce all other bridges within developments to a design load of 20 tons (40,000 pounds).
- d. Build all bridges using non-flammable materials.

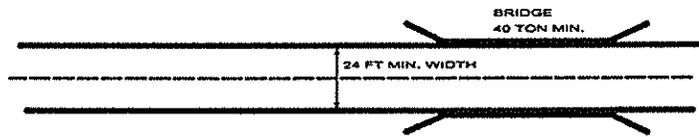


Figure 8 - Primary road bridge specifications

203 Water Storage And Supply

Water is the single most important factor in suppressing structure fires. Water also plays an important role in suppressing wildland fires. Every community should store and supply water in a broadly-based system.

1. Fire Hydrants

If hydrants are planned, install hydrants of the size and type and in locations determined by the local fire authority or jurisdiction, or use the following general guidelines:

- a. In interface areas of 0 to 2 homes per acre, install fire hydrants no more than 660 feet apart. The hydrant system must maintain a minimum flow of 500 gallons per minute.
- b. In interface areas of more than 2 homes per acre, install fire hydrants no more than 330 feet apart. The hydrant system must maintain a minimum flow of 750 gallons per minute.
- c. In areas where the fire authority having jurisdiction has declared a high, very high, or an extreme fire hazard, provide fire hydrants with 30 psi of residual water pressure.

- d. In areas where the fire authority having jurisdiction has declared a low or moderate fire hazard, provide fire hydrants with 20 psi of residual water pressure.
- e. Store and supply enough water to flow through hydrants at the required rate for at least 2 hours. This is in addition to the maximum daily flow that the area needs for domestic water.

2. Water Mains

- a. When hydrants are required, use only waterways at least 6 inches in diameter.
- b. Install gate valves to connect the water mains and fire hydrants.
- c. Replace smaller water mains with ones that meet this standard.
- d. Install water mains that permit circulating water flow.

3. Individual Water Storage and Supply

It is recommended that in WRI areas where homes have an independent water supply, such as an individual well and pump, developers and owners should provide for adequate storage and supply of water for firefighting purposes.

- a. Developers and owners can use cisterns, swimming pools, tanks, lakes, ponds, streams, etc. to store water.
- b. Store at least 2,500 gallons of water per residence in addition to the domestic water source.
- c. Attach a dry hydrant or provide a draft opening to the 2,500 gallon water source. For lakes, ponds, and streams, provide fire engine access as below and install dry hydrants where possible.
- d. Locate the water source where fire engines can easily reach it. On level ground, fire engines must be able to get within 10 feet of the water source to be able to use it effectively.
- e. Install at least two 3/4-inch hose outlets for each building.
- f. Landowners must consult with the local fire authorities to see if they need to operate a water shuttle. If so, develop the shuttle areas as specified.

- g. Equip any electrical pump with a reliable backup electrical generator or an alternative gasoline-powered pump.
- h. Firefighters must be able to find the water source. Document each source of water on the plans of the development, home, or other structure(s), and give this documentation to the local fire authority.
- i. Protect the structures that house water storage or water supply, per Sections 201, 205, and 206.

4. Residential Sprinklers

Residential sprinkler systems provide excellent fire protection. These systems should be considered when evaluating the fire safety of homes. Fire authorities could consider installation of residential sprinkler systems as a trade-off for other fire protection measures.

Contact your local fire authorities to discuss residential sprinkler systems for the protection of your home. Be sure a licensed contractor designs and installs the sprinkler system.

Fire authorities having jurisdiction may require developers or landowners to store or supply water beyond the guidelines detailed above. These address only the minimum water storage and supply guidelines.

204 Fuel Breaks And Greenbelts

WRI fire protection may rely on fuel breaks and greenbelts to separate communities, groups of structures, or individual homes. These breaks can slow or stop the spread of an oncoming fire. Locate fuel breaks and greenbelts to protect both existing and planned developments and adjacent wildlands.

Good landscaping design can incorporate vegetation or fire fuel breaks in planned developments. These fuel breaks should not be a bare soil trail bulldozed around a subdivision, but can be as simple as the removal of dead and fallen trees, tree limbs, shrubs and other flammable vegetation together with breaking the continuity of vegetation in a band 100-300 feet around the development.

One of the most effective means of providing fire protection is the use of open spaces and public use areas such as parks, recreation sites, picnic areas, and perimeter roads to break fuel continuity.

Natural features such as rocky formations with little or no vegetation, rivers or streambeds in which vegetation has been thinned and dead and dying materials removed can also be utilized in an overall subdivision landscaping plan to help retard an advancing wildfire.

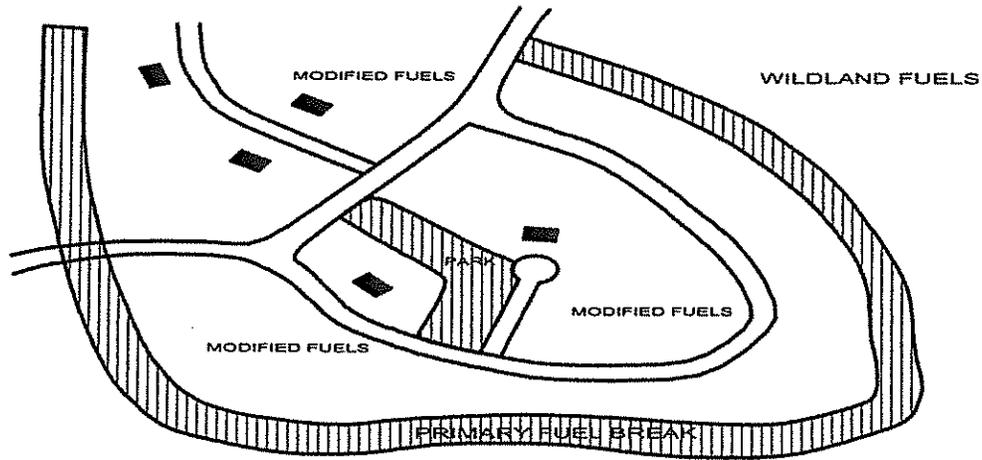


Figure 9 Fuel breaks and fuel modifications designed to protect a development

205 Roof Construction

Wildfire can produce exceptionally strong winds that can carry particles up to a mile from the fire front. These airborne fire brands landing on a roof can ignite the building and threaten other structures. Roof material is more critical than roof construction. Consider the following elements:

1. *Use only Class A or B fire-rated roofing materials.
2. Never use untreated wood shakes or shingles.
3. Where practical, build all roofs with the minimum of a 4 in 12 pitch.
4. If possible, avoid horizontal roofs.

*Wood shakes or shingles can achieve a Class B rating by using a foil-faced or equivalent substrate or underlayment of non-combustible material and when the shakes are periodically treated with fire retardant. Follow manufacturer's treatment guidelines and re-treat as specified.

FIRE RATING OF ROOFING MATERIALS

Fire Rating	Type of Material	Spread Index ***
Class A	Slate Rock shingle Concrete tile Fiberglass based: - asphalt shingle - rolled roofing	0-25
Class B	Aluminum shingle Aluminum or steel panels Periodically treated - wood shingle or shake plus heat barrier	26-75
Class C	Felt-tar based - asphalt shingle - rolled roofing Asphalt tar gravel Periodically Treated - wood shake - wood shingle	76-200
Not Rated	Untreated wood shingle or shake	200++

The Spread Index is determined by the UL Tunnel Test that uses samples of 20 inches by 25 feet of building materials and compares the Flame Spread to Asbestos Cement Board (rated as 0) and uncoated red oak (rated as 100).

The National Fire Protection Association (NFPA) has adopted these classifications based on the American Society for Testing and Materials ASTM-E-84 (UL Tunnel) test results. Federal, State, and local authorities accept these classifications.

206 Building Construction

All buildings in the WRI shall be designed and constructed to comply with the Uniform Building Codes (UBC) and the Uniform Fire Codes (UFC).

1. Eaves, Balconies, Decks, Unenclosed Roofs, and Floors

- a. Protect the exposed underside of all eaves, balconies, and unenclosed roofs, decks, and floors with one-hour fire-resistant materials.
- b. Protect all supporting beams and posts, in stilt or cantilevered construction, with one-hour fire-resistant materials.

2. Vents

- a. Attic openings, soffit vents, foundation louvers, or other direct openings in outside walls, overhangs, or roofs should be no larger than 144 square inches.
- b. Cover all openings in outside walls, overhangs, or roofs with a 1/4-inch non-combustible, corrosion-resistant metal mesh.

3. Chimneys

- a. Install only an approved spark arrester around the mouth of the chimney, stovepipe, or vent of any heater, stove, or fireplace.
- b. Clean spark arrester regularly to remove deposits.

4. Exterior Walls

Build outside walls out of one-hour fire-resistant materials. Do not use shingles, shakes, or rough-cut wood siding to sheathe outside walls.

5. Exterior Rafters

Close off the spaces between outside rafters, wall plates, and the underside of the roof sheathing with wood at least two inches thick or equivalent solid blocking.

6. Windows

Wildfire can radiate through windows, heating the interior of houses to combustion temperature. It can heat, crack, and break the windows, letting in burning particles.

- a. Keep window surface area to a minimum. In particular, since fire usually travels uphill, minimize window surface area on downhill-facing walls.
- b. Build several small windows instead of one large window, as large windows are more vulnerable to fire damage.
- c. Screen all windows.

207 Building Spacing And Densities

The distance between structures directly affects how fast a wildfire can spread. Local governments, developers, owners, and responsible fire authorities should consider base spacing and density dependent on slope and fuels in the area of the structures.

1. Building Spacing

- a. Residential structure spacing must meet county requirements. Attempt to space buildings, including mobile homes, at least 60 feet apart and at least 30 feet from the property line.

2. Building Densities

- a. Locate buildings on each piece of property so that developers and homeowners can reduce vegetation in accordance with Section 201. General guidelines to meet the defensible space are:
 - i. Slope 0% - 20% - A minimum 1 acre for a structure to be placed on lands in forest fuels.
 - ii. Slope 21% - 30% - A minimum 1.5 acre for a structure to be placed on lands in forest fuels.

- b. Never build structures in forest fuels where the slope is greater than 30%, at a canyon mouth, in a ridge saddle, or in other areas of extreme fire hazard.

Clearly designate roads by names and buildings by numbers so emergency personnel can find the fire site quickly. All road signs and address numbers must be visible from the road.

3. Buildings

- a. A building should clearly display the address number between 4 and 8 feet above the ground.
- b. The use of only non-combustible material for address markers is recommended.
- c. Personnel in emergency vehicles must be able to read the address from at least 100 feet. Number all buildings with script at least 4 inches high and at least 1/2-inch wide. The signs should be reflectorized and should contrast with the background color of the sign.
- d. A cluster of buildings owned by the same person may share a single address.

4. Road and Street Signs

- a. The State or county must install and maintain State and county road signs.
- b. The owners of private roads must install and maintain approved private road signs.
- c. The responsible party should place the approved road name on a sign between 4 and 8 feet off the ground, where it can easily be seen.
- d. The use of only non-combustible material for road signs is recommended.
- e. Personnel in emergency vehicles must be able to read the road name from at least 100 feet. Print all road signs with script at least 4 inches high and at least 1/2-inch wide. The signs should be reflectorized, and numbers should contrast with the background color of the sign.

209 **Utilities**

Most fires resulting from electrical lines seem to be caused by distribution lines, not transmission lines. In eastern Montana, however, transmission lines do cause some fires. On classified forest land, utility companies and individuals responsible for utilities, must maintain all rights-of-way in accordance with Rule VIII of the Montana Department of State Lands Forest Fire Regulations, which states:

All persons, firms or corporations who own, control, operate, or maintain electrical transmission or distribution lines shall, prior to the beginning of fire season each year, inspect said power lines for hazards and risks, correct the fire hazards and risks found, and inform the recognized agency that necessary remedial actions have been accomplished.

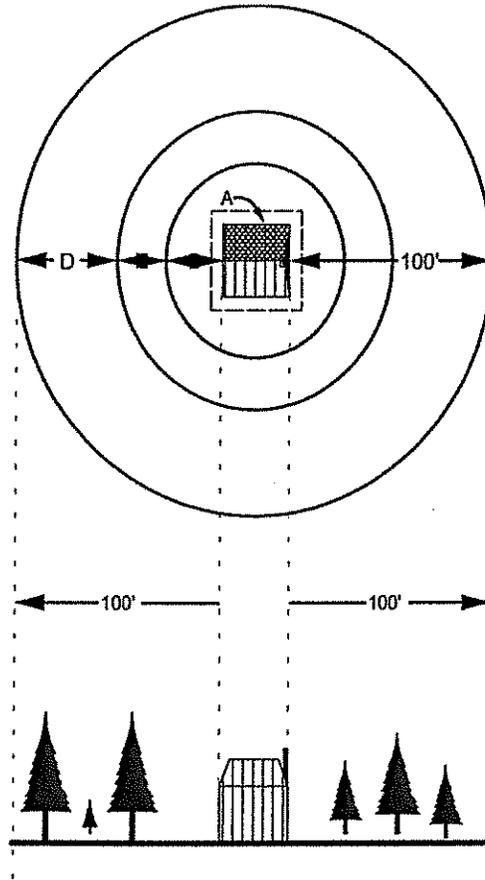
In addition and on all lands:

1. **Distribution Circuit (Line)**
 - a. Build, modify, or extend all distribution lines underground wherever practical.
 - b. For above-ground lines, vegetation in rights-of-way must be managed.

2. **Transmission Circuit (Line)**
 - a. Transmission lines of 34.5 kilovolts and greater cannot be placed underground. Rights-of-way should be free of fire hazards

VEGETATION REDUCTION GUIDELINES

0% TO 10% SLOPE



A = THE FIRST 3 FEET OF B

Maintain an area of non-combustible material - flowers, plants, concrete, gravel, mineral soil, etc.

B = 10 FEET

Remove all trees and downed woody fuels.

C = 20 FEET

Thin trees to 10 feet between crowns.

Prune limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less. Maintain surface vegetation at 3 inches or less.

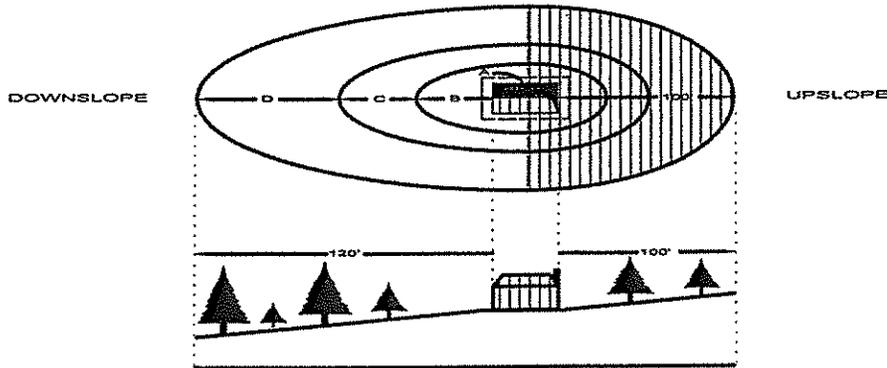
Remove all downed woody fuels.

D = 70 FEET

Thin trees to 10 feet between crowns.

Prune limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less. Remove all downed woody fuels more than 3 inches in diameter.

VEGETATION REDUCTION GUIDELINES 10% TO 20% SLOPE



The shaded areas (upslope) of B, C, & D remain a constant distance of 10', 20', and 70' respectively. The shaded area begins from the mid-section of a structure. The unshaded areas (downslope) of B, C, & D increase with slope as detailed below:

A = THE FIRST 3 FEET OF B

Maintain an area of non-combustible material - flowers, plants, concrete, gravel, mineral soil, etc.

B = 15 FEET

Remove all trees and downed woody fuels.

C = 25 FEET

Thin trees to 10 feet between crowns.

Prune limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less.

Maintain surface vegetation at 3 inches or less.

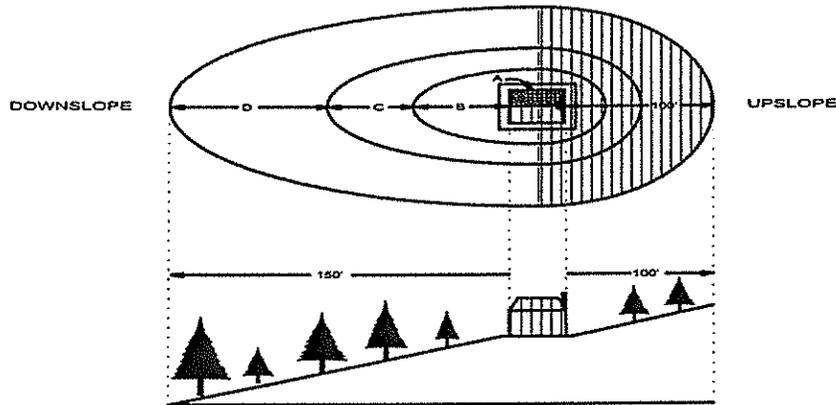
Remove all downed woody fuels.

D = 80 FEET

Thin trees to 10 feet between crowns.

Prune limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less. Remove all downed woody fuels more than 3 inches in diameter.

VEGETATION REDUCTION GUIDELINES 20% TO 30% SLOPE



The shaded areas (upslope) of B, C, & D remain a constant distance of 10', 20', and 70' respectively. The shaded area begins from the mid-section of a structure. The unshaded areas (downslope) of B, C, & D increase with slope as detailed below:

A = THE FIRST 3 FEET OF B

Maintain an area of non-combustible material - flowers, plants, concrete, gravel, mineral soil, etc.

B = 20 FEET

Remove all trees and downed woody fuels.

C = 30 FEET

Thin trees to 10 feet between crowns.

Prune limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less.

Maintain surface vegetation at 3 inches or less.

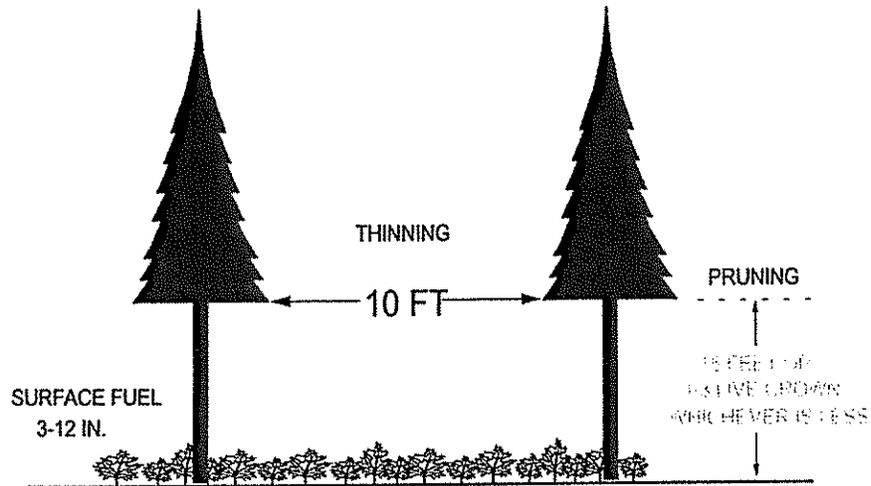
Remove all downed woody fuels.

D = 100 FEET

Thin trees to 10 feet between crowns.

Prune limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less. Remove all downed woody fuels more than 3 inches in diameter.

VEGETATION REDUCTION GUIDELINES THINNING AND PRUNING



In areas where vegetation modification is prescribed, use the following guidelines:

A. THINNING

Thin trees to 10 feet between crowns.

B. PRUNING

Prune the limbs of all remaining trees to 15 feet or one-third the total live crown height, whichever is less.

C. SURFACE VEGETATION

Maintain surface vegetation at 3" to 12" as detailed.

**EXISTING DEVELOPMENT
FORM C - RATING FORM
(Rev. 3/93)**

RATING AREA: _____ **DATE:** _____ **RATED BY:** _____

ROADS

ROAD ACCESS - Items 1 and 2

- Multiple primary access roads = 0
- Two primary access roads = 1
- One primary + one alternative access road = 2
- One-way in/out = 3
- No primary access roads = 4

ROAD SURFACE WIDTH, PRIMARY ACCESS ROUTES - Item 3

- > 28' Road Surface + Shoulder = 1
- 28' Road Surface + Shoulder = 2
- 16 - < 28' Road Surface + Shoulder = 3
- < 16' Road Surface + Shoulder = 4

MAXIMUM ROAD GRADE - Item 4

- 0-5% = 1
- 6-8% = 2
- > 8 - 10% = 3
- > 10% = 4

SECONDARY ROAD ENDINGS - Item 5

- Loops or > 90' Diameter Cul de Sacs = 1
- Cul de Sac Diameter 70-90' = 2
- Cul de Sac Diameter <70' = 3
- Dead Ends - No Cul de Sac = 4

BRIDGES - Items 6 and 7

- No Bridges = 1
- 40 Ton(+) limit on access bridges = 2
- 20-39 Ton limit on all access bridges = 3
- < 20 Ton limit any access bridge = 4

TOPOGRAPHY

SLOPE - Item 8

- 0-10% = 2
- 11-20% = 4
- 21-30% = 6
- > 30% = 8

ASPECT - Item 9

- North (315 degrees through 45 degrees) = 0
- East (46 degrees through 135 degrees) = 1
- Level = 2
- West (226 degrees through 315 degrees) = 3
- South (136 degrees through 225 degrees) = 4

MOST DANGEROUS FEATURE - Item 10

- None = 2
- Adjacent Steep Slopes = 4
- Draws/Ravines = 6
- Chimneys, Canyons, Saddles = 8

FUELS

FUEL TYPE - Item 11

- Grass around >90% of structures = 5
- Low brush field, or open timber around >10% of structures = 10
- Dense conifer or brush field exist around >10% of structures = 15
- Slash, bugkill, dense lodgepole pine exist around >10% of structures = 20

RISK SOURCES - total from Item 12

- 0-4 Risk Sources Present = 5
- 5-8 Risk Sources Present = 10
- 9-12 Risk Sources Present = 15
- 13+ Risk Sources Present = 20

ELECTRICAL UTILITIES - Item 13

- All Underground = 0
- Above Ground/Underground Combination (Well Maintained) = 10
- Above Ground (Poorly Maintained) = 20

HOMES

ROOF MATERIAL - Item 15

- 90-100% of homes have metal, composition, tile or other fire resistant roofing = 5
- 80-89% of homes have metal, composition, tile or other fire resistant roofing = 10
- 75-79% of homes have metal, composition, tile or other fire resistant roofing = 15
- < 75% of homes have metal, composition, tile or other fire resistant roofing = 20

UNENCLOSED BALCONIES, DECKS, EAVES, STILTS, ETC. - Item 16

- < 10% of homes have unenclosed balconies, decks, eaves, stilts, etc. = 1
- 10-20% of homes have unenclosed balconies, decks, eaves, stilts, etc. = 2
- 21-25% of homes have unenclosed balconies, decks, eaves, stilts, etc. = 3
- > 25% of homes have unenclosed balconies, decks, eaves, stilts, etc. = 5

DENSITY OF HOMES - Item 17

- (For 0-30% slope)
 - > 100' between homes = 1
 - 0-100' between homes = 3
 - < 60' between homes = 5

- (For 31-50% slope)
 - > 100' between homes = 2
 - 60'100' between homes = 4
 - < 60' between homes = 6

LANDSCAPING - Item 18

- 76-100% homes meet the fire-resistant landscaping guidelines in the Appendix F = 2
- 51-75% homes meet the fire-resistant landscaping guidelines in the Appendix F = 4
- 26-50% homes meet the fire-resistant landscaping guidelines in the Appendix F = 6
- 0-25% homes meet the fire-resistant landscaping guidelines in the Appendix F = 9

WATER SUPPLY

HYDRANTS - Items 19, 20 and 21

- 500 GPM hydrants available on < 660' spacing = 2
- 500 GPM hydrants available = 4
- < 500 GPM hydrants available = 6
- No hydrants = 8

DRAFT SOURCES - Item 22

- Accessible Sources Available Within Hoselay Distance = 2
- Draft Sources Available Within 5 mi. via primary access roads = 4
- Draft Sources Require Development = 6
- Draft Sources Unavailable = 8

HELICOPTER DIP SPOTS - Item 23

- Under 2 min. turnaround (<1 mi.) = 1
- Within 2-5 min. turnaround (1-2 mi.) = 2
- Within 6 min. turnaround (3 mi.) = 3
- Beyond 6 min. turnaround or Unavailable = 4

STRUCTURAL FIRE PROTECTION - Items 24 and 25

- <= 5 min. from fire department = 5;if VFC = 10
- 6-15 min. from fire department =10;if VFC = 15
- 16-30 min. from fire department =15;if VFC = 20
- No RFD, FSA, municipal fire district or VFC? = 20

HOMEOWNER CONTACT - Items 26 and 27

- Central contact - formal/well organized group (e.g., a homeowners assoc.) = 5
- Less central contact - an informal/loosely organized group (e.g., a civic club or development office) = 10
- Multiple groups - different contacts representing different parts of the community = 15
- No organized contacts = 20

FIRE OCCURRENCE - Item 28

- .00-.10 Fires/1000 ac./10 yr. = 5
- .11-.20 Fires/1000 ac./10 yr. = 10
- .21-.40 Fires/1000 ac./10 yr. = 15
- .40+ Fires/1000 ac./10 yr. = 20

TOTAL SCORE

<= 110	low risk - low priority
111-135	moderate risk - moderate priority
136-150	high risk - high priority
151-170	very high risk - very high priority
>= 171	extreme risk - extreme