

# LEWIS AND CLARK COUNTY SUBDIVISION REGULATIONS

## TABLE OF CONTENTS

### **PREFACE**

### **CHAPTER I.    GENERAL PROVISIONS.....I-I**

Section A. Title.....I-1

Section B. Authority.....I-1

Section C. Purpose.....I-1

Section D. Jurisdiction.....I-3

Section E. Severability.....I-4

### **CHAPTER II.    ADMINISTRATIVE PROVISIONS.....II-I**

Section A. Schedule of Fees.....II-1

Section B. Variance.....II-1

Section C. Amendment of Regulations.....II-2

Section D. Enforcement, Violation and Penalties, Remedies.....II-3

Section E. Restrictive Covenants.....II-5

### **CHAPTER III.  PROCEDURES FOR MAJOR SUBDIVISIONS.....III-I**

Section A. Introduction.....III-3

Section B. Preliminary Plat Review Process.....III-3

Section C. Final Plat Review Process.....III-15

### **CHAPTER IV.  PROCEDURES FOR MINOR SUBDIVISIONS...IV-I**

<u>Section A.</u> Application Review Procedures.....	IV-4
<u>Section B.</u> Summary Review Procedures for Minor Subdivisions Creating One Additional Lot.....	IV-15
<b><u>CHAPTER V.</u>    CORRECTING OR AMENDING FILED FINAL PLATS.....</b>	<b>V-I</b>
<u>Section A.</u> Correcting Filed Final Plats.....	V-1
<u>Section B.</u> Amending Final Plats.....	V-1
<b><u>CHAPTER VI.</u>    PROCEDURES FOR SUBDIVISIONS CREATED BY RENT, LEASE, OR OTHER CONVEYANCE.....</b>	<b>VI-I</b>
<u>Section A.</u> General Procedures.....	VI-1
<u>Section B.</u> Guest Houses and Cabins.....	VI-2
<b><u>CHAPTER VII.</u>    GENERAL STANDARDS FOR MOBILE HOME PARKS.....</b>	<b>VI-I</b>
<u>Section A.</u> Overview.....	VII-1
<u>Section B.</u> Streets.....	VII-2
<u>Section C.</u> The Mobile Home Lot.....	VII-2
<u>Section D.</u> Water Supply.....	VII-4
<u>Section E.</u> Sewage Disposal.....	VII-4
<u>Section F.</u> Solid Waste.....	VII-4
<u>Section G.</u> Electrical Systems.....	VII-4
<u>Section H.</u> Gas Systems.....	VII-4
<u>Section I.</u> Fire Protection.....	VII-5
<b><u>CHAPTER VIII.</u>    GENERAL STANDARDS FOR RECREATIONAL VEHICLE PARKS.....</b>	<b>VIII-I</b>

<u>Section</u> A. Overview.....	VIII-1
<u>Section</u> B. Streets and Recreational Vehicle Spaces.....	VIII-1
<u>Section</u> C. Internal Design.....	VIII-2
<u>Section</u> D. Grading and Drainage.....	VIII-3
<u>Section</u> E. Water Supply.....	VIII-4
<u>Section</u> F. Sewage Disposal.....	VIII-4
<u>Section</u> G. Solid Waste.....	VIII-4
<u>Section</u> H. Fire Protection.....	VIII-4
<b><u>CHAPTER IX.    PLANNED UNIT AND CLUSTER DEVELOPMENTS.....</u></b>	<b>IX-I</b>
<u>Section</u> A. Designation as a P.U.D.....	IX-1
<u>Section</u> B. PUD Procedures.....	IX-2
<u>Section</u> C. PUD Standards.....	IX-3
<u>Section</u> D. Cluster Development (Option I).....	IX-3
<b><u>CHAPTER X. CONDOMINIUMS AND TOWNHOUSES.....</u></b>	<b>X-I</b>
<u>Section</u> A. Condominium Development.....	X-1
<u>Section</u> B. Townhouse Developments.....	X-1
<u>Section</u> C. Standards.....	X-1
<u>Section</u> D. Final Plans.....	X-2
<u>Section</u> E. Improvements.....	X-2
<b><u>CHAPTER XI. GENERAL DESIGN AND IMPROVEMENT STANDARDS.....</u></b>	<b>XI-I</b>
<u>Section</u> A. Introduction.....	XI-1
<u>Section</u> B. Conformance.....	XI-1

<u>Section C.</u> Lands Unsuitable for Development.....	XI-1
<u>Section D.</u> Floodplain Provisions.....	XI-3
<u>Section E.</u> Improvement Design.....	XI-4
<u>Section F.</u> Lots.....	XI-4
<u>Section G.</u> Blocks.....	XI-5
<u>Section H.</u> Streets and Roads.....	XI-6
<u>Section I.</u> Improvements.....	XI-7
<u>Section J.</u> Mailbox Placement and Design.....	XI-8
<u>Section K.</u> Street and Lot Identification.....	XI-9
<u>Section L.</u> Grading, Drainage, and Erosion Control.....	XI-10
<u>Section M.</u> Water Supply Systems.....	XI-13
<u>Section N.</u> Wastewater Treatment Systems.....	XI-15
<u>Section O.</u> Solid Waste.....	XI-16
<u>Section P.</u> Other Utilities.....	XI-16
<u>Section Q.</u> Utility Easements.....	XI-17
<u>Section R.</u> Park Land.....	XI-18
<u>Section S.</u> Fire Protection.....	XI-21
<u>Section T.</u> Agriculture.....	XI-21
<u>Section U.</u> Weed Control.....	XI-21
<u>Section V.</u> Erosion and Sediment Control.....	XI-21
<u>Section W.</u> Waterbody Setbacks and Buffer Areas.....	XI-22
<u>Section X.</u> Fencing Standards for Protecting Wildlife.....	XI-27

Section Y. Commercial Development Standards.....XI-27

Section Z. Outdoor Lighting Control.....XI-28

Section AA. Ridgeline and Hillside Development.....XI-28

**APPENDICES**

A. Information for Applicants and Fee Schedule

B. Preliminary Plat Form, Contents, and Supplements

C. Department of Environmental Quality (DEQ) Joint Application  
General Overview (C-1)  
Part I: General Description and Information (C-2)  
Part II: Required Information for Subdivisions Under Sanitation  
in Subdivisions Laws (C-3)  
Part III: Information Required for Environmental Assessment  
Under the Subdivision and Platting Act (C-4)  
Part IV: Subdivision Checklist (C-5)

D. Standards for Final Subdivision Plats

E. Subdivision Improvement Guarantees

F. Standards for Flood Hazard Evaluation

G. Sample Forms and Certificates

H. Lewis and Clark County Road Naming and Addressing  
Conventions

I. Definitions

J. Criteria for Review of Claimed Exemptions From Provisions of the  
Subdivision and Platting Act

K. County Road Standards

L. County Fire Protection Standards

M. Planning Staff Report Templates, Including Generic Lists of  
Conditions

N. Lewis and Clark County Ex Parte Communication Policy

O. Waterbody Classifications

## **I. GENERAL PROVISIONS**

### **A. Title**

These regulations shall be known and cited as "The Lewis and Clark County Subdivision Regulations."

### **B. Authority**

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

### **C. Purpose**

Land use regulations are the primary way to carry out the Growth Policy. Lewis and Clark County regulates land development and construction through a variety of technical standards resulting in permits and approvals for specific projects. To ensure County regulations are effective and warrant a high degree of public trust and confidence, regulations must be equitable, reasonable, easy to understand, and responsibly administered.

The purposes of these regulations are to promote the public health, safety, and general welfare and to provide for:

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 road easements and public utility easements.
4. The avoidance or minimization of congestion in the streets and the improvement of roads.
5. The provision of adequate open spaces for light, air, parks, and recreation.
6. The provision of adequate transportation, potable water, drainage, and sanitary facilities.
7. The protection of property values and rights of property owners.

8. The avoidance of subdivision that would involve unnecessary environmental degradation.
9. The encouragement of subdivision development in harmony with the natural environment.
10. The avoidance of danger or injury to public health, safety and welfare by reason of natural, or other physical hazard, lack of water, sanitation, drainage, access, transportation, utilities, fire protection, or other public services.
11. The avoidance of excessive expenditure of public funds for the supply of public services.
12. The manner and form of preparing and filing any plat or certificate of survey for subdivided lands.
13. The promotion of cluster development approaches that minimize costs to local citizens, and promote effective and efficient provision of public services.
14. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all proposed plats and site plans of subdivisions covered by these provisions.

The Lewis and Clark County regulations section of the Implementation Strategy of the Lewis and Clark County Growth Policy states that Lewis and Clark County's regulation of land use should:

- a. Help protect public health, safety, and general welfare.
- b. Help protect consumers from fraudulent practices in land use, land sales and development.
- c. Implement and be consistent with the Growth Policy and other adopted land use goals, policies and plans.
- d. Be expeditious, predictable, clear, straightforward, and internally consistent.

- e. Provide clear direction for timely resolution of regulatory conflict.
- f. Be enforceable, efficiently administered, and provide appropriate incentives and penalties.
- g. Be consistently and effectively enforced.
- h. Create public and private benefits in an economically efficient and equitable manner.
- i. Be coordinated with timely provision of necessary public facilities and services.
- j. Encourage creativity and diversity in meeting County goals and policies.
- k. Be coordinated with cities, special purpose districts, and other public agencies to promote compatible development standards throughout Lewis and Clark County.
- l. Be responsive, understandable, and accessible to the public.
- m. Provide effective and statutorily required public notice and pertinent documents at least one calendar week (7 days) for major subdivisions and (5 days) for minor subdivisions before each public hearing. Provide reasonable opportunities for the public (especially those directly affected) to be heard and to influence decisions.
- n. Treat all members of the public equally and base regulatory decisions wholly on applicable criteria and code requirements.
- o. Make development requirements readily accessible and easy to understand to the public through up-to-date codes, technical assistance materials and other relevant documents.

## **D. Jurisdiction**

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Lewis and Clark County.

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, or partly within an adjacent County, the preliminary plat must be submitted to and approved by both the city or town and the county governing bodies. Helena is a first class city; East Helena is a third class town.

These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply.

## **E. Severability**

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

## II. SUBDIVISION ADMINISTRATION

### A. Schedule of Fees

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

### B. Variance

#### 1. Hardship

The governing body may grant a variance from the design and improvement standards in these regulations when strict compliance would result in undue hardship, and when it is not essential to the public welfare. Such a variance shall not have the effect of nullifying the intent and purpose of these regulations. The governing body may 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. The governing body shall not approve a variance unless it makes findings based upon the evidence in each specific case 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. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if these regulations are enforced;
- 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 or applicable, adopted plans.
- e. Innovative designs that address energy conservation, transportation

efficiency, affordable housing, ADA accessibility, or preservation of the natural environment which do not circumvent the purpose of these regulations may be reasons for granting of a variance by the governing body. Costs or financial considerations are not a valid reason for granting a variance, nor are hardships which are self-imposed.

## **2. Procedure**

The subdivider shall include with the submission of the application, a written statement describing any requested variance and the facts of hardship upon which the request for the variance is based. The Planning Board shall make a recommendation, and the governing body will act upon each requested variance at the public meeting or hearing on the preliminary plat of a major subdivision. In the case of all minor subdivisions, the governing body shall consider each requested variance at the public meeting on the preliminary plat or site plan.

## **3. Conditions**

In granting variances, the governing body may impose conditions that will, in its judgment, substantially secure the objectives of these regulations.

## **4. Statement of Facts**

When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing each variance and the facts and conditions upon which it is based.

## **C. Amendment of Regulations**

Before the governing body amends these regulations it shall seek recommendation from the Planning Board and hold a public hearing. It shall give public notice of its intent to amend these regulations and of the public hearing by publishing notice of the time and place of the hearing in a newspaper of general circulation in the county not less than 15 nor more than 30 days prior to the date of the hearing.

## **D. Enforcement, Violation and Penalties, Remedies**

### **1. Enforcement**

- a. 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 (except as noted in Section III A.2. of these regulations). Subdivisions created by rent, lease or other conveyance must have received final approval and be filed in the planning office prior to transfer or occupancy in any manner.
- b. The Director of Community Development and Planning (or their designee) shall serve as the designated agent of the governing body for the jurisdictional area. The Director shall have the authority to administer, interpret, and enforce the Montana Subdivision and Platting Act and these regulations. Decisions of the Director will be in writing, and may be appealed to the governing body within 15 working days following the decision.
- c. The County Attorney may commence action to enjoin any unlawful action or compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations.

### **2. Violations and Penalties**

As detailed in 76-3-105, MCA, any person, firm, corporation, or other entity that violates any of the provisions of the Montana Subdivision and Platting Act or these regulations shall be guilty of a misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$500.00, 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 Montana Subdivision and Platting Act, or these regulations, shall be deemed a separate and distinct offense.

### **3. Remedies**

The governing body may not deny or condition a subdivision approval unless it provides a written statement to the applicant detailing the circumstances of the subdivision denial or condition impositions. The statement must include:

- 1) the reason for the denial or condition imposition;
- 2) the evidence that justifies the denial or condition imposition; and
- 3) Information regarding the appeal process for the denial or condition imposition.

A party who is aggrieved (as defined in Section 76-3-625(4), MCA) by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal the decision to the district court. The petition to the court must specify the grounds upon which the appeal is made.

The following parties may appeal the decision of the governing body:

- a. the subdivider;
- b. a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county, if that landowner can show a likelihood of material injury to the landowner's property or its value;
- c. the county commissioners of the county where the subdivision is proposed; and
- d.
  - (i) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;
  - (ii) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and
  - (iii) a third-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

A person, who has filed with the governing body an application for a subdivision under this chapter, may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.

For the purpose 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 specifically and injuriously affected by the decision.

## **E. Restrictive Covenants**

The County may not approve a subdivision proposal that violates restrictive covenants or deed restrictions governing use of the affected property, unless the covenants are amended prior to or as part of the approval process. Any change to restrictive covenants must follow the procedures outlined in the specific covenants in question. This provision pertains to both covenants put in place by the County, as well as those held by the private landowners. The property owner is responsible for supplying private covenants to the County with the preliminary plat application.

### III. PROCEDURES FOR MAJOR SUBDIVISIONS

#### Overview of Major Subdivision Review Process

##### (Preliminary Plat Review Process for Major Subdivisions)

###### STEP 1:

- A. Initial contact with County Permit Coordinator (447-8392) to set up a pre-application conference.
- B. Applicant develops design.
- C. Pre-application conference: Applicant obtains guidelines, forms, and regulations, discusses proposal and sketch plan with the County Planning and Environmental Health staff. Potential problem areas are identified and regulations are highlighted. The conference must be held no more than 180 days prior to submittal of the preliminary plat application. The Application deadline is provided to the Applicant.
- D. Preparation of formal application based on regulations and pre-application conference. Submission of substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements. A title report must be included with the application. Applicants are encouraged to contact applicable agencies (e.g., County Planning staff, Montana Fish, Wildlife and Parks, DEQ public water and subdivisions bureau, etc.) early as possible while developing their proposals (see Appendix A for contact list).

###### STEP 2:

- A. The application must be submitted to the Planning Office by the deadline, which include submission of substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements. The planning staff has 10 working days to determine whether the application is complete. If the application is incomplete, the applicant will be notified of the deficiencies in writing. The statutory, 60 working day review period begins once the County has determined that a complete application has been

presented. The application and supplements will be distributed for review to agencies, utilities, individuals, and other parties with an interest in the proposal.

- B. Fifteen (15) days prior to public hearing, a notice of hearing is published, and certified letters are mailed to adjacent property owners, the applicant, and subdividers.
- C. Staff analysis of application and comments, with recommendation to Planning Board. Staff will discuss comments and recommendations with applicant prior to Planning Board public hearing.
- D. Planning Board public hearing conducted and subdivision reviewed.
- E. Planning Board recommendation for approval, conditional approval, or disapproval of plat submitted in writing to the governing body and the applicant within ten days of public hearing. Staff will discuss conditions of approval or other aspects of the application with applicant prior to the governing body public hearing.
- F. Governing body meeting to approve, conditionally approve or disapprove plat must be completed within the 60 working day time limit.

Applicant may request in writing an extension of the preliminary plat review process time limit at any stage.

### **(Final Plat Review Process for Major Subdivisions)**

#### **STEP 3:**

- A. Applicant submits a final plat application and has met all the Conditions of Approval as delineated in his/her approval letter.
- B. Final plat submittal to the planning staff must occur in accordance with the stipulated time frame, which is at least one but not more than three calendar years following preliminary plat approval or conditional approval. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a period of one year. The governing body may extend the approval for more than one year if that approval period is included as a condition in a

written subdivision improvements agreement between the governing body and the subdivider, in accordance with 76-3-610, MCA.

- C. Final plat reviewed by governing body and planning staff within 35 days of its acceptance for review. Final plat approval by governing body when plat conforms to the conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.
- D. Final plat filed within ten working days of final plat approval. Plat and supplementary documents filed with the County Clerk and Recorder by the subdivider.

Applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.

## **A. Introduction**

Major subdivisions are considered to be those divisions of property that include six or more parcels, and that otherwise meet the definitions in Title 76-Chapter 3, MCA.

Minor subdivisions that cumulatively result in six or more divisions of the original tract of record will be reviewed as major subdivisions.

## **B. Preliminary Plat Review Process**

The preliminary plat is a to-scale drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements that furnish a basis of review by the governing body.

As described below, the process leading to a decision on the preliminary plat includes meetings with staff; review by staff, Planning Board members, and the County Commission; and opportunities for public review and comment.

## **1. Pre-application Procedures**

The subdivider shall schedule a meeting with the County Planning staff prior to submitting the required preliminary plat. This meeting – which is coordinated by the County Permit Coordinator – is required and must be held no more than one hundred and eighty (180) days prior to submittal of a preliminary plat application. The purpose of this meeting is to discuss these regulations and standards and other pertinent planning documents, to familiarize the subdivider with the applicable goals and objectives of the Lewis and Clark County Growth Policy, and to discuss the proposed subdivision as it relates to these matters.

The planner shall notify the subdivider of the option of concurrent review of the subdivision by the local health department and the Montana Department of Environmental Quality.

The subdivider should provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn, showing the layout of proposed features in relation to existing conditions. The sketch plan should include pertinent information such as the following:

- a) Approximate tract and lot boundaries, with scale dimensions noted.
- b) Location of easements, utilities, rights-of-way, parks and open spaces.
- c) A description of general terrain, natural features, existing structures and improvements, and proposed public improvements.
- d) The sketch plan may be a free hand sketch, made directly on a print of a topographic map.

## **2. Preliminary Plat Application**

The subdivider shall submit for review and approval a preliminary plat application of the proposed subdivision that conforms to the requirements of these regulations. The preliminary plat application shall be prepared in compliance with the requirements listed in Appendix B, and conform to design and improvement of these regulations, including the road and fire standards in Appendix K and L.

If any design features or improvements do not conform with these standards, the subdivider shall submit a written request for variances with the preliminary plat application, pursuant to the process in these regulations.

The subdivider shall submit a written expressed preference for fulfilling the requirement for parkland dedication or cash donation with the preliminary plat application, as stipulated in these regulations (see chapter XI for more details).

The subdivider may set forth in the preliminary plat application a plan for phased development, including filing of the final plat in a phased manner.

### **3. Permission to Enter**

The governing body or its designated agent(s) or agency may conduct investigations, examinations, and site evaluations deemed necessary to verify information supplied as a requirement of these regulations, to post notice, or to adequately evaluate the proposal. The submission of pre-application materials or a preliminary plat for review shall constitute permission to enter the subject property.

In order to facilitate site investigations, the subdivider shall establish visible flagging on the property, located at a minimum on property boundary corners and the entrance intersections of main access roads. This flagging must be established at the time of submittal of the preliminary plat application.

### **4. Preliminary Plat Submission and Distribution**

The subdivider shall submit the following application information to the planning staff as one submittal:

- a. Parts I, II, and III of the Montana Department of Environmental Quality/Local Government Joint Application Form, which includes an environmental assessment, in compliance with the requirements in 76-3-603, MCA (see Appendix C for more details);
- b. The required review fee, as stated in the fee schedule in Appendix A;
- c. Five (5) copies of the preliminary plat or site plan and related supplements;

- d. All supplements required by Appendix B, or as specified at the pre-application conference.
- e. A title report.
- f. Submission of substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements.

The required application materials must be submitted by the monthly deadline for consideration at the next regularly scheduled Planning Board meeting. Applications submitted after the monthly deadline will not be heard until the following regularly scheduled Planning Board meeting.

The planning staff will review the application materials and determine the completeness and sufficiency of the application. This review must be completed within ten (10) working days after receipt of an application.

If the application is found to be deficient, the planning staff will provide written notice to the subdivider of the determination, including a summary of all identified deficiencies; the notice will be sent to the applicant within the ten working day time period.

A sixty (60) working day review period commences on the date the County determines that a complete application has been presented. The review period may be extended based on the applicants written concurrence or request.

Copies of the preliminary plat and supplements will be distributed for review to local entities having a substantial interest in proposed subdivisions, including (but not be limited to) the following:

- Fire, school, and conservation districts.
- Law enforcement, road, and sanitarian/health departments; utilities.
- The United States Forest Service, Bureau of Land Management, and Natural Resources Conservation Service.
- State agencies such as Montana Fish, Wildlife & Parks, the Department of Natural Resources and Conservation, Department of Environmental Quality, and Department of Transportation.
- Other appropriate bodies.

The distribution list may vary, depending on the nature and location of the subdivision proposal.

Review of complete applications by planning staff and other organizations shall not delay the governing body's action beyond the 60 working day limit. Any review comments shall be made available to the subdivider or member of the public upon request. The planning staff will analyze the application and any comments received from other organizations and the public. Findings and the rationale behind them shall be incorporated into a staff report with recommendations to the Planning Board. The staff report will be available at least seven (7) working days prior to the Planning Board hearing.

## **5. Exemptions from Environmental Assessment**

The requirement for preparing an environmental assessment pursuant to Section 76-3-210, MCA and contained in APPENDIX C shall be waived when all of the following requirements have been met:

1. Subdivisions totally within an area that is covered by all of the following are considered to be in the public interest and are exempt from the requirement of an environmental assessment:
  - a) a growth policy adopted pursuant to chapter 1;
  - b) zoning regulations pursuant to [76-2-201](#) or chapter 2, part 3; and
  - c) a strategy for development, maintenance, and replacement of public infrastructure pursuant to [76-1-601](#).
2. A Planning Board established pursuant to chapter 1 may exempt a proposed subdivision within its jurisdictional area from the requirement for completion of any portion of the environmental assessment if:
  - a) the subdivision is proposed in an area for which a growth policy has been adopted pursuant to chapter 1 and the proposed subdivision will be in compliance with the growth policy; or
  - b) the subdivision will contain fewer than 10 parcels and less than 20 acres.

When an exemption is granted under this subsection (2), the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review.

If a properly established Planning Board having jurisdiction does not exist, the governing body may grant exemptions as specified in this subsection (2).

When such an exemption is granted, the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted to the governing body for review.

## **6. Public Hearing**

After planning staff accepts a preliminary plat application as complete, the Planning Board shall hold a public hearing on the application. When a proposed subdivision is also proposed to be annexed to a municipality, the Planning Board may hold joint hearings with the governing body of the municipality on the preliminary plat and annexation.

Notice of the time and date of the 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 hearing. The subdivider and each property owner of record immediately adjoining the land included in a plat shall be notified of the hearing by certified or registered mail, not less than 15 days prior to the date of the hearing. The planning staff may require the posting of the notice of the hearing at conspicuous places on the boundaries of the proposed subdivision.

When a hearing is held by the Planning Board it shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than ten (10) working days after the public hearing. A copy of this recommendation shall also be mailed to the subdivider.

If an applicant makes a substantial change to the application after the Planning Board hearing, the revised proposal must go through the Planning Board hearing

process again. This is to ensure that the Planning Board makes a recommendation on the same proposal that goes before the Commission.

## **7. Recommendation for Preliminary Plat Approval or Disapproval**

The Planning Board shall:

- a. Consider the following:
  - 1) relevant evidence relating to the public health safety, and welfare, including the environmental assessment, staff report, and other related documents;
  - 2) any officially adopted comprehensive plan for the area involved;
  - 3) the review criteria as stated in Section III.B.9.; and
  - 4) whether the preliminary plat conforms to the provisions of:
    - a) the Montana Subdivision and Platting Act;
    - b) these regulations;
    - c) applicable zoning regulations and/or officially adopted plans for the area involved; and
    - d) other regulations in effect in the area of the proposed subdivision.
- b. Within ten (10) days after the public hearing, submit in writing, to the governing body the following:
  - 1) its findings regarding the items under Section a. above;
  - 2) recommended findings of fact which consider the review criteria pursuant to Section 76-3-608, MCA; and

- 3) a recommendation for approval, conditional approval, or disapproval of the plat. A copy of this recommendation, findings of facts and conclusions of law shall also be mailed to the subdivider. If the Planning Board recommends denial of a subdivision, the recommendation shall include the reasons for denial, the findings of facts and conclusions of law.

## **8. Governing Body Action on Preliminary Plat**

The proposed subdivision will be considered at a regularly scheduled meeting of the governing body.

The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, and these local subdivision regulations, based on the following:

- a. the preliminary plat application and supplements;
- b. environmental assessment (Joint Application Form);
- c. Planning Board recommendation;
- d. staff report and related information; and
- e. any additional information

The governing body shall issue written findings of fact that weigh the following criteria, as defined in the Implementation Strategy of the Lewis and Clark County Growth Policy.

- a. effects on agriculture and agricultural water user facilities as defined in the Growth Policy;
- b. effects on cultural and historic resources as defined in the Growth Policy;
- c. effects on local services as defined in the Growth Policy;

- d. effects on the natural environment as defined in the Growth Policy;
- e. effects on wildlife and wildlife habitat as defined in the Growth Policy;
- f. effects on the public health and safety as defined in the Growth Policy;
- g. compliance with the survey requirements of the MSPA and these regulations;
- h. compliance with the regulations and review procedures of these regulations;
- i. provision of easements for the location and installation of utilities;
- j. provision of legal and physical access to each parcel within the subdivision, and the notation of that access on the applicable plat; and
- k. consistent to applicable zoning or other regulations in effect and/or any officially adopted growth policy for the area involved.

Montana statute allows an exemption from review under the “primary” criteria in section 76-3-608(3)(a), MCA. This exemption is available for Counties that have adopted a Growth Policy under Title 76, and otherwise meet the criteria listed under 76-3-608(7), MCA. As discussed in chapter IX, certain exemptions are also available through the cluster development provisions described in 76-3-509, MCA.

If the governing body approves, conditionally approves, or disapproves the preliminary plat, it shall inform the applicant of the decision in writing, stating the reasons for disapproval, or enumerating the conditions of approval. A copy of the plat must be submitted with the letter. This letter shall be mailed not more than twenty (20) working days after the public meeting where action was taken.

As detailed in 76-3-608, MCA, the governing body may require the subdivider to design the subdivision (or provide other measures) to reasonably minimize

potentially significant adverse impacts identified during the review. When requiring mitigation, the governing body shall consult with the subdivider, and give due weight and consideration to their expressed preferences. Such requirements must be justified by the written findings of the governing body. The written statements to the applicant detailing the circumstances of the subdivision denial or condition imposition must include the reason for the denial or condition imposition, the evidence that justifies the denial or condition imposition, and information regarding the appeal process for the denial or condition imposition.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which the decision was based, is inaccurate.

## **9. Preliminary Plat Approval Period**

Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than 3 calendar years or less than 1 calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than 1 calendar year, except that the governing body may extend its approval for a period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider, according to [76-3-507](#). After the preliminary plat is approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval providing said approval is obtained within the original or extended approval period as provided in 76-3-610(1), MCA. Approval of the major subdivision preliminary plat does not constitute approval of the major subdivision final plat.

## **10. Modifying the Conditions of Approval for a Subdivision Preliminary Plat**

If proposed modifications to preliminary plat conditions of approval are substantial, the entire application must be resubmitted and go through the process again. Changes to the conditions of approval that will not substantially change the original conditional approval, may be submitted to the governing body for review and approval. The process was developed to assure due process and equal protection, and requires two major actions by the BOCC (a and b below):

a.

- 1) The Applicant shall send a letter to the BOCC asking that it reconsider a specific condition/s of approval, or in some cases, reconsider the governing body's decision.
- 2) At a public meeting, the BOCC shall make a determination as to whether the applicant's request merits consideration. In order to warrant consideration, the applicant must make a reasonable argument in writing describing why the terms of preliminary plat approval should be reconsidered, stating the following:
  - What circumstances have changed?
  - How will the applicant(s) benefit from the changes?
  - What impacts (both positive and negative) will there be on neighbors, the public in general, and the surrounding environment?

b.

- 1) If the BOCC decides to reconsider the specific condition/s of approval, the applicant must submit the appropriate fee to the Planning Department. Once the application fee is paid, public notice must be given and a public hearing on the matter will be scheduled. In addition, landowners adjacent to the subject subdivision will be notified via the mail of the proposed modification/s and about the public hearing (See Appendix A).
- 2) A staff report and recommendations will be completed, based upon the analysis of all the evidence provided by the applicant and/or available staff.
- 3) The BOCC holds a public hearing on the request. At that hearing, the staff report and recommendations will be presented and the applicant will have the opportunity to make a presentation. The public will have an opportunity to provide comment on the proposed modification.

- 4) After the public hearing, the BOCC shall make a final decision.
- 5) A letter outlining the BOCC's decision and rationale shall be sent to the applicant.

## **11. Construction Timing**

The subdivider should not proceed with any construction work on the proposed subdivision, including grading and excavation relating to public improvements, until he or she obtains from the governing body preliminary approval of the proposed subdivision plat. If the subdivider proceeds with improvements before approval, he/she does so at their own risk.

## **12. Inspection and Certification**

Upon preliminary plat approval, the county will prepare a list of work for which inspection and certification is needed. All public improvements must be inspected and certified, as meeting the applicable standard, by an engineer registered in the State of Montana. The applicant is responsible for the costs of inspections and certifications.

## **13. 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:

- 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; and
- b. That under the terms of the contracts and 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; and

- c. That the contracts and 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; and
- d. That the contracts contain the following language: "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;" and
- e. That the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid; and
- f. A copy of the contracts and escrow agreement described above shall be submitted to the county planning staff.

## **C. Final Plat Review Process**

### **1. Final Plat Contents**

The final plat submitted for approval shall conform in all major respects to the preliminary plat previously reviewed and approved by the governing body, and shall incorporate all modifications required in its review.

The final plat shall comply with the Montana Uniform Standards for Final Subdivision Plats, contained in Appendix D of these regulations.

### **2. Final Plat Application**

An application for final plat review (available at the County Planning Department), together with one (1) paper copy of the final plat and supplements, shall be submitted to the Planning Department at least twenty (20) days before a regularly

scheduled meeting of the governing body. A final plat must be submitted before the expiration of the preliminary plat approval period, or extension thereof.

The final plat may constitute only that portion or phase of the approved preliminary plat the subdivider wishes to file, provided that such portion conforms to all requirements of these regulations and is approved by the governing body in writing. Improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments. (see Standards for Final Plats, Appendix D.)

The final plat must have a certification by the County Treasurer that all taxes and special assessments assessed and levied (currently due or delinquent) are paid on the land proposed for subdivision.

### **3. Final Plat Review**

The final plat will be reviewed by the Planning Department, provided that all requirements for the form, content, and supplements are met, to assure that it conforms to the approved preliminary plat. Any significant change may require the holding of a public hearing for review.

All *public* improvements must be inspected and certified, as meeting the applicable standard, by an engineer registered in the State of Montana.

The governing body requires that all final plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. The subdivider shall bear the cost of this review. When the survey data shown on the plat meet the requirements set forth by the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation and Final Subdivision Plats, the examining land surveyor shall so certify on the plat. No land surveyor having a financial or personal interest in a plat shall act as an examining land surveyor in regard to that plat.

The subdivider shall make any corrections or revisions to the final plat as noted by the planning staff and/or the examining land surveyor. Then one (1) opaque mylar copy, one (1) reproducible mylar copy, one (1) paper copy, and one (1) digital copy, when available, of the final plat shall be prepared and submitted to the Planning Department.

The governing body will provide for the review of the abstract or certificate of title of the land in question by the County Attorney. The subdivider shall bear the cost of these documents.

#### **4. Guarantee of Public Improvements**

As a condition of approval of the final plat, the subdivider shall have installed all required improvements, or shall enter into a subdivision improvements agreement guaranteeing the construction and installation of all such improvements. Alternative methods of guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E of these regulations.

#### **5. Final Plat Approval/Disapproval**

The governing body shall approve the final plat when all the requirements and conditions of the preliminary plat are met.

The governing body shall examine the final subdivision plat and approve it only when it conforms to the conditions of approval set forth on the preliminary plat. The final plat must also conform to the terms of the Montana Subdivision and Platting Act and these regulations. The governing body may approve a final plat which—in their determination--has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment since the time of preliminary plat review and approval.

The governing body shall approve a final plat if it conforms to the approved preliminary plat and the subdivider has completed all required modifications or conditions, and met or exceeded all standards and requirements of these regulations. The governing body shall approve the final plat when all of the requirements and conditions of the preliminary plat are met. Approval shall be certified by the governing body on the face of the final plat.

If the final plat is disapproved, the findings of fact and conclusions of law shall be stated in the records of the governing body, and a copy sent to the applicant. The governing body shall return the opaque mylar copy, the reproducible copy, and digital, when available, to the subdivider within (10) working days of the action.

The applicant may then make the necessary corrections and resubmit the final plat for approval.

## **6. Final Plat Filing**

Within ten (10) working days of the approval of the final plat, the subdivider shall file the opaque mylar copy, the reproducible copy and digital copy, when available, of the approved final plat with the County Clerk and Recorder with the developer paying the filing and recording fees. After approval, the plat shall not be altered in any manner either before or after filing.

The County Clerk and Recorder shall refuse to accept any plat for record that fails to have approval in proper form and shall file approved plats only if they are accompanied by the documents specified in Appendix D, Standards for Final Subdivision Plats.

## **7. Property Owners' Association**

If a common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana and a maintenance district shall be established.

## **IV. PROCEDURES FOR MINOR SUBDIVISIONS**

### **Overview of Minor Subdivision Review Process**

#### **(Preliminary Plat Review Process for Minor Subdivisions)**

##### **STEP 1:**

- A. Initial contact with the County Permit Coordinator (447-8392) to set up a pre-application conference.
- B. Applicant develops concept.
- C. Pre-application conference; applicant discusses proposal with planning staff. Modifications, if any, are discussed. The Application deadline is provided to the Applicant.
- D. Preparation of minor subdivision application based on pre-application conference and regulations. Applicants are encouraged to contact applicable agencies as early as possible while developing their proposals which will include substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements.

##### **STEP 2:**

- A. Submittal of complete application to the planner by application deadline. If a complete application has been presented, a 35 working day review period starts at date of the application deadline. The application and supplements will be distributed for review to agencies, utilities, individuals, and other parties with an interest in the proposal. Staff will be available to discuss comments and recommendations with the applicant prior to the action by the governing body. –
- B. If requested by the Planning staff, the Planning Board may hold a work session on the application at its next regular meeting. Planning staff recommendation is submitted in writing to the governing body and the subdivider.
- C. Governing body action to approve, conditionally approve or disapprove a minor subdivision must be completed within the 35 working day time limit. The Applicant may request an extension of the review process time limit at any stage.

### **(Final Plat Review Process for Minor Subdivisions)**

#### **STEP 3:**

- A. Applicant prepares final plat and satisfies all conditions placed upon the approved application for minor subdivision.
- B. Final plat submitted to planning staff within one year of minor subdivision application approval.
- C. The governing body shall approve or disapprove the minor subdivision final plat within thirty-five (35) working days after receiving a complete application for approval of the final plat.
- D. Final plat approval by governing body when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.
- E. Final plat filed within 10 working days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the subdivider.

### **Overview of Summary Review Process for Minor Subdivisions Creating One Additional Lot**

### **(Preliminary Plat Review Process for Major Subdivisions Creating One Additional Lot)**

#### **STEP 1:**

- A. Initial contact with Permit Coordinator.
- B. Applicant develops concept.
- C. Pre-application conference; applicant obtains guidelines and forms, and discusses proposal with planning staff. Modifications, if any, are discussed.
- D. Preparation of minor subdivision application based on pre-application conference and regulations.

**STEP 2:**

- A. Submittal of complete application to planning staff by application deadline. (If a complete application has been presented, a 35 working day review periods start at date of the application deadline.) The application and supplements will be distributed for review to agencies, utilities, individuals, and other parties with an interest in the proposal.
- B. Planning staff recommendation is submitted in writing to the governing body and the subdivider not later than 15 days after receiving the summary application, provided staff caseload allows. Governing body action to approve, conditionally approve or disapprove the summary review completed within 21 days, provided staff caseload allows. (Maximum statutory review period is 35 days.)
- C. Governing body action to approve, conditionally approve or disapprove the summary review completed within 35 days. (Maximum statutory review period is 35 days.)

**(Final Plat Review Process for Minor Subdivisions Creating One Additional Lot)**

**STEP 3:**

- A. Applicant prepares final plat and satisfies all conditions placed upon the approved application for minor subdivision.
- B. Final plat submitted to planning staff within one year of minor subdivision application approval.
- C. Final plat reviewed by planning staff and governing body within 35 days of its acceptance for review.
- D. Final plat approval by governing when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.
- E. Final plat filed within 10 days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the subdivider.

Applicant may request an extension of the review process time limit at any stage, and may withdraw application at any time during preliminary or final plat review, and the process is

terminated.

## **A. Application Review Procedures for Minor Subdivisions**

Unless deemed necessary for proper and effective public review at the discretion of the Director, the following requirements shall not apply to minor subdivisions:

- a. the completion of an environmental assessment;
- b. the submission of a preliminary plat; and
- c. the public hearing.

It is the purpose of these regulations to help protect public health, safety, and general welfare and to help protect consumers from fraudulent practices in land use, land sales and development. It is not the purpose of minor subdivision review process to allow the creation of de facto major subdivisions containing more than five lots in aggregate over time, without an environmental assessment, park dedication, public hearing, review by the Planning Board, or other requirements. Minor subdivisions that cumulatively result in six or more divisions of the original tract of record will be reviewed as major subdivisions.

In order to determine whether a subsequent minor subdivision from a tract of record (as defined in 76-3-103(16), MCA) may be subject to the procedural requirements for review of a major subdivision, the following criteria shall be considered:

- a. Montana Subdivision and Platting Act
- b. Lewis and Clark County Subdivision Regulations
- c. Other subdivisions in the vicinity
- d. History of previous subdivision applications
- e. Ownership history of subject property and adjacent properties
- f. Dates and procedural requirements of previous subdivisions
- g. Coordination of subdivision design and improvements
- h. Cumulative number of lots that would be created
- i. Other information

The factual and legal circumstances pertaining to the proposed subsequent minor subdivision shall be evaluated with regard to these criteria and the Planning Director shall determine what review procedure will be followed. Subsequent minor subdivisions may be subject to some or all of the procedural requirements of major subdivisions (contained in Section III.A. of these regulations).

## **1. Pre-application Procedures**

The subdivider shall schedule a meeting with County staff through the County Permit Coordinator prior to submitting the required preliminary application, contained in Part 1 of Appendix C. This meeting is required and must be held no more than one hundred twenty (180) days prior to submittal of a preliminary plan application.

The purpose of this meeting is to discuss these regulations and standards, to familiarize the subdivider with the applicable goals and objectives of the Lewis and Clark County Growth Policy, and to discuss the proposed subdivision as it relates to these matters. The planning staff shall notify the subdivider of the option of concurrent review of the subdivision by the local government and the Montana Department of Environmental Quality.

The subdivider should provide a to-scale sketch plan of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn, showing the layout of proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions should be noted. The sketch plan should include pertinent information such as approximate tract and lot boundaries, location of easements, utilities, rights-of-way, parks and open spaces, and a description of general terrain, natural features, existing structures and improvements, and proposed public improvements.

## **2. Permission to Enter**

The governing body or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations, to post notice, or to adequately evaluate the proposal. The submission of pre-application materials or a preliminary plan for review shall constitute a grant of permission to enter the subject property.

In order to facilitate site investigations, the subdivider shall establish visible flagging on the property, located at a minimum on property boundary corners, the entrance, intersections of main access roads, road center lines, and the terminus of cul-de-sacs. This flagging must be established at the time of submittal of the preliminary plat application.

### **3. Application for Minor Subdivision**

The subdivider shall submit the following application information to the planning staff as one submittal:

- a. Part I of the Montana Department of Environmental Quality (DEQ) Local Government Joint Application Form (see Appendix C);
- b. the required review fee as stated in the fee schedule in Appendix A;
- c. copies of the preliminary plat or site plan and related supplements;
- d. a title report.
- e. Submission of substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements.
- f. all supplements as required by Appendix B, or as specified at the pre-application conference;
- g. the preliminary plat or site plan must conform to the design and improvement standards set forth in Section XI of these regulations. If any design features or improvements do not conform with these standards, the subdivider shall submit a written request for variances with the preliminary plat application, pursuant to the procedures in these regulations.
- h. The application materials must be submitted by the monthly deadline.

The planning staff will review the application materials and determine the completeness and sufficiency of the application. This review must be completed within five (5) working days after receipt of an application. If the application is found to be deficient, the planning staff will provide written notice to the applicant of the determination, including a summary of the identified deficiencies; the notice will be sent to the applicant within the five working day time period. A deficient application will not be further processed until a complete application has been presented, at which point the respective review time periods will start over. The 35 working day review period commences on the date that the Director

determines the application is complete.

Copies of the preliminary plat and supplements will be distributed for review by local agencies and utilities having a substantial interest in proposed subdivisions. Such agencies may include school, law enforcement, sanitarian, road department, fire, utility, and conservation district, local office of the United States Forest Service, Bureau of Land Management, Natural Resources Conservation Service, Montana Fish, Wildlife and Parks, and other appropriate bodies. Review by planning staff and public agencies shall not delay the governing body's action within the 35 working day limit. Any review comments shall be made available upon request.

#### **4. Planning Staff Analysis**

The planning staff will analyze the application and any comments received from agency personnel and the public. The staff report will be available at least three (3) working days prior to the governing body meeting.

#### **5. Planning Board Action**

After staff accepts a preliminary application as complete, the Planning Board may hold a work session for the purpose of submitting comments to planning staff on the preliminary plat. The work session shall be called for at the discretion of the Director.

#### **6. Governing Body Action**

The governing body shall hold a public meeting on the proposed minor subdivision. When a proposed subdivision is to be annexed to a municipality, the governing body may hold joint meetings with the governing body of the municipality on the preliminary application and annexation.

Notice of the time and date of the meeting shall be given not less than 15 days prior to the date of the meeting by publication in a newspaper of general circulation in the county and by certified or registered mail to the applicant and each property owner of record immediately adjoining the land included in the preliminary plat. The planning staff may require posting notice of the meeting at conspicuous places on the boundaries of the proposed subdivision.



## **7. Preliminary Application Approval, Approval With Conditions, or Disapproval**

The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, and these local subdivision regulations, based on the following:

- a. the preliminary plat application and supplements;
- b. relevant evidence relating to the public health safety, and welfare; and
- c. staff report and related information; and
- d. additional information (e.g., testimony, agency comment, etc).

The governing body shall issue written findings of fact that weigh the following criteria, as defined in the Implementation Strategy of the Lewis and Clark County Growth Policy:

- a. effects on agriculture and agricultural water user facilities, as defined in the Growth Policy;
- b. effects on cultural and historic resources, as defined in the Growth Policy;
- c. effects on local services, as defined in the Growth Policy;
- d. effects on the natural environment, as defined in the Growth Policy;
- e. effects on wildlife and wildlife habitat, as defined in the Growth Policy;
- f. effects on the public health and safety, as defined in the Growth Policy;
- g. compliance with the survey requirements of the MSPA and these regulations;

- h. compliance with the regulations and review procedures of these regulations;
- i. provision of easements for the location and installation of utilities;
- j. provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat; and
- k. consistency with applicable zoning or other regulations in effect and/or any officially adopted applicable plans for the area involved.

If the governing body approves, conditionally approves or disapproves the preliminary plat, it shall inform the applicant of the decision in writing, stating the reason(s) for disapproval or enumerating the conditions of approval. This letter and preliminary plat shall be mailed not more than ten (10) working days after the public meeting where action was taken.

The governing body may require the subdivider to design the subdivision or provide other measures to reasonably minimize potentially significant adverse impacts identified through the review process. The governing body shall consult with the subdivider to develop reasonable mitigation requirements, giving consideration to the expressed preference of the subdivider. Such requirements must be justified by the written findings of the governing body.

As detailed in 76-3-608, MCA, the governing body may require the subdivider to design the subdivision (or provide other measures) to reasonably minimize potentially significant adverse impacts identified during the review. The governing body shall issue written findings to justify any required mitigation. When requiring mitigation, the governing body shall consult with the subdivider, and give due weight and consideration to his/her expressed preferences. Such requirements must be justified by the written findings of the governing body.

The governing body may withdraw approval of an application if it determines that information provided by the subdivider, and upon which the decision was based, is inaccurate.

## **8. Preliminary Plat Approval Period**

Upon approving or conditionally approving a preliminary application, the governing body shall provide the subdivider with a dated and signed statement of approval. The governing body will establish a term of approval that must be at least one but not more than three calendar years. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a period of one year.

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.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period, as provided above. Approval of the minor subdivision preliminary plat does not constitute approval of the minor subdivision final plat.

## **9. Modifying the Conditions of Approval for a Subdivision Preliminary Plat**

Changes to the conditions of approval that are based on new evidence may be submitted to the governing body for review and approval. If proposed modifications to preliminary plat conditions of approval are substantial, the entire application must be resubmitted and go through the process again. Changes to the conditions of approval that will not substantially change the original conditional approval, may be submitted to the governing body for review and approval. The process was developed to assure due process and equal protection, and requires two major actions by the Board of County Commissioners (a and b below):

a.

- 1) The Applicant shall send a letter to the Board of County Commissioners asking that it reconsider a specific condition(s) of approval, or in some cases, reconsider the governing body's decision.

2) At a public meeting, the BOCC shall make a determination as to whether the applicant's request merits consideration. In order to warrant consideration, the applicant must make a reasonable argument in writing describing why the terms of preliminary plat approval should be reconsidered, stating the following:

- What circumstances have changed?
- How will the applicant(s) benefit from the changes?
- What impacts (both positive and negative) will there be on neighbors, the public in general, and the surrounding environment?

b.

- 1) If the Board of County Commissioners decides to reconsider the specific condition/s of approval, the applicant must submit a \$150.00 fee to the Planning Department. Once the application fee is paid, public notice must be given and a public meeting on the matter will be scheduled. In addition, landowners adjacent to the subject subdivision will be notified via the mail of the proposed modification(s) and meeting.
- 2) A staff report and recommendations will be completed, based upon the analysis of all the evidence provided by the applicant and/or available staff.
- 3) The BOCC holds a public meeting on the request. At that meeting, the staff report and recommendations will be presented and the applicant will have the opportunity to make a presentation.
- 4) At a public meeting, the BOCC shall make a final decision regarding the proposed modification(s).
- 5) A letter outlining the BOCC's decision and the findings of fact and conclusions of law shall be sent to the applicant.

## **10. Construction Timing**

The subdivider should not proceed with any construction work on the proposed subdivision, including grading and excavation relating to public improvements, until he or she obtains from the governing body preliminary approval of the proposed subdivision plat. If the subdivider proceeds with improvements before approval, he/she does so at their own risk.

## **11. Final Plat Application**

An application for final plat (contained in Appendix D), together with one (1) paper copy of the final plat and supplements shall be submitted to the Planning Department for review. All public improvements must be inspected and certified by an engineer registered in Montana.

## **12. Final Plat Review**

The final plat of the minor subdivision will be reviewed by the Planning Department, provided that all requirements for the form, content, and supplements are met, to assure that it conforms to the approved minor subdivision application preliminary plat. The minor subdivision plat submitted for approval shall comply with the Standards for Final Subdivision Plats as contained in Appendix D of these regulations.

The governing body requires that the final subdivision plat be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. The subdivider bears the cost of this review. When the survey data shown on the plat meet the requirements set forth by the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation and Final Subdivision Plats, the examining land surveyor shall so certify on the plat. No land surveyor having a financial or personal interest in a plat shall act as an examining land surveyor in regard to that plat.

The subdivider shall make any corrections or revisions to the preliminary plat as noted by the planning staff and/or the examining land surveyor. Then one (1) opaque mylar copy, and one (1) reproducible mylar copy, one (1) paper copy, and one (1) digital copy, when available, of the final plat shall be prepared and submitted to the Planning Department.

The governing body will provide for the review of the abstract or certificate of title of the land in question by the county attorney. The subdivider bears the cost of these documents.

### **13. Guarantee of Public Improvements**

As a condition of approval of the final plat, the subdivider shall have installed all required improvements or shall enter into a subdivision improvements agreement guaranteeing the construction, installation, and/or maintenance of all such improvements. Alternative methods of guaranteeing public improvements and the procedures and requirement for securing the guarantees are provided in Appendix E.

### **14. Property Owners' Association**

If a common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana, and a maintenance district will be established.

### **15. Final Plat Approval/Disapproval**

The governing body shall approve or disapprove the minor subdivision final plat within thirty-five (35) working days after having met all the conditions of approval of the preliminary plat.

The minor subdivision final plat shall conform in all major respects to the preliminary application and plat previously reviewed and approved by the governing body, and shall incorporate all required modifications. The governing body may approve a final plat which---in their determination--has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment since the time of preliminary plat review and approval.

The governing body shall approve a minor subdivision final plat if it conforms to the approved preliminary application and plat, and if the subdivider has completed all required modifications or conditions, and met or exceeded all standards and requirements of these regulations. Approval shall be certified by the governing body on the face of the minor subdivision final plat.

If the minor subdivision final plat is disapproved, the reasons for disapproval shall be stated in the records of the governing body, and a copy forwarded to the applicant. The governing body shall return the opaque and reproducible mylar

and digital copies, when available of the final plat to the subdivider within (10) working days of the action. The applicant may then make the necessary corrections and resubmit the plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

## **16. Final Plat Filing**

Within ten (10) working days of the approval of the final plat, the subdivider shall submit for filing the approved final plat and supplementary documents with the County Clerk and Recorder, with the subdivider paying the filing and recording fees. After approval, the plat shall not be altered in any manner, either before or after filing. The County Clerk and Recorder shall refuse to accept any plat for record that fails to have approval in proper form or has been altered, and shall file the approved plat only if it is accompanied by the documents specified in Appendix D, (Standards for Final Plats).

## **17. 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:

- 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; and
- 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; and
- 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; and

- d. That the contracts conspicuously contain the following language: "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;" and
- e. That the County Treasurer has certified that all real property taxes and special assessments assessed and levied (currently due or delinquent) on the land to be subdivided have been paid; and
- f. A copy of the contracts and escrow agreement described above shall be submitted to the planning staff.

## **B. Summary Review Procedures for Minor Subdivisions Creating One Additional Lot**

### **76-3-505, MCA. Provision for summary review of minor subdivisions.**

(1) Local subdivision regulations must include procedures for the summary review and approval of subdivision plats containing five or fewer parcels when proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plats have been approved by the department of environmental quality whenever approval is required by part 1 of chapter 4; however, reasonable local regulations may contain additional requirements for summary approval.

- (2) (a) Except when required by local subdivision regulations, proposed subdivisions eligible for summary review under this section that are located entirely within the area covered by a growth policy adopted pursuant to chapter 1 and zoning regulations adopted pursuant to chapter 2, part 2 or 3, are exempt from:
- (i) the requirement to hold a hearing on the preliminary plat pursuant to [76-3-605](#); and
  - (ii) review by the governing body of the criteria in [76-3-608\(3\)\(a\)](#).

- (b) The governing body shall approve, conditionally approve, or disapprove a

proposed subdivision that is eligible for review under this subsection (2) within 35 days of submission of the subdivision application.

The provision for summary review of minor subdivisions is made below.

1. Minor subdivisions which are the second or subsequent subdivisions from a tract of record may be eligible for review under section 76-3-505, MCA. As with section 76-3-609, MCA, to qualify for review under this section a subdivision must contain five or fewer lots to which proper access is provided, and in which no land will be dedicated to public use for parks or playgrounds. If any lot in the subdivision will contain less than 20 acres, the subdivision must have been approved by the Department of Environmental Quality under the Sanitation in Subdivisions Act before it is eligible for review under section 76-3-505, MCA. Under this review, subdivisions are subject to the same procedural requirements as minor subdivisions, except that:
  - a. There shall be no Planning Board review of the summary application; planning staff will make direct recommendation to the governing body once a complete application has been received and reviewed. The governing body shall consider the staff recommendation at its next regularly scheduled meeting.
  - b. The planning staff shall submit a recommendation for approval, conditional approval, or disapproval in writing to the subdivider and the governing body not later than 15 working days after receiving the complete summary application.
  - c. The governing body shall approve, conditionally approve, or disapprove a proposed subdivision that is eligible for summary review within 35 days of the submission of the subdivision application.
  - d. Parkland dedication requirements do not apply.
  - e. There shall be no public hearing required for minor subdivisions eligible for summary review.
  - f. The staff report will be available at least three (3) working days prior to the governing body meeting.

- g. The summary review application must provide proof of legal and physical access, consistent with the standards in these regulations.
2. Under certain circumstances, creation of a space for an additional dwelling unit may be exempt from the review requirements of these regulations. Section 76-3-207 (1)(b), MCA, provides for transfer of a land division to a member of the immediate family, if the property is not located within a platted subdivision. Corollary to this concept, the provision of a space for a dwelling to be occupied by a member of the immediate family may also be considered exempt from review under these regulations, if the following circumstances apply:
- a. the property is not within a platted subdivision;
  - b. there is no sale, rent, lease, other conveyance, or any compensation, consideration, or in-kind service exchanged;
  - c. the property is occupied by a member of the immediate family as defined in Appendix J, Section D.2.a. of these regulations; and
  - d. a family declaration is recorded with the Clerk and Recorder.

The application procedure for such a family declaration is conducted through the County Planning Department. Any other review procedures, permits, or requirements still apply, including, but not limited to issues of wastewater disposal, water supply, driveway approach and access, floodplains, erosion and sediment control, weed management, zoning, covenants, etc. Any subsequent change in occupancy of such a dwelling may be a violation of the Montana Subdivision and Platting Act and these regulations, and the property may be subject to the review provisions.

## **V. CORRECTING OR AMENDING FILED FINAL PLATS**

### **A. Correcting Filed Final Plats**

Corrections of drafting or surveying errors that will not materially alter the plat (see B.1. below) may be made by the submission of a corrected final plat for the governing body's approval. The plat shall be entitled "Corrected Plat of the (name of the subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat. The plat may be filed under the procedures for summary review for minor subdivisions, Section IV.D. of these regulations.

### **B. Amending Final Plats**

#### **1. Material Alterations**

Changes that materially alter any portion of the filed plat, its land divisions, or improvements (as determined by the County Planning Department and/or County Attorney) shall be made by the filing of an amended plat showing all alterations. Within a platted subdivision, any division of lots which results in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the governing body, and an amended plat must be filed with the County Clerk and Recorder.

The amended plat shall be subject to procedures for major or minor subdivisions, as is appropriate. (See Section III of these regulations for major subdivisions or Section IV for minor subdivisions.)

The governing body may not approve an amendment that will place the plat in non-conformance with the standards contained herein unless a public hearing or meeting is held on the plat and a written variance from the standards issued pursuant to Section II.B (variances).

The governing body may not approve an amendment unless it is consented to in writing by all affected property owners within the subdivision.

The final amended plat submitted for approval shall comply with the Standards for Final Plats (Appendix D), with the exception that the title shall include the word "Amended."

## **2. Exemptions for Amended Plat Review**

Amended subdivision plats are subject to the appropriate procedural requirements contained in Sections III. and IV. of these regulations, except that the relocation of common boundaries and the aggregation of lots within platted subdivisions filed with the County Clerk and recorder are exempt from approval as a subdivision where five or fewer of the original lots are affected, or where one lot within and one lot outside a subdivision are affected.

An amended plat must be prepared following the requirements of the Standards for Final Subdivision Plats (Appendix D), except that in place of the governing body's approval the landowner certifies that the approval of the governing body is not required, pursuant to Section 76-3-207(1)(d) or (e), MCA.

## **VI. PROCEDURES FOR SUBDIVISIONS CREATED BY RENT, LEASE OR OTHER CONVEYANCE**

### **A. General Procedures**

1. A subdivision created by rent, or lease or other conveyance (such as mobile or manufactured home and recreational vehicle (RV) parks, or space for an additional dwelling unit) is any tract of land divided by renting, leasing, or otherwise conveying portions thereof. It is owned however, as one parcel under single ownership. Subdivisions created in this manner are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review, and approved by the governing body before portions thereof may be conveyed. As such, no final plat is required for subdivisions created by rent or lease. Approval must be based on the criteria in Section III.B.8 (a-k) of these regulations.
2. Major subdivisions created by rent, lease, or other conveyance shall comply with the appropriate procedures in Section III. Minor subdivisions may receive review as provided for in Section IV, either as a minor subdivision or as a minor subdivision creating one additional lot, whichever is appropriate.
3. For all rental or lease subdivisions, the subdivider shall submit a site plan conforming to the requirements for preliminary plats. Preliminary plat forms, contents and supplements are contained in Appendix B. The preliminary site plan shall show the lot layout and the typical location of the unit(s) on the lot(s). The subdivider shall submit the site plan to the planning staff.
4. The governing body shall approve, conditionally approve, or disapprove the preliminary site plan of a rental or lease subdivision within sixty (60) working days of its complete application if it is a major subdivision, and within thirty-five (35) working days if it is a minor subdivision, unless the subdivider consents to an extension of the review period.

If the governing body approves, conditionally approves or disapproves the preliminary site plan, it shall inform the applicant of the decision in writing.

This letter shall be posted not more than ten (10) working days after the public meeting where action was taken.

5. Before any portion of a rental or lease subdivision may be occupied or conveyed, the subdivider shall have installed all required improvements. Except where deemed unnecessary by planning staff, preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be certified by an engineer registered in Montana, and submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

## **B. Guest Houses and Cabins.**

Lewis and Clark County allows only one development right per parcel; that is what is being assessed during the subdivision review process. However, guesthouses or cabins are permitted if they meet the following criteria, without becoming permanent, fully equipped residences:

1. Serves a secondary use that is clearly subordinate to the principal dwelling.
2. Is under 1,000 square feet.
3. Is occupied no more than 90 total days in any given calendar year.
4. Has no permanent kitchen or cooking facilities.
5. Has no more than two bedrooms.
6. Has the same address as the principal dwelling.
7. The above restrictions are placed on the deed.

## **VII. GENERAL STANDARDS FOR MOBILE AND MANUFACTURED HOME PARKS**

### **A. Overview**

1. Mobile and manufactured home parks created by rent, lease, or other conveyance (except recreational vehicle parks) shall comply with the following provisions of the Design and Improvement Standards in these regulations. Such subdivisions shall also comply with all applicable rules and regulations of the Montana Department of Environmental Quality (DEQ) and the Department of Public Health and Human Services (DPHHS) These provisions also supplement applicable standards for major and minor subdivisions covered in chapters III and IV of these regulations.
2. The governing body may require provision of:
  - a. Storage facilities on the lot or in compounds located within a reasonable distance
  - b. A central area for storage of boats, trailers, or other recreational vehicles
  - c. Landscaping to serve as a buffer between the development and adjacent properties
  - d. Street lighting
3. The governing body shall waive parkland dedication and cash donation requirements for a subdivision created by rent or lease where the subdivider agrees to develop an area of the development as park or playground in accordance with the requirements in these regulations. These areas shall be located to conveniently serve residents of the entire development. Recreation areas may include space for community recreation buildings and facilities.
4. Each mobile home shall be skirted within thirty days after it is moved on to a subdivision lot. The skirting shall be attached to the dwelling.

5. Any retail uses intended specifically for the convenience and service of the residents of the mobile home park shall be designed and located in such a manner to discourage use by nonresidents of the mobile home park.
6. One (1) guest parking space for each ten (10) mobile home lots shall be provided. Group parking is allowed.
7. Mobile home parks or trailer courts are required to be licensed by the Montana DPHHS.

## **B. Streets**

1. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot.
2. Streets shall be designed to permit safe placement and removal of mobile home units.
3. The subdivider shall not be required to reserve right-of-way in excess of the roadway width.
4. Roadways in a mobile home park shall not be dedicated to public use.
5. Streets and roads in mobile home parks shall comply with the appropriate County design standards for local and collector roads and streets except in regard to right-of-way width. (See 3 above.)
6. Entrances to mobile home developments shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of 100 feet from its point of beginning.
7. Mobile home parks may utilize the planned unit development provisions in these regulations to allow the developer greater design creativity.

## **C. The Mobile Home Lot**

1. Mobile home lots shall be arranged to permit the practical placement and removal of mobile homes.

2. All mobile homes shall be located at least twenty-five (25) feet from any property boundary line abutting upon a public street or highway right-of-way, and at least fifteen (15) feet from other boundary lines of the park.
3. The mobile home stand must be located at least ten (10) feet from the street that serves it.
4. The limits of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground.
5. The size of the mobile home stand shall be suitable for the general market to be served and shall fit the dimensions of mobile homes anticipated.
6. The mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home.
7. A mobile home stand may not occupy more than one-third (1/3) of the area of its lot. 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 lot.
8. No mobile home or its attached structures, such as awnings or carports, may be located within twenty (20) feet of any other mobile home or its attached structures.
9. No detached structure, such as a storage shed, may be located within six (6) feet of any mobile home or its attached structures.
10. A minimum of two (2) off-street parking spaces shall be provided for each mobile home lot. Parking may be in tandem. The driveway shall be located to allow for convenient access to the mobile home. The minimum driveway width shall be ten (10) feet.

## **D. Water Supply**

All water supply systems shall meet or exceed the minimum water quality and design standards of the Montana DEQ and DPHHS. Water supply systems shall be subject to approval by the governing body, and be in accordance with the fire protection standards in these regulations.

## **E. Sewage Disposal**

All sewage disposal systems shall meet or exceed the minimum standards of the Montana DEQ and DPHHS. Sewage disposal systems shall be subject to approval by the governing body.

## **F. Solid Waste**

The mobile home park developer shall assure that facilities for collection and disposal of solid waste are available and meet the regulations and minimum standards of the Montana DEQ and DPHHS. The means for solid waste collection and disposal shall be subject to approval by the governing body.

## **G. Electrical Systems**

Electrical system installation within a mobile home park shall be designed and constructed in accordance with the applicable State codes.

## **H. Gas Systems**

Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable State codes.

1. A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection to the service piping or supply connection of the liquefied petroleum gas container.
2. Each mobile home lot shall have an accessible, listed gas shutoff valve installed. Such valve shall not be located under a mobile home. Whenever the mobile home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

## **I. Fire Protection**

Mobile homes must comply with the fire protection standards in these regulations (see Appendix L).

## **VIII. GENERAL STANDARDS FOR RECREATIONAL VEHICLE PARKS**

### **A. Overview**

Recreational vehicle parks shall comply with applicable rules and regulations of the Montana Department of Environmental Quality (DEQ) and DPHHS. These provisions also supplement applicable standards for major and minor subdivisions covered in chapters III and IV of these regulations. Recreational vehicle parks shall comply also with the provisions of Section XI, DESIGN AND IMPROVEMENTS STANDARDS, unless otherwise addressed in Section VIII-C.

### **B. Streets and Recreational Vehicle Spaces**

The arrangement, type, extent, width, grade, and location of all streets must be considered in their relation to existing and planned streets, topographical conditions, and public convenience and safety, and in their relation to the proposed uses of the land to be served by such streets. All recreational vehicle spaces shall be provided with safe and convenient access from abutting streets or roads. Alignment and gradients of roads shall be adapted to topography. Exposed ground surfaces in all parts of every recreational vehicle space shall be paved, covered with stone or other solid material, or protected with a vegetative cover.

1. Intersections
  - a. Intersections of recreational vehicle park streets with local streets or major arterials or highways shall be kept to a minimum. Streets serving recreational vehicle parks shall connect with arterial streets so as to not generate traffic on local streets. Intersections of recreational vehicle park streets with arterials or collector streets shall be designed so as to cause the least possible interference with traffic movement.
  - b. No more than two (2) streets may intersect at one point.
  - c. Streets shall intersect at right angles, except when topography dictates otherwise, and in no case shall the angle of intersection be less than sixty (60) degrees.

- d. Two streets meeting a third street from opposite sides shall meet at the same point or their centerlines shall be off-set at least one hundred twenty-five (125) feet.
  - e. Intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds of the individual roadways.
2. Culverts or bridges shall be provided by the subdivider where drainage channels intersect any street right-of-way. Where culverts are required, they shall extend at least across the entire improved width of the street and/or base of fill and be a minimum of 15 inches in diameter.
  3. Plantings may be required for buffering, screening, or soil erosion protection, and are subject to approval by the governing body. Existing trees and other vegetation shall be preserved where possible. A buffering screen may be required along the perimeters of a recreational vehicle park that abuts a highway arterial or frontage access road and existing residential uses.
  4. Streets and roads shall be arranged to discourage through traffic.
  5. Horizontal alignment of streets shall ensure adequate sight distances.
  6. Roads in recreational vehicle parks shall comply with the appropriate design standards for local roads listed, except in regard to right-of-way widths. Streets should be wide enough to accommodate the projected parking and traffic load.

### **C. Internal Design**

1. Recreational vehicle spaces shall be arranged to facilitate placement and removal of vehicles from individual spaces.
2. Accessory facilities shall be designed and located for safe and convenient use by occupants of the park, but so as to inhibit their use by non-occupants.

3. Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structures such as attached awnings shall, for purposes of this separation requirement, be considered part of the recreational vehicle.
4. The density shall not exceed 25 recreational vehicle spaces per acre of gross site area.
5. All recreational vehicles spaces shall be located at least twenty-five (25) feet from a public street or highway right-of-way.
6. The governing body may require that recreational vehicle parks located adjacent to industrial or commercial land uses provide screening such as fences or natural growth along the property boundary line separating the park from such uses.
7. The governing body shall waive parkland dedication and cash donation requirements for a recreational vehicle park subdivision where the subdivider agrees to develop an area of the development for a park or playground area. The area shall be located to conveniently serve all patrons of the recreational vehicle park. Recreation areas may include space for recreation buildings and facilities.

#### **D. Grading and Drainage**

1. The recreational vehicle park developer shall provide suitable drainage facilities for any surface run-off affecting the park. These facilities shall be located in street right-of-way or open spaces, and are subject to approval by the governing body.
2. Each culvert or other drainage facility shall be large enough to accommodate potential run-off from upstream drainage areas.
3. Drainage systems shall not discharge into any sanitary sewer facility.
4. All drainage systems shall meet the minimum regulations of the Montana DEQ and DPHHS.

## **E. Water Supply**

All water supply systems shall meet or exceed the minimum water quality and design regulations of the Montana DEQ and DPHHS. Water supply systems shall be subject to approval by the governing body. The governing body may require that any central water supply system which is installed be designed to provide an adequate accessible water supply for fire protection purposes.

## **F. Sewage Disposal**

All sewage disposal systems shall meet or exceed the minimum regulations of the Montana DEQ and DPHHS. The means for sewage disposal shall be subject to approval by the governing body.

## **G. Solid Waste**

The recreational vehicle park developer shall assure that provisions for collection and disposal of waste are available and meet the minimum regulations of the Montana DEQ and DPHHS. The means for solid waste collection and disposal shall be subject to approval by the governing body.

## **H. Fire Protection**

Each recreational park must comply with the fire protection standards in these regulations (see Appendix L).

## **IX. PLANNED UNIT AND CLUSTER DEVELOPMENTS**

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider greater design creativity. The planned unit development (P.U.D.) and cluster concepts group development to promote economies in service provision, while providing open space, natural features, and/or community facilities for common enjoyment and use. Under this concept, lots may be smaller than in a conventional subdivision, and lots and units are concentrated in order to provide open space. The P.U.D. concept, in particular, promotes careful, integrated planning, allowing for individual or mixed uses.

### **A. Designation as a P.U.D.**

1. The development shall be in compliance with P.U.D. provisions in local zoning regulations. Where such provisions do not exist, the proposed subdivision must be designated as a P.U.D. by the planning staff before being reviewed under this section. To obtain designation of a subdivision as a P.U.D., the subdivider, before submitting a preliminary plat application, must submit to the planning staff the following:
  - a. A written request that the plan of the proposed subdivision is to be reviewed as a P.U.D.
  - b. A layout plan showing the proposed location and use of lots and structures, and the location and number of parking spaces, if appropriate.
  - c. A sketch plan of the proposed subdivision, containing all information requested in Section III.B.1 or IV.C.1 (pre-application procedures).
  - d. Proposed restrictive covenants, if any.
  - e. Proposed forms of ownership of property within the development.
  - f. A schedule showing street and utility improvement completion dates.
  - g. A description of all proposed modifications from Chapter XI, (Design and Improvement Standards).

2. The planning staff shall review the proposed plan and, before designating the subdivision a P.U.D., 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:
  - a. Preserves to the maximum extent possible, the natural characteristics of the land including topography, vegetation, streams, and other bodies of water.
  - b. Provides economies in the provision of roads and other public improvements.
  - c. Preserves productive agricultural land.
  - d. Protects important historic sites or structures, or areas of important wildlife habitat.
  - e. Provides developed facilities for recreational purposes.
  - f. Supports reasonable but not excessive trail development that would help sustain wildlife on the landscape as a whole.
3. The planning staff shall review the plan and within ten (10) working days of the submittal, write a letter to the subdivider stating that the plan has or has not been designated a P.U.D. If disapproved, the reasons for disapproval shall be stated in the letter.
4. Designation as a P.U.D. does not constitute approval of the specific details or modifications proposed by the plan.

## **B. PUD Procedures**

If the planning staff designates the development plan a P.U.D., the preliminary plat may be submitted for review under this process. The submittal shall comply with the applicable requirements contained in Section III or IV of these regulations.

All common areas must be identified on the plat during the first phase of development, and developed as scheduled.

## C. PUD Standards

1. Planned unit developments shall comply with the standards contained in Section XI, GENERAL DESIGN AND IMPROVEMENT STANDARDS. These standards may be modified by the governing body upon request of the subdivider in cases where the plan for a P.U.D. includes provisions for efficient traffic circulation, adequate light, air and open space, and where such standards are not practical or reasonable in respect to the overall P.U.D. design.
2. In those areas where no zoning exists, the planning staff, in consultation with the subdivider, shall determine the overall dwelling unit density.
3. The arrangement, type, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety.
4. The open space in any P.U.D. must be:
  - a. Held in common ownership by a property owners' association; or
  - b. Dedicated to public use, if acceptable to the governing body; or
  - c. A combination of "a" or "b" above. If the open space is not open to the public, it will not satisfy the parkland dedication requirement.

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 the deed to the association land to be held in perpetuity for use as parks or playgrounds.

## D. Cluster Development

If the governing body has adopted a growth policy that meets the requirements of [76-1-601](#), the governing body may adopt regulations to promote cluster development and preserve open space.

Regulations adopted under this section must:

- (a) establish a maximum size for each parcel in a cluster development;
- (b) subject to subsection (3)(d), establish a maximum number of parcels in a cluster development; and

- (c) establish requirements, including a minimum size for the area to be preserved, for preservation of open space as a condition of approval of a cluster development subdivision under regulations adopted pursuant to this section. The regulations must require that open space be preserved through an irrevocable conservation easement, granted in perpetuity, as provided for in Title 76, chapter 6, prohibiting further division of the parcel.

Regulations adopted under this section may:

- (a) establish a shorter timeframe for review of proposed cluster developments;
- (b) establish procedures and requirements that provide an incentive for cluster development subdivisions that are consistent with the provisions of this chapter;
- (c) authorize the review of a division of land that involves more than one existing parcel as one subdivision proposal for the purposes of creating a cluster development;
- (d) authorize the creation of one clustered parcel for each existing parcel that is reviewed as provided in subsection (3)(c); and
- (e) establish exemptions from the following:
  - (i) the requirements of an environmental assessment pursuant to [76-3-603](#);
  - (ii) review of the criteria in [76-3-608\(3\)\(a\)](#); and
  - (iii) park dedication requirements pursuant to [76-3-621](#).

1. As authorized by 76-3-509, MCA, the following apply to subdivisions proposed under this section:
  - a. An area of open space must be preserved that is at least as large as the area that will be developed.
  - b. 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.
  - c. Unless the subdivision will be provided with community sewer or water, each lot in the cluster must be a minimum of one acre.
  - d. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development.

- e. 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 Montana Department of Environmental Quality under Title 76, Chapter 4, MCA.
  - f. The maximum size of parcels, not designated as open space, allowed within a cluster development is five ( 5 ) acres.
2. Park dedication requirements for clustered subdivisions created under this section are waived.

## **X. CONDOMINIUMS AND TOWNHOUSES**

### **A. Condominium Development**

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act (MSPA), except those exempted by 76-3-203, as described in paragraphs 1 and 2, below. In order to be eligible for the exemption, the condominiums must be constructed on land divided in compliance with the MSPA.

1. The approval of the original division of land expressly contemplated the construction of the condominiums, and any applicable park dedication requirements in 76-3-621, MCA, are complied with; or
2. The condominium proposal is consistent with applicable local zoning regulations where local zoning regulations are in effect.

Where no division of land is created by a condominium subdivision, the subdivision shall be reviewed under the procedures contained in Chapter VI (Subdivisions Created by Rent, Lease, or other Conveyance).

Where division of land takes place in a condominium subdivision, the subdivision shall be reviewed under the procedures contained in Chapters III (major subdivision) or IV (minor subdivision) of these regulations, whichever is applicable.

### **B. Townhouse Developments**

All townhouse developments are subject to the procedures contained in Chapters III and/or IV of these regulations, which ever is applicable.

### **C. Standards**

1. Condominium and townhouse developments shall comply with those standards contained in Chapter XI (Design Improvement Standards), as determined by planning staff and required by the governing body.
2. Condominium and townhouse developments shall meet or exceed the minimum standards of the Montana Department of Environmental Quality and Lewis and Clark County.

3. All buildings and structures in a condominium or townhouse development shall be located at least 25 feet from the site boundary adjoining the right-of-way of a road or highway, and 15 feet from the other boundaries of the development site.
4. Condominium developments shall comply with all applicable provisions of the Unit Ownership Act—Condominiums, Title 70, Chapter 23, MCA, as amended.

#### **D. Final Plans**

In condominium developments where no land is subdivided, in lieu of filing of a final plat, the subdivider or developer shall submit to the planning staff three (3) copies of a final plan conforming to the requirements for preliminary plat contained in Appendix B of these regulations. The plan shall be reviewed to assure that it conforms to the approved preliminary plat and its conditions of approval. The approved final plan shall be maintained in the planning department. Where land is subdivided, final plat procedures shall apply.

#### **E. Improvements**

All required improvements shall be completed in place or an improvements guarantee provided, in accordance with Section III or Section IV of these regulations. This must occur prior to the approval of the final plat or site plan by the governing body, and prior to the construction of any dwelling units.

## **XI. GENERAL DESIGN AND IMPROVEMENT STANDARDS**

### **A. Introduction**

The general design and improvement standards listed below are intended to help protect the health, safety, and welfare of Lewis and Clark County residents, conserve natural and cultural resources, and comply with applicable state statutes.

The design and development of subdivisions shall contain satisfactory building sites that are properly related to topography, and shall preserve the natural terrain and drainage, riparian areas, wetlands, fish and wildlife habitat, existing topsoil, trees, and natural vegetation to the extent possible.

All subdivisions approved by the governing body shall comply with the provisions of this section, except where granted a variance pursuant to Section II.B. Certain types of subdivisions may have additional or alternative development standards set forth in these regulations. For procedures for subdivisions created by rent, lease, or other conveyance refer to Section VI. For planned unit developments refer to Section IX., and for condominiums and townhouses refer to Section X.

### **B. Conformance**

The design and development of a subdivision shall be consistent with any applicable adopted land use controls, existing covenants, zoning ordinances, health department requirements, and other applicable, adopted resolutions, and regulations. Where no zoning regulations are in effect, maximum density and minimum lot size shall be established by the subdivider in consultation with local and state health authorities and the County Planning Department.

### **C. Lands Unsuitable for Development or Requiring Mitigation**

The governing body may find land to be unsuitable for subdivision because of natural or human caused hazards identified during the subdivision review process. These lands must not be subdivided for building or residential purposes unless the hazards are eliminated, or will be overcome by approved design and construction techniques.

1. Examples of hazards that could render property unsuitable for subdivision or require mitigation include (but are not limited to) the following:

- a. Earthquake fault zones
  - b. Irrigation ditches
  - c. Steep slopes and/or areas prone to rock falls, land slides, or avalanches
  - d. Radon/radiation
  - e. Mine tailings, contaminated soils, toxic waste, etc.
  - f. Flooding
  - g. High water table, as defined by the Sanitation in Subdivision Act
  - h. Polluted or non-potable water supply
  - i. High voltage power lines
  - j. High pressure gas lines
  - k. Air or vehicular traffic hazards or congestion
  - l. High-risk fire areas (see fire standards)
  - m. Critical fish and wildlife habitat
2. In addition to specific hazards, there may be cases where a subdivision proposal has potential to place unreasonable burdens on the general public because of environmental degradation or other factors that may require an excessive expenditure of public funds. In other cases, a proposal may, for a variety of reasons, be detrimental to the health, safety, or general welfare of existing or future residents. In these cases, the governing body has the authority to deny a subdivision request, based on its analysis of impacts, and the inability to adequately mitigate the impacts.
3. In cases where a subdivision is proposed in areas where mining has historically occurred, the applicant must contact the Department of Environmental Quality (DEQ) for a file search of their records, to help determine the extent, nature, and impacts of the mining. The DEQ response to the file search request must be included as part of the preliminary plat application. Other related requirements are as follows:
- a. Unless specifically allowed by the DEQ (and documented through a letter), construction on top of reclaimed lands in which waste materials have been buried and capped is prohibited. In some cases, such areas could potentially be used as open space providing the cap is not disturbed.
  - b. If the subdivision is located in areas where there are safety and/or subsidence issues associated with tunnels or mine shafts, the applicant must indicate the location and demonstrate how the potential adverse impacts of these features can be mitigated.
  - c. If mining waste or other potentially hazardous materials are present or

believed to occur on the property, the applicant must demonstrate how the potential hazard can be mitigated to protect human health and safety.

4. Where a subdivision is proposed next to an irrigation ditch, the developer may be required to install fencing between the affected property and the ditch in order to protect children, depending on the hazard posed by the ditch. The fence must be built outside the boundary of the ditch easement, and must not cross the ditch. The property owner(s) or homeowners' association will be responsible for maintaining the fence in good condition.

## **D. Floodplain Provisions**

1. Land located in the floodway of a flood of 100 year frequency as defined by Title 76, Chapter 5, MCA as delineated by the Montana Department of Natural Resources and Conservation, or land deemed subject to flooding as determined by the floodplain administrator shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate flood hazards to life, health, or property. All subdivision proposals shall be submitted to the county floodplain administrator for review.
2. All land shall not be subdivided for building or residential purposes, or be subject to other uses that may increase or aggravate flood hazards to life, health, welfare, or property, if any of the following are in effect:
  - a. The land is located in the floodway of a 100-year frequency flood event, as defined by Title 76, Chapter 5, MCA, and indicated on county-adopted 100-year floodplain/floodway maps.
  - b. The land is deemed subject to flooding, as determined by the floodplain administrator.
  - c. The proposal is otherwise prohibited by state or local floodplain or floodway regulations.
3. County staff will attempt to make applicants aware of areas where flooding is likely to occur, and provide information on how to deal with such hazards.
4. If any portion of a proposed subdivision is within 2,000 horizontal feet and less than 20 vertical feet of an intermittent or perennial stream (see

Appendix C for definition) draining an area of 15 square miles or more, and no official floodplain or floodway delineation (study) of the stream has been made, the subdivider may be required to provide in detail, the calculated 100-year frequency water surface elevations and/or 100-year floodplain boundaries. This information must be compiled by a licensed professional engineer experienced in the field, and shall comply with the Standards for Flood Hazard Evaluations as contained in Appendix F of these regulations.

5. The above information (number 4) may be submitted, upon the request of the Governing Body, to the Floodplain Management Section, Water Resources Division, Department of Natural Resources and Conservation (DNRC) for review and concurrence. The DNRC floodplain management section may review any detailed flood study or water surface profile analysis for accuracy when requested by the local Floodplain Administrator, County Sanitarian, County Planner, or County Commissioners. The subdivider shall in all cases subsequently submit the information to the County, along with any environmental assessment required for the preliminary plat.
6. The governing body shall waive the above requirement (number 5) when the subdivider contacts the DNRC Water Resources Division, and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

## **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 shall be prepared by a registered professional engineer or registered land surveyor (as their respective licensing laws allow), in accordance with the Montana Subdivision and Platting Act and these regulations.

## **F. Lots**

1. Each lot shall contain a satisfactory building site that is based on topography and conforms to County Health Department, zoning, and subdivision regulations.
2. No single lot shall be divided by a municipal or county boundary line.

3. No single lot shall be divided by a public street, road, alley, or right-of-way.
4. Each lot shall abut and have legal and physical access to a public street or road. Alleys may not be used to provide the primary means of access to a lot.
5. Corner lots shall have driveway access to the same street or road as interior lots.
6. Lots shall be designed with sufficient non-buildable easements to provide adequate visibility for traffic safety, as determined by planning staff.
7. No lot shall have an average depth greater than three times its average width.
8. Side lot lines shall be at substantially right angles to street or road lines, and radial to curved street or road lines.
9. Through or double frontage lots are prohibited except where essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography or orientation. Screening, fencing, a no-access restriction on one side, and/or increased lot depth may be required.
10. For parcels that have topographical or environmental constraints (e.g., rolling or hilly terrain, natural drainages, lakeshore, wetland/riparian areas, etc.), the governing body may require the designation of building sites, building envelopes, building setbacks, or building restrictions to avoid conflicts and ensure compatible development.

## **G. Blocks**

1. Blocks shall 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.
2. Block length shall not be designed, unless otherwise impractical, to be more than 1,600 feet. Blocks in high density subdivisions shall not exceed 1,200 feet in length. Unless terrain or other factors dictate to the contrary,

blocks shall be at least 400 feet in length.

3. Blocks shall be wide enough to allow for two tiers of lots except where 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 the design of irregularly shaped blocks indented by cul-de-sacs.
4. Rights-of-way for pedestrian walks (not less than ten feet wide) shall be required where deemed essential to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities.

## **H. Streets and Roads**

1. Roads in subdivisions shall meet appropriate County design specifications in Appendix K.
2. The arrangement, type, extent, width, grade, and location of all streets shall be assessed in respect to existing and planned streets, topographical conditions, public convenience and safety, and to proposed uses of the land to be served by them.
3. All roads shall be designated as public access easements, and shall be shown and described as such on the final plat.
4. All streets within a major subdivision shall be maintained by creating and properly funding a rural improvement district (RID).

In minor subdivisions, property owners shall sign a waiver of right to protest joining a maintenance district. Where a road maintenance district exists, the subdivider shall enter into said district.

At a minimum, maintenance districts shall provide for road maintenance, dust control, and maintenance of traffic control signs and drainage structures.

5. Residential driveways shall not have direct access onto roads that are functionally classified as major collector or arterial roads. Where there is no other reasonable alternative to a road or driveway accessing a state highway, a road approach permit must be obtained from the Montana

Department of Transportation before approval can be granted for the proposed road.

6. Local streets shall be designed to discourage through traffic, except where the public health and safety would be enhanced by through connections.
7. Whenever a subdivision abuts or contains an existing or proposed collector, arterial highway, or other major thoroughfare, the governing body may require the following: frontage roads; a reservation prohibiting access along certain property lines; deep lots; building setbacks; easements or reservations for additional right-of-way; and/or other treatment as necessary for adequate protection of residential properties, and to separate collector or arterial traffic from local traffic.
8. Dead end streets are discouraged. Where a future street extension is proposed, an easement and temporary cul-de-sac shall be provided (see Appendix K for more details). Streets ending in cul-de-sacs shall be no longer than 700 feet.
9. Half streets are prohibited except where essential to the development of the subdivision and where the governing body is assured that it will be possible to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever an existing half street is adjacent to a tract to be subdivided, the remaining half of the street shall be platted within such tract.
10. Horizontal and vertical alignment of streets shall ensure adequate sight distances. When street center lines deflect more than five degrees, connection shall be made by horizontal curves.
11. Intersections, see **Appendix K**.
12. Each major subdivision shall provide at least two different ingress-egress vehicular access routes, and provide legal and physical access.

## **I. Improvements**

1. All roads within subdivisions shall be dedicated for public use, except within mobile home and recreational vehicle parks.
2. All roadway improvements required by the governing body, including pavement, curbs, gutters, sidewalks, and drainage shall be constructed in accordance with the specifications and standards prescribed in these regulations, and the Lewis and Clark County Specifications for County Roads, using materials approved by the governing body.
3. The subdivider must provide proof that all easements are public accesses.
4. Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening, weed control, or soil erosion protection and are subject to approval by the governing body.
5. Street light installation may be required by the governing body on all streets within the subdivision or may be included as part of the public improvements agreement.
6. Street or road signs and traffic control devices, when appropriate, shall be placed at all intersections by the developer or included as part of the public improvements agreement. Traffic control devices and placement shall be consistent with the Manual on Uniform Traffic Control Devices, available from the County Public Works Department.

## **J. Mailbox Placement and Design**

1. If mail delivery will not be to each individual lot within the subdivision, the developer shall provide an off street area for mail delivery within the subdivision, in cooperation with the United States Post Office.

Where feasible, it is generally preferable to collect boxes in a central location, to reduce the number of stops a mail carrier must make along a road. Neighborhood delivery and collection box units should be placed in a turnout (see below), off the main roadway.

Mailbox locations must be indicated on the preliminary and final plats.

2. On collectors and arterials, mail delivery will occur outside the travel way. Responsibility for maintenance of the road surface of the turnout shall be the homeowners' association, if one exists. Where a turnout is used, it shall be no less than 10 feet wide, from the edge of the travel lane to the far side of the turnout. If the shoulder is 10 feet or more in width, a turnout is not necessary. No turnout may be constructed without contacting the managing road authority.
3. If several property owners are served by a local road that intersects a arterial or collector, the mailboxes shall be installed in a turnout off of the local road, rather than off the more heavily traveled arterial/collector.
4. Montana law (Section 60-6-101, MCA), states the Montana Department of Transportation has adopted rules pertaining to the accommodation of mailboxes and newspaper delivery boxes on public highway rights-of-way. The rules must ensure that the location and construction of mailboxes and newspaper delivery boxes conform to the rules and regulations of the U.S. postal service. If any highway under the jurisdiction of the transportation commission is encroached upon by a fence, building, structure, sign, marker, mailbox, newspaper delivery box, or other obstruction, the Department of Transportation may give notice in writing to the person erecting or maintaining such encroachment requiring the same to be removed.
5. Authority to approve mailboxes rests with the U.S. Postal Service. Mailbox design and support systems should also meet the crash test requirements of the Federal Highway Administration.

## **K. Street and Lot Identification**

1. Street names shall comply with the provisions of Appendix H (Lewis and Clark County Road Naming Regulations).
2. Name signs shall be placed at all roadway intersections.
3. Whenever possible, name signs shall be placed on the northeast and southwest corners of all intersections. If it is not feasible to utilize the northeast and southwest corners, signs shall be placed so as to be conspicuous to the majority of people.
4. All signs must be consistent with the standards in the Manual on Uniform

Traffic Control Devices.

5. Signs shall have white reflective letters on a dark green background.
6. Name signs shall be mounted not less than 7 feet nor more than 8 feet above the roadway.
7. The developer shall apply for address assignments for lots within the subdivision. Application is made to the County Address Coordinator.
8. In rural subdivisions where topography, vegetation, lot size, mailbox location, and/or other circumstances prevent clear visibility or accurate identification of homesites from access roads, the subdivider shall install address identification plaques. The plaques shall conform to the specifications for street identification signs, except for sign width.

## **L. Grading, Drainage, and Erosion Control**

1. The drainage system and facilities required for any surface run-off affecting the subdivision shall comply with the regulations of the Montana Department of Environmental Quality (DEQ) and are subject to the approval of the governing body. The intent of these regulations is to assure that proper drainage facilities are provided for runoff generated by subdivisions, and that such facilities are maintained.
2. If road construction or other surface improvements are required, the subdivider shall provide a complete grading and drainage plan with accurate dimensions, drainage courses, and elevations, showing the proposed grades of streets and drainage improvements. The plan shall be designed and certified by a registered professional engineer. The completed plan must be submitted with the final plat; preliminary information should be supplied with the preliminary plat.(See Appendix K)
3. Standards for all grading and erosion control are as follows:
  - a. Grading shall not significantly increase the rate of stormwater runoff, and shall avoid the erosion of natural or constructed slopes and sediment accumulation in natural drainage channels or watercourses.
  - b. Grading shall not significantly alter the natural drainage patterns.
  - c. Grading shall preserve and conform to the general natural form and contours of the land surface, as much as practically possible.

- d. Grading shall be designed to preserve natural or established vegetation as much as is practically possible. The planned revegetation shall stabilize the slope and be compatible with native vegetation. Suggested (but not required) plant material is native vegetation appropriate to adjacent plant communities in both species composition and spatial distribution patterns. It is recommended that the use of native vegetation acknowledge certain plant species' relative attractiveness to wildlife.
  - e. Affected site area shall be revegetated as necessary for the stabilization of disturbed surfaces, with the exception of areas covered by impervious surfaces and/or structures.
  - f. Grading shall allow for the most rapid possible recovery of disturbed lands to natural or introduced vegetation.
  - g. Any areas disturbed while installing drainage systems shall be restored and revegetated. Where necessary, topsoil shall be placed on disturbed areas prior to revegetation. The proposed restoration plan, which must include a schedule, shall be included as part of all grading and drainage plans submitted to the County.
4. Where the property is at the head of a drainage area and all natural drainage channels will be protected by perpetual drainage easements, a drainage system may be designed by the subdivider. For minor subdivisions, with the approval of the planning staff, a drainage system may be designed in consultation with the federal Natural Resources and Conservation Service (NRCS), or the Department of Natural Resources and Conservation (DNRC).
  5. For all subdivisions that involve road construction or major ground disturbance, as defined by the standards of DEQ Circular No. 8, an analysis of storm water conditions shall be made by a registered professional engineer. The analysis—which shall comply with the storm drainage standards in DEQ Circular 8 (2002 edition)--shall include:
    - a. Location of intermittent streams or drainage courses that are within the proposed subdivision boundaries, and a determination of their water surface elevation for a 25-year storm occurrence. These calculations will be used to determine whether culverts and road and bridge design are adequate, and to determine building setbacks from these water bodies.

In accordance with DEQ Circular No. 8, if detention ponds or other storage facilities are included in the design, delineation of drainage areas within the subdivision, estimates of peak flows (as defined in DEQ Circular 8) generated within these drainage areas, and estimates of flow volumes is required.

- b. Delineation of drainage areas outside the subdivision that flow through the subdivision, and estimates of peak flows generated within these drainage areas.
  - c. Volume of water contributed to the drainage area by the subdivision, pre- and post- development, based on a 10-year storm event. For flows that originate outside the subdivision, provisions for passing these flows through the subdivision without flooding home sites or drain fields (at a recurrence interval of 100 years), and without overtopping roadways (at a recurrence interval of 10 years).
  - d. For flows that originate within the subdivision, provisions for detaining or retaining these flows, so that the peak flow (from the 2-year, 1-hour event) that leaves the subdivision after development does not exceed the peak flow before development.
  - e. Where storm drainage is intended to be discharged into the ground, locations of nearby (within 200 feet) wells and drain fields that may be impacted, or a statement that there are no wells or drain fields nearby.
6. To accommodate upstream drainage, a drainage facility shall be installed, of sufficient size to accommodate existing and potential runoff from the entire upstream drainage area.- The drainage system shall be designed to prolong the time of surface water concentration on the site, and retain maximum infiltration into the ground.
7. The subdivision's drainage system design shall provide for on-site storage of water in excess of historic volumes discharged from the site, based on the storm water analysis. It is suggested that retention ponds be designed to have natural edges, using native plant materials.
8. Street curbs and gutters, swales, or protection of the natural drainage shall be required, according to the character of the area, density of

development, and nature of adjoining properties. Any curbs and gutters present on adjoining properties shall be extended according to current specifications of local and state authorities. Where practicable, retention of surface water in drainage ways is encouraged. Natural drainageways shall be preserved and used, whenever feasible. The intent is to retain water on the land (without causing flooding), and allow it to be absorbed into the soil gradually.

Where flows permit, the drainage channels shall be designed as grassed swales, or wetlands, encouraging sheet flow.

9. Culverts or bridges of adequate size shall be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. Minimum culvert sizes shall be 18 inches in diameter for roads major collectors and 15 inches in diameter for other road categories and driveways (see Appendix K). All culverts shall extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity shall be determined by a qualified engineer. This shall include arrangements for driveway culverts. The cost, and installation, and maintenance of driveway culverts shall be the responsibility of each individual lot owner. This responsibility shall be clearly stated in the covenants.
10. Drainage facilities shall be located in street rights-of-way or in perpetual drainage easements of appropriate widths and are subject to approval by the governing body. Streets shall be designed to drain in a manner that is compatible with existing streets and natural drainage patterns.
11. Drainage systems shall not discharge into any sanitary sewer facility.
12. Where required by the governing body, perpetual easements to convey drainage shall be provided, and graphically shown on the final plat or site plan.
13. Where a subdivision is traversed by a watercourse, drainage way, channel, ditch, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance or to protect natural drainage. Setbacks on each side of irrigation canals or ditches may be required for maintenance purposes.
14. Where a subdivision is traversed or bordered by an irrigation ditch, the subdivider may be required to fence or otherwise restrict access to the

ditch to protect public health and safety. Determining the type of access restriction shall be based on consideration of the size of the ditch, seasons of flow, type of subdivision, other safety factors, and comments from the irrigation district or water users association, if any.

## **M. Water Supply Systems**

1. All water supply systems (including both individual wells and community systems) shall meet applicable regulations and design standards of the Montana Department of Environmental Quality (DEQ) and the Department of Public Health and Human Services (DPHHS), and comply with existing water rights and water rights regulations, including 76-3-504 (i), MCA. The proposed method of supplying domestic water to each lot in the subdivision must comply with the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.303, and 17.36.305 or subsequent amendments as applicable. 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.
2. The water supply system shall be subject to approval by the governing body, which may require that any proposed central system provide adequate and accessible water for fire protection.
3. Where the subdivision is within the service area of a public water supply system, the subdivider shall submit plans and specifications for the proposed water system to the water district involved and the Montana Department of Environmental Quality, and shall obtain their approval prior to undertaking any construction to install such facilities. In cases when the proposed development is within 500 feet of an existing public system, the applicant must provide evidence that the public water supplier has been contacted and the applicant can meet the appropriate standards. If connection to an existing public system is denied, then the landowner must submit plans and specification for the proposed water systems to the County for review and approval.
4. Where the subdivision could be served by a centralized water supply system in the future, the governing body may require a restrictive covenant on the property, waiving the right to protest joining a district to fund the installation and/or maintenance of such a system.

5. All pump tests must meet minimum requirements and standards set by the Montana Department of Environmental Quality.
6. All water service connections in public, community, and multi-family systems must be equipped with a viable water-metering device.
7. Prior to final plat approval by the governing body, subdivisions containing lots of less than 20 acres in size, 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.
8. Prior to final plat approval by the governing body, subdivisions containing lots from 20 to 160 acres in size must meet applicable local and state regulations for water supply systems.
9. Prior to preliminary plat approval, the governing body will determine whether there is substantial and credible evidence that the water system design for the proposed subdivision will comply with DEQ requirements.

## **N. Wastewater Treatment Systems**

1. All sewage wastewater treatment systems shall meet the regulations and design standards of the Montana State Department of Environmental Quality and the City-County Health Department. The proposed method of disposing of sewage from each lot in the subdivision must comply with the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.312, and 17.36.320 through 17.36.326 or subsequent amendments as applicable. 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.
2. The means of wastewater treatment shall be subject to approval by the governing body.
3. Where the subdivision is within the service area of a public wastewater treatment system, the subdivider shall submit plans and specifications for the proposed wastewater treatment facilities to the sewer district involved and the Montana Department of Environmental Quality. The subdivider shall obtain their approval prior to undertaking any construction to install

such facilities. When a subdivision is located within 500 feet of a public sewer system, the applicant must provide evidence that the public water supplier has been contacted and the applicant can meet the appropriate standards. If connection to an existing public system is denied, then the landowner must submit plans and specification for the proposed wastewater treatment systems to the County for review and approval.

4. Where the subdivision could be served by a central wastewater treatment system in the future, the governing body may require a restrictive covenant on the property, which waives the right to protest joining a district to fund the installation and/or maintenance of such a system.
5. 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 DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act sections 76-4-101 *et seq.*, MCA.
6. In order to obtain approval from the governing body, subdivisions from 20 to 160 acres in size must meet applicable local and state regulations for wastewater treatment systems.
7. Prior to preliminary plat approval, submission of substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements

## **O. Solid Waste**

1. The subdivider shall assure that provisions for collection and disposal of solid waste meet the regulations of the Montana Department of Environmental Quality (DEQ). The proposed method of storing and disposing of solid waste generated within the subdivision must comply with 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. The means for solid waste collection and disposal shall be subject to approval by the governing body.
2. Where the subdivision is not located within a landfill district, the governing body may require a restrictive covenant on the property that waives the right to protest joining a district to fund the collection and/or disposal of

solid wastes generated by the subdivision.

3. 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 Montana Department of Environmental Quality or other authorized reviewing authority under the Sanitation in Subdivisions Act sections 76-4-101 *et seq.*, MCA.
4. In order to obtain approval from the governing body, subdivisions from 20 to 160 acres in size must meet applicable local and state regulations for solid waste.

## **P. Other Utilities**

1. All new utilities must be placed underground, except where there are topographic or soil constraints. Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate as far as practicable the necessity for disturbing such surfacing for the connection of individual services.
2. Overhead utility lines shall be located at the rear property line, where practical.
3. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject to all applicable laws, rules, and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

## **Q. Utility Easements**

1. Easements shall be provided for utilities.
2. Utility easements shall be located along front and side lot lines wherever required. Lots larger than an acre also require a rear setback -- see 3 below. If the easements are placed along the street, they should be located between the edge of the roadway and the right-of-way line. Installation should be as close to the right-of-way line as practicable, in order to provide a safe environment for traffic operation and preserve space for future roadway improvements or other utility installations.

To the extent feasible and practical, utility lines should cross the roadway in a perpendicular manner. Utility crossings that are likely to require future servicing or expansion should be encased or installed in conduits to permit servicing without disrupting the traffic flow or requiring open digging into the roadway surface.

On new construction, no utility should be situated under any part of the pavement, except where it must cross the roadway. Utility poles, vent standpipes, and other above-ground utility features that would constitute hazards are not allowed within the roadway clear-zone.

3. Utility easements shall be 20 feet wide unless otherwise specified by a utility company or the governing body. This may be accomplished by 10 foot dedications along all lot lines where they can be combined for a total of a 20" easement along lot lines. Ten (10) foot easements along front lot lines are adequate if combined with street right-of-way. Unless otherwise specified by a utility company or the governing body, utility easements shall be designated as follows:
  - a. Front: 20 feet or—when combined with a 60 foot road easement—5 feet beyond the edge of the road right-of-way.
  - b. Side: 20 feet (or 10 feet when combined with 10 foot right-of-way from adjacent lot(s)).
  - c. Rear: No rear lot line utility easements are required on lots less than 1 acre in size. For lots greater than an acre in size, the rear easement is 20 feet (or 10 feet when combined with a 10 foot easement from adjacent lot(s)). Utility easements may also be incorporated into dedicated alleys with right-of-ways of 24 feet or greater.
  - d. Where a utility easement is to be located in an existing, dedicated right-of-way, a street opening permit must be obtained from the governing body or the Montana Department of Transportation.
  - e. In addition to showing the location of the utility easement on the plat with dashed lines, the following statement shall be on the final plat:

“The undersigned hereby grants the following unto 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 (and ingress and egress to and from) an easement for the construction, maintenance, repair and removal of their lines and other facilities, in and under each area designated on this plat as "Utility Easement," to have and to hold forever." No permanent structures may be placed on the easement. Features such as fencing or landscaping are subject to be torn up for maintenance needs.

4. Ditch easements shall be provided for in accordance with 76-3-504, MCA.

## **R. Park Land**

1. In order to provide for the open space and recreational needs of a proposed residential development, a subdivider shall dedicate to the governing body a cash or land donation (as determined by the governing body), except as provided for in subsections 3 and 6. The amount of donation shall be equal to:
  - a. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
  - b. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
  - c. 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
  - d. 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.
2. When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy zoning regulations, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per

dwelling unit.

3. A park dedication is not required for:
  - a. a minor subdivision;
  - b. land proposed for subdivision into parcels larger than 5 acres;
  - c. subdivision into parcels that are all nonresidential;
  - d. a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, condominiums, or townhouses; or
  - e. a subdivision in which only one additional parcel is created.
4. The governing body, in consultation with the subdivider and the Planning Board and/or Park Board, may determine suitable locations for parks and playgrounds. Giving due weight and consideration to the expressed preference of the subdivider, the governing body 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.
5. The governing body shall use the dedicated cash or land for development, acquisition, or maintenance of parks to serve the subdivision. The use of dedicated cash must reasonably serve the subdivision and must be in accordance with adopted plans for parks, recreation, open space, and/or conservation easements. The governing body may not use more than 50% of the dedicated cash for park maintenance.

Land dedicated for park or playground purposes shall be useable for recreation and/or conservation purposes, serve residents of the entire subdivision, be of appropriate shape and size, and shall have reasonable access.
6. The local governing body shall waive the park dedication per 76-3-621,

MCA.

7. The term " cash donation" is the fair market value of the unsubdivided, unimproved land. It shall be the responsibility of the subdivider to provide satisfactory evidence of the fair market value. This evidence shall be in the form of 1) a recent buy/sell agreement for the property; 2) an appraisal of the property by a licensed real estate appraiser; 3) an opinion of value of the property by a licensed real estate broker/salesperson; or 4) a memorandum from the Department of Revenue. Such evidence must be less than six months old. After consideration of all pertinent evidence, the determination of fair market value shall be made by the governing body. If the subdivider and governing body are unable to agree upon the fair market value, the governing body may require the fair market value be established by an appraisal done by a licensed real estate appraiser mutually acceptable to the applicant and the governing body. The appraisal fee shall be paid by the applicant.
8. Parkland ownership status must be specified at the time of preliminary plat approval and must be shown on the final plat.
9. All common areas must be identified on the plat during the first phase of development, and developed as scheduled.

## **S. 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 forested areas. The County fire standards are located in Appendix L; see also the County road standards in Appendix K.

## **T Agriculture**

To mitigate impacts of residential uses in an agricultural areas, the sub-divider shall provide restrictive covenants addressing agriculture-related issues that will accompany the final plat. Issues addressed in the covenants shall include the following: the presence of nearby agricultural operations (and a listing of potential impacts such as odors and noise); existence of irrigation facilities and easements; protection of existing water rights; rights of the irrigation facility operator to perform maintenance; weed management responsibilities; and other agriculture-related

factors that may be present.

## **U. Weed Control**

Pursuant to Section 7-22-2121 of the County Weed Law, anyone significantly disturbing soil must submit a written weed management and re-vegetation plan to the County Weed District. The plan shall be submitted to, approved, and certified by the County Weed Board prior to final plat approval. All requirements and specifications of an approved plan shall be met prior to approval of the final subdivision plat. An approved weed management plan shall remain in effect for the five-year management period, regardless of any changes in property ownership.

## **V. Erosion and Sediment Control**

Pursuant to the Lewis and Clark County Sediment Control Ordinance, any person planning to engage in construction or subdivision activities shall submit an erosion and sediment control plan to the County Conservation District. The plan shall be submitted to and approved by the Conservation District Board of Supervisors prior to any disturbance of the land. All requirements and specifications of an approved plan shall be met prior to final subdivision plat approval.

In addition to the above, any subdivider causing more than one (1) acre of ground disturbance is required to contact the Department of Environmental Quality (DEQ) to obtain a Montana Pollution Discharge Elimination System (MPDES) permit.

## **W. Waterbody Setbacks and Buffer Areas**

Policy 1.8 of Issue A of the Natural Environment Issues, Goals and Policy section of the Lewis and Clark Growth Policy recommends the development of residential, and commercial setback requirements along streams, rivers, lakes, and reservoirs to preserve water quality and other natural resources, viewsheds and recreational uses.

Waterbodies, wetlands and riparian area provide benefits to the economy, environment, and quality of living of people in the County. Among the benefits enjoyed are protection of sensitive fish and wildlife habitat, protection of valuable water recharge areas, improved surface and ground water quality, flood prevention, scenic beauty and recreational opportunities. Protection of surface water resources can be accomplished through a variety of tools, including the establishment of setback and buffer zones to encourage development away from critical water resources.

1. Definition of Key Terms

- a. Ordinary High Water Mark: For the purposes of these regulations, the ordinary high water mark is defined as the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line may include (but not be limited to) deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value. A flood plain adjacent to surface waters is not considered to lie within the surface water's high water marks.
- b. Setback: The distance from the ordinary high water mark within which the structures and uses defined in 3-a below are not allowed. Setback and buffer distances are measured on a horizontal plane.
- c. Buffer: Buffer zones are not additional setback distances, but rather the portion of the setback that is designated to remain undisturbed. Buffers are areas where all natural vegetation, rocks, soil, and topography shall be maintained in their original state, or enhanced by the additional planting of native plants. The structures and uses defined under 3-a below are not permitted.

2. Applicability and Water Course Descriptions

Setbacks and buffers are horizontal distances from the ordinary high water mark, and are designated as follows (see Appendix P for a detailed listing of water bodies under each of the classifications):

Water Course Designation	Setback	Buffer
Type I	250 feet	100 feet
Type II	200 feet	75 feet
Type III	100 feet	50 feet
Type IV	50 feet	30 feet

For the purposes of this section, riparian areas subject to these regulations shall include the following:

- a. Parcels within 250 feet of the ordinary high water mark of type I

water courses. These are defined as the Missouri River (excluding the reservoirs); Dearborn River; Sun River; and the Big Blackfoot River.

- b. Parcels within 200 feet of the ordinary high water mark of type II water courses, generally defined as all main tributaries of type I water courses.
- c. Parcels within 100 feet of the ordinary high water mark of type III water courses, generally defined as all tributaries of type II water courses; all intermittent streams; Missouri River Reservoirs; Lake Helena; Helena Valley Regulating Reservoir; and wetlands (as defined by the current edition of the Federal Manual for Identifying and Delineating Wetlands).
- d. Parcels within 50 feet of type IV water courses, which for these purposes are considered drainage channels capable of carrying or collecting stormwater and snowmelt runoff, and Helena Valley Irrigation District canals.
- e. These requirements apply throughout Lewis and Clark County. However, a special zoning district may adopt regulations that exceed these requirements.

3. General Provisions

- a. Structures and uses prohibited under the setback and buffer standards include the following:
  - i. Any type of building and accessory structure related to residential, commercial, and industrial uses.
  - ii. Manufactured and prefabricated buildings or accessory structures.
  - iii. Septic tanks and septic tank drain fields
  - iv. Barns, feed lots, and corrals.
  - v. Communication towers

- b. All setbacks must extend to the edge of adjacent wetlands and the 100- year floodplain, if designated. In cases where identified wetlands or the 100-year flood plain extend beyond the setback, the setback width will be extended accordingly.
  - c. The buffer is required on 75% of the linear footage along the affected water bodies. The maximum lineal footage allowed as part of this 25% is 100 feet. Docks, walkways, lawns or other improvements not otherwise prohibited by these regulations are allowed on the remaining 25% of the footage, which must be identified on the preliminary plat. Applicants are encouraged, however, to keep the entire shoreline in a natural state.
  - d. Equipment and infrastructure directly related to agricultural production (e.g., pumps, irrigation equipment, hay storage and harvesting facilities, canals, and storage sheds less than 150 square feet in floor area and under 10 feet in height) are exempt from the setback and buffer requirements.
  - e. Structures and infrastructure related to water-related recreation such as docks, boat ramps, fishing access sites, and boat houses are exempt from the setback and buffer requirements (providing they are in the identified 25% of the area open to such development).
  - f. Fencing is exempt from the setback and buffer requirements. Depending on wildlife issues that are identified, the BOCC may condition that “wildlife friendly” fencing be required (see fencing standards under “W” in this chapter).
  - g. Pre-existing parking lots, streets, trails or other impervious surfaces located inside the buffer must be quantified and excluded from being counted as part of the buffer distance.
4. Other Provisions
- a. The BOCC may issue variances for nonconforming uses that would otherwise violate the setback and buffer regulations, if compliance would result in unnecessary or undue hardship to the applicant.

Economic hardships or those created by the applicant are not valid reasons for a variance. Any variance granted shall be the minimum relief from these regulations necessary to allow a reasonable use of the property. Setback requirements may be reduced to not less than half the distance from the shoreline to the opposite property line.

- b. Frontage: No minimum lot frontage is required, except that lot design shall not exceed the length-width ratio of 3:1. (In this case, the length is defined as the distance running roughly perpendicular to the shoreline, while the width is approximately parallel to it.) No new lots abutting shorelines shall be created that do not conform to the length-width ratio or minimum setbacks. Common areas not in conformance with the 3:1 lot ratio can be considered for exemption.
- c. Public trails along a stream, river, lake, or wetland may be constructed within the required buffer zones, provided they are solely for non-motorized use, and subject to the following provisions:
  - i. Trails shall not be constructed within 15 feet of the ordinary high water mark of a stream, river, lake, or wetland. Existing trails inside this zone will be considered to be a legal, non-conforming use.
  - ii. Construction of trails shall follow the natural topography to the maximum extent feasible to prevent excessive cut and fill.
  - iii. Natural vegetation shall be retained to the maximum extent possible.
- d. Campgrounds, R.V. parks, and marinas shall meet the setback and buffer requirements for type IV watercourses, although the setback and buffer for tent sites may be halved. Existing campgrounds, marinas, and R.V. parks that do not meet these requirements may continue as legal, non-conforming uses. However, the addition of new sites after the establishment of these regulations will be required to meet the requirements.

- e. Nothing in this setback and buffer regulation shall prohibit repairs or improvements to existing roads, ditches, utilities or utility lines, bank maintenance, or stream stabilization/enhancement measures otherwise allowable under federal or state laws. The following uses or activities are authorized to occur within the setback area:
  - i. A utility line.
  - ii. A road.
  - iii. An outlet for stormwater facilities.
  - iv. An agricultural use or activity that is not a new agricultural building or addition to an existing building.
  - v. An existing legal, non-conforming structure, use, or activity.
  - vi. An activity that is required in an approved noxious weed control plan.
  - vii. An activity related to the planting of native vegetation.
- f. Routine maintenance of existing dwellings or accessory structures would be allowed inside the setback. Expansions or improvements of up to 50% of the total square footage of the dwelling or accessory structure are permitted, provided they do not encroach any further into the setback, and meet other applicable regulations.
- g. Subdivision applicants must identify a building envelope outside the setback on the sketch plan they bring to their pre-application conference. Setback and buffer boundaries must be illustrated on the preliminary and final plats.

## **X. Fencing Standards for Protecting Wildlife**

Depending on wildlife issues raised during their review of the preliminary plat application, the BOCC may require “wildlife friendly” fencing as a condition of approval. While not applicable in all situations, hedges or other vegetative barriers are preferable from a wildlife perspective.

## **Y. Commercial Development Standards**

The following apply to subdivisions that include commercial and/or industrial components:

- 1) All roads within commercial and industrial areas must be paved.
- 2) Streets for commercial and industrial subdivisions (and accessory parking areas) shall be connected with arterial streets, so that traffic is not generated on local streets. Intersections of parking area access with arterials or collector streets shall be designed to cause the least possible interference with traffic movement.
- 3) Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively, and shall connect to arterials or non-residential collectors. The intersections of parking area service streets with arterials or collector streets shall be at least one hundred and twenty five (125) feet apart.
- 4) Provisions shall be made for service access (e.g., off-street loading or unloading, and parking) that are adequate for the uses proposed.
- 5) In order to reduce noise and visual impacts, commercial and industrial developments located in or adjacent to residential or agricultural areas shall provide natural screening around parking areas and lot line perimeters. Screening shall be accomplished through the use of trees or shrubs planted to provide a continuous barrier.
- 6) See Appendix B for additional supplements for non-residential units.

## **Z. Outdoor Lighting Control**

All outdoor lighting fixtures shall be designed and constructed in a manner to ensure that:

1. Any exterior lighting shall be arranged and directed downward to minimize illumination beyond the property lines.

## **A.A. Ridgeline and Hillside Development**

1. Design Standards for the Subdivision of Hillside and Ridgeline Land
  - a. Subdivision applications on hillside land shall comply with each of the following design standards:
    - 1) Building envelopes shall be required for all proposed lots. The building envelope defines the portion of each lot within which all improvements must be located. Improvements shall include all buildings and garages. Decks, patios, terraces, retaining walls, fences, recreational facilities and site access may be located outside of the building envelope.
    - 2) Building envelopes on ridgelines shall be sited such that the future development of the building envelope can be accomplished without breaking the natural silhouette created by the prominent ridgeline and the sky. For the purposes of these guidelines, a canopy of existing trees located on the top of a ridgeline shall be considered a part of the prominent ridgeline.
2. Review Criteria for the Subdivision of Hillside and Ridgeline Land
  - a. The following design criteria shall be used by the Board of County Commissioners for subdivision applications on hillside land. It shall be the burden of the applicant to demonstrate that the proposed subdivision complies with each of the following criteria, that one or more of the criteria are not applicable, or that a practical solution consistent with the purpose of this section has been achieved.
    1. Building envelopes shall be sited to utilize existing vegetation and natural topography of the site in order to integrate the building with the site and to minimize the visibility of the building from existing highways (public roads).
    2. Building envelopes shall be sited such that future access to the envelope can be integrated with the natural characteristics of the site in a manner that will require a minimal amount of site grading, cuts and fills, retaining walls and loss of vegetation.

## **APPENDIX A: INFORMATION FOR APPLICANTS**

### **List of Contacts**

Applicants are encouraged to contact applicable agencies as early as possible in the process, in order to better incorporate suggestions into the design.

<b><u>Lewis and Clark County</u></b>	<b><u>Phone Numbers</u></b>
County Community Development & Planning Department	447-8374
County Clerk and Recorder	447-8200
County Public Works Department	447-1630
Landfill	227-1177
Road and Bridge.	447-1631
County DES Coordinator/Floodplain Administrator	447-8285
County Environmental Health Division (Sanitarian)	447-8351
County Weed District (April-September.)	447-1640
County Extension Office (Weed District October.-March)	447-8346
County Water Quality District	447-8926
County Soil Conservation District	449-5000
Historic Preservation Officer	447-8357
<b><u>City of Helena</u></b>	
City of Helena Community Development Department	447-8491
City of Helena Public Works Department	447-8426
Parks Department	447-8463

**State of Montana**

Assessor's Office/Classification and Appraisal	444-4000
Classification and Appraisal	444-4000
Department of Environmental Quality	444-2544
Department of Natural Resources (Water Resource Division)	444-6601
Montana Fish, Wildlife and Parks	444-2535
DEQ – Water Quality	444-3080
Montana Department of Transportation - R-O-W	444-6055
State Historic Preservation Office	444-7715

**Federal**

U.S. Forest Service	449-5490
Bureau of Land Management	475-3319
Fish and Wildlife Service	449-5225
Forest Service	
Augusta	562-3247
Lincoln Ranger District	362-4265
Helena Ranger District	449-5201

**Fire Departments**

Augusta Fire Department	467-3312
Baxendale Fire Department	442-3067
Birdseye Fire Department	443-4355

**Lewis and Clark County**  
**SUBDIVISION**  
**REGULATIONS**

---

Canyon Creek Fire Department	442-8481
Canyon Ferry Fire Department	475-3214
Craig Fire Department	235-4224
Eastgate Fire Department	227-8503
East Helena Fire Department	227-8661
East Valley Fire Department	227-5659
City of Helena Fire Department (West End)	447-8470
Lakeside Fire Department	442-5768
Lewis and Clark County Fire Department	449-7725
Lincoln Fire Department	362-4999
Maryville Fire Department	431-9418
West Valley Fire Department	458-3717
Wolf Creek Fire Department	235-4485
York Fire Department	443-2957
<b><u>Other</u></b>	
Helena Regional Airport	442-2821
Helena Valley Irrigation District	442-3292
Natural Resource and Conservation Service	449-5278
Northwestern Energy	443-8900, 888 467-2669
Qwest	800 526-357

Bresnan Communications (Cable TV)	443-3401
Three Rivers Communications	800-796-4567
Lincoln Cable TV	362-4452
Lincoln Sewer District	362-4313
Lincoln School	362-4201
Lincoln Telephone Company	362-4216
Lincoln Public Library	362-4300
Augusta Library	562-3348
Augusta Elementary	562-3384
Canyon Creek School	368-2230
School District No. 13 (Wolf Creek)	235-4241
School District No. 25 (Craig)	235-4239
Three Rivers Communications	1-800-796-4567

**Application Deadlines and Public Hearing Dates**

Deadlines for applications and schedules of public hearings/meetings may be obtained from the County Planning Department.

## Fee Schedule

An initial, non-refundable fee is paid at time of application.

### **MAJOR SUBDIVISIONS**

preliminary plat	\$575 + \$5/lot
preliminary site plan (mobile home park)	\$575 + \$5/lot
preliminary site plan (RV park)	\$450 + \$1/lot
preliminary plat/site plan (non-residential)	\$575 + \$50/per non-residential unit
final plat/site plan	\$375

### **MINOR SUBDIVISIONS**

preliminary plat/site plan	\$325
preliminary plat/site plan (non-residential)	\$325 + \$50/per non-residential unit
summary review	\$250
summary review (non-residential)	\$250 + \$50/per non-residential unit
final plat	\$100

### **OTHER FEES**

amended plats (preliminary)	\$100
amended plats (final)	\$100
preliminary plat extension	\$30
modification of approval conditions	\$150
request for variance	\$75
subdivision improvements agreement	\$50
improvements agreement extension	\$30
survey review	\$100
survey review of final plat (Clerk and Recorder Office)	fee variable (depends on survey)
addressing	\$10/address or \$20/hr. (whichever is less)

## **APPENDIX B:**

# **PRELIMINARY PLAT FORM, CONTENTS, AND SUPPLEMENTS**

### **1. Preliminary Plat Form**

A legible preliminary plat or site plan shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity and shall be on one or more sheets at least 11 X 17 inches in size. The preliminary plat must show all pertinent features of the proposed subdivision and the location of all proposed improvements. An electronic copy (e.g., autocad) must also be submitted, when available.

### **2. Preliminary Plat Contents**

The preliminary plat submitted for approval shall show or contain on the face of the plat or on separate sheets referenced on the face of the plat the following information. (Eight blueline copies shall be provided for major subdivisions, five copies for minor subdivisions.) A current topographic map, an aerial photograph or a location map of the largest scale available, with an outline of the subdivision clearly indicated thereon may be used to provide the information required below and in Preliminary Plat Supplements:

- a. Name and location of the subdivision, scale, scale bar, north arrow, and date of preparation.
- b. The approximate exterior boundaries of the tract and the approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary. If available, a metes and bounds or other legal description, or copy of previously recorded certificates of survey or subdivision plats, should be submitted.
- c. All lots and blocks, designated by numbers, and the approximate dimensions and area of each lot.
- d. All streets, alleys, avenues, roads and highways, and the width of the right-of-way, grades and curvature of each, existing and proposed street names, and proposed locations of intersections, or other access points for any subdivision requiring access to arterial or collector highways.

e. The approximate location, boundaries, dimensions and areas of any parks, common grounds, or other grounds dedicated for public use.

f. Any existing and proposed utilities located on or adjacent to the tract including:

- 1) The approximate location, size and depth of water mains, sanitary and storm sewers, and fire hydrants.
- 2) The approximate location of nearest water mains and sewer lines where none are located on or adjacent to the tract.
- 3) The approximate location of gas, electric, cable TV, and telephone lines, and street lights.

g. Ground contours shall be provided for the tract according to the following requirements:

Where average slope is

Contour intervals shall be

Under 10%

2 feet  
(If all lots are over one acre in size, 5 feet intervals may be used.)

Between 10% and 15%

5 feet

15% or greater

10 feet

U.S. Geological Survey data or other information may be used if it meets the foregoing interval requirements.

h. The approximate location of existing buildings, structures and improvements.

i. The approximate location and identity of all existing easements and rights-of-way of record and proposed public and private easements and rights-of-way of record, including descriptions of their width and purpose.

### **3. Preliminary Plat Supplements**

The following shall be supplied with and considered a part of the preliminary plat:

a. A vicinity map or maps and electronic copies, when available showing conditions on adjacent land. Lands separated from the exterior boundary of the subdivision by public or private right-of-way are deemed to be adjacent for the purpose of this requirement. The map(s) should include:

- 1) The names of platted subdivisions and numbers of certificates of survey previously recorded.
- 2) The ownership of lands adjacent to the exterior boundaries of the subdivision and to any access road leading from a present public right-of-way to the boundary of the proposed subdivision.
- 3) Location of any buildings, railroads, power lines, towers, roads, and other land uses.
- 4) Any existing or proposed zoning.

b. List of the names and addresses of owners of record of adjacent property depicted on the sketch.

c. When a tract of land is to be subdivided in phases, the subdivider must provide an overall development plan indicating intent for the development of the remainder of the tract.

d. Three copies of drafts of any covenants and restrictions to be included in deeds or contracts for sale.

e. If common property is to be deeded to a property owners' association, the subdivider shall submit two (2) draft copies of the articles of incorporation, bylaws, and covenants and restrictions that will govern the association. These covenants and restrictions shall be in accordance with the requirements contained in Section III.A.16., Property Owners' Association.

f. Two copies of a preliminary grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of streets and drainage improvements.

g. Drafts of guarantee of public improvements, if applicable.

h. A minimum of five (5) copies of an environmental assessment shall accompany the preliminary plat unless the subdivider is eligible for a valid exemption. Appendix C-4 provides the format of the assessment and questions to be addressed by the subdivider. Additional copies may be requested by the County Planning Department.

- i. A letter from the subdivider describing the status of mineral and water rights on the property based on his/her research of the property deed.
- j. A determination of the amount of cash payment in-lieu of park dedication, if proposed.
- k. One (1) copy of the DEQ Joint Application Form.
- l. Submission of substantial, credible evidence that the water system and the wastewater system designs for the proposed subdivision will comply with DEQ requirements.
- m. One (1) copy of each variance request, when applicable.
- n. A Certificate of Title for the subject property/ies (from a title company licensed in the State of Montana) that is not older than six (6) months.

#### **4. Additional Supplements for Non-residential Units**

Applications for non-residential units shall include a list of specific non-residential activities which would be allowed within the subdivision and any activities expressly prohibited.

Applications for non-residential units shall include a detailed scaled site plan and accompanying text showing and describing the following:

- a) location, dimensions, height, and area of all structures;
- b) location, dimensions, area, and plant descriptions of all landscaping features;
- c) location, dimensions, height, area, lighting, and construction of all signs (commercial and traffic control);
- d) location, dimensions, and capacity of all drainage facilities;
- e) location and dimensions of roadways, parking lots, road approaches, and other driveways;
- f) location and number of all parking spaces, including handicapped parking (where applicable);
- g) roadway and parking lot construction cross sections;
- h) traffic generation estimates by each non-residential activity;
- i) preliminary water and wastewater designs to be submitted to the Montana DEQ and the City-County Health Department.

## **APPENDIX C(1): SUBDIVISION REVIEW JOINT APPLICATION FORM**

### **Montana Department of Environmental Quality Local Government Joint Application Form Parts I, II, III, IV, and Checklist**

Section 76-4-129, Montana Code Annotated (MCA), provides that this Subdivision Review Joint Application Form may be used to apply for Montana Department of Environmental Quality (DEQ) approval of subdivisions under the Sanitation in Subdivision laws and for subdivision approval by local governments under the Subdivision and Platting Act. The form replaces DEQ Form E.S. 91 and local preliminary plat approval forms. Landowners thus are relieved from the burden of providing similar information on different forms under two separate laws. Please consult with your local planning board, health department, or DEQ regarding the proper submittal of this application and supporting materials.

- A. When applying for subdivision review by the planning board and local governing body, the following parts of this form must be completed and submitted to the governing body or its designated agent.
  - 1. Part I must be completed for all subdivisions required to be reviewed and approved by the local governing body.
  - 2. Parts I, II, and III must be completed for all subdivisions for which local subdivision regulations require submittal of an environmental assessment.
- B. When applying for review of a subdivision by DEQ, Parts I and II of this form must be completed and submitted to DEQ. If the proposed subdivision is located in a county contracted to perform the review of subdivisions, the application must be submitted to the local health department.
- C. When applying for concurrent review of the subdivision by the local governing body and by DEQ, the following parts of this form must be completed and submitted to the local governing body or its designated agent, or to DEQ:
  - 1. Parts I and II must be completed for all subdivisions for which concurrent review is requested.
  - 2. Parts I, II, and III must be completed for all subdivisions for which local subdivision regulations require submittal of an environmental assessment.
- D. Although not a requirement of this Joint Application, it is highly recommended that the applicant complete Part IV - Subdivision Checklist and submit the checklist with Part I and the information required by Part II. The checklist identifies the application items (with references to applicable rules and technical circulars) that are typically required by the reviewing authority. Depending on the technical

complexity of the proposed subdivision, the checklist may not necessarily identify all of the required application items. However, it does provide general guidance to assist the applicant in preparing a more complete application so as to expedite the review/approval process by the reviewing authority.

Copies of this Joint Application Form are available from:

- Montana Department of Environmental Quality, Permitting and Compliance Division;
- Montana Department of Commerce, Economic and Community Development Division;
- Local health departments and sanitarians; and
- Local planning offices.

**APPENDIX C(2):**  
**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY/**  
**LOCAL GOVERNMENT JOINT APPLICATION FORM**

**PART I. GENERAL DESCRIPTION AND INFORMATION**

1. Name of proposed development \_\_\_\_\_
2. Location: City and/or county \_\_\_\_\_  
Legal description: \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 of Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_
3. Is concurrent review by local governing body and DEQ requested? Yes \_\_\_\_\_ No \_\_\_\_\_
4. Type of water supply system  
\_\_\_\_\_ Individual well  
\_\_\_\_\_ Individual cistern  
\_\_\_\_\_ Individual surface water supply or spring  
\_\_\_\_\_ Shared well (2 connections)  
\_\_\_\_\_ Multiple-user water supply system (3-14 connections and fewer than 25 people)  
\_\_\_\_\_ Service connection to multiple-user system  
\_\_\_\_\_ Service connection to public system  
\_\_\_\_\_ Extension of public main  
\_\_\_\_\_ New public system (15 or more connections or serving 25 or more people)
5. Type of wastewater treatment system  
\_\_\_\_\_ Individual wastewater treatment system  
\_\_\_\_\_ Number of bedrooms (3 bedrooms will be used if unknown)  
\_\_\_\_\_ Shared wastewater treatment system (2 connections)  
\_\_\_\_\_ Multiple-user system (3-14 connections and fewer than 25 people)  
\_\_\_\_\_ Service connection to multiple-user system  
\_\_\_\_\_ Service connection to public system  
\_\_\_\_\_ Extension of public main  
\_\_\_\_\_ New public system (15 or more connections or serving 25 or more people)
6. Name of solid waste (garbage) disposal site \_\_\_\_\_
7. Nondegradation  
Yes \_\_\_\_\_ No \_\_\_\_\_ Is information included which substantiates that there will be no degradation of state waters or that degradation will be nonsignificant?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If not, have you enclosed an Application to Degrade?
8. Descriptive Data  
\_\_\_\_\_ Number of lots or rental spaces  
\_\_\_\_\_ Total acreage in lots being reviewed  
\_\_\_\_\_ Total acreage in streets or roads  
\_\_\_\_\_ Total acreage in parks, open space, and/or common facilities  
\_\_\_\_\_ Total gross acreage of subdivision  
\_\_\_\_\_ Minimum size of lots or spaces  
\_\_\_\_\_ Maximum size of lots or spaces
9. Indicate the proposed use(s) and number of lots or spaces in each.  
\_\_\_\_\_ Residential, single family  
\_\_\_\_\_ Residential, multiple family Number of units \_\_\_\_\_  
\_\_\_\_\_ Type of multiple family structure (e.g. duplex) \_\_\_\_\_ Number of units \_\_\_\_\_  
\_\_\_\_\_ Planned unit development Number of units \_\_\_\_\_

\_\_\_\_\_ Condominium Number of units \_\_\_\_\_  
\_\_\_\_\_ Mobile home park Number of units \_\_\_\_\_  
\_\_\_\_\_ Recreational vehicle park Number of units \_\_\_\_\_  
\_\_\_\_\_ Commercial or industrial  
\_\_\_\_\_ Other (please describe) \_\_\_\_\_

10. Provide the following information regarding the development.

Current land use \_\_\_\_\_  
Depth to ground water at the time of year when water table is nearest to the natural ground surface within the drainfield area \_\_\_\_\_  
Depth to bedrock or other impervious material in the drainfield area \_\_\_\_\_  
Existing zoning or other regulations \_\_\_\_\_

11. Include the following attachments, if applicable.

Yes \_\_\_\_\_ NA \_\_\_\_\_ An overall development plan indicating the intent for the development of the remainder of the tract, if a tract of land is to be subdivided in phases.

Yes \_\_\_\_\_ NA \_\_\_\_\_ Drafts of any covenants and restrictions to be included in deeds or contracts for sale.

Yes \_\_\_\_\_ NA \_\_\_\_\_ 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.)

I understand that a person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the reviewing authority under the Sanitation in Subdivisions Act has issued a certificate of subdivision approval indicating that the subdivision is not subject to sanitary restriction, unless the subdivision is exempt from the Sanitation in Subdivisions Act under 76-4-125, MCA. I understand that a person may not construct or use a facility that deviates from the certificate of subdivision approval until the reviewing authority has approved the deviation.

I designate \_\_\_\_\_ as my representative for purposes of this application.

**Designated representative, if any (e.g., engineer, surveyor)**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_  
Company, Street or P.O. Box, City, State, Zip Code

**Owner**

Name: \_\_\_\_\_  
Signature of owner Print name of owner

Address : \_\_\_\_\_  
Street or P.O. Box, City, State, Zip Code

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

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

**Notice:** The statutory time frame for each review is 60 days. Resubmittal of denied or incomplete applications restarts the time frame. The estimated time for the DEQ to act on a complete subdivision application is 10 days for subdivisions reviewed by a local department of health under contract to the DEQ. Local health departments review

subdivisions within 50 days of receipt of a complete application. During non-peak times, a review may take 25 to 45 days. For peak times, the review may take 45 to 60 days.

## **APPENDIX C(3):**

### **PART II: REQUIRED INFORMATION FOR SUBDIVISIONS UNDER SANITATION IN SUBDIVISIONS LAWS (e.g., parcels less than 20 acres, trailer courts, RV parks, condominiums)**

All applications must include the information required in ARM 17.36.101-805 and the appropriate circulars. In order to facilitate review, the application should be organized in the same manner as this application form and follow closely the submittal requirements in the rules and circulars.

#### **A. Physical Conditions**

Provide the following attachments:

1. A vicinity map showing the location of the proposed subdivision in relation to the nearest town and/or highway(s).
2. Soils survey map and most recent interpretations of soil suitability for the proposed land uses.
3. Topographic map of the development with contour intervals meeting the preliminary plat requirements of the local subdivision regulations.
4. A copy of a preliminary plat\* (a minor subdivision plat, if applicable) prepared in accordance with local subdivision regulations, or a final plat, show the location of:
  - a. Any rock outcroppings.
  - b. Any areas subject to flood hazard or, if available, 100-year floodplain studies. (The local floodplain administrator or the Floodplain Management Section of the Water Resources Division of the Department of Natural Resources and Conservation (DNRC) may be contracted for assistance in determining flood hazard locations.)
  - c. Any natural water systems such as streams, rivers, intermittent streams, lakes or wetlands. (Also indicate the names and sizes of each).
  - d. Any man-made water systems such as wells, ponds, canals, ditches, aqueducts, reservoirs, and irrigation systems. (Also indicate the names, sizes and present use of each).
  - e. Any existing or proposed utilities located within or adjacent to the subdivision, including electrical power, natural gas, telephone service, and water and sewer pipelines or facilities.

\*Submit a preliminary plat or certificate of survey with complete and accurate legal description adequate for DEQ to initiate and complete its review of the subdivision.

#### **B. Water Supply**

1. Where an individual water supply system is proposed or existing for each parcel:
  - a. For a proposed system, provide all information required in ARM 17.36.328 – 336, indicate the distance to the nearest public water system.
  - b. If an existing system will be used, provide all information required in ARM 17.36.335
  - c. Attach four copies of the lot layout showing the proposed or existing location of each water supply source (spring, well, or cistern) and indicating the distance to existing or proposed wastewater treatment systems.
2. Where a multiple user water system is proposed or existing:
  - a. If an existing system will 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 use and its distance from the development.
  - 3) Provide evidence that permission to connect has been granted.
  - 4) Provide three copies of the following attachments:
    - a) Map or plat showing location, sizes, and depth of any existing water supply lines and facilities that 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 17.36.335 and DEQ-3.
- b. If a new system will be used
- 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 17.36.330 - 336 and DEQ-3.
3. Where a public water system is proposed or existing
- a. If an existing system will be used:
- 1) Identify the system and the person, firm, or agency responsible for its operation and maintenance.
  - 2) Provide evidence that the system is approved by DEQ and is in compliance with the regulations.
  - 3) Provide evidence that the managing entity has authorized the connections, the system has adequate capacity to meet the needs of the subdivision, the system is in compliance with DEQ regulations, and the appropriate water rights exist or have been applied for the connections.
  - 4) Provide three copies of the following as attachments.
    - a) A map or plat showing the location, sizes, and depth of any existing water lines and facilities that 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 - 330 and DEQ-1 or DEQ-3.
- b. If a new system will be used:
- 1) Indicate who will install the system, who will bear the costs, when it will be completed, and who will own it.
  - 2) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 - 330 and DEQ-1 or DEQ-3.

**C. Wastewater Treatment**

1. Where 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 DEQ-4.
2. For a proposed multiple user wastewater treatment system:
  - a. Where 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 use and its distance from the development.
    - 3) Provide evidence that permission to connect has been granted.

- 4) Provide two copies of the following attachments.
    - a) A map or plat showing the location, sizes, and depth of any existing sewer lines and facilities that will 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 17.36.320-345 and DEQ-4.
  - b. Where 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 DEQ-4.
3. For a proposed public wastewater treatment system:
- a. Where an existing system is to be used:
    - 1) Identify the system and the person, firm, or agency responsible for its operation and maintenance.
    - 2) Provide evidence that the system is approved by DEQ and is in compliance with the regulations.
    - 3) Provide evidence that the managing entity has authorized the connections, the system has adequate capacity to meet the needs of the subdivision, and the system is in compliance with department regulations.
    - 4) Provide three copies of the following as attachments:
      - a) A map or plat showing the location, sizes, and depth of any existing sewer lines and facilities that 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 DEQ-2 or DEQ-4.
  - b. Where 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 plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320 - 326 and DEQ-2 or DEQ-4. (Also see ARM 17.38.101).

**D. Solid Waste**

1. Describe the proposed method of collecting and disposing of solid waste.
2. Indicate the name and location of the department-licensed or appropriate out-of-state solid waste disposal site where solid waste will be disposed in accordance with ARM 17.36.309.

**E. Drainage — Streets, roads, and unvegetated areas**

1. Describe measures for disposing of storm run-off from streets, roads, parking lots, and other unvegetated areas within the subdivision or onto adjacent property.
2. Indicate type of road surface proposed.
3. Describe facilities for stream or drainage crossing (e.g., culverts, bridges).
4. Describe how surface run-off will be drained or channeled from parcels.

5. Indicate if storm run-off will enter state waters and describe any proposed treatment measures. (A DEQ storm-water discharge permit may be required)
6. Describe any existing or proposed streambank or shoreline alteration, any proposed construction or modification of lakebeds or stream channels. Provide information on location, extent, type, and purpose of alternation.
7. Provide storm drainage plans and specifications as required by ARM 17.36.310 and DEQ-8.

**F. Other Permits That May Be Necessary**

i. Water Use Permit (Water Rights)

The Montana Water Law requires new water developments (after July 1, 1973) to be filed with the Department of Natural Resources and Conservation to receive a water right. For ground water developments, wells and developed springs, the amount of water to be used will determine which form to file with the department.

**Form 602 – Notice of Completion of Ground Water Development** This form is to be filed when the ground water development is a well, developed spring or a ground water pit. The amount of water to be used cannot exceed 35 gallons per minute or 10 acre-feet per year. The form is to be filed within 60 days after the well or spring development is completed and the water has been put to the intended beneficial use. Do not file until the well is hooked up and being used.

**Form 600 – Application for Beneficial Water Use Permit** When the ground water development is a well, developed spring, or ground water pit and the intended use will be over 35 gallons per minute and 10 acre-feet per year, a water use permit must be issued before water can be appropriated. A correct and complete application with the criteria supplement and filing fee must be filed with the Department.

Forms are available at the Water Resources Regional Office at the following addresses:

- Helena:** Water Resources Regional Office, 1424 9<sup>th</sup> Avenue, PO Box 201601, Helena, MT 59620-1601, 406-444-6999, or the regional office in your area
- Billings:** Water Resources Regional Office, Airport Industrial Park, 1371 Rimtop Dr., Billings, MT, 59105-1978, 406-247-4415
- Bozeman:** Water Resources Regional Office, 151 Evergreen Dr., Suite C, Bozeman, MT 59715, 406-586-3136
- Glasgow:** Water Resources Regional Office, 222 6<sup>th</sup> St South, Glasgow, MT 59230, 406-228-2561
- Havre:** Water Resources Regional Office, 210 6<sup>th</sup> Ave., Havre, MT 59501, 406-265-5516
- Kalispell:** Water Resources Regional Office, 109 Cooperative Way, Suite 110, Kalispell, MT 59901, 406-752-2288
- Lewistown:** Water Resources Regional Office, 613 NE Main St., Suite E, Lewistown, MT 59457, 406-538-7459
- Missoula:** Water Resources Regional Office, Town & Country Shopping Center, 1610 S. Third St. West, Suite 103, Missoula, MT 59806, 406-721-4284

2. For a complete listing of environmental permits required by the state, please reference the *Montana Index of Environmental Permits* from the Legislature Office of

Environmental Quality (LEPO) at 406-444-3742 or visit the LEPO Web site: [http://www.leg.state.mt.us/css/publications/lepo/permit\\_index/permit\\_tofc.asp](http://www.leg.state.mt.us/css/publications/lepo/permit_index/permit_tofc.asp). In addition, there may be other permits required by the federal government or local government agencies.

- \_\_\_ Montana Department of Environmental Quality (DEQ), Water Quality web site ([deq.state.mt.us/wqinfo](http://deq.state.mt.us/wqinfo))
- \_\_\_ MPDES Wastewater Discharge—All discharges to surface water, including those related to construction dewatering. Contact DEQ, Water Protection Bureau 406-444-3080.
- \_\_\_ Storm Water Discharge—Construction activity greater than 1 acre disturbance. Contact DEQ, Water Protection Bureau 406-444-3080.
- \_\_\_ MGWPCS Discharge—All construction and/or operation of wastewater impoundments or conveyances that may cause pollution of ground water. Also, includes land application of wastewater on a case-by-case basis. Contact DEQ, Water Protection Bureau at 406-444-3080.
- \_\_\_ 318 Authorization—Any activity in any state water that will cause unavoidable short-term violations of water quality standards. Contact DEQ, Water Protection Bureau at 406-444-3080.
- \_\_\_ 310 Permit/SPA (124)—Any activity that physically alters or modifies the bed or banks of a stream. Contact the local conservation district.
- \_\_\_ 404 Permit—Any activity resulting in the discharge or placement of dredged or fill material into waters of the U.S., including wetlands. Contact U.S. Army Corp of Engineers at 406-441-1375.
- \_\_\_ Montana Land-use License or Navigable Waters Easement—The construction, placement, or modification of a structure or improvement on land below the low-water mark of navigable streams. Contact DNRC at 406-444-2074.
- \_\_\_ Water Right Permit—Required before constructing new or additional diversion, withdrawal, impoundment, or distribution works for appropriation of ground water or surface water. Contact DNRC at 406-444-6614.
- \_\_\_ Lakeshore Protection Act—Any project in or near a body of water within a county's jurisdictional area. Contact county government offices.
- \_\_\_ Public Water Supply—New construction, alteration, extension, or operation of a public water supply or non-State Revolving Fund (SRF) public sewage systems requires approval from the Department of Environmental Quality. Contact DEQ, Public Water and Subdivisions Review Bureau at 406-444-4400.
- \_\_\_ Shoreline Protection—Any work in, over, or near any stream, river, lake, or wetland on the Flathead Reservation. Contact the Shoreline Protection Office at 406-883-2888 or 406-675-2700 ext. 7201.

- \_\_\_ UST Permits—Activities involving any type of work related to underground storage tanks (petroleum and hazardous substances). Contact DEQ, Technical Services Bureau at 406-444-1420.
  
- \_\_\_ RW-20 Permit—A permit is required when work is to be done within a Montana Department of Transportation (MDT) right of way. Contact the local MDT district office.
  
- \_\_\_ Floodplain Development Permit—Anyone planning new construction within a designated 100-year floodplain. Contact DNRC, Water Operation Bureau, Floodplain Management at 406-444-0860 or local floodplain administrator.

## **PART III: INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE SUBDIVISION AND PLATTING ACT**

Information specified in this Part must be provided in addition to that required in Parts I and II of this application form, when the preparation of an environmental assessment is required by the Montana Subdivision and Platting Act.

One purpose of the Environmental Assessment is to identify potential effects on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, as mandated by 76-3-608(3)(a), MCA. Another purpose of the Environmental Assessment is to describe potential impacts and possible measures the developer can use to mitigate those identified effects.

### **A. Agriculture and Agricultural Water User Facilities**

1. Describe potential impacts the development may have on agriculture. If there will be impacts, describe how those impacts will be mitigated by the developer.
2. Describe impacts on agricultural water users facilities. If there will be impacts on agricultural water facilities, describe how these impacts will be mitigated.
3. Type of agriculture (if any) on the site being considered.
4. Type of agriculture (if any) on adjacent properties
5. Soil types; soil productivity and capability class; land designation (if any) as prime farmland, or farmland of statewide or local importance; erosion potential; and whether the property is currently irrigated.
6. Where potentially significant impacts are anticipated to agricultural *cropland*, a more detailed Land Evaluation and Site Assessment (LESA) System report should be compiled and included with the preliminary plat application staff report.

Completing a LESA report is advised if the affected parcel contains at least 10 acres of agricultural land, *and* one or more of the following criteria are triggered:

- a) Any of the following soil types are present: prime; prime if irrigated; statewide; statewide if irrigated, and/or, local importance.
  - b) There is perennial stream or spring running through the property.
  - c) There is contiguous land along the boundary of the property in question that is being used for agricultural purposes.
7. Water rights and irrigation facilities (if any), including ownership, easements, and potential safety issues such as the possible need for fencing. The applicant must provide details about irrigation facility ownership and easements as part of the preliminary plat application, so this information can be considered in the staff

report. In cases where ownership and/or water rights are unclear, the applicant must clarify them either through a letter from the local irrigation district, Department of Natural Resources and Conservation (DNRC), and/or the appropriate water judge.

8. Indicate the presence of conservation easements on any portion of the property, or adjacent property.
9. Describe responsibility for management of noxious weeds.

**B. Local Services**

1. Describe land uses on lands adjacent to the subdivision.
2. Describe any growth policy, or other land use regulations covering the area proposed for subdivision or adjacent land. If the subdivision is located near an incorporated city or town, describe any plans for annexation.
3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands (e.g., grazing, logging, and recreation). Describe how the subdivision will affect access to any public lands.
4. Describe any required construction of new public access roads or substantial improvements to existing public access roads.
5. Describe how the development will provide legal and physical access.
6. Describe the proposed closure or modification of any existing roads.
7. If any of the individual lots is accessed directly from an arterial street or road, explain why access was not provided by means of a frontage road or a road within the subdivision.
8. Indicate who will pay the costs of installing and maintaining dedicated roadways.
  - a. Estimate how much daily traffic the subdivision, when fully developed, will generate on existing streets and arterials.
  - b. Discuss the capability of existing and proposed roads to safely accommodate this increased traffic.
  - c. Describe any increased maintenance problems and cost that will be caused by this increase in volume.
9. Describe any potential year-round accessibility concerns for conventional automobiles over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision.

10. Identify the owners of any private property over which access to the subdivision will be provided and indicate whether easements for access have been obtained from those landowners.
11. Identify the utility companies involved in providing electrical power, natural gas, and telephone service. Indicate whether utility lines will be placed underground.
12. Identify on the preliminary plat or overlay the locations of any needed utility easements [as required by 76-3-608(3)(c), MCA].
13. Indicate whether the preliminary plat has been submitted to affected utilities for review.
14. Estimate the completion date of each utility installation.
15. Describe the available educational facilities that would serve this subdivision and the road distance to each.
16. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.
17. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities that will serve the subdivision.

**C. The Natural Environment**

1. Locate on a copy of the preliminary plat, or on a plat overlay, the location of the major vegetation types such as marsh, grassland, shrub, and forest.
2. Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, roads, and open spaces).
3. Identify areas containing noxious weed growth. Describe proposed means of weed control, especially to prevent weed growth on areas disturbed by construction.
4. Describe and locate on a copy of the preliminary plat, or on a plat overlay, any known or possible historic, archaeological, or cultural sites that may be affected by the proposed subdivision.
5. Describe any plans to protect such sites or properties.

**D. Wildlife and Wildlife Habitat**

1. Identify any major species of fish and wildlife use the area to be affected by the proposed subdivision.
2. Locate on a copy of the preliminary plat, or on a plat overlay, any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.
3. Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and roads away from shorelines or setting aside marshland as undeveloped open space).

**E. Public Health and Safety**

1. Locate on a copy of the preliminary plat, or on a plat overlay, any known hazards affecting the development that could result in property damage or personal injury due to:
  - a. Falls, slides or slumps — soil, rock, mud, snow; or
  - b. Seismic activity.

Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.

2. Identify any geological conditions that might affect development, such as areas of bedrock, unsuitable soils, or high ground water. Describe any measures proposed to minimize the problems presented by the identified conditions.
3. Describe the emergency services available to the residents of the proposed subdivision, including number of personnel and number of vehicles or type of facilities and road distance to facilities for:
  - a. Fire protection – Indicate whether the proposed subdivision is in an urban or rural fire district. If not, describe plans to form or extend an existing fire district, or describe other fire protection procedures. Where applicable, provide information regarding subdivisions planned in areas of high fire hazards.
  - b. Police protection.
  - c. Ambulance service.
  - d. Medical services.
4. Indicate whether the needs of the proposed subdivision for each of the above services will be met by present personnel and facilities.

- a. If not, describe the additional expenses necessary to make these services adequate.
- b. Explain who will pay for the necessary improvements.
- c. Describe any health or safety hazards on or near the subdivision, such as mining activity, high-pressure gas lines, dilapidated structures, high-voltage power lines, or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.
- d. Describe any health or safety hazards on or near the subdivision, such as mining activity, high-pressure gas lines, dilapidated structures, high-voltage power lines, or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.

## APPENDIX C(5):

### IV SUBDIVISION CHECK LIST

#### POSSIBLE SOURCES OF INFORMATION TO CONTACT WHEN COMPLETING THE FORM

##### Local Agencies

---

City/County Health Department City Engineer County Road Supervisor Conservation District County Extension Service Telephone, Electrical Power, Gas, and Cable Companies	School District Fire District or Department Police or Sheriff's Department Hospital or Ambulance Service Chamber of Commerce Floodplain Administrator
---	--

State Agencies	Information	Location
----------------	-------------	----------

Dept of Fish, Wildlife, and Parks	Fisheries, vegetation and wildlife	Helena and regional offices
Dept of Environmental Quality	Water quality	Helena
Dept of Transportation	Access to state highways traffic data maps, aerial photographs	Helena
Dept of Natural Resources and Conservation (DNRC)	Surface and ground water, floodplains, well logs, water rights, fire hazards	Helena and regional offices
Bureau of Mines and Geology	Geology, ground water, water quality well logs, topographic maps	Butte and Billings

Federal Agencies	Information	Location
------------------	-------------	----------

Farm Service Agency	Aerial photographs	County offices
Bureau of Land Management	Vegetation, maps, topography	Billings and district offices
Forest Service	Topography, surface water, soil maps, vegetation, wildlife fire hazards, maps	Missoula regional, national forest and district offices
Geological Survey	Geology, surface and ground water, water quality, floodways, topographic maps	Helena
Natural Resources Conservation Service	Soils, surface water, flood hazards, erosion	Bozeman and County offices

## APPENDIX D:

### STANDARDS FOR FINAL SUBDIVISION PLATS

1. A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:
  - a. Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches overall to include a 1-1/2 inch margin on the binding side.
  - b. One signed cloth-backed or opaque mylar copy and one signed reproducible copy on a stable based polyester film or equivalent, and one blueline copy shall be submitted.
  - c. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
  - d. Changes to a filed subdivision plat must be filed with the county clerk and recorder as an amended plat. An amended plat may not be filed unless it meets the filing requirements for a final subdivision plat specified in these rules, except that approval by the local governing body is not required where waived by Section 76-3-207 (1)(e), MCA, for relocation of common boundary lines or aggregations affecting five or fewer lots.
2. The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat:
  - a. A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision."
  - b. Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions or landowners and numbers of any adjoining certificates of survey previously recorded and ties thereto.
  - c. North arrow.
  - d. Scale bar (scale shall be sufficient to legibly represent the

- required data on the plat submitted for filing).
- e. Witness monuments, basis for bearing, bearings and lengths of lines.
  - f. The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bound by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.
  - g. Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:
    - (i) Radius of curve
    - (ii) Arch length
    - (iii) Notation of non-tangent curves
  - h. Lengths of all lines shall be shown to be at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.
  - i. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.
  - j. All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat;" as appropriate, and the boundary completely indicated by bearings and distances).
  - k. All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways. A certificate of dedication of roads, streets, alleys, parks, playgrounds, other public improvements, common areas and drainage and other easements shall be shown on the face of the plat. (See page G-10)
  - l. The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use, or non-buildable area.
  - m. Acreage of the subdivision, gross and net. Net area means gross area less areas dedicated to public uses.

- n. A legal description of the perimeter boundary of the tract surveyed. This should include all properties adjacent to the tract in question and name of owners of adjacent tracts.
- o. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner of boundary indicated on the plat must be clearly show.
- p. The signature and seal of the registered land surveyor responsible for the survey. The affixing of the seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto.
- q. Memorandum of oaths administered pursuant to Section 76-3-405, MCA.
- r. Certification by the governing body that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local governing review under Section 76-3-207(1)(e), MCA. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207(1)(e), MCA, approval by the local governing body is not required for relocation of common boundary lines or aggregations of lots which affect five or fewer lots.
- s. The dollar value of cash payment in-lieu-of parkland dedication or parkland ownership status shall be shown on the final plat, if applicable.
- t. The location of utility easements shall be shown on the plat with dashed lines, in addition to the following statement: "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing an 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."

3. The following documents shall accompany the final plat when submitted for review to the county planning department for purposes of approval by the governing body and filed with the county clerk and recorder.
- a. A platting certificate prepared by a title company showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land.
  - b. Copies of any covenants or deed restrictions relating to public improvements.
  - c. Certification by the Montana Department of Environmental Quality (DEQ) that it has approved the plans and specifications for sanitary facilities, if applicable.
  - d. Copies of articles of incorporation and by-laws for any property owners' association, if applicable.
  - e. Certification by 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 improvements to be installed.
  - f. 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.
  - g. Certification by the governing body expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification.

- h. Certification of examining land surveyor where applicable.
- i. Copy of the state highway permit when a new street or road access will intersect with a state highway, or a county approach permit, when required.
- j. A declaration of covenant, if the governing body has waived park dedication under the 5 acre, single-family dwelling exemption, in accordance with Section 76-3-621(b), MCA (See page G-12).
- k. Certification by the County Treasurer that no real property taxes are delinquent on the subject property.
- l. A letter of approval from the County Weed Board, confirming that the applicant has prepared a weed control and revegetation plan for the property.
- m. Each lot on the final plat shall have been assigned an address by the County Planning Department.
- n. Soil Erosion Control Plan approved by the Lewis and Clark Soil Conservation District.
- o. Final plat filing fee.
- p. A letter of consent from all parties having an interest in the property.
- q. Certification that the local governing body will not be required to improve or maintain any proposed private road within or providing access to the subdivision.
- r. Certification of park or playground dedication or of cash donation in lieu of land dedication, if applicable.
- s. Floodplain Development Permit approved by the County Floodplain Administrator, if applicable.

## **APPENDIX E:**

### **SUBDIVISION IMPROVEMENTS GUARANTEES**

#### **Improvements to be Completed Prior to Approval of the Final Plan:**

All public improvements required under these Regulations and the conditions imposed by the Board of County Commissioners at the time of approval of the preliminary plat, shall be completed prior to the approval of the final plat. However, the Board of County Commissioners, shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond requirements commensurate with the completion of improvements. The following procedures and requirements shall apply:

#### **A. Improvement Standards:**

The Board of County Commissioners shall specify the improvements that shall be completed after the final plat is approved. The Board of County Commissioners shall specify that the improvements must be constructed to standards included in these Regulations and the other standards the Board of County Commissioners may adopt. Those improvements may include streets, roads, bridges, culverts, curbs, gutters, drainage water systems, sewage systems, sidewalks, walkways, street lights, street signs, road right-of-way clearings, solid waste facilities, park and recreational facilities, utilities and other improvements as required by the Board of County Commissioners.

#### **B. Time Limits:**

1. All public improvements shall be completed within the time schedule approved by the Board of County Commissioners and stated in the subdivision improvement agreement between the subdivider and the Board of County Commissioners.
2. Where no specific time schedule is included in the subdivision improvement agreement, all public improvements shall be completed within twenty-four (24) months from the date of approval of the final plat by the Board of County

Commissioners.

**C. Projected Costs:**

The Board of County Commissioners shall direct the subdivider to have plans, specifications, and the estimated costs of completing the improvements prepared by a registered professional engineer. The projected improvements cost shall be 125 percent (125%) of the current costs for completing the improvements. The Board of County Commissioners, at its discretion, may require the submitted plans, specifications and projected costs be reviewed by another registered professional engineer acceptable to both parties. The costs for such review shall be borne by the subdivider.

**D. Improvement Agreement:**

The subdivider shall enter into an improvements agreement with the Board of County Commissioners. The improvement agreement shall include:

1. A commitment to complete the improvements within the specified time;
2. The projected costs of the improvements as approved by the Board of County Commissioners;
3. A guarantee acceptable to the Board of County Commissioners and in a value equal to the approved projected costs of the improvements and;
4. A warranty against defects in the improvements for a period of one year from the date of completion and the Board of County Commissioner's acceptance.

**E. Improvement Guarantee:**

The subdivider shall provide a guarantee that the improvements will be satisfactorily completed and are guaranteed for twelve (12) months. The guarantee shall have a value equal to the projected costs of completing the improvements, as stated in Section D., above. The guarantee shall specify procedures for the Board of County Commissioners to obtain the funds, should the subdivider fail to satisfactorily complete the improvements. The types of guarantees acceptable to the Board of County Commissioners are described in Section J., below. The method of guarantee shall be subject to approval of the Board of County Commissioners.

**F. Inspection and Certification:**

Upon completion of required improvements, the subdivider shall file with the Board of County Commissioners a statement certifying that:

1. All required improvements are complete;
2. These improvements are in compliance with the minimum standards specified by the Board of County Commissioners for their construction;
3. The subdivider knows of no defects in these improvements;
4. These improvements are free and clear of any encumbrances or liens;
5. All applicable fees and surcharges have been paid.

The subdivider shall also file with the County copies of final construction plans, road profiles, as built grades and specifications for improvements.

The subdivider will provide for inspection of all required public improvements by a registered professional engineer before final plat approval when installation is a condition of approval or before the Board of County Commissioners releases the subdivider from the subdivision improvements agreement.

Upon completion of the inspection, the inspecting engineer shall file with the Board of County Commissioners a statement either certifying that the improvements have been completed in the required manner or listing the defect in those improvements.

Should the subdivider fail to meet the requirements of this section, the Board of County Commissioners may provide for such inspection and the cost shall be borne by the subdivider.

**G. Reduction and Release of Guarantee:**

Only after the inspecting engineer certifies that improvements are complete and free from defect, and after receipt of the statements detailed above, the Board of County Commissioners shall release the subdivider from the subdivision improvement agreement.

The Board of County Commissioners may, upon application by the subdivider, release a

portion of the collateral corresponding to the value of the installed improvements.

#### **H. Failure to Satisfactorily Complete Improvements:**

If the Board of County Commissioners determines that any improvements are not constructed in compliance with the specifications, it shall furnish the subdivider with a list of specific deficiencies and may withhold collateral sufficient to ensure proper completion. If the Board of County Commissioners determines that the subdivider will not construct any or all improvements to required specifications, or within the time limits, it may withdraw collateral and use these funds to construct the improvements and correct any deficiencies to meet specifications. Unused portions of these funds shall be returned to the subdivider or crediting institution.

#### **I. Acceptable Forms of Improvements Guarantees:**

The subdivider shall provide one or more of the following financial security guarantees in the amount of the projected cost of installing all required improvements plus the estimated cost of inflation over the term of the guarantee as determined by county staff:

##### **1. Escrow Account:**

The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the Board of County Commissioners or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where the funds are to be deposited must be approved by the Board of County Commissioners.

Where an escrow account is to be used, the subdivider shall give the Board of County Commissioners 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 Board of County Commissioners and may not be used or pledged by the subdivider as security for any other 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 Board of County Commissioners for completing these improvements.

##### **2. Letter of Credit:**

Subject to the Board of County Commissioners approval, the subdivider shall provide the Board of Commissioners with 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 that cost, as approved by the Board of County Commissioners, of completing all required improvements;

(b) That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the Board of County Commissioners 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 Board of County Commissioners.

3. Surety Performance Bond:

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the Board of County Commissioners and countersigned by a Montana agent. The bond shall be in effect until the completed improvements are accepted by the Board of County Commissioners.

4. Other Acceptable Guarantee(s).

The Board of County Commissioners, at its discretion, may accept any other reasonable guarantee not stated herein, to ensure satisfactory completion of the improvements.

## **J Sequential Development:**

Where a subdivision is to be developed in phased portions, the Board of County Commissioners may, at its discretion, waive the use of a guarantee of the initial portion, provided that the portion contains no more than 25 lots, or fifty percent (50%) of the total number of lots in the proposed subdivision, whichever is less. The Board of County Commissioners 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 Board of County Commissioners. 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 appendix.

### **K Rural Improvement District:**

The Board of County Commissioners may enter into an agreement with the subdivider, and the owners of the property proposed 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 will be sold, rented or leased, and no contract for the sale of lots executed before the improvement district has been created.

The subdivider, or other owners of the property involved, must also petition the Board of County Commissioners to create a rural improvement district, which 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 will be deemed to run with the land.

## **APPENDIX F:**

# **STANDARDS FOR FLOOD HAZARD EVALUATION**

### **STANDARDS**

The Floodplain Management Section of DNRC will provide engineering expertise in conducting a detailed water surface profile analysis (Flood Study) if the following conditions are met:

1. The local jurisdiction is enrolled in the National Flood Insurance Program (NFIP) and has in effect a local floodplain management program.
2. The proposed project is located within an approximated floodplain as shown on the FEMA Flood Insurance Rate Map (FIRM).
3. The request to the DNRC for a detailed floodplain delineation is coordinated with the local floodplain administrator and/or county sanitarian.
4. The proposed project is located on property being subdivided.
5. The requestor provides the necessary surveyed cross-sections from a licensed surveyor or professional engineer.

### **REQUIREMENTS**

The detailed information to be submitted to the Water Resources Division, Department of Natural Resources, shall include the information listed below. The governing body shall waive the following requirements where the subdivider contacts the DNRC Water Resources Division, and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

1. Certification: Certification by a registered professional engineer.

2. Overall Plan View: An overall scaled plan view (project map) with identified scale for vertical and horizontal distance showing the following:
  - a. watercourse
  - b. floodplain boundaries
  - c. location of property
  - d. contours
  - e. cross-sections
  - f. bridges or other contractions in the floodplain.
  - g. USGS gauging stations (if any).
3. Benchmark(s): The location and elevation of a temporary benchmark(s) established within the subdivision and referenced to mean sea level with appropriate elevation adjustment.
4. Cross sectional information:
  - a. Cross-section elevations and stations should be 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.
  - b. Each cross-section shall 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 can not be taken) to determine the channel bottom shape. Cross sections shall be accurately located on a USGS 7 1/2 minute quad sheet.
  - c. 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.

5. Bridges: Descriptions and sketches of all bridges within the reach, showing unobstructed waterway openings and elevations.
6. Water Surface: Elevation of the water surface is to be determined by survey as part of each valley cross section.
7. Supporting Documentation: Engineering report of computer computations, calculations, and assumptions that may include:
  - a. Hydrology (Research of published hydrology or calculations showing how hydrology was derived)
  - b. Input Files (hardcopy & on diskette)
  - c. Output Files (hardcopy & on diskette)

## **APPENDIX G:**

### **SAMPLE FORMS AND CERTIFICATES**

1. Certificate of Completion of Public Improvements, page G-2.
2. Subdivision Improvements Agreement, page G-3.
3. Irrevocable Letter of Credit, page G-8.
4. Certificate of Surveyor - Final Plat, page G-9.
5. Certificate of Dedication - Final Plat, page G-10.
6. Certificate of Consent to Dedication by Encumbrancer, G-11.
7. Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof, page G-12.
8. Certificate of Examining Land Surveyor - Final Plat, page G-13.
9. Certificate of County Treasurer, page G-14.
10. Certificate of Final Plat Approval, page G-15.
11. Certificate of Filing by Clerk and Recorder, page G-16
12. Miscellaneous Forms and Information.

**1. Certificate of Completion of Public Improvements**

(To be submitted with application for approval of final subdivision plat, if applicable.)

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 Subdivision, have been installed in conformance with the attached engineering specifications and plans: (List the improvements actually installed).

---

Signature of Subdivider	Date
STATE OF MONTANA	
	)
	: ss.
	)
County of _____	

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me a Notary Public for the State of Montana, personally appeared (Subdivider's name), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

(Notary's Seal)	_____ Notary Public for the State of Montana
	Residing at _____, Montana
	My Commission Expires _____

---

Signature of Professional Engineer	Date
Registration No. _____	
Address _____	

(Engineer's Seal)  
**Appendix G-2**

## **2. Subdivision Improvements Agreement**

The parties to this agreement are \_\_\_\_\_ ("the Developer") and Lewis and Clark County ("the County").

The Developer seeks permission to subdivide a tract within the County to be known as \_\_\_\_\_ Subdivision and to defer construction of improvements.

The parties, in consideration of the mutual promises, covenants, and obligations authorized by state law and the County subdivision regulations and contained herein, hereby agree:

- 1. Effective Date:** The effective date of this Agreement shall be the date final subdivision plat approval is granted by the County.
- 2. Description:** The tract the developer seeks to subdivide is located in Lewis and Clark County and is more particularly described as:
- 3. Required Improvements, Standards, Specifications and Estimated Costs:** The Developer shall construct and install to standards and specifications required by law and regulation, at his own expense, the improvements set forth below:

The Developer's obligation to complete the improvements shall arise upon final subdivision plat approval, shall not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and shall be independent of any obligations of the County contained in this Agreement.

**4. Security:** To secure the performance of obligations under this Agreement, the Developer shall provide the County on or before the effective date, security in the amount of \$\_\_\_\_\_. The security shall expire not sooner than \_\_\_\_\_ years after the effective date of this Agreement. The security shall be transferred to the County upon presentation of: (1) an affidavit executed by an authorized County official stating that the Developer is in default under this Agreement; (2) proof of service of notice of default upon the developer; and (3) the original of this agreement.

**5. Warranty:** The Developer warrants that each and every improvement shall be free from defects for a period of 1 year from the date the County accepts the dedication of the last improvement required to be completed by the Developer.

**6. Commencement and Completion Periods:** The Developer shall complete all of the required improvements within \_\_\_\_ years from the effective date of this Agreement.

**7. Compliance with Law:** The Developer shall comply with all relevant laws, ordinances, regulations and requirements in effect on the effective date of this agreement.

**8. Inspection and Certification:** (A) The County shall review the completion of the improvements within 14 days of notice by the Developer that the improvements are complete. Before requesting County review of completion of any improvement the Developer shall present to the County valid lien waivers from all persons providing materials or performing work on the improvement and shall present an acknowledged certification by the project engineer employed by the developer that the improvements meet standards and specifications required by law and this agreement.

(B) Notice of completion does not constitute a waiver by the County of its right to have the Developer's security transferred to the County in the event defects in or failure of any improvement are found following the notice of completion.

**9. Notice of Defect:** The County shall provide notice to the Developer whenever an improvement does not conform to standards and specifications or is otherwise defective. The Developer shall 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 this agreement is to expire prior to the expiration of the 30-day remedy period. The Developer shall have no right to correct the defect in, or failure of, any improvement found after the County accepts dedication of the improvement(s).

**10. Reduction of Security:** After the County accepts completion of any improvement, the amount the County is entitled to draw on the security shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Section 3 of this document. Upon the certification of completion of all of the improvements, the balance (10 percent of the original security) that may be drawn under the security shall be available to the County for one year.

**11. Use of Proceeds:** The County shall use the security only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

## OTHER PROVISIONS

**12. Events of Default:** The following shall constitute a default by the Developer:

- a. failure to complete construction of the improvements within \_\_\_\_\_ 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.

**13. Measure of Damages:** The measure of damages for breach of this Agreement shall be the reasonable cost of completing the improvements. The estimated cost of the improvements as specified in Section 2 of this document shall be prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the security establishes the maximum amount of the Developer's liability. The County shall be entitled to 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.

**14. County Rights Upon Default:** Upon default, the County may draw on the security up to the face amount of the improvements not previously certified by the County. The County shall have the right to complete improvements itself or contract with a third party for completion.

**15. 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.

**16. Amendment or Modification:** The Parties to this Agreement may amend or modify this Agreement only by written agreement.

**17. 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



**Lewis and Clark County**  
**SUBDIVISION REGULATIONS**

---

whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public for the State of Montana

(Notary's Seal)

Residing at \_\_\_\_\_, Montana

My Commission Expires

\_\_\_\_\_  
Signature of Chairman,  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
County Clerk and Recorder

(Seal)

ATTACHMENT: Financial security



**4. Certificate of Surveyor - Final Plat**

STATE OF MONTANA

)  
:ss.  
)

County of \_\_\_\_\_

I, (Name of Surveyor), a registered Land Surveyor do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
Signature of Surveyor

(Surveyor's Seal)

Registration No. \_\_\_\_\_

\_\_\_\_\_  
Address

**5. Certificate of Dedication - Final Plat**

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

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

The above described tract of land is to be known and designated as \_\_\_\_\_  
Subdivision, and the lands included in all (streets, avenues, drainage easements, alleys, parks, public areas, etc.) shown on said plat are hereby...(Specific language will vary for each subdivision; consult with planning staff.).

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

**6. Consent to Dedication by Encumbrancers, If Any**

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

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

(Acknowledged and notarized  
signatures of all  
encumbrancers of record)

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

I, (County Clerk and Recorder) of Lewis & Clark County, Montana, do certify that the following order was made by the Board of County Commissioners of Lewis and Clark 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 Board of County Commissioners that land dedication for park purposes be waived and that a cash payment in lieu of park land, in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_), be accepted in accordance with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of Lewis and Clark County, Montana this \_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

\_\_\_\_\_  
Signature of Clerk & Recorder

**8. Certificate of Examining Land Surveyor Where Required - Final Plat**

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

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

(Seal of Examining Land Surveyor)

\_\_\_\_\_  
Signature of Examining Land Surveyor

(Name of Surveyor)

Registration No. \_\_\_\_\_

\_\_\_\_\_  
Address

**9. Certificate of County Treasurer**

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

Property Identification Number (PIN) \_\_\_\_\_.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Seal)

\_\_\_\_\_  
Treasurer, Lewis and Clark County, Montana

**10. Certificate of Final Plat Approval**

The County Commission of Lewis and Clark 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 all lands shown on this plat as being dedicated to such use, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Commissioner

\_\_\_\_\_  
Signature of County Attorney

\_\_\_\_\_  
Signature of Commissioner

\_\_\_\_\_  
Signature of County Surveyor

\_\_\_\_\_  
Signature of Commissioner

\_\_\_\_\_  
Signature of County Planner

ATTEST: \_\_\_\_\_  
Lewis and Clark County Clerk and Recorder

(Seal)

**11. Certificate of Filing by Clerk and Recorder**

STATE OF MONTANA

)  
: ss.  
)

County of \_\_\_\_\_

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
Clerk and Recorder,  
Lewis and Clark County, Montana

## **APPENDIX H:**

# **LEWIS AND CLARK COUNTY ROAD NAMING AND ADDRESSING CONVENTIONS**

The County addressing maps are based on the road centerline data collected by Montana State University (MSU) using the Global Positioning System (GPS) at 1-5 meter resolution. The following are the general conventions for road naming and addressing that are being used for this project. The primary goal is to create an effective system that provides efficient address locations, requiring minimum resources for maintenance. These conventions shall cover all unincorporated areas of Lewis and Clark County.

### **ROAD NAMING CONVENTIONS**

1. Every road at least one-quarter mile (1,320 feet) in length (including driveways) with two or more structures, or a potential for two or more structures, should be given a separate, unique name. For addressing purposes, a structure is defined as a building for occupancy as a residential unit or commercial unit, excluding garages, barns, and sheds.
2. Each road should have only one-word names. Road names should be kept short. They are easier to remember.
3. A named road should be essentially continuous, without gaps.
4. Directional prefixes (north, east, etc.) will only be used when necessary to distinguish the road location relative to the address grid.
5. All roadways created through subdivision review shall be named by the developer in accordance with road naming conventions.
6. All roadways created through certificates of survey shall be named by the landowner in accordance with road naming conventions.
7. All prospective road names shall be submitted to the City-County Address Coordinator (hereafter referred to as Address Coordinator) to be checked against existing names. The Address Coordinator shall coordinate with emergency services dispatch with regard to clarity of proposed road names.
8. No roadway shall be given a name that is currently in use elsewhere in the County. However, some duplications may occur between addressing areas (defined by zip

codes, telephone exchanges, planning areas, special districts, etc.) where historical naming conventions have been accepted and provide for facilitated emergency response.

9. No roadway shall be given a name that sounds the same as another road name currently in use elsewhere in the County, e.g. Diehl and Deal.
10. Persons wishing to name an unnamed road must present a petition signed by a simple majority of abutting landowners in agreement with the prospective name. This petition is available from the County Planning Department and the Address Coordinator. The proposed road name shall be reviewed in accordance with paragraph 7 above. After the name is approved by the Address Coordinator, the landowners may then collect signatures in support of the name. Once a simple majority of landowners has signed the petition, it is returned to the Address Coordinator who will verify majority approval by adjacent landowners. The landowners shall provide and maintain a street identification sign after the road name is approved. After the street identification sign is installed, addresses will be assigned along the newly named road.
11. As per Resolution 2004-16, the Address Coordinator may assign or re-assign road names to promote an orderly road naming system, and may charge appropriate fees for such services.
12. When renaming roads, the following shall be considered:
  - a. The name of a road or street that has an historical reason for having its name should retain its name.
  - b. The road with the most properties on it, and thus would require the most effort to coordinate with residents, should retain its name.
  - c. The road that has retained its name for the longest time or has been consistently signed for the longest time should retain its name. The same would be true for a road with the more descriptive name.
13. Emergency and other service providers (including the Department of Revenue) shall be notified of all new names and name changes by the Address Coordinator.
14. All roadways running generally east and west shall use the term road, e.g. Sierra Road.
15. Roads running generally north and south shall use the term drive, e.g. Green Meadow Drive.
16. A road running diagonally will be given the term road or drive depending on its general direction.

17. Additional provisions for naming other types of roads are as follows:

- Way -- a north/south road less than 1000' in length
- Place -- an east/west road less than 1000' in length
- Court -- any cul-de-sac with a circle at one end, and less than 1000' in length
- Lane -- a meandering roadway less than 2500' in length
- Loop-- a generally curved road that has an origin and terminus on the same roadway, and which does not contain significant intersections along its route
- Street -- for urban areas: roads running generally north/south
- Avenue -- for urban areas: roads running generally east/west

18. Types of roadways, e.g. road, court, shall not be used to distinguish road names, e.g. Forest Road, Forest Court.

19. Whenever possible, extensions of roadways crossing jurisdictional boundaries shall use the same name on either side of the boundary, e.g. Montana Avenue in the city and the County.

20. Extensions of roadways shall be named the same as the road from which they extend.

21. In some circumstances, roads that are designated State or Federal Highways may be named by that designation, e.g. US Highway 12 West or MT Highway 21.

22. Otherwise unnamed roads crossing national forests within the County will defer to the designated U.S. Forest Service road name.

### **ROAD IDENTIFICATION SIGNS**

1. All named roads shall be identified with a sign, which conforms with the County design standards.
2. Street or road signs and traffic control devices shall be placed at all intersections by the developer or included as part of the public improvements agreement. Traffic control devices and placement shall be consistent with the Manual on Uniform Traffic Control Devices, available from the Public Works Department.
3. Street names shall comply with the provisions of the Road Naming Conventions.
4. Whenever possible, name signs shall be placed on the northeast and southwest corners of all intersections. If it is not feasible to utilize the northeast and southwest corners, signs shall be placed so as to be conspicuous to the majority of people.

5. At a minimum, name signs shall be 6" x 24". Lettering on street signs shall not be less than 3 inches high and not less than 1/2 inch in stroke.
6. Signs shall have white letters on a dark green reflective background.
7. Name signs shall be mounted not less than 7 feet nor more than 8 feet above the roadway.
8. Depending upon the status of the road and other circumstances, procurement and installation of road signs shall be the responsibility of the County, developers, and landowners. To assure conformity with naming conventions and sign design standards, all signs shall be ordered through the County Public Works Department. Installation of signs shall be done in accordance with the Manual of Uniform Traffic Control Devices and County design standards.
9. Depending upon the status of the road and other circumstances, maintenance of road signs shall be the responsibility of the County, homeowners associations, road districts, and landowners.
10. At least one road name sign shall be mounted at each intersection. Two road name signs are desirable and may be required in the future.

### **ADDRESSING CONVENTIONS**

1. Addressing is based on a numerical grid beginning at the designated townsites: Helena, East Helena, Wolf Creek, Lincoln, and Augusta.
2. The grid in the eastern portion of the Helena Valley is based on 400 numbers per mile of a section of land.
3. The grid system in the western portion of the Helena Valley is based on 1000 numbers per mile of a section of land.
4. The grid in the Wolf Creek area (outside the townsites of Wolf Creek and Craig) is based on 400 numbers per mile of a section of land.
5. The grids in the Lincoln and Augusta areas are based on 100 numbers per block within the townsites and are grid systems outside the townsite with approximately 1000 numbers per mile.
6. Numbers should be assigned to all structures that are inhabited or that are used for business purposes.

7. Generally, the south and east sides of a road will be given odd numbers, and the west and north sides will be given even numbers (based on the general direction of the road at its point of beginning).
8. For looped roads or circles, the exterior lots will have even numbers and the interior lots will have odd numbers.
9. Duplexes, apartments, condominiums and mobile homes within parks should receive a separate number for each unit.
10. Corner lots should be assigned a number according to the direction the front door faces. There may be instances when a corner lot might be numbered based on driveway location, if this enhances emergency service provision (i.e. front door obscured).
11. There will be no fractional addresses, alphanumeric addresses or hyphenated addresses.

#### **Helena Valley Grid**

- Zero point for the north-south grid is Broadway within the City of Helena; rural addressing starts at Custer Avenue at 3100 with 400 numbers per mile east of I-15 and 1000 numbers per mile west of I-15
- Zero point for the east-west grid is Green Meadow Drive for most of the Valley; however; along Custer Avenue the zero point is at the Henderson Avenue intersection.
- Extend rural grid in all directions
- Extent of coverage: North -- top of North Hill; East -- County line; South -- County line (some addresses have been assigned to property in Jefferson County for postal delivery); West -- County line

#### **Wolf Creek/Craig Townsite Grid**

- Zero point for the north-south grid in Wolf Creek townsite is Wolf Creek Main Street
- Zero point for the east-west grid in Wolf Creek townsite is the east edge of town
- Zero point for the north-south grid in Craig townsite is the north edge of town
- Zero point for the east-west grid in Craig townsite is Craig Main Street

- Rural addressing starts with 1000 at the Section line between Section 35 and Section 2 just outside Wolf Creek, with 400 numbers per mile of land (except the town of Craig)
- Extend rural grid in all directions
- Extent of coverage: North -- County line; East -- County line; South -- Gates of the Mountains interchange; West -- Highway 200

### **Augusta Townsite Grid**

- Zero point for the north-south grid is the north edge of town
- Zero point for the east-west grid is the east edge of town
- The urban addressing grid is based upon the platted blocks with 100 numbers per block
- Rural addressing starts at the Section line for Section 17, outside the town with 1000 numbers per mile of land
- Extend rural grid in all directions
- Extent of coverage: North -- County line; East -- County line; South -- Highway 200 and the continental divide; West -- County line (taking in any no title cabins on Forest Service land)

### **Lincoln Townsite Grid**

- Zero point for the north-south grid is Highway 200
- Zero point for the east-west grid is First Avenue (also shown as the section line between Section 24 and Section 23)
- The urban addressing grid is based upon the platted blocks with 100 numbers per block
- Rural addressing starts at the Section line for Section 24, outside the town with 1000 numbers per mile of land
- Extend rural grid in all directions
- Extent of coverage: North -- continental divide; East -- continental divide; South -- County line; West -- County line

### **Canyon Creek**

- Numbering for this area will be an extension of the grid from the Helena Valley

### **Marysville Townsite Grid**

- The urban addressing grid is based upon the platted blocks with 100 numbers

per block

**Canyon Ferry and York**

- Numbering for these areas will be an extension of the grid from the Helena Valley

**ADDRESS NUMBERS AND PLAQUES**

1. It is important that address numbers be clearly visible for the efficient provision of delivery and emergency services. The installation and maintenance of address numbers shall be the responsibility of the landowner.
2. Address plaques should be posted at the entrance to a property when the structure's address number is not visible from the road.
3. Address plaques should conform to the design standards for street identification signs except for color (blue background, white reflective letters).
4. Address plaques may be installed in a horizontal or vertical orientation. If installed vertically, the address numbering sequence should begin at the top.
5. Procurement of address plaques can be made through the Planning Department.

## **APPENDIX I: DEFINITIONS**

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

Words not defined below but appearing elsewhere in these regulations will carry the definition used in the latest version of the Webster's Dictionary.

**ACCESS, LEGAL:** All lots of the subdivision abut a public road easement or public right-of-way, and all necessary County or State approach permits have been obtained.

**ACCESS, PHYSICAL:** All lots of the subdivision abut a road constructed in accordance with the standards of these regulations and which provides vehicular access to each lot.

**ACCESSORY BUILDING OR USE:** A subordinate building—or portion of the principal building—located on the same lot as the principal building, or subordinate use of land, either of which is customarily incidental to the principal building or principal use of the land.

Where a portion of an accessory building is connected to part of the principal building in a substantial manner, as by a roof, such an accessory building shall be counted as part of the principal building.

**ADDRESS IDENTIFICATION NUMBERS:** The posted numbers used to identify property addresses. It is important that address numbers be clearly visible for the efficient provision of delivery and emergency services.

**ADT:** Average daily trips made by vehicles or persons in a 24-hour period.

**AGGRIEVED PARTY:** 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 of the governing body to approve, conditionally approve, or disapprove a proposed subdivision plat.

**ALL-WEATHER SURFACE:** A driving surface that is safe and driveable under ideal and adverse weather conditions. A gravel surface is an acceptable minimum all-weather surface.

**ANNEXATION:** The process by which land in an unincorporated area becomes part of a nearby or adjacent municipality.

**APPLICANT:** Any person, firm or corporation, or other entity that proposes a subdivision of land.

**APPLICATION DEADLINE:** The periodic deadlines (approximately semi-monthly or monthly) for application submittals to be considered within a particular review timeframe. Such deadlines are necessary for efficient administration of the MT Subdivision & Platting Act and these regulations. The statutory review timeframes (60 for majors or 35 working days for minors) would always begin on an application deadline, if the submitted application was determined to be complete.

**APPROACH:** The point where a residential driveway meets a public road, or where a local access road, for example, intersects a higher classification of public road (e.g., collector).

**APPROPRIATE:** An act, condition, or state that is considered suitable.

**AS-BUILTS:** The drawings and specifications that describe the actual layout, location, structures, materials, and systems of a building or property.

**BLOCK:** A group of lots, tracts or parcels within well-defined and fixed boundaries.

**BOCC:** Board of County Commissioners (sometimes referenced as “governing body.”)

**BUILDING SETBACK LINE:** An imaginary line establishing the minimum distance that structures may be located from lot lines, street rights-of-way, natural drainages, or other physical or legal boundaries.

**CAPITAL FACILITIES:** Capital facilities are provided for public purposes, and are generally defined as structures, improvements, equipment, or other major assets--including land--that have a useful life of at least 5 years.

**CAPITAL INVESTMENT:** Money spent to build, expand, or otherwise improve major public facilities (see definition of capital improvements plan).

**CATCHMENT AREA:** A particular geographic area within which water flows to a common point (e.g., a stream, lake, catchment basin, etc.).

**CERTIFICATE OF SURVEY (COS):** A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations and parcel features. COSs are often filed as a legal document to describe land divisions that are exempt from the subdivision review process.

**CLUSTER DEVELOPMENT:** As defined in 76-3-103, MCA, "Cluster development' means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped."

**COMMERCIAL USE:** A commercial use is any business, retail trade, or service activity.

**COMMUNITY PARK:** Land with full public access intended to provide recreation opportunities beyond those supplied by neighborhood parks. They are designed for organized activities and sports, although individual and family activities are also encouraged. Community parks are larger in scale than neighborhood parks and may require a minimum of 15 acres, as outlined in the County Comprehensive Parks, Open Space and Recreation Plan.

**COMPREHENSIVE PLAN:** Now statutorily defined as a "Growth Policy" in Section 76-1-103 MCA. Refers to a publicly prepared plan which describes current and future conditions of a community or county, outlines goals and objectives for land use and other features of community life, and recommends implementation measures designed to help achieve the goals.

**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 all other parts of the project held in common ownership or use with owners of the other units.

**CONSERVATION EASEMENT:** A voluntary restriction of land use, particularly with respect to residential development. A landowner may sell or donate a conservation easement to a public or private entity.

**CONSISTENCY, CONSISTENT WITH:** Free from significant variation or contradiction. The courts have held that the phrase "consistent with" means "agreement with; harmonious with." The Webster Dictionary defines "consistency with" as meaning harmony, agreement when used with "with."

**CONSOLIDATED CITY-COUNTY PLANNING BOARD:** Also referred to as the Planning Board.

**COVENANT:** A written agreement (recorded with the Clerk and Recorder) of two or more parties by which any of the parties pledges himself to the others that something is done or shall be done, or sets forth provisions for the use of land.

**CRITICAL AREAS:** Environmental areas that may be designated for preservation or protection. These areas may include: frequently flooded areas, naturally occurring wetlands, fish and wildlife habitat areas, geologically hazardous areas, and areas with a critical effect on aquifer recharge.

**CRITICAL RESOURCES (e.g., fish and wildlife habitat, historic and cultural resources, etc.):** A resource value designation typically applied by the principal managing agency or agencies for a particular resource, such as Fish, Wildlife @ Parks, the State Historical Preservation Officer, etc.

**DEDICATION:** The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights which are incompatible with the full exercise and enjoyment of the use to which the property has been devoted. Acceptance of any dedications to public use is the discretion of the governing body.

**DEED RESTRICTION:** A land use restriction placed by a landowner on his or her property.

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

**DENSITY:** The number of buildings or housing units per acre.

**DEQ:** Montana Department of Environmental Quality.

**DEVELOPMENT CAPACITY:** The amount of residential (number of dwelling units) and non-residential uses (building floor area in square feet or number of employees) that may be built based on the land use designation of a parcel of land. Capacity is calculated by assuming a certain amount of development is permitted within an allowable density in a location.

**DEVELOPMENT RIGHTS:** The right to own or develop one residence or commercial operation per parcel of land.

**DIRECTOR OF COMMUNITY DEVELOPMENT AND PLANNING:** The official responsible for supervising the County Planning staff, and directly administering these regulations. The title is sometimes abbreviated to read "Director."

**DIVISION OF LAND:** The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. Provided that where required by the Act the land upon which an improvement is situated has been subdivided in compliance with the Act, 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 terms of the Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

**DNRC:** Montana Department of Natural Resources and Conservation.

**DRAINAGE BASIN:** See definition for watershed.

**DRIVEWAY:** A private route, typically for motor vehicles, connecting a dwelling unit and/or garage with a public road.

**DWELLING UNIT:** Any building or portion thereof providing complete, independent and permanent living facilities for one family.

**EA:** Environmental Assessment.

**EASEMENT:** A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner who holds title to the land.

**EMERGENCY SERVICES:** Community services such as fire protection, law enforcement, ambulance service, quick response, search and rescue, and flood and disaster relief. Emergency services are generally provided by local governments or private, nonprofit organizations.

**EMINENT DOMAIN:** The right of a public entity to acquire private property, for public use, by condemnation and payment of just compensation.

**ENGINEER (REGISTERED PROFESSIONAL ENGINEER):** A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

**ENTRYWAY CORRIDOR:** The roadway corridor leading into and out of a community. Often, the corridor is an area of transitioning land uses, with more intense and urban activities located closest to the community center.

**ENVIRONMENTAL ASSESSMENT (EA):** An EA is a document that describes impacts on the environment as a result of a proposed action.

**ENVIRONMENTAL IMPACT STATEMENT (EIS):** An EIS is a document (typically longer and more detailed than an EA) that describes impacts on the environment as a result of a proposed action. It also describes impacts of alternatives as well as plans to mitigate the impacts.

**EPA:** U.S. Environmental Protection Agency.

**EPHEMERAL STREAM:** (See definition under "stream")

**EXAMINING LAND SURVEYOR:** A professional land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

**FEMA:** Federal Emergency Management Agency.

**FERC:** Federal Energy Regulatory Commission.

**FISCAL IMPACT ANALYSIS (FIA):** A projection of the direct public costs and revenues resulting from population or employment change to the local jurisdiction(s) where the change is taking place. An FIA enables local governments to evaluate relative fiscal merits of general plans, specific plans, or projects.

**FLOOD:** The water of any watercourse or drainage way which is above the bank or outside the channel and banks of such watercourse or drainage way.

**FLOOD OF 100 YEAR FREQUENCY:** A flood magnitude expected to recur on the average of once every 100 years, or flood magnitude which has a one percent chance of occurring in any given year.

**FLOODPLAIN:** The area adjoining the watercourse or drainage way that could be covered by the floodwater of a flood of 100-year frequency.

**FLOODWAY:** The channel of a watercourse or drainage way and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainage way.

**FWP:** Montana Department of Fish, Wildlife and Parks.

**GEOGRAPHIC INFORMATION SYSTEM (GIS):** A method of computer mapping that enables layers of land-related information (e.g., soils, roads, waterways, buildings) to be illustrated and analyzed in various combinations. GIS maps and databases may be used to predict future conditions under different hypothetical scenarios.

**GEOLOGICALLY HAZARDOUS AREAS:** Areas that because of their susceptibility to erosion, sliding, earthquakes, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

**GOAL:** A broad, generalized expression of a commonly held community value. Goals express primary themes or general intent and direction.

**GOVERNING BODY:** The Board of County Commissioners, or the governing authority of any city or town organized pursuant to law.

**GROWTH MANAGEMENT:** The use by a community of a wide range of techniques in combination to determine the amount, type, and rate of development desired by the community and to channel that growth into designated areas. Growth management policies, once determined, are implemented through zoning, capital improvement programs, subdivision regulations, neighborhood plans, standards for levels of service, and other programs.

**GROWTH POLICY:** As defined in Section 76-1-103, MCA, a Growth Policy means and is synonymous with a comprehensive development plan, master plan, or comprehensive plan that meets the requirements of Section 76-1-601, MCA. The 1999 Montana Legislature enacted legislation that defined Growth Policy, and made it the operative term for the types of documents mentioned above.

**GUIDELINES:** General statements of policy direction around which specific details may be later established.

**HOME OCCUPATION:** Any use conducted entirely within a dwelling, that is clearly incidental and secondary to the use of the dwelling for residential purposes. Such

use may include, but is not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts, provided that the use does not involve more than one-third of the total square footage of the dwelling and does not generate substantial additional traffic. The home occupation shall not involve more than one person who does not live in the residence. Vehicle trips directly associated with the home occupation shall not exceed an average of ten per day on a weekly basis, including deliveries.

**HOUSEHOLD:** All individuals--related or unrelated--who occupy a single housing unit.

**HVID:** Helena Valley Irrigation District.

**IMPACT:** The effect of any direct man-made actions or indirect repercussions of man-made actions on existing social, environmental, or economic conditions.

**IMPACT FEES:** A fee paid by developers to help pay for the cost of providing public facilities needed to serve new development. Impact fees may also involve an effort to predict the total cost to the community for servicing the new development and relate it to the revenues that will be produced by the development once it is completed.

**IMPLEMENTATION STRATEGY:** Specific procedures for carrying out goals and policies.

**IMPROVEMENT:** The addition of one or more structures or utilities on a parcel of land.

**INCENTIVE:** A benefit offered to entice someone to do something, as opposed to a regulatory requirement.

**INDUSTRIAL USE:** The activities predominantly connected with manufacturing, assembling, processing, or storing of products.

**INFILL DEVELOPMENT:** Development consisting of construction on one or more lots in an area that is mostly developed, or underutilized parcels in built up areas. Because utilities infrastructure and public services are usually in place, the costs and impacts of new developments may be lower.

**INFRASTRUCTURE:** Public facilities and services that typically include, roads, sewers, water, schools, police and fire buildings, libraries, hospitals, parks, trails, etc. to serve public demand and safety.

**INTERLOCAL AGREEMENTS:** Agreements between political jurisdictions.

**INTERMITTANT STREAM:** (See definition under "stream")

**ISSUE:** A problem or opportunity that is sufficiently important for the County to develop an approach addressing it (e.g., through goals, policies, strategies, etc.).

**LAND EXCHANGE:** Typically, the process by which a public land management agency trades or sells a parcel of public land in exchange for the acquisition of land which is deemed to hold higher resource values for public purposes.

**LAND TRUST:** A non-profit organization that receives property, conservation easements, and development rights as a way of promoting goals such as open space preservation and farmland protection. A land trust may accept donations and/or make purchases.

**LCCWQPD:** Lewis and Clark County Water Quality Protection District.

**LEVEL OF SERVICE (LOS):** An indicator of the extent or degree of service provided by, or proposed for, a facility or a service based on an established minimum standard (i.e. 1 patrol officer per 10000 people).

**LOCAL FIRE AUTHORITY:** A local fire district, fire service area, or the county fire marshal.

**LOCATION MAP:** A small map showing the location of a tract of land in relation to a larger land area.

**LOT:** A parcel, plot or other land area created by subdivision for sale, lease, or rent.

**LOT MEASUREMENTS:**

- 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 width of the lot measured by averaging its two narrower dimensions.
- c. Lot Frontage -- The width of the front lot line.

- d. Lot Area -- The area of a lot calculated in square feet. In order to meet minimum size requirements, the lot area must be determined exclusive of streets, highways, alley, roads, or other rights-of-ways.

**LOT TYPES:**

- a. Corner Lot: A lot located at the intersection of two streets and/or roads.
- b. Interior Lot: A lot with frontage on only one street, and/or roads.
- c. Through Lot: (or double fronted lot) A lot whose front and rear lines both abut on a street, and/or roads.

**MANUFACTURED HOUSING:** As defined in MCA 76-2-302, “‘manufactured housing’ means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 61-1-501.”

**MCA:** Montana Codes Annotated (State of Montana statutes).

**MDPHHS:** Montana Department of Public Health and Human Services.

**MDT:** Montana Department of Transportation.

**MILL LEVY:** The level of property tax set by a local government. One mill equals one one-thousandth of the total taxable value of the particular jurisdiction.

**MINOR SUBDIVISION:** A subdivision containing five (5) or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use for parks or playgrounds.

**MITIGATE:** To ameliorate, alleviate, or avoid to the extent reasonably feasible.

**MIXED-USE:** Properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. A "single site" may include contiguous properties.

**MOBILE HOME:** As defined in MCA 61-1-501, “Mobile home’ or ‘housetrailer’ means a trailer or a semitrailer that is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily), and is equipped for use as a conveyance on streets and highways, or a trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a housetrailer, but that is used permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any commercial purpose, except the transportation of property for hire or the transportation of property for distribution by a private carrier.” Also, see definition for “manufactured housing.”

**MOBILE HOME LOT:** A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

**MOBILE HOME PARK:** A tract of land providing two or more mobile home lots for lease or rent to the general public.

**MOBILE HOME STAND:** That area of a mobile home lot that has been prepared for the placement of a mobile home.

**MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

**MUNICIPALITY:** An incorporated city or town.

**NEIGHBORHOOD PARK:** A combination playground and park designed primarily for non-supervised, non-organized recreation activities generally 3-7 acres in size.

**NEIGHBORHOOD PLAN:** A plan developed for a particular geographic area within the County, typically including the active involvement of area residents. A neighborhood plan generally would not include regulatory provisions, such as zoning or other mechanisms.

**NON-CONFORMING USE:** An existing use of land or building which was legally established prior to the effective date of a regulation, but which subsequently fails to comply with the requirements applicable to the zone it is situated in.

**NRCS:** Natural Resources and Conservation Services, which is a federal agency previously called the Soil and Water Conservation Service.

**OBJECTIVE:** An objective is a narrowly defined and concrete expression of community intent. Typically, an objective is quantifiable (e.g., it states how much will be achieved by a certain date)

**OCCASIONAL SALE:** A previous exemption that provided for a single division of a tract of land during a period of one year. The occasional sale exemption was formerly contained in Section 76-3-207 (1)(d), MCA; it was repealed by the 1993 Legislature.

**OPEN SPACE:** A land or water area devoid of buildings and other physical structures except where accessory to the provision of recreation.

**ORDINANCE:** A statute or regulation.

**ORIGINAL TRACT OF RECORD:** A tract of land created as of July 1, 1973.

**OVERALL DEVELOPMENT PLAN:** The plan of a subdivision design for a single tract proposed to be subdivided by stages.

**PAYMENT-IN-LIEU-OF-TAXES (PILT):** Annual payment made by the federal government to each county government where federally managed public lands are located. The payment is intended to compensate county governments, in part, for the fact that public lands are exempt from local taxation.

**PEDESTRIAN FACILITY:** An improvement designed to facilitate accessibility by foot or wheelchair, including sidewalks, curb ramps, crosswalks, overpasses and under crossings, etc.

**PERENNIAL STREAM:** (See definition under "stream" )

**PERFORMANCE STANDARDS:** Regulations that permit uses based on a particular set of standards of operation rather than on particular type of use. The focus is on end results, and less on how they are achieved. Performance standards provide specific criteria limiting noise, air pollution, emissions, odors, vibration, dust, dirt, glare, heat, fire hazards, wastes, traffic impacts, and visual impact of a use.

**PERMITTED USE:** A use that is lawfully established in a particular district or districts, and which conforms with all requirements, regulations, and performance standards within the district. A permitted use may be a principal use, accessory use, or a conditional use.

**PLANNED UNIT DEVELOPMENT (PUD):** A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, that

comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use.

**PLANNING BOARD:** A city planning board, a county planning board or a joint city-county planning board as formed pursuant to Title 76, Chapter 1, MCA. In Lewis and Clark County, the formal title is the Helena—Lewis and Clark County Consolidated Planning Board (sometimes abbreviated as just “Board”). The planning board’s role is advisory.

**PLAT:** A graphic representation of a subdivision showing the division of land into lots, parcels, blocks, streets, and 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 which furnish a basis for a review by a governing body.
- 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 and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA).
- c. Vacated Plat: A plat that has been removed from the county record under provisions of these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).
- c. Amended Plat: The final drawing of any change to a platted subdivision required to be filed with the clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA).

**POLICY:** A specific statement of principle or of guiding actions that implies clear commitment. It is the general direction that a governmental agency sets to follow, in order to meet its goals and objectives before undertaking an action program.

**PPL, MONTANA:** Pennsylvania Power and Light, Montana, formerly known as Montana Power).

**PRIME FARMLAND:** As defined by the Natural Resources Conservation Service, those lands that are best suited due to physical and chemical characteristics to produce food, feed, forage, fiber, and oilseed crops. Typically, these lands have an

adequate and dependable supply from precipitation or irrigation, favorable temperature and growing season, and acceptable soil acidity and alkalinity.

**PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve the residents of a subdivision or the general public such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, street identification signs, traffic control signs, utilities and systems for water supply, sewage disposal and drainage.

**PUBLIC SERVICES:** services and facilities provided to the general community by government or quasi-public entities. Examples include roads and bridges, emergency services, schools and libraries, sewer and water systems, and solid waste disposal.

**RE-AGGREGATING LOTS:** Voluntary action by a landowner or group of landowners to reassemble lots previously created by land division, in order to create one or more larger parcels.

**RECREATIONAL 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. The term includes but is not limited to travel trailers, camping trailers, truck campers, and motor homes.

**RECREATIONAL VEHICLE PARK:** A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motor homes, travel trailers or automobiles for transient dwelling purposes.

**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.

**REGISTERED ENGINEER:** An engineer licensed to practice in the State of Montana.

**REGULATION:** That which is required, unless an explicit exception is made.

**RESIDENTIAL USE:** Any land use that provides for living space. Examples may include, single family, multifamily, special residences, and mobile home park.

**RID (Rural/Road Improvement District):** A specially designated area in which local public improvements are made. Property owners or the County may initiate projects that are paid through special assessments. RID examples may include road improvements, sidewalks, curb, etc.

**RIGHT-OF-WAY:** A strip of land dedicated or acquired for use as a public way.

**RIGHT-TO-FARM LAW:** A Montana state law that excludes standard agricultural practices from being considered “nuisances” (see 27-30-101, MCA).

**RIPARIAN AREA:** Defined by the University of Montana’s Riparian and Wetland Research Program as the “green zone” which lies between channels of flowing water and uplands, and which serves several functions, including the following: water storage and aquifer recharge; filtering of chemical and organic wastes; sediment trapping; bank building and maintenance; flow energy dissipation; and primary biotic production. Riparian areas provide important habitat for many species of wildlife.

**RURAL DEVELOPMENT:** Development activities that may be based on the land (e.g. agriculture, ranching and mineral extraction). Usually characterized by large lots for houses and by farm and forest activities. Areas where fewer public facilities exist, and lower infrastructure standards are typically found.

**RV:** Recreational Vehicle.

**SERVICE AREA:** The land area within which a County or other jurisdiction is committed to providing public services.

**SETBACK:** The horizontal distance required between the public right-of-way or property line (whichever is closest) and the building line.

**SINGLE FAMILY DWELLING:** A dwelling used for residential occupancy by one household.

**SPECIES OF SPECIAL CONCERN:** Types of wildlife and vegetation which are considered by the Montana Natural History Program and the U.S. Fish and Wildlife Service to be threatened, endangered, or otherwise vulnerable to decline.

**STANDARD:** Something established for use as a rule or basis of comparison in measuring quantity, quality, value, etc.

**STATE:** The State of Montana

**STREAM:** A body of running water (as a river or creek) flowing on the earth.

- a. **EPHEMERAL STREAM:** A stream that flows infrequently, usually only following precipitation events or snowmelt. This would include many gullies, coulees, and draws.

- b. **INTERMITTANT STREAM:** A stream that flows more often than not, but may not flow a good portion of the time in some reaches. For instance, during the late summer there may be flow in some sections of an intermittent stream, and no flow in other reaches where water seeps into the stream bottom at a higher rate.
- c. **PERENNIAL STREAM:** A stream that typically flows all year for its entire length, although stretches may go dry during periods of extreme drought.

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

- a. Alley: A street used primarily for vehicular access to the rear of properties that abut on and are served by public roads.
- b. Arterial: a street or road having the primary function of moving traffic 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 provide limited access to abutting property.
- c. Avenue: For urban areas--roads running generally east/west.
- d. 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 may have two parking lanes.
- e. Court: Any cul-de-sac with a circle at one end, and less than 1000' in length.
- f. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
- g. Dead End Road: A road having only one outlet for vehicular traffic.
- h. Driveway: A private road less than 150 feet in length that services only one residence. A private road providing access to a public road that services only one residence.
- i. 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.

- j. Half-Street: A portion of the width of a street, usually along the outside perimeter of a subdivision, where the remaining portion of the street must be located on adjacent property.
- k. Lane: A meandering roadway less than 2500' in length.
- l. 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, may have one or two parking lanes and provide access to abutting properties.
- m. Loop: A local street which begins and ends on the same street, generally used for access to properties, and which does not contain significant intersections along its route.
- n. Place: An east/west road less than 1000' in length.
- o. Public Road: A road is public if its right-of-way has been dedicated for public use.
- p. Street: For urban areas--roads running generally north/south.
- q. Way: North/south road less than 1000' in length.

**SUBDIVIDER:** Any person, firm or corporation, or other entity that causes land to be subdivided or who proposes a subdivision of land.

**SUBDIVISION:** A division of land or land so divided, which creates one or more parcels containing less than one hundred sixty (160) acres that cannot be described as a one-quarter aliquot part of a United States Government Section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and includes any resubdivision; and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles, or mobile homes. A subdivision comprises only those parcels containing less than one hundred sixty (160) acres that have been segregated from the tract of record. The subdivision plat must show all the parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with the Montana Subdivision and Platting Act are exempt from the provisions of the Act 76-3-203, MCA, under certain circumstances.

**SUBSIDENCE:** The lowering of the earth's surface, caused by such factors as compaction, a decrease in groundwater, mining activities, or the pumping of oil.

**SURVEYOR (PROFESSIONAL LAND SURVEYOR):** A person licensed in conformance with the Montana Professional Engineer Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

**SUSTAINABILITY:** Community use of natural resources in a way that does not jeopardize the ability of future generations to live and prosper.

**SWALE:** A drainage channel or shallow depression designed to direct surface water flow.

**TMDL:** Total maximum daily load, used in determining water quality.

**TOWNHOUSE:** A type of dwelling in which individuals own their own units and hold separate title to the land beneath the unit and their own lot.

**TRACT:** A single parcel of land held in single and undivided ownership as shown by the official records on file in the office of the county clerk and recorder.

**TRACT OF RECORD:**

(a) A "tract of record" is an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using the documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection 53.(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels.

**TRANSITIONAL AREAS:** The areas suitable for urban development over a longer term. Transitional areas generally are not contiguous to existing urban development. These areas contain existing low-density development and community services (schools, parks, fire protection, neighborhood, commercial, etc.) and could accommodate additional infill development.

**URBAN AREAS:** Urban areas are those areas where city services to support residential, commercial, and industrial development are most likely to be extended over the next twenty to twenty-five years.

**URBAN SERVICES:** Those governmental services historically and typically delivered by cities, including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities.

**URBAN GROWTH:** Growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces. When allowed to spread over a wide area, urban growth typically requires urban governmental services.

**URBAN SERVICE AREA:** The area within which urban governmental services, such as sanitary sewer systems, domestic water systems and other public utilities associated with urban areas are provided.

**USFWS:** U.S. Fish and Wildlife Service.

**USGS:** U.S. Geological Survey.

**UTILITIES:** Facilities serving the public by means of a network of wires or pipes, and ancillary structures. Included are systems for the delivery of natural gas, electricity, telecommunications services, and water, as well as the disposal of sewage.

**VFD:** Volunteer Fire Department.

**VICINITY MAP:** A map at a scale suitable to locate the 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.

**VIEWSHED:** The landscape visible from a particular viewing point.

**WATERCOURSE:** A natural depression or channel that gives direction to a current of water at any time of the year. This could be a stream or gully, for example, that water flows towards and then through, in a prescribed path.

**WATERSHED:** When rain or snow falls on an area of land, it eventually runs down hill until it reaches a stream. The entire area over which water flows to a common point is called a watershed.

**WETLANDS:** Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**WILDLAND/URBAN INTERFACE:** Borders of forest and/or woodland areas being settled by people desiring to live in rural, wooded settings.

**ZONING:** A regulatory tool available to local governments to designate the location and character of various land uses.

## **APPENDIX J:**

# **CRITERIA FOR REVIEW OF CLAIMED EXEMPTIONS FROM PROVISIONS OF SUBDIVISION AND PLATTING ACT**

### **STATEMENT OF INTENT**

The intent and purpose of this document is to provide administrative procedures for implementing Sections 76-3-201 and 207, MCA, of the Montana Subdivision and Platting Act (the Act). These procedures are designed to provide persons administering the Act criteria for evaluating the purpose of claimed exemptions, and further, to provide persons claiming an exemption opportunities for demonstrating their eligibility for such claims. The criteria set forth herein, are to be used as guidelines for evaluation of such eligibility and are not in themselves conclusive. Further, said criteria do not presume that prior uses of exemptions were unlawful.

### **SECTION A. APPLICATION AND INITIAL REVIEW**

1. Any person (which term includes an individual, firm, association, partnership, corporation, and public agency) seeking exemption from the subdivision review requirements of the Montana Subdivision and Platting Act, Section 76-3-101 et seq., MCA (the Act), and/or the Lewis and Clark County Subdivision Regulations (the Regulations), shall apply for the exemption by furnishing evidence of entitlement to the claimed exemption to the Clerk and Recorder. Such evidence may include, but is not limited to, a certificate of survey, a completed and signed "certificate of survey exemption affidavit," and documentation of ownership. Any person going through this process must first attend a pre-application conference first.

2. A Review Committee, appointed by the Board of County Commissioners (Board) and consisting of the Clerk and Recorder, Planning Director, and County Attorney (or their designees), shall review evidence submitted by the applicant on the basis of the criteria set forth in these regulations and in other pertinent law. Within ten (10) working days after submission of the documents, the Committee shall make written findings and shall notify the applicant in writing of the Committee's determination.

3. If the Committee determines that the applicant is eligible for the claimed exemption under these criteria and if the certificate of survey complies with all other applicable statutes and regulations, the certificate of survey may be filed.

4. If the Committee determines that the applicant is not eligible for the claimed exemption, it shall notify the applicant by certified mail of the reasons for the denial. The applicant shall have ten (10) working days from the date of denial to provide the Committee any additional evidence to prove the applicant is eligible for the exemption. The Committee shall have ten (10) working days to review any new evidence. In accordance with Section B. below, the applicant may also within ten (10) working days from the date of denial, withdraw the application or submit to the Board a written request to appeal the decision of the Committee and to hold a hearing. An appeal request must include a copy of the Committee's written findings.

5. If the applicant provides additional evidence and the Committee reaffirms that the applicant is not eligible for an exemption, it shall notify the Board and notify the applicant by certified mail of the Committee's reasons for its determination. Thereafter, the applicant may withdraw the application or, within ten (10) working days from the date of denial, submit to the Board, a written request to appeal the decision of the Committee and to hold a hearing. An appeal request in this instance must include a copy of the Committee's written findings.

## **SECTION B. HEARING PROCEDURE**

1. Upon receipt of a written request for a hearing, the Board shall set a time and place for the hearing. At least five (5) days prior to the date set for the hearing the Board shall send notice of the hearing to the applicant by certified mail.

2. At the hearing, the applicant has the burden of proof by a preponderance of the evidence and shall first present evidence. Such evidence should include response to the criteria identified as reasons for denial and any other pertinent information to demonstrate that the use of the proposed exemption would not be an evasion of the Act. The Committee shall then present its evidence. The applicant may then present rebuttal evidence. The hearing shall then be closed.

3. The Board shall approve or disapprove the proposed exemption within fifteen (15) working days of the receipt of the request for hearing. The Board shall provide written notification of its decision and the reasons therefore, to the applicant and the Clerk and Recorder.

## **SECTION C. GENERAL REQUIREMENTS**

1. The use of any exemption set forth in Sections 76-3-201 and 76-3-207, MCA, for the purposes of evading subdivision review under the Act or the Regulations is prohibited. These

exemptions are listed below:

**76-3-201. Exemption for certain divisions of land.**

- (1) order of a court, operation of law, or eminent domain;
- (2) security for construction mortgages, liens, or trust indentures;
- (3) interest in oil, gas, minerals, or water severed from the surface ownership of real property;
- (4) cemetery lots;
- (5) reservation of a life estate; and
- (6) lease or rental for farming and agricultural purposes.

**76-3-207. Subdivisions exempted from review but subject to survey requirements.**

- (1)
  - (a) relocation of common boundary lines outside of platted subdivisions;
  - (b) outside of platted subdivisions a single gift or sale to a member of the landowner's immediate family;
  - (c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter 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;
  - (d) relocation of common boundaries for five or fewer lots within a platted subdivision;
  - (e) relocation a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision; and
  - (f) occasional sale (not valid after April 6, 1993).
- (2) In determining whether an exemption is claimed to evade subdivision review the Committee, and when necessary, the Board, shall consider the specific exemption criteria and presumptions set forth in these criteria and may also consider other evidence including but not limited to:
  - (a) The prior history of the tract;
  - (b) The proposed configuration of the particular tract to adjacent tracts, if the proposed exemptions were to be granted; and,
  - (c) The pattern, if any, of exemptions used by the applicant and/or the applicant's immediate family, and/or other persons having any business,

economic, ownership or other relationship with the applicant that has or will result in the creation of a subdivision without review by the Board.

- (3) A certificate of survey for which an exemption is claimed may not be filed by the Clerk and Recorder unless it bears a certificate acknowledged by all owners of record stating that the division is exempted from review as a subdivision and quoting the applicable exemption and citing the appropriate MCA section. A certificate of survey claiming an exemption other than a gift or sale to a member of the immediate family may divide a parcel once only. Submittal of a certificate of survey to the Clerk and Recorder must be accompanied by a completed and signed Certificate of Survey Exemption Affidavit form and a Certificate of Survey Report form.

#### **SECTION D. EXEMPTION CRITERIA**

1. RELOCATION OF COMMON BOUNDARY LINES [Section 76-3-207(1)(a),(d), and/or (e), MCA]:
  - a. The relocation of common boundary lines exemption is used to change the location of a boundary line between adjacent parcels of record.
  - b. Certificates of survey showing the boundaries and areas of land, shall be accompanied by a deed transferring interest in the parcel being created, or a contract for deed or a notice of purchaser's interest. If no such document can be recorded prior to the filing of the certificate of survey, the applicant must submit an acknowledged statement from an escrow agent setting forth the location of the deed or contract being held in escrow and how long it will be held in escrow and a photocopy of the document.
  - c. There is a rebuttable presumption that any boundary relocation is or will be an inappropriate use of the exemption, under the Act or the Regulations, thereby making the proposed division and transfer subject to subdivision review, if after July 1, 1973:
    - (1) It creates a parcel of less than 160 acres which, prior to the relocation, had more than 160 acres; or
    - (2) It creates any additional parcel of land less than 160 acres in size; or

- (3) It fits a previously established pattern of land divisions and land transfers; or
- (4) It will create three or more parcels that were subdivided from the original tract; or
- (5) The applicant has used exemptions to create parcels from the original tract or other tracts; or
- (6) The use of the exemption is in violation of statutes, case law, administrative rules, or Attorney General opinions; or
- (7) The proposed division of land has been previously denied under any other exemption.

2. EXEMPTION AS A SINGLE GIFT OR SALE TO A MEMBER OF THE IMMEDIATE FAMILY [Section 76-3-207(1)(b), MCA]:

- a. A "member of the immediate family" may include only the grantor's spouse, children by blood or adoption, and parents.
- b. There is a rebuttable presumption that a division of land and a transfer, proposed as an exempt "gift or sale to family member," is or will be an inappropriate use of the exemption under the Act and the Regulations, thereby making the proposed division and transfer subject to subdivision review, if after July 1, 1973:
  - (1) The original or any subsequent tract, from which the parcel created for transfer is to be segregated, was exempted from subdivision review pursuant to the exemptions listed in Section C.1.; or
  - (2) The parcel to be transferred is not intended for a homesite for the transferee; or
  - (3) The transfer could be accomplished by a "relocation of common boundary lines" under Section C.1.; or
  - (4) It will become one of three or more parcels that were subdivided from the original tract; or

- (5) The use of the exemption is in violation of statutes, case law, administrative rules, or Attorney General opinions; or
- (6) The proposed division of land fits a pattern of land divisions and land transfers; or
- (7) The applicant has used exemptions to create parcels from the original tract or other tracts; or
- (8) The proposed division of land has been previously denied under any other exemption; or
- (9) The parent purports to act as a guardian for a minor child without a trust instrument.
- (10) The grantor intends to divide land for the purpose of a gift or sale to the grantor's spouse.

3. AGRICULTURAL EXEMPTION [Section 76-3-207(1)(c), MCA]:

- a. An agricultural exemption is a division of land made outside of a platted subdivision by sale or agreement to buy and sell where the parties to the transaction and the governing body enter a covenant running with the land, revocable only by mutual consent of the governing body and the property owners, that the divided land will be used exclusively for agricultural purposes.

b. Creation, Revocation, and Retention of the Agricultural Exemption:

Creation of parcels by use of the agricultural exemption, and the subsequent revocation or retention of the agricultural covenant, shall be subject to the provisions of Resolution 1986-55, entitled "Resolution of the Board of County Commissioners Setting Forth a Policy Relating to Divisions of Land for Agricultural Purposes, Exempt From Review under the Montana Subdivision and Platting Act."

4. EXEMPTION TO PROVIDE SECURITY FOR CONSTRUCTION MORTGAGES, LIENS, OR TRUST INDENTURES [Section 76-3-201(2), MCA]:

- a. The construction mortgage exemption is used to segregate land for the purpose of providing security for construction mortgages, liens, or trust indentures.

- b. There is a rebuttable presumption that a proposed use of this exemption, or a division of land by use of this exemption, is subject to subdivision review, if after July 1, 1973:
- (1) The proposed division, by its location or configuration could become or create three or more parcels that were subdivided from the original tract; or
  - (2) The applicant has used exemptions to create parcels from the original tract or other tracts; or
  - (3) The proposed division of land has been previously denied under any other exemption; or
  - (4) Upon foreclosure of the security, three or more parcels would be created.
  - (5) There is no evidence of foreclosure of the mortgage, lien, or trust indenture.

## **Appendix K: Lewis & Clark County Road Standards**

### **1. Road Classification**

The purpose of a functional classification system for county roads is to provide for the safe and efficient movement of people and goods while preserving residential areas and maintaining the economic vitality of commercial and industrial areas. The system classifies transportation facilities according to an appropriate integrated network. It is intended to link land use development activities with transportation facilities for optimum utilization of both. The County's functional classification system is intended to be in compliance with the Federal classification system. Roadways within the county are classified as:

- 1.1 Local Road – 1-400 ADT.** Roadways used primarily for direct access to residential, commercial, industrial, or other abutting property. The average daily traffic (ADT) would be projected to be 1-400. If the roadway is located in a development with urban density, then paving could be required.
- 1.2 Local Road – 401-1500 ADT.** Roadways used primarily for direct access to residential, commercial, industrial, or other abutting property. The average daily traffic (ADT) would be projected to be 401-1500. All local roads with 401-1500ADT shall be paved.
- 1.3 Minor Collector.** Minor collector streets serve the dual functions of distributing traffic between local roads and arterials, and providing access to abutting properties. Therefore, higher traffic volumes and higher speeds are the norm. Minor collector streets would carry average daily traffic volumes of 1,500-3,500. Minor Collector streets connect arterial networks and also connect neighborhoods to commercial areas; fixed route transit service is low while bicycle and pedestrian activities range from moderate to high.  collector streets shall be paved.
- 1.4 Major Collector.** Major collector streets serve the dual functions of distributing traffic between local roads and arterials, and providing access to abutting properties. Therefore, higher traffic volumes and higher speeds are the norm. Major collector streets would carry average daily traffic volumes greater than 3,500. Major collector streets connect arterial networks and also connect neighborhoods to commercial areas; fixed route transit service is low while bicycle and pedestrian activities range from moderate to high.  collector streets shall be paved.
- 1.5 Arterial.** That part of the roadway system serving as the principal network for through traffic flow. The routes connect areas of principal traffic generation and important rural highways entering the city. Typically, a subdivision proposal does not require an arterial roadway. Therefore, no county-specific standards are included herein. If an arterial roadway standard is needed, the Montana

Department of Transportation (MDT) standards for the appropriate roadway shall be used.

## **2. Design Controls & Criteria.**

### **2.1 Standard Specifications.**

**2.1.1** The standards for Lewis & Clark County roads and bridges, and all other construction within publicly owned right-of-way, shall consist of:

- 2.1.1.1** The Lewis & Clark County Roadway Standards (County RS) which are the design criteria herein.
- 2.1.1.2** The Lewis & Clark County Bridge Standards, approved January 1999.
- 2.1.1.3** The current published edition of the Montana Public Works Standard Specifications as published and distributed by the Montana Contractors Association.

**2.1.2 Reference Standards:** To implement the above standards, the following publications and their subsequent revisions shall apply:

- 2.1.2.1** The current version of the Montana Roadway Design Manual, published by the MDT.
- 2.1.2.2** The current version of the Standard Specifications for Road and Bridge Construction, published by the MDT.
- 2.1.2.3** The current version of the Policy of Geometric Design of Highway and Streets, published by the American Association of State Highway and Transportation Officials (AASHTO).
- 2.1.2.4** The current version of the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration.

**2.1.3** In the event of conflict with any of the specifications, the County shall specify, in writing, which of the standard specifications will apply.

**2.1 Plans for Construction of Roads and Utilities.** Prior to construction the Design Engineer shall submit plans and specifications for street and utility construction for the proposed development to the County for review. The plans and specifications shall include a vicinity map, a plan and profile, special provisions, and reference to the standards specifications including typical sections.

**2.1.1 The Plan.** The 11" x 17" submittal plan shall include the road alignment at a scale of not less than 1" to 100' showing centerline stationing on all intersection streets, with bearing on centerlines, curve data on all horizontal curves; right-of-way; relevant topography; existing and proposed utility location; street names in the development and adjoining

the development; typical roadway section showing placement of utilities, existing and proposed drainage and storm water features; sidewalk ramp locations; flood plain and wetland boundaries; signalization, canalization, striping and signing; and further data as may be required by the County

**2.1.2 The Profile.** The profile shall show the relevant original ground lines using the same stationing as in the plan, control elevations, grade line showing the proposed grades, vertical curves; all bench marks, the vertical datum, and such further information as may be reasonably required. For new streets, the relevant original ground lines will show the ground line at centerline at a minimum and also at the edges of the right-of-way if grade differences are significant (or alternatively surveyed contour lines on the plan view). For existing streets, the Design Engineer shall provide elevations at the edge of the existing pavement or face of curb, whichever is applicable. The profile lines for roads extending to the perimeter of any development shall be extended a minimum of three hundred (300') feet beyond the perimeter to include any change in contours which would affect the profile of the extension of the proposed road.

**2.1.3 Special Provisions.** Any special technical provisions shall be shown or referenced on the plans.

**2.1.4 Format.** The cover sheet of all plans shall include a statement identifying which standard specifications will apply to the project. Plan and profile may be shown on the same sheet with profiles shown on the bottom half of the sheet. Submitted sheets shall measure 11" x 17" based on being a true ½ size of a 24" x 36" drawing. The 24" x 36" original (not submitted) drawing shall have a borderline of 2 ½" on the left side of the length of the sheet and ½" on remaining sides, so that the true 11" x 17" drawing is proportioned correctly. When more than two plan sheets are used, an overall development layout shall be submitted showing the relationship of roads and utilities.

**2.2.4.1** A north arrow shall be shown on each plan view sheet and adjacent to any other drawing which is not oriented the same as other drawings on the sheet.

**2.2.4.2** Letter size shall not be smaller than 0.12 of an inch high which equates to a 0.06 of an inch height for the submitted 11" x 17" drawing.

**2.2.4.3** All detail drawings, including standard drawings, shall be included in the drawings unless the county standards are referenced with appropriate dimensions clearly supplied in the drawings.

**2.2.5** A title block shall appear on each sheet of the plan set and shall be placed in the lower, right-hand corner of the sheet, across the bottom edge of the

sheet or across the right-hand edge of the sheet. The title block shall include the name of the project, the engineering firm, the sheet title and the owner if not shown on the first sheet.

- 2.3 Design Criteria.** The Lewis & Clark County roadway design criteria are set out in Table A. Such criteria are applicable to roads located within and adjacent to a development. These criteria are intended for normal conditions. The County may require higher standards for unusual site conditions.

### **3. Typical Roadway Section.**

The typical roadway section shall be as shown on the Typical Road Section in Figure 1, 2, 3 and 4 and shall be detailed on the construction plans submitted for each new roadway or improvement to an existing roadway.

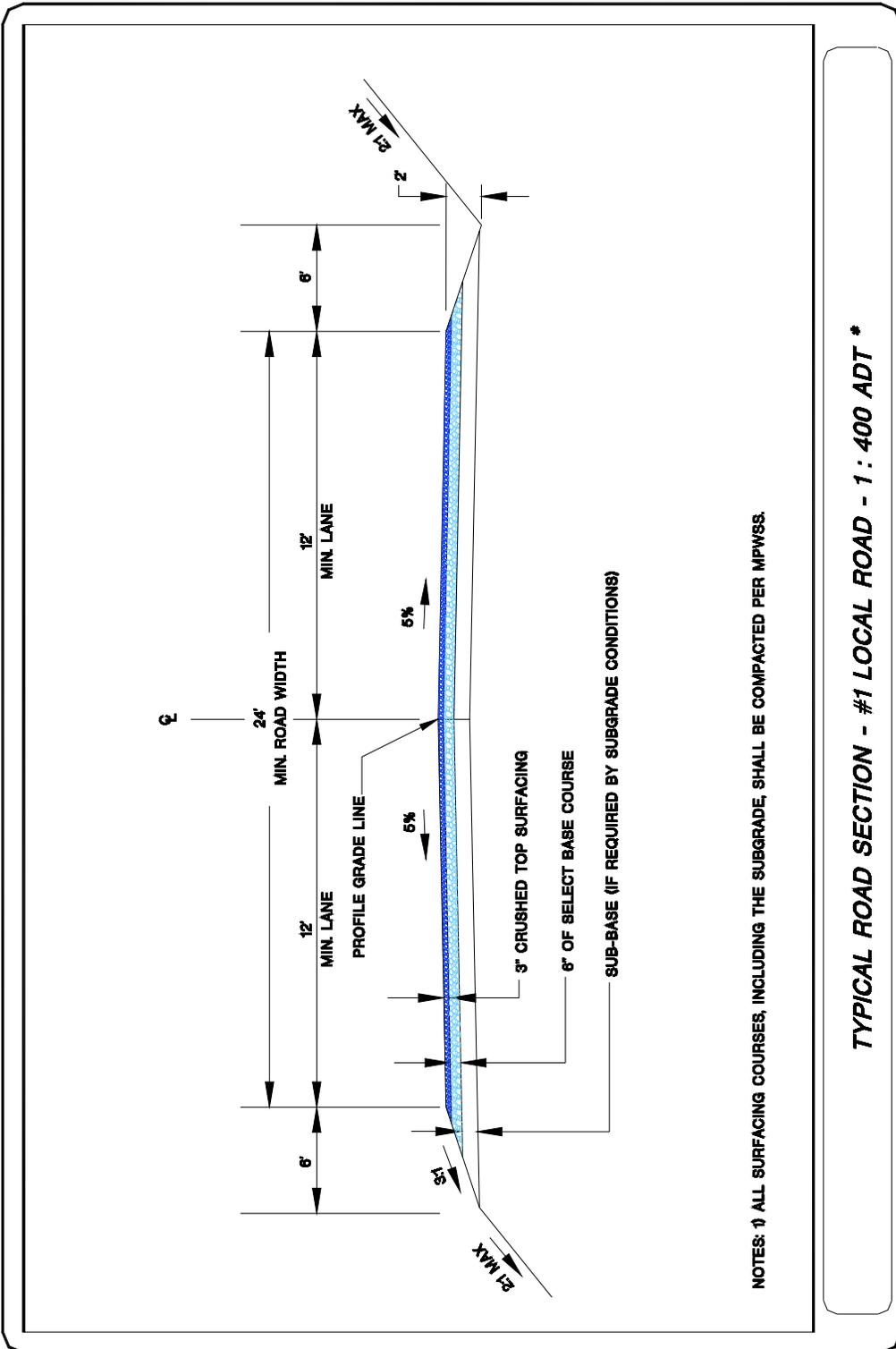
The following sections contain information relative to descriptions of the roadway structural section elements.

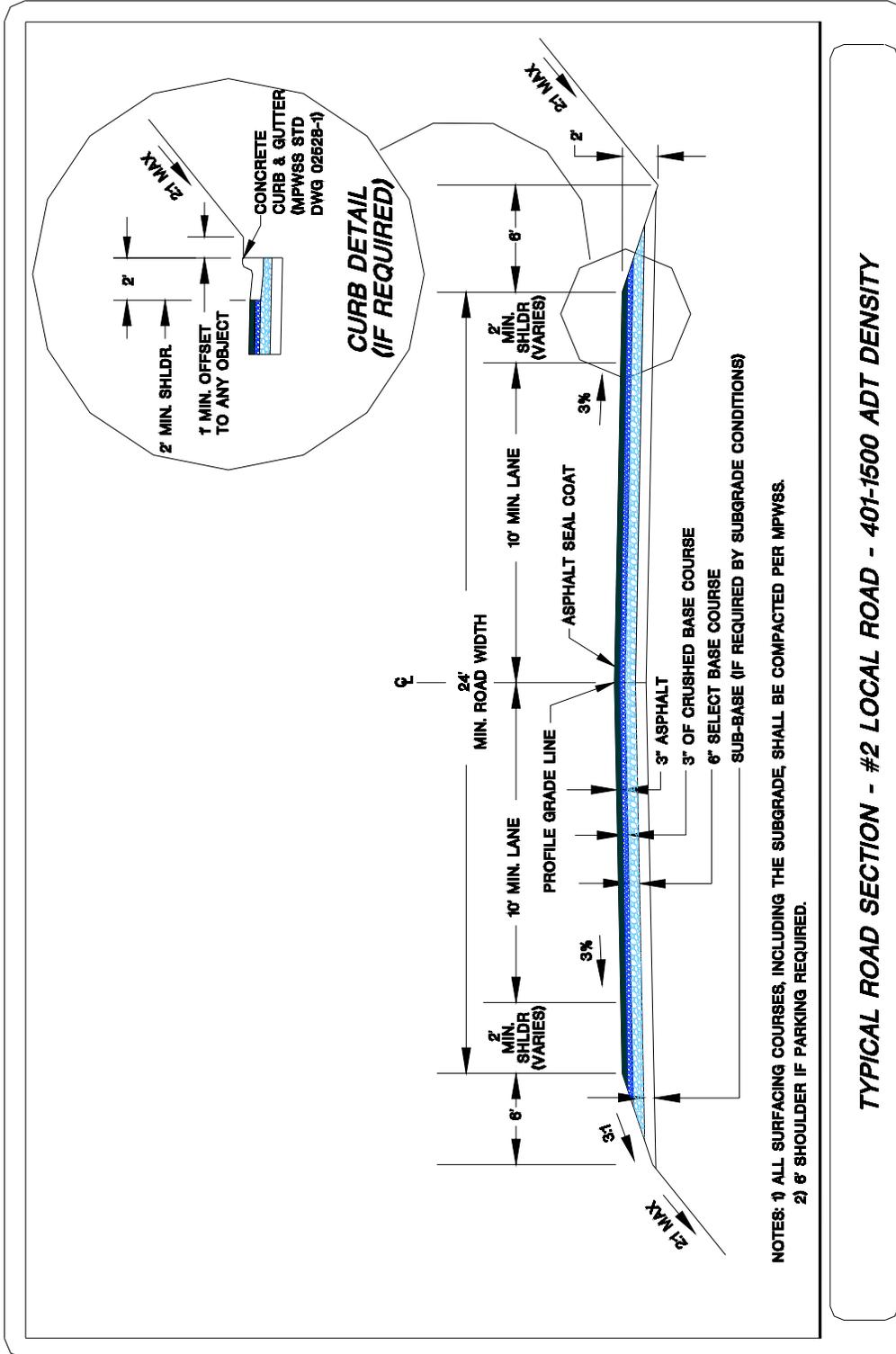
- 3.1 Asphalt Seal Coat.** When asphalt paving is used as the wearing surface, this item shall consist of a single application of asphalt material on the prepared asphalt surface, followed by spreading seal coat aggregate. The asphalt material and application rates shall meet the requirements of the appropriate sections of the latest addition of MPWSS. The aggregate shall meet the gradation as set forth in Table B-1 and shall be spread per the rate of the latest addition of MPWSS.
- 3.2 Asphalt Paving.** This consists of hot plant mix asphalt concrete consisting of mineral aggregate and asphalt material mixed at a central hot plant. The mineral aggregate and asphalt material shall meet the requirements of the appropriate sections of the latest addition of MPWSS.
- 3.3 Crushed Top Surfacing.** This consists of crushed gravel, stone or other similar material consisting of hard, durable particles of fragments of stone, free of excess of flat, elongated, soft or disintegrated pieces, dirt or other deleterious matter. This is the surface course on gravel roads and streets. The material shall meet the gradation as set forth in Table B-2.
- 3.4 Crushed Base Course.** This consists of crushed gravel, stone or other similar material consisting of hard, durable particles of fragments of stone, free of excess of flat, elongated, soft or disintegrated pieces, dirt or other deleterious matter. This is the layer immediately below either a crushed top surfacing or the asphalt paving. The material shall meet the gradation as set forth in Table B-3.
- 3.5 Select Base Course.** This consists of crushed or non-crushed sub-base material of hard, durable stone, gravel or other similar materials mixed or blended with sand, stone dust, or other binding or filler materials produced from sources that provide a uniform mixture. The material shall meet the gradation as set forth in Table B-4.

**Lewis and Clark County  
SUBDIVISION REGULATIONS**

**TABLE A: COUNTY ROAD DESIGN CRITERIA**

	Terrain	Major Collector	Minor Collector	Local Road Medium to High Density	Local Road Low Density
Design Speed (MPH)	Level	55	50	30	40
	Rolling	45	40	25	30
	Mountainous	45	30	20	20
Curvature - Minimum at Centerline (feet)	Level	575	575	250	250
	Rolling	440	440	175	175
	Mountainous	330	300	110	110
Minimum Stopping Sight Distance (feet)	Level	per AASHTO	425	200	200
	Rolling	"	305	150	150
	Mountainous	"	200	110	110
Maximum Grade	Level	per AASHTO	6%	6%	6%
	Rolling	"	8%	9%	9%
	Mountainous	"	10%	11%	11%
Length of Maximum Grade (feet)		per AASHTO	per AASHTO	per AASHTO	per AASHTO
Minimum Grade		0.5%	0.5%	0.5%	1%
Superelevation		per AASHTO	per AASHTO	N/A	N/A
Minimum Intersection Spacing (feet)		500	275	100	150
Driveway Spacing (feet)		45	45	40	40
Maximum Length of Cul-de-Sac (feet)		Not Allowed	Not Allowed	700	700
Minimum Radius of Cul-de-Sac (feet)		Not Allowed	Not Allowed	48	48
Sight Distance Triangle (feet)	Level	300	255	120	170
	Rolling	210	170	95	120
	Mountainous	210	120	80	80
Minimum Right of Way Width (feet)		100	80	60	60
Vertical Clearance (feet)		16.5	16.5	14.5	14.5
Intersection Curb Return Radii (feet)		25	25	15	15
Minimum Sidewalk Width (feet)		5	5	5	5
Sidewalk Offset From Back of Curb (feet)		5-10	5-10	5	N/A
Bike Lane Width (feet)		4-8	4-8	N/A	N/A
Minimum Culvert Diameter (inches)		18	15	15	15
Minimum Culvert Cover (feet)		Supplier's Recommendation	Supplier's Recommendation	Supplier's Recommendation	Supplier's Recommendation
Minimum Culvert Grade		0.5%	0.5%	0.5%	0.5%
Culvert Material		Support HS-20 Loading	Support HS-20 Loading	Support HS-20 Loading	Support HS-20 Loading





**FIGURE 2**

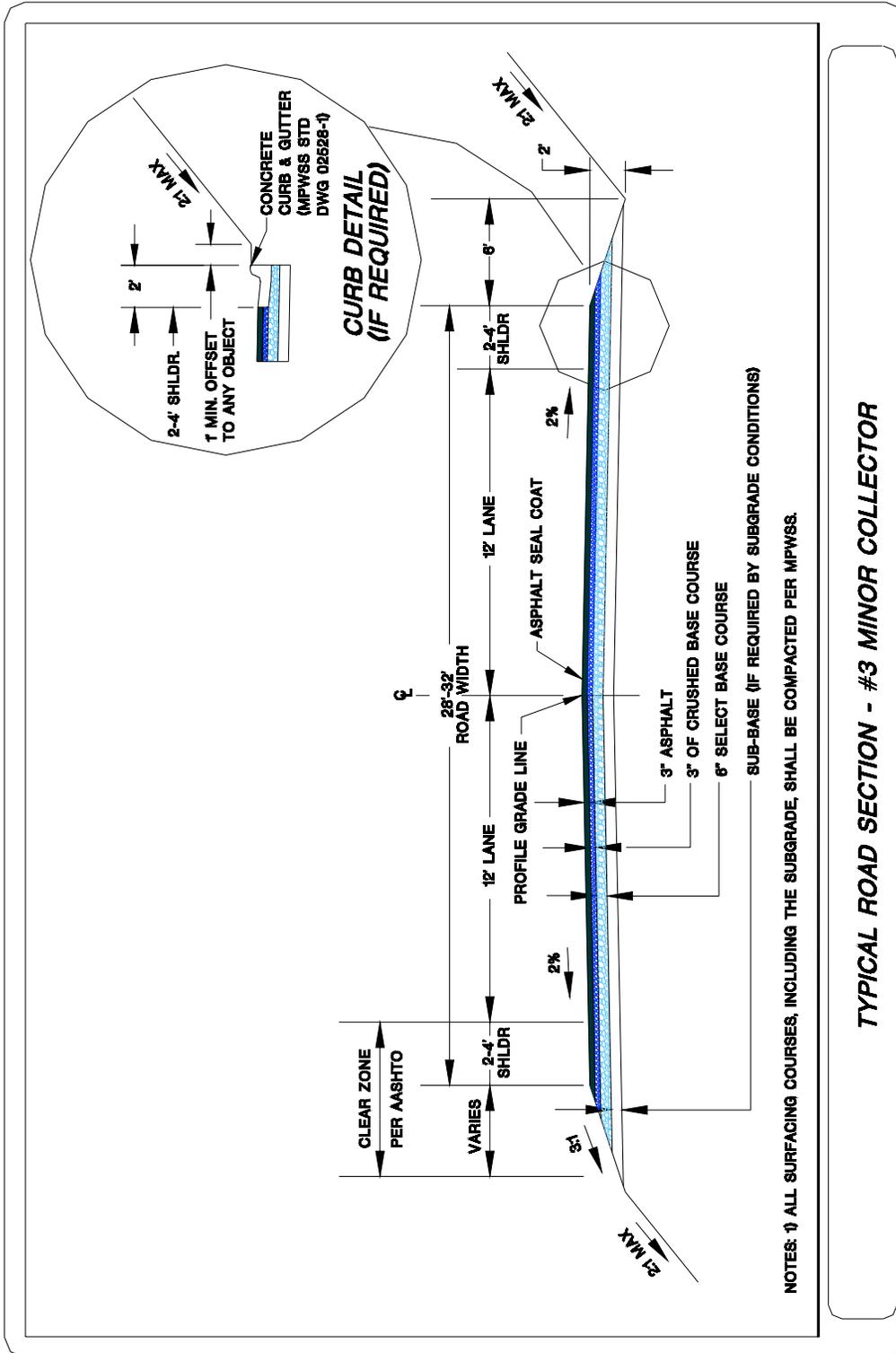
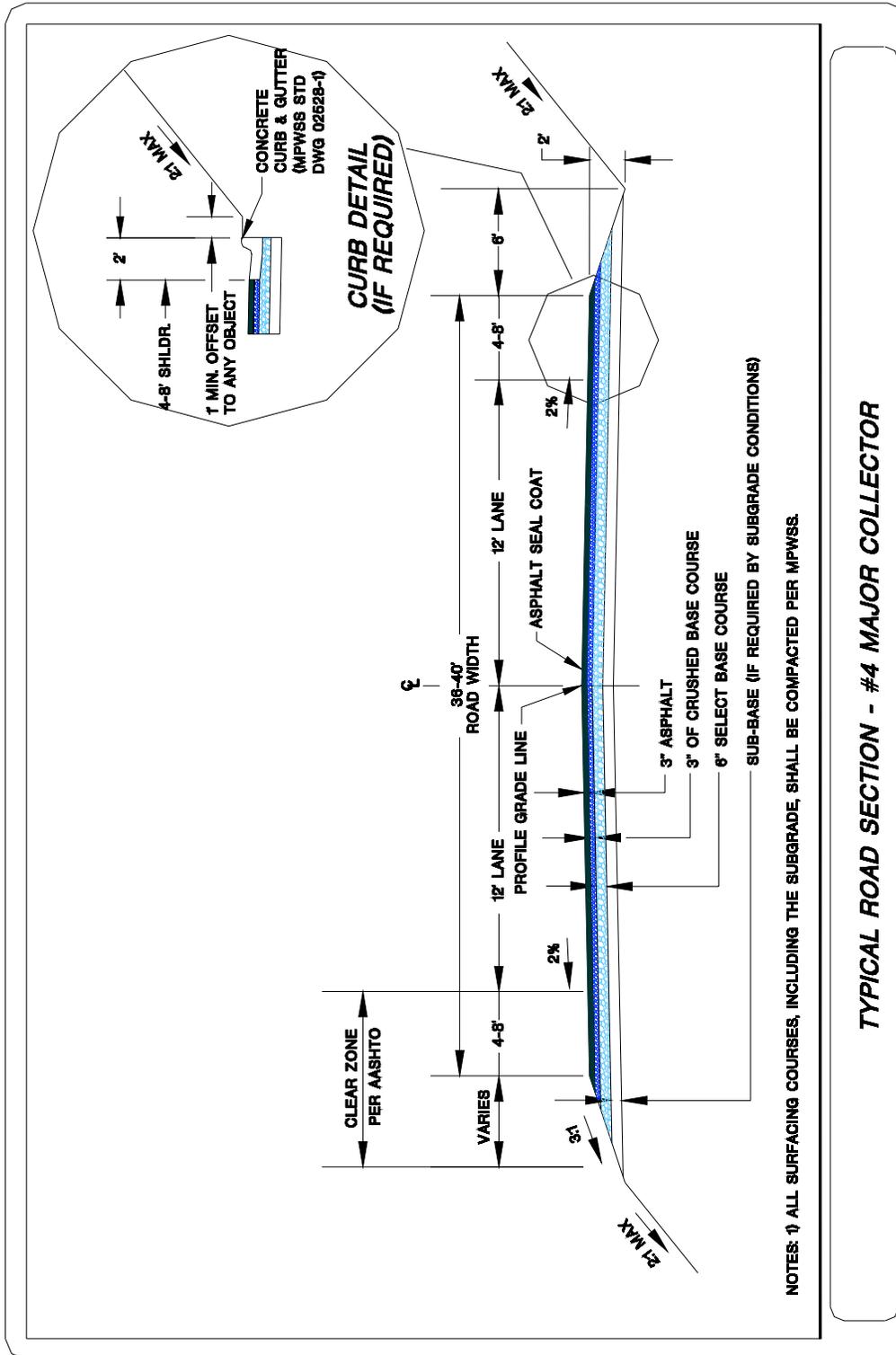
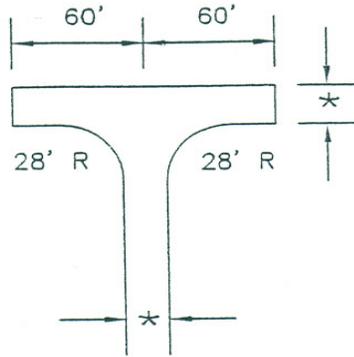


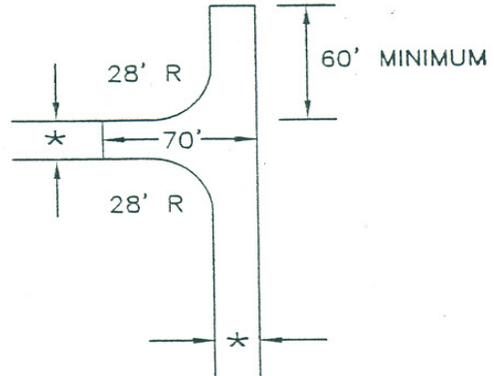
FIGURE 3



# ACCEPTABLE TURNAROUNDS

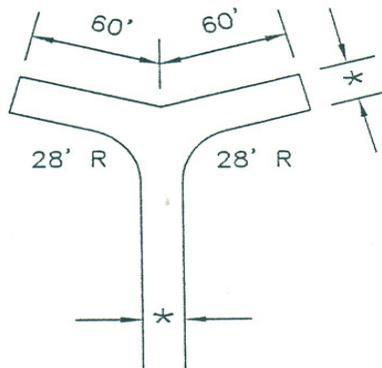


120' HAMMERHEAD

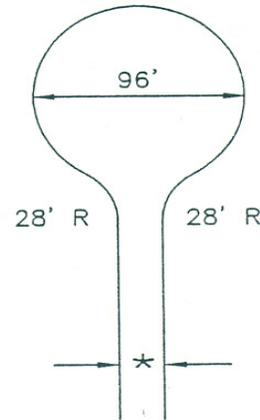


ACCEPTABLE ALTERNATIVE  
TO 120' HAMMERHEAD

ALL STREET DIMENSIONS ARE BASED ON CITY STREET STANDARDS AND ARE FROM FACE OF CURB.



ACCEPTABLE ALTERNATIVE  
TO 120' HAMMERHEAD



96' CUL-DE-SAC

TURNAROUNDS ARE BASED ON THE INTERNATIONAL FIRE CODE INSTITUTE APPLICATION MANUAL (1995 E)

**Figure 5**

**TABLE B-1**  
**SPECIFICATION FOR CHIPS - ASPHALT SEAL COAT MATERIAL**  
3/8" Asphalt Seal Coat Aggregate

<b>TABLE OF GRADATIONS</b>	
Percentage by Weight Passing Square Mesh Sieves (Montana Test Method MT-202)	
Sieve Size	Grade 2
1/2" sieve	100%
3/8" sieve	85-100%
#4 sieve	10-30%
#10 sieve	0-10%
#40 sieve	0-2%

- \* The material from which aggregate is to be produced shall have a wear factor not to exceed 50 percent at 500 revolutions, as determined by MT-209. The abrasion test shall be run using a 5000-gram sample charge material between 3/8 inch and #4 sieves and an abrasive charge of eight balls.
- \* At least 50 percent by weight of the aggregate retained on the #4 sieve shall have at least one mechanically fractured face.

**TABLE B-2**  
**SPECIFICATION FOR CRUSHED TOP SURFACING**

<b>TABLE OF GRADATIONS</b>	
Sieve Size	Grade 2
1" sieve	
3/4" sieve	100%
1/2" sieve	
No. 4 sieve	40-80%
No. 10 sieve	25-60%
No. 200 sieve	8-20%

Meet the following requirements for crushed top surfacing, including added binder or blending material:

- \* Dust Ratio: the portion passing the No. 200 sieve cannot exceed two-thirds of the portion passing the No. 40 sieve.
- \* The maximum liquid limit and plasticity index for the material passing the No. 40 sieve must not exceed 35, while the plasticity index may vary from 3 to 10.
- \* A wear factor not exceeding 50% at 500 revolutions.

At least 20 percent by weight of the aggregate retained on the No. 4 sieve must have on fractured face.

**TABLE B-3**

**SPECIFICATION FOR CRUSHED BASE COURSE**

<b>TABLE OF GRADATIONS</b>			
Percentages by weight passing square mesh sieve			
Passing	1 ½" Minus	1" Minus	¾" Minus
2" sieve	--		
1 ½" sieve	100		
1" sieve	--	100	
¾" sieve	--	--	100
½" sieve	--	--	--
No. 4 sieve	25-60	40-70	40-70
No. 10 sieve	--	25-55	25-55
No. 200 sieve (not more than)	0-8	2-10	2-10

- \* A tolerance of 5 percent, by weight, up to the next above-specified gradation (2 ½" for 2" max.) is allowed. The produced material passing the maximum screen opening and retained on the No. 4 sieve shall be reasonably well graded in its grading between those limits within 5 percent.
- \* Suitability of the aggregate for its particular use is determined by the final gradation required for grading, as established by the Design Engineer, within the limits allowed in the table for the particular grading specified.
- \* That portion of the fine aggregate passing the No. 200 sieve must be less than 60 percent of that portion passing the No. 40 sieve.
- \* The liquid limit for that portion of the fine aggregate passing a No. 40 sieve cannot exceed 25, nor the plasticity index exceed 6, as determined by AASHTO T89 and T90.

**TABLE B-4  
SPECIFICATION FOR SELECT SUB-BASE COURSE**

<b>TABLE OF GRADATIONS</b>					
Percentages by weight passing square mesh sieve					
Passing	4" Minus	3" Minus	2 ½" Minus	2" Minus	1 ½" Minus
4" sieve	100%				
3" sieve	--	100%			
2½" sieve	--	--	100%		
2" sieve	--	--	--	100%	
1½" sieve	--	--	--	--	100%
No. 4 sieve	25-60%	25-60%	25-60%	25-60%	25-60%
No. 200 sieve (not more than)	2-12%	2-12%	2-12%	2-12%	2-12%

- \* A tolerance of 5 percent, by weight, up to the next above-specified gradation (2 ½" for 2" max.) is allowed. The produced material passing the maximum screen opening and retained on the No. 4 sieve shall be reasonably well graded in its grading between those limits within 5 percent.
- \* Suitability of the aggregate for its particular use is determined by the final gradation required for grading, as established by the Engineer, within the limits allowed in the table for the particular grading specified.
- \* The liquid limit for that portion of the fine aggregate passing a No. 40 sieve cannot exceed 25, nor the plasticity index exceed 6, as determined by AASHTO T89 and T90.

**3.2 Intersections.** Intersections shall be designed to meet the standards provided in Table A, Section 2-Design Controls and Criteria of these standards. The following additional items shall also be incorporated into design and construction.

- 3.2.1** Roads shall be laid out so as to intersect at an angle as near to a right angle (ninety degree angle) as practicable, but in no case less than 60 degrees for a local road intersection and no less than 75 degrees for a collector road intersection.
- 3.2.2** Intersections shall have a minimum corner radius of 15 feet along the right-of-way lines of local roads and a minimum corner radius of 25 feet at the right-of-way line at the intersection of collector or arterial roads, unless road improvements require a greater radius.
- 3.2.3** On collector and arterial roads, the dedication of right-of-way on corners shall include the chord of the radius. The County will accept an easement for this chord instead of dedication of right-of-way.
- 3.2.4** Opposing intersection of major collector roads and /or arterial roads shall either be aligned or will be separated by the minimum distance specified in Table A.
- 3.2.5** No more than two streets may intersect at one point.
- 3.2.6** Intersection design shall provide acceptable visibility for traffic safety.
- 3.2.7** Hilltop and swale intersections are discouraged and will not be allowed where adequate sight distance (per Table A) cannot be assured.
- 3.2.8** The approaching roadway shall not have a grade exceeding 3% for 50' from the edge of the through roadway, or for 20' outside of the through roadways right-of-way line, whichever is a lesser distance.
- 3.2.9** Intersections of local streets with major collector streets or arterial streets shall be kept to a minimum.

**3.3 Dead End Roads.** The maximum length for a dead-end road is 700 feet. All dead end roads shall be provided with cul-de-sac or other approved turn-around area. The cul-de-sacs shall be limited to a length and radius as shown in Table A. See Figure 5 for illustrations of acceptable hammerhead Ts and cul-de-sacs, which have been adopted from the City of Helena road standards.

**3.4 Turnouts.** A widening in a travel way of sufficient length and width to allow vehicles to pass one another. All turnouts shall be constructed of the same material as the roadway/driveway that it serves. Turnouts shall be 50 feet long and be of sufficient width that when the turnout and the road surface are added together that a total width of 20 feet is provided.

**3.5 Driveways.** The following items shall also be incorporated into design and construction.

**3.5.1** All driveway approaches shall conform to the Road Approach Permit Requirements of the County Public Works Department. On paved roads the driveway approaches should be paved for 15' from the shoulder of the road and local road approaches should be paved for 30' from the shoulder of the road.

**3.5.2** Access on horizontal curves shall only be allowed if sight distance for the design speed of the roadway can be achieved.

**3.5.3** Driveway approaches shall have a minimum corner radius of 10 feet

**3.5.4** Driveway turns shall have a turning radius no less than 30 feet.

**3.5.5** Driveway approaches shall be designed so that drainage from the driveway does not drain onto the main roadway.

**3.5.6** All driveways, including driveway bridges, shall be designed and constructed with an all-weather surface or posted that they are deficient.

**3.5.7** A driveway or other means of emergency vehicle access shall be required when any point of the building is more than 150 ft (45.75 meters) from a roadway.

**3.5.8** Driveways, including bridges and cattleguards, shall be a minimum of 12 ft (3.66 m) in width and have a vertical clearance of at least 14.5 ft (4.42 meters) over its full width.

**3.5.9** Driveway bridges and cattle guards need to meet HS20 load rating standards.

**3.5.10** All driveway gates shall be located a minimum of 30 ft (9.2 m) from the public right-of-way and shall open inward. Gate openings shall provide a clear opening of not less than 12 feet.

**3.5.11** Fire department personnel shall have ready access to locking mechanisms, on any gate restricting access on a driveway.

**3.5.12** Driveways shall be a minimum of 20 feet wide to accommodate the traveled way, vegetation modification, and other local requirements.

**3.5.13** Driveway grades shall be no greater than 11 percent.

**3.5.14** Every dead-end driveway more than 300 ft (91.44 m) in length shall be provided with a turnaround at the terminus having a minimum radius of 50 ft (15.24 m) to the center line OR a "hammerhead-T" turnaround to provide emergency vehicles with a three-point turnaround ability.

**4. Road Certification.** Certification that new roads are constructed to County Road Standards shall be provided by the inspecting engineer, with concurrence from the

County Public Works Department, after periodic inspections. Upon completion of the inspection, the inspecting engineer shall file with the Board of County Commissioners a statement either certifying that the improvements have been completed in the required manner or listing the defect in those improvements.

- 5. Road Maintenance Policy.** Lewis & Clark County will accept no new roadways for maintenance.

**5.1 Rural Improvement District.** Roads constructed after approval of these Standards will only be maintained by a Rural Improvement District (RID). The RID shall be created concurrently with subdivision approval.

**5.2 Trails.** Maintenance of trails, non-motorized paths and bicycle paths will not be provided by Lewis & Clark County without written approval and development of a separate maintenance funding mechanism.

- 6. Signs.** All road signs must be designed, constructed, and located according to the standards in the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration. Signs identifying pertinent information such as “dead-end road,” “bridge out,” and so forth shall be appropriately located as designated by the MUTCD.

- 7. Road Naming and Addressing Standards.** These shall follow the conventions laid out in Appendix H of this document.

- 8. Bridges and Cattleguards.** On county roads, bridges and cattleguards shall be constructed of non-combustible materials.

## **Appendix L: Fire Protection Standards**

### **18-1 General**

#### **18-1.1 Scope**

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

#### **18-1.2 Purpose**

All subdivisions shall be planned, designed, constructed, and maintained to minimize the risk of fire and to permit effective and efficient response to and mitigation of emergency incidents in order to protect persons, property, and natural resource areas.

To place structures in such a manner so as to minimize the potential for flame spread and to permit efficient access for fire fighting equipment.

### **18-2 Definitions**

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

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

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

**Approved:** Acceptable to the Fire Protection Authority Having Jurisdiction.

**Aspect:** Compass direction toward which a slope faces.

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

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

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

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

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

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

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

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

**Fire Protection Authority Having Jurisdiction (FPAHJ):** The organization, office, or individual responsible for approving equipment, an installation, or a procedure.

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

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

**Fuel Break:** An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires

burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Rated Roof:** A roof constructed with a "roof covering assembly" that is listed as meeting the requirements for Class A, B, or C "roof covering assembly materials."

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

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

**Shall:** Indicates a mandatory requirement.

**Should:** Indicates a recommendation or that which is advised but not required.

**Shoulder:** Surface of a road adjacent to the traffic lane.

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

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

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

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

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

**Vegetation Management Plan:** A vegetation management plan reduces the amount of fuel available for wildland fires, reducing the probability of a rapidly

spreading wildland fire. Elements of the plan include removal of slash, snags, other ground fuels, ladder fuels and dead trees, and thinning of live vegetation.

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

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

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

## **18-3 Fire Protection**

### **18-3.1 Fire Protection Plan**

All proposed subdivisions shall provide a complete Fire Protection Plan prior to the preliminary plat application. The Fire Protection Plan must address all requirements of the Fire Protection Design Standards of the Lewis & Clark County Subdivision Regulations.

### **18-3.2 Adequate Fire Protection**

The presence of adequate fire fighting facilities for the site, and guidelines for determining the adequacy of fire protection can be found in Appendix L (D).

## **18.4 Water Supplies for Fire Protection**

Fire protection options for new subdivisions are grouped into two categories, Class I and Class II. Each of these has a variety of options regarding water supply, fees, and other variables the applicant may select from to meet the minimum requirements. The determination of whether class I or II requirements apply is based on density, the number of lots created in the final plat, and whether or not the development is set back at least 15 feet from all property lines, as described below.

<b>DENSITY/SETBACK</b>	<b>CLASS I</b>	<b>CLASS II</b>
<b>5 or more acres per lot</b> (With or without 15 ft. setback)	20 or more lots	Less than 20 lots
<b>1 to 4.9 acres per lot</b> With 15 ft. setback Less than 15 ft. setback	20 or more lots 15 or more lots	Less than 20 lots Less than 15 lots
<b>.5 to .99 acres per lot</b> With 15 ft. setback Less than 15ft. setback	20 or more lots 5 or more lots	Less than 20 lots Less than 5 lots
<b>.25 to .49 acres per lot</b> With 15' setback Less than 15' setback	10 or more lots 5 or more lots	Less than 10 lots Less than 5 lots
<b>Less than .25 acres per lot</b> (With or without 15' setback)	5 or more lots	Less than 5 lots

At a minimum, every Class I subdivision shall be provided with a water supply for the purpose of fire fighting, meeting the requirements of 18-4. Class II subdivisions will provide water or cash-in-lieu of water in accordance with the provisions of 18-4.

#### **18.4-1 One- and Two-family Dwellings**

**A. Class II subdivisions** will provide to the FPAHJ the sum per lot(s) of the following schedule prior to final plat approval:

**1. One- and two family dwellings**

- a. Fee per lot of \$1,000.

**OR**

- b. 250 gpm for two hours

- 1) Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tankers. The fill site must be useable year round and the FPAHJ must have legal access in perpetuity.

**OR**

- 2) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and approved by the FPAHJ.

**OR**

- c. 30,000 gallon storage with dry hydrant. Dry hydrant applications may be used for ponds, streams, and lakes. The system must be designed to be useable and accessible year round. All pipe must be a minimum of 6 inch diameter and the threads at the outlet must be 6 inch male NST.

If all habitable structures are sprinkled in accordance with applicable standards, the above fees will be waived for habitable structures.

**2. One- and two- family dwellings that are more than two stories in height**

- a. The fee shall be waived, AND the structure must be sprinkled according to applicable NFPA standards

**B. Class I subdivisions** will provide a water supply of sufficient volume, pressure and water distribution system to fight fire on site according to the following schedule:

**1. One dwelling per 20 or more acres.**

- a. 500 gpm for one hour:
  - 1) Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tankers. The fill site must be useable year round and the FPAHJ must have legal access in perpetuity.

**OR**

- 2) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the FPAHJ and County Planning.

**OR**

- b. 30,000 gallon storage with dry hydrant  
Dry hydrant applications may be used for ponds, streams, and lakes. The system must be designed to be useable and accessible year round. All pipe must be a minimum of 6 inch diameter and the threads at the outlet must be 6 inch male NST.

**2. One dwelling per 5 to 19.9 acres**

**a. 500 GPM for two hours**

- 1) Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. The fill site must be useable year round and the FPAHJ must have legal access for perpetuity.

**OR**

- 2) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer.

**OR**

- b.** If all habitable structures are sprinkled according to NFPA standards, then up to one half of the water supply requirements will be waived (i.e. 250 GPM for two hours).

**3. One dwelling per 1 to 4.9 acres**

**a. 750 GPM for two hours**

- 1) Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. The fill site must be useable year round and the FPAHJ must have legal access in perpetuity.

**OR**

- 2) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the FPAHJ and County Planning.

**OR**

- b.** If all habitable structures are sprinkled according to NFPA standards, then up to one half of the water supply requirements will be waived (i.e. 375 GPM for two hours).

**4. One dwelling per .5 to .99 acre**

**a. 1000 GPM for two hours**

- 1) Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tankers. The fill site must be

useable year round and the FPAHJ must have legal access in perpetuity.

**OR**

- 2) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the FPAHJ and County Planning.

**OR**

- b. If all habitable structures of more than two stories and commercial structures are sprinkled according to NFPA standards, then the FPAHJ will waive up to one half of the water supply requirements. (i.e. 500 GPM for two hours).

**5. One dwelling per .25 to .49 acre**

- a. 1000 gpm for two hours **and**
- b. Hydrant spacing every 1000 feet

- 1) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and a copy of the inspection and certification will be provided to the FPAHJ and County Planning.
- c. If all habitable structures are sprinkled according to NFPA standards, then up to one half of the water supply requirements will be waived (i.e. 500 GPM for two hours).

**6. One dwelling per < .25 acre**

- a. 1500 gpm for two hours **and**
  - b. hydrant spacing every 500 feet
- 1) Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer, and a copy of the inspection and certification will be provided to the FPAHJ and County Planning.

**OR**

- 2) Water shall be supplied by a community water system. The system shall be capable of delivering the required gpm at a minimum of psi from approved fire hydrants. The system shall be inspected by a Professional Engineer, and a copy of the inspection and certification will be provided to the FPAHJ and County Planning.
- c. If all habitable structures are sprinkled according to NFPA standards, then up to one half of the water supply requirements will be waived (750 GPM for two hours).

**18-4.2 One –and Two-family dwellings greater than two stories**

**18-4.2.1** For dwellings more than two stories in height in addition to providing water supply according to the above requirements for Class I subdivisions, a residential sprinkler system shall be installed. The system shall be engineered, installed, fully operational and compliant with the current edition of the applicable NFPA standard.

**18-4.3 Buildings other than One- and Two-family Dwellings.**

- a. Buildings other than one- and two family Dwellings shall be sprinkled according to NFPA standards

**AND**

- b. Water supply is required for buildings other than one and two family dwellings and the minimum fire flow requirements shall be in accordance with the provisions of 18-4.1.
  
- c. Commercial storage units are exempt from sprinkling requirements.

#### **18-4.4 Maintenance**

Provisions must be incorporated in the plat documents describing how water supply systems are to be maintained currently and in the future, by whom, and how the local fire protection authority can be assured that the water supply will function appropriately. An easement for unrestricted use by the fire department, in perpetuity, of the water supply system shall be recorded and noted on the plat. The FPAHJ will not be responsible for any maintenance, electricity, or any costs associated with enhancements, upgrades or other measures necessary to assure the system functions to original specifications.

#### **18-4.5 Proportionate Reimbursement**

If subsequent subdivisions will be served by an existing water supply, the County Commission shall include reimbursement of a portion of the original water supply improvement costs as a condition of final approval of any subsequent subdivision. This reimbursement condition shall be in effect for ten (10) years from the date the County Commission directs the original subdivider to construct a water supply. Ongoing maintenance of the original water system shall be shared as negotiated between the parties.

#### **18-4.6 Reimbursement Methodology**

The original subdivider shall forward the total costs of improvements for the water supply to the planning department within 60 days of the completion of the improvements. Subsequent subdividers shall pay their proportionate reimbursement to the Lewis & Clark County. The Lewis & Clark County Treasurer shall then make disbursements within 60 days of receiving reimbursement funds. Funds shall be disbursed to the entity who owns or maintains the improvement.

#### **18-5 Access & Evacuation**

Access for emergency responders and evacuation shall be provided for all buildings. Routes shall provide ingress for fire department apparatus used in establishing a defensive perimeter around building(s) and shall be designed and

constructed to allow simultaneous egress for the evacuating public. Access routes shall be deemed driveways or roadways.

### **18-5.1 Roadways**

**18-5.1.1** Access to all major subdivisions shall be provided by a minimum of two approach routes, located as remotely from each other as possible to assure more than one escape route for residents and access routes by emergency vehicles.

### **18-5.2 Obstructions**

Landscaping or other obstructions placed around structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations. Filler valves for buried residential propane tanks shall be located below the ground surface to avoid possible shearing by heavy equipment.

### **18-5.3 Easements and Rights-of-Way**

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

## **18-6. Water Supply**

The location of a fire-fighting water source and each access to that source shall be identified using the Lewis and Clark County Fire Council Dry Hydrant Sign Standard and shall indicate whether it is a fire hydrant on non-municipal system, a dry hydrant, or another type of water supply. Access and construction for water supplies shall, at a minimum, follow the Driveway standards listed in Appendix K.

## **18-7 Wildland/Urban Interface**

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

### **18-7.1 Wildland/Urban Interface Areas**

The fuel hazard rating of wildland/urban interface areas is determined by using the Fuel Hazard Rating Map for the Tri-County area. Developers should consult the "Guidelines for Administration for the Tri-County Fuel Hazard Mapping"(See Appendix A) to ensure a complete understanding of the Fuel Hazard Rating criteria. If the area to be developed is not covered by the Fuel Hazard Rating Map, the applicant must hire the services of a qualified fire protection

professional to assess the Fuel Hazard Rating for the project area. The County Planning Department shall maintain a list of “qualified fire protection professionals” from which the applicant can choose.

### **18-7.2 Additional Requirements**

High fire hazard areas include heads of draws, excessive slopes, dense forest growth or other hazardous wildfire components. For subdivisions proposed in areas classified as B, C or X wildland fuel hazard as defined in 18-7.1 and the fuels are not modified to a lower hazard rating in accordance with 18-7, the following standards shall apply:

**18-7.2.1 Roof Coverings-** Refer to Guideline 205 Roof Construction (*Appendix B of Fire Protection Guidelines For Wildland Residential Interface Development*). If wood shakes or shingles are allowed in the development, an additional 500 gallons per minute shall be added to the base fire flow requirements.

### **18-7.3 Accesses and Evacuation**

**18-7.3.1 Roadside Vegetation-** Maintain roadside vegetation to protect roads from radiant heat, so they can be used both as escape routes and fire breaks. A recognized fire or fuels management specialist selected from the list of approved qualified fire protection professionals maintained by the County Planning Department shall be used to determine how much vegetation to clear based on local conditions. At a minimum the following standards shall apply:

- a. Thin trees to 10 feet between crowns. (See Appendix C.)
- 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, in perpetuity.

**18-7.3.2** Subdivisions shall be designed to allow emergency vehicles access to areas behind structures by:

- a. Providing a perimeter roadway approved by FPAHJ along the entire wildland side of a development;

**Or by**

- b. Providing a fuel break, designed by a recognized fire or fuels management specialist and approved by the FPAHJ, and accessible to fire apparatus.

#### **18-7.4 Building Density Requirements**

Densities in areas of steep slopes and/or dense forest growth shall be reduced through minimum lot standards as follows:

Minimum Lot Size (Acres)		
% Slope	Open Grass	Forest & Brush
0-10	1	2
11-20	2	3
21-30	3	4
Over 31	4	<b>Not Permitted.<sup>1</sup></b>

---

<sup>1</sup>Building sites shall be prohibited on slopes greater than 30 percent and at the apex of “fire chimneys” (topographical features, usually drainage way or swale, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).

#### **18-7.5 Vegetation Management**

**18-7.5.1** A vegetation management plan shall be prepared by a recognized fire or fuels management specialist selected from a list of qualified a list of “qualified fire protection professionals” developed and maintained by the County Planning Department. The intent of the vegetation management plan is to reduce fuel loading and hazard rating and provide continuous maintenance of the fuel load:

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

**18-7.5.2 Vegetation Management Plan-** Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the development. A vegetation management plan shall include at least the following information:

- a. A copy of the site plan for the development.

- b. Methods and timetables for controlling, changing or modifying areas on the property, including roadside vegetation. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, dead trees, and thinning of live trees.
- c. Defensible Space – (Refer to Guideline 201.1 and 201.2, Vegetation Reduction And Clearance – *FIRE PROTECTION GUIDELINES FOR WILDLAND RESIDENTIAL INTERFACE DEVELOPMENT*).
- d. Fuel Breaks & Greenbelts – (Refer to guideline 204, Fuel Breaks and Greenbelts – *FIRE PROTECTION GUIDELINES FOR WILDLAND RESIDENTIAL INTERFACE DEVELOPMENT*).
- e. A plan for continuously maintaining the proposed fuel-reduction, defensible space, fuel breaks & greenbelts measures and responsibility of maintenance defined.

## **18-8 Fire Protection Covenants**

### **18-8.1**

The following covenants may be included as a requirement of the Fire Protection Plan to mitigate potential threats from fire.

**18-8.1.1 Maintenance of Fire Protection Water Supply-** (for example: water systems, fire hydrants, draft sites, fill sites, buried tanks or open ponds) - Fire protection water supplies must be maintained to their original performance capability in perpetuity by the owners of the water system. Performance of all fire protection features shall be tested annually by:

- a. The FPAHJ or a subcontractor hired and paid for by the FPAHJ.

**OR**

- b. The owners of the system.

The results of the annual testing shall be provided to the FPAHJ and the owners as soon as available.

**18-8.1.2 Maintenance of Fire Protection Features** - Fire protection features must be maintained to their original performance capability in perpetuity by the

property owners. (For example: defensible spaces, Driveway routes, fuel breaks, fuel modification plan, greenbelts, etc.)

**18-8.1.3** In the event that automatic sprinkler systems are an acceptable alternative for fire protection, as approved by the FPAHJ, the requirements of installation shall be included in an agreement with the local fire protection authority which shall be filed with the plat.

**18-8.1.4 Mapping** - A map of the subdivision shall be provided to the FPAHJ and Lewis & Clark County GIS Department (in the format used by the Lewis & Clark County GIS Department) indicating streets, addresses, street names, fire protection features, lot lines, buildable area envelopes, utilities, easements, etc.

**18-8.1.5 Fire Protection Sprinkler/Fire Alarm System Project Tracking Process** - Fire Protection Sprinkler/Fire Alarm System Project Tracking Process shall be used in all circumstances where a structure has a fire protection sprinkler system installed as part of a subdivision Fire Protection Plan. The Tracking Process shall be administered by the FPAHJ. The Tracking Process requirements are as follows:

**18-8.1.5.1** The property owner shall provide 14 day written notice of intent to build a structure with fire protection sprinkler system and, where applicable, fire alarm system, engineered by a Professional Engineer (PE).

**18-8.1.5.2** The property owner shall provide written certification by a PE that all fire protection requirements have been met prior to final occupancy.

**18-8.1.5.3** Occupancy shall be permitted only when all fire protection requirements have been met as determined by the FPAHJ.

## **Appendix L (A): WILD FIRE FUEL HAZARD IDENTIFICATION GUIDELINES FOR ADMINISTRATION**

### Executive Summary

The following briefly summarizes guidelines for administering wildfire fuel hazard rated lands within the wildland/urban interface.

#### **FUEL HAZARD CLASSES.**

##### **Group A**

These areas represent a low fuel hazard with potential for fast spreading fires when grass is cured. (Early spring before green-up and late summer and fall). These are areas of grass, weeds, and brush less than 2 feet high. The fire hazard can be easily mitigated in these fuels.

These areas are generally not a problem for development from a fire protection standpoint. Humans can usually avoid burning areas with ease and firefighters can work easily and efficiently under normal weather conditions. Heavy damages are still possible when items are within the burning area without adequate fuel treatments, clearances, or protection. This fuel type will accommodate the heaviest and widest range of developments with respect to wildfire hazards.

##### **Group B**

These areas represent a medium fuel hazard. They are medium density conifer stands with primarily a grass and brush understory. The conifer overstory tends to reduce the density of the grass and brush. Minimal fuel reduction is needed to reduce this Group to a less severe state.

Inexperienced people are usually afraid and can panic when these areas burn. Property, real and personal, can sustain heavy losses due to the greater burning intensities. Due to the burning characteristics and resultant dangers for "B" rated fuels, it will be advantageous to coordinate and regulate development in these areas. Development can only exist if fuel modifications and treatments are completed prior to completion of the development.

**Group C**

This Group represents a high fuel hazard with potential for high intensity crown fires. These are dense conifer stands. Fuels can be reduced to a less severe state on slopes less than 30% but usually require some form of commercial harvest.

Experienced firefighters are most cautious in these fuels and are ever fearful of the crown fire potential. Rescue of persons entrapped by hot wildfires in these fuels is nearly impossible. Property, real and personal, can face complete destruction. Injuries can be serious and deaths may easily occur. The burning characteristics and resultant dangers in "C" fuels make it one in which close, coordinated and regulated development is advantageous to all interests, both public and private. At best, development in these areas will only be marginal in safety and then only after modifications and treatments are completed prior to completion of the development itself.

**Group X**

This Group represents a high to severe fuel hazard with potential for high intensity fire and extreme rates-of-spread. These are dense, flammable vegetation over two feet high including tall sagebrush and conifer reproduction (regeneration). Fuels can be readily reduced to a less severe state on slopes less than 30%.

Although very similar to "C" fuels when subjected to wildfire, the "X" type is delineated separately from "C" fuels because of its higher intensity burning characteristics, rapid rates of spread and its different requirements for mitigation. The dangers of intense, destructive wildfires are greatest in "X" fuels. Property, real and personal, will face heavy damage and possibly complete destruction during wildfires. Injuries can be serious and deaths may easily occur due to entrapment. The burning characteristics and resultant dangers make it one in which close, coordinated and regulated development is imperative to all interests, both public and private. Fuel Hazard X~' lends itself to modification and can usually be readily reduced

## **Appendix L (B): 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 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 P-I ~ Treated - wood shake - wood shingle	76-200
Not Rated	Untreated wood shingle or	200++

shake

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-B-84 (UL Tunnel) test results. Federal, State, and local authorities accept these classifications.

## **Appendix L (C): APPLICATION**

The following guidelines apply to all developments in the Urban Wildland Interface (UWI) 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 REDUCTION 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.

**APPENDIX M:**  
**Planning Staff Report Templates, Including Generic  
Lists of Conditions**

~~~~~  
LEWIS AND CLARK COUNTY PLANNING DEPARTMENT  
316 North Park Avenue, P. O. Box 1725  
Helena, MT 59624; Phone: 447-8374

STAFF REPORT

DATE:  
FILE:

TO: Helena/Lewis and Clark Consolidated Planning Board and  
Board of County Commissioners

FROM: -----, Associate Planner

SUBJECT: **A Proposed Major Subdivision**

GENERAL INFORMATION

DATE OF APPLICATION:  
REVIEW PERIOD ENDS: -- State law requirement

**PUBLIC MEETING DATES:**

**Consolidated Planning Board -- 7:00 p.m., Tuesday**  
(Room 330, City-County Building, 316 North Park Avenue, Helena)  
**County Commissioners -- 9:00 a.m., Tuesday**  
(Room 330, City-County Building, 316 North Park Avenue, Helena)

APPLICANT:  
SURVEYOR/ENGINEER:

LEGAL DESCRIPTION:

GENERAL LOCATION:

DESCRIPTION

PROPOSAL

SIZE

PRESENT LAND USE

ADJACENT LAND USE

North --

East --

South --

West --

PRESENT AND ADJACENT ZONING

COVENANTS

NOTICE

A public hearing is scheduled before the Consolidated Planning Board on, 2002 and the Board of County Commissioners on 2002. Legal notices have been published in the Independent Record; a sign has been posted on the property; and Certified letters have been sent to adjacent landowners. As of Wednesday, 2002, had been received by the County Planning Department.

REVIEW CRITERIA

EFFECTS ON AGRICULTURE

Soil classification and productivity:

Size of unit:

Effects on nearby agricultural uses:

Water rights and irrigation facilities:

Agricultural water users:

Easements:

Other:

EFFECTS ON LOCAL SERVICES

Sanitary Sewer Wastewater Facilities (MS)

System type:

Soil characteristics:

Depth to groundwater:

Separation requirements:

Health Dept. approval:

Other:

Water Supply

System type:

Source:

Availability:

Well depth:

Yield:

Drawdown:

Other:

**Solid Waste Disposal**

Landfill District: Scratchgravel  
Assessment: fee assessment for each lot  
Effect on capacity:  
Collection and transportation:  
Other:

**Utilities**

Electricity:  
Natural gas:  
Telephone:  
Cable Television:  
Easements:  
Other:

**Streets and Access**

Legal access:  
Physical access:  
Access route:  
Road classification:  
Road maintenance:  
Easement or right-of-way width:  
Road width:  
Road surface material:  
Integration of road network:  
Other:

**Schools**

District:  
School attendance area/capacity:  
    Elementary school:  
    Middle school:  
    High school:  
Estimated student generation:  
    Elementary school:  
    Secondary school:  
Transportation:  
Other:

**Police Protection**

Jurisdiction: Lewis and Clark County Sheriff's Department  
Distance:  
Response time:

Other:

Fire Protection

Jurisdiction:

Assessment:

Distance:

Response time:

Water supply and facilities:

Other:

Ambulance and Emergency Medical Services

Jurisdiction: Saint Peter's Community Ambulance Service  
and

Lincoln Volunteer

Augusta VFD

Distance:

Response time:

Other:

Mail Delivery

Location:

Other:

Other Services

EFFECTS ON NATURAL ENVIRONMENT

Surface water quality and quantity:

Groundwater quality and quantity:

Air quality:

Erosion and sediment control:

Weeds:

Visual appearance:

Other:

EFFECTS ON WILDLIFE AND HABITAT

Animal occurrence:

Habitat occurrence:

EFFECTS ON PUBLIC HEALTH AND SAFETY

Floodplain:

Steep or unstable slopes:

Groundwater contamination:

Access limitations:

Physical hazards:

Radon potential:

Liquefaction potential:  
Seismic activity:  
Traffic: (MS)

OTHER SITE CONSIDERATIONS

Drainage

Cultural Resources

Occurrence:  
Potential:

Traffic

ADT:  
Congestion:  
Other:

LAND USE PLANS

Lewis and Clark County ~~Comprehensive Plan~~ Growth Policy

Southeast Helena Valley Hazard Mitigation Plan

Green Meadow Study Area

South Hills Planning Study

Lewis and Clark Voluntary Agricultural Land Conservation Program

Scratchgravel Hills Comprehensive Management Plan

Helena ~~Comprehensive Plan~~ Growth Policy (MS)

LEWIS AND CLARK COUNTY SUBDIVISION REGULATIONS

PARKLAND DEDICATION/CASH DONATION

Requirement:  
Fulfillment:  
Compliance with Parks Plan:

OTHER DEVELOPMENT CONSIDERATIONS

ADDITIONAL DISCUSSION

CONCLUSIONS (?) May be used for denials

RECOMMENDATION

Staff recommends APPROVAL/DENIAL (MS) of the proposed preliminary plat / site plan of the Major Subdivision. The preliminary approval is for \_\_\_\_\_ located in the, Lewis and Clark County, Montana. Staff recommends this approval be subject to the following conditions:

A. Plans for sewage treatment and water supply systems shall be submitted to the Montana Department of Environmental Quality and the City-County Environmental Health Department for review and approval. All specifications and requirements of the approved plans shall be met. (*Sections 76-4-101, et. seq., MCA; Sections 17.36.101, et. seq., ARM; Sections 76-3-102(4), 501(1), 504(1)(f)(iii), and 608(3)(a), MCA; Sections I.C.6. and 10., X.A.13.a. and b., County Subdivision Regulations*)

B. A storm water drainage plan, meeting the requirements of the County Subdivision Regulations, shall be submitted to the County Planning Department for review and recommendation. All specifications and requirements of the approved plan shall be met. (*Sections 76-3-102(4), 501(1), and 76-3-608(3)(a), MCA; Sections I.C.7.-11. and X.A.11., County Subdivision Regulations*)

C. If required by the County Soil Conservation District, a sediment control plan, meeting the applicable sediment control regulations, shall be submitted to the District for review and approval. All specifications and requirements of the approved plan shall be met. (*Section 77-01-9, County Sediment Ordinance; Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Sections I.C.7.-11. and X.A.20., County Subdivision Regulations*)

D. A Weed Management Plan and Revegetation Plan for the proposed development shall be submitted to the County Weed District for review and approval. All specifications and requirements of an approved plan shall be met. (*Section 77-22-2121, County Weed Law; Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Sections I.C.7.-11. and X.A.19., County Subdivision Regulations*)

E. An Approach Permit shall be requested from the County Road Department for the proposed access point on \_\_\_\_\_. All requirements of an approved permit shall be met. (*Sections 76-3-102(3 and 4), 501(1), 504(6)(a), and 608(3)(a), MCA; Sections I.C.2., 4., 6., and 11., X.A.8.a and k., County Subdivision Regulations; Resolution 1985-22*)

F. The Applicant shall establish a "no access" restriction along the \_\_\_\_\_ property lines of Lots \_\_\_\_\_, restricting direct access to \_\_\_\_\_ except at the easements for the internal access roads. (*Section 76-3-608(3)(a), MCA; Sections X.A.8.e. and 8.k.4., County Subdivision Regulations; Resolution 1985-22*)

G. The Applicant shall provide mailboxes for each lot or a neighborhood box unit for the entire subdivision. Plans for the location and installation of individual mailboxes or neighborhood box unit shall

**Lewis and Clark County**  
**SUBDIVISION**  
**REGULATIONS**

---

be reviewed and approved by the United States Postal Service prior to installation. (*Sections 76-3-102(4), 501(1), and 608(3)(a and b), MCA; Sections I.C.4., 10. and 11., and X.A.9.g., County Subdivision Regulations;*

H. The following improvements and requirements (as requested by the \_\_\_ Fire Department) for the purpose of furthering fire protection shall be installed (*Section 76-3-608(3)(a), MCA; Section X.A.18., County Subdivision Regulations;*

- A. All roads and bridges must be capable of carrying a 30,000 pound truck.
- B. There must be a 5,000 gallon storage tank approximately in the center of the subdivision.

I. A fire protection plan shall be submitted to the \_\_\_\_\_ Volunteer Fire Department for review and approval. All specifications of the approved plan shall be met. (*Section 76-3-608(3)(a), MCA; Section X.A.18., County Subdivision Regulations;*

J. The Applicant shall relocate irrigation ditches in a manner that does not alter the present flow or distribution of irrigation water. (*Sections 76-3-504 and 608(3)(a), MCA; Section X.A.11.l., County Subdivision Regulations;*

K. The Applicant shall improve \_\_\_\_\_ Road to the specifications required by the County Subdivision Regulations (Typical Section No. 3, Peccia) from \_\_\_\_\_ to the intersection with \_\_\_\_\_ Drive. (*Sections 76-3-102(1, 3 and 4), 501(1), 504(6)(a), and 608(3)(a, b, and d), MCA; Sections I.C.4., 6., 10. and 11., X.A.8.c. and 9.a., County Subdivision Regulations; Specifications for County Roads (Peccia, 1983)*)

L. A "Stop" sign (oriented for \_\_\_\_\_ traffic) and a street identification sign shall be installed at the intersection of \_\_\_\_\_. (*Sections 76-3-102(1, 3 and 4), 501(1), 504(6)(a), and 608(3)(a and b), MCA; Sections I.C.4., 6., 10. and 11., and X.A.9.f., County Subdivision Regulations;*

M. Proposed road names shall be submitted to the County Planning Department for review. Approved road names shall be shown on the final plat and reflected in all documents of the subdivision (covenants, road easements, etc.). (*Sections 76-3-102(1, 3 and 4), 501(1), 504(6)(a), and 608(3)(a, b, and d), MCA; Sections I.C.6., 10., and 11., X.A.10. and Appendix H, County Subdivision Regulations;*

N. The Applicant shall establish the following easements:

- A. trail access
- B. emergency access
- C. other?

O. The final plat shall be prepared in accordance with the applicable State survey requirements and the County Subdivision Regulations; in addition, the final plat shall graphically show and describe the following (*Sections 76-3-102, 402, 501, 504, and 608(3), MCA; Section 8.94.3003, ARM; Sections I.C., III.A., and Appendix D, County Subdivision Regulations;*

- A. public access easements;
- B. underground utility easements;
- C. an easement along the \_\_\_\_\_ of the property for the high pressure gas line;
- D. all existing and proposed utility easements;
- E. a floodplain/stream side preservation easement along \_\_\_\_\_ Creek extending at least 35 feet on either side of the stream and including all flood-prone areas;
- F. a drainage easement that includes all riparian areas;
- G. a stream side preservation easement creating a corridor along \_\_\_\_\_ Creek and related channels;
- H. an easement for the irrigation canal that crosses the lots;
- I. a surveyed delineation of the boundaries of channeled flow;
- J. a “no access restriction” along the north property line of Lots a-x, prohibiting direct access to \_\_\_\_\_ Road.

P. Plans for development of any floodplain areas shall be submitted to the County Floodplain Administrator. All improvements to the property within the designated floodplain shall comply with the Lewis and Clark County Floodplain Ordinance and its attendant regulations. (*Section 76-3-608(3)(a), MCA; Section X.A.4., County Subdivision Regulations; County Floodplain Regulations*)

Q. The Applicant shall provide information on the market value of the property or an appraisal (by a land appraiser acceptable to the Board of County Commissioners) to assist the County in determining the amount of the cash payment to be made in lieu of a parkland dedication. (*Section 76-3-102(4), 501, 504(7), and 621, MCA; Sections I.C.5. and X.A.17.g., County Subdivision Regulations; County Comprehensive Parks, Recreation and Open Space Plan, 1998*)

R. The Book and Page reference to the restrictive covenants (filed with the County Clerk and Recorder) shall be indicated on the face of the plat. In addition, restrictive covenants, revocable or alterable only with the consent of the Board of County Commissioners, shall be placed upon the property and shall provide for the following (*Section 76-3-608(3)(a), MCA; Sections I.C. and III.A.10. and X.A.....?, County Subdivision Regulations*):

- a. notification of the potential health risk from radon concentrations and that such risk can be evaluated through soil tests and mitigated through radon abatement techniques incorporated into structures; (*Section 76-3-608(3)(a), MCA; Sections I.C.10. and III.A.10. and X.A....., County Subdivision Regulations*)
- b. a requirement that all dwelling units within the subdivision be constructed to specifications which meet or exceed equivalent provisions in the Uniform Building Code for this seismic zone (Zone 3); (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 10., III.A.10., and X.A....., County Subdivision Regulations*)
- c. a road maintenance agreement and a waiver of right to protest joining a road maintenance district, in accordance with the County Subdivision Regulations (*Section 76-3-608(3)(a), MCA; Sections I.C.10. and 11., III.A.10., and X.A.8.d., County Subdivision Regulations*);

- d. a prohibition of any development, alteration, or encroachment within the drainage easement;
- e. any additional, replacement, or relocated utility lines shall be installed underground, in accordance with the County Subdivision Regulations (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-10., III.A.10., and X.A.15.a., County Subdivision Regulations*);
- f. a "no access" restriction along the east property line of Lot \_\_, restricting access to \_\_ except at the easement for \_\_\_ Road (*Section 76-3-608(3)(a), MCA; Sections X.A.8.e. and 8.k.4., County Subdivision Regulations; Resolution 1985-22*);
- g. all dwelling units within the subdivision shall be constructed to meet or exceed equivalent provisions of the Uniform Fire Code. In addition, any roofing material shall have Class A or B Fire Rating, and wood roof materials are prohibited (*Section 76-3-608(3)(a), MCA; Sections I.C.7., 9. and 10., III.A.10., and X.A.18.e., County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- h. waiver of the landowners' right to protest the creation of or annexation to a fire district or fire service area (*Section 76-3-608(3)(a), MCA; Sections I.C.10. and 11., III.A.10., and X.A.18.b., County Subdivision Regulations*);
- i. the prohibition against construction of basements or other below grade living spaces, due to the presence of near-surface groundwater (*Section 76-3-608(3)(a), MCA; Sections I.C.7., 9. and 10., III.A.10., and X.A.3., County Subdivision Regulations*);
- j. any exterior lighting shall be directed downward to minimize visibility beyond the property lines. (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 8., IV.C.7., and X.A.2., County Subdivision Regulations*);
- k. notification of the presence of the 100-year / 500-year floodplain and the designated drainage easement (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., III.A.10., and X.A.4., County Subdivision Regulations*);
- l. notification that each lot owner must obtain a floodplain development permit (from the County Floodplain Administrator) prior to any development (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., III.A.10., and X.A.4., County Subdivision Regulations; County Floodplain Regulations*);
- m. prohibition of any development within the drainage easement which would restrict or alter the pattern of channel flow (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., III.A.10., and X.A.11.l., County Subdivision Regulations*);
- n. notification of the potential health risk from metals concentrations in the soil, and that such risk can be further evaluated through on-site soil tests and mitigated through procedures established by the Environmental Protection Agency (*Section 76-3-608(3)(a), MCA; Sections I.C.10. and III.A.10. and X.A....., County Subdivision Regulations*);
- o. a waiver of the right to protest joining a special district for the purpose of providing community water and/or wastewater treatment system improvements and/or maintenance (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-10., III.A.10., and X.A.12.d. and 13.d., County Subdivision Regulations*);
- p. a restrictive covenant, binding the landowner, any heirs, successors and assigns, and all future owners of property within the subdivision, agreeing therein to hold Lewis and Clark

County harmless and indemnify Lewis and Clark County from all claims, demands, obligations, suits, causes of action, damages, and liability, including the County's costs and attorney's fees, arising in any manner whatsoever out of, or relating to, the existence, use, operation, repair, and/or maintenance of the following;

1. Variances granted for right-of-way width, road width, and road construction (*Section II.B.3., County Subdivision Regulations*);
  2. Irrigation ditch;
  3. Flood plain, and any and all other flooding within the subdivision;
  4. Road widths and cul-de-sac designs granted by variances;
  5. Earthquake fault zone and any seismic activity;
  6. ASARCO smelter facility;
  7. Water availability.
- q. easements for sewer and water facilities as required by the DEQ (*Section 76-3-608(3)(a), MCA; Sections I.C.10. and III.A.10. and X.A.16., County Subdivision Regulations*);
- r. the property may be occupied for seasonal recreational use only, and no year-round occupancy shall be established on the property. Permanent structures will be allowed, but use of them shall be occasional only. The use of the property as a permanent residence for purposes of voter registration, mail delivery, or similar activities is prohibited (*Section 76-3-608(3)(a), MCA; Sections I.C.11., III.A.10. and X.A....., County Subdivision Regulations*);
- s. notification of the presence of disturbed materials and a requirement that all building sites be prepared in accordance with the grading specifications of the Uniform Building Code (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 10., III.A.10., and X.A....., County Subdivision Regulations*);
- t. access to home sites shall be constructed in accordance with the applicable standards for private roads or driveways as identified in Table 2 of the South Hills Planning Study; ???
- u. dwellings erected on slopes 50% or greater shall be designed by a licensed architect pursuant to a geotechnical analysis of slope stability. Construction of dwellings shall be in accordance with the design specifications;
- v. A restrictive covenant shall provide that no present or future property owner in this subdivision shall perform any act which damages or destroys the irrigation ditch (located adjacent to the subdivision), interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance (*Sections 76-3-504 and 608(3)(a), MCA; Section X.A.11.l., County Subdivision Regulations*);
- w. a prohibition against the application of lawn fertilizers and pesticides within twenty (20) feet of surface waters (*Section 76-3-608(3)(a), MCA; Sections I.C.8. and 9., III.A.10., and X.A.2. and 3., County Subdivision Regulations*);
- x. a prohibition against the obstruction of the emergency access easement (*Section 76-3-608(3)(a), MCA; Sections I.C.10., III.A.10., and X.A....., County Subdivision Regulations*);
- y. all stream channels shall be maintained in their natural state, except for projects done in

- accordance with an approved 310 permit from the County Conservation District (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-10., III.A.10., and X.A.2. and 3., County Subdivision Regulations*);
- z. notification that each lot owner will be responsible for providing on-site retention of all storm water runoff generated from the lot in excess of historical volumes (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 10., III.A.10., and X.A.2. and 11.f., County Subdivision Regulations*);
- aa. a requirement that all wells developed within the subdivision be completed to a minimum depth of 80 feet to ensure adequate long-term water supply without affecting nearby wells;
- bb. notification of the potential for prehistoric and/or cultural artifacts to be located on the site and a requirement that landowners provide all contractors written notice this potential for cultural resources. The notice shall further state, that if such artifacts are discovered during the course of construction activities, all construction activities shall cease until the County Planning Department has been notified and a qualified professional has examined the findings to assess their significance. A copy of the notice to contractors, signed and dated by each contractor shall be filed with the County Planning Office, prior to the commencement of development activities (*Section 76-3-608(3)(a), MCA; Sections I.C.8. and 9., and III.A.10.b., County Subdivision Regulations*);
- cc. all wood burning heating devices shall be equipped with spark arresters. These devices shall be inspected annually (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., III.A.10., and X.A.18., County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- dd. all brush and tall grasses shall be cleared and maintained 30 feet from all permanent structures (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., III.A.10., and X.A.18., County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- ee. all trees shall be pruned of limbs to the height of 10 feet (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., III.A.10., and X.A.18., County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- ff. a prohibition of the storage of foods, garbage or feeding domestic pets outdoors or other activities which may create an attractive nuisance for wildlife species (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., III.A.10., and X.A.2., County Subdivision Regulations*);
- gg. fencing, except for those protecting gardens, fruit trees, compost piles and such, shall allow for easy crossing by big game and other wildlife. The fencing shall consist of three (3) strands. The top wire shall be smooth wire, thirty six (36) inches above the ground. The middle wire may be barbed wire, twenty six (26) inches above the ground and the bottom wire may be barbed wire, sixteen (16) inches above the ground. Posts shall be sixteen feet, six inches (16' 6") apart with twisted wire stay centered between post (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., III.A.10., and X.A.2., County Subdivision Regulations*);

- hh. gardens, fruit trees and compost piles shall be fenced with deer-proof fences. These fences shall constructed of woven wire and a minimum of seven (7') feet high (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., III.A.10., and X.A.2., County Subdivision Regulations*);
- ii. all cats and dogs must be restrained or penned at all times (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., III.A.10., and X.A.2., County Subdivision Regulations*);
- jj. notification of the presence of agricultural operations in the vicinity (*Section 76-3-608(3)(a), MCA; Sections I.C.7.8. and 10., III.A.10., County Subdivision Regulations*);
- kk. a prohibition of the raising, confinement, and/or keeping of livestock.

S. The Applicant shall install \_\_\_\_\_ address plaques (one for each lot) at the approach to \_\_\_\_\_. The plaques shall conform to the specification for road identification signs, in accordance with the County Subdivision Regulations. (*Section 76-3-608(3)(a), MCA; Section X.A.10.g. and h., County Subdivision Regulations*);

T. The Applicant shall install a fence along the east edge of the easement for the irrigation canal. At a minimum, the fence shall be constructed of woven wire at least three feet in height with two strands of barbed wire at the top of the fence, and shall be of sufficient construction to effectively restrict the access of small children to the irrigation ditch. (*Section 76-3-608(3)(a), MCA; Section X.A.11.m., County Subdivision Regulations*)

U. The Applicant shall have a reconnaissance archeological survey done to evaluate the potential for cultural resources on the property. If the study identifies any cultural sites, a complete inventory of the site must be completed prior to any disturbance of the site. (*Section 76-3-608(3)(a), MCA; Section III.A.10.b. and c., County Subdivision Regulations*)

V. The Applicant shall have a reconnaissance geologic survey done to evaluate the potential hazard to structures. If the study identifies any areas of high hazard potential, these areas shall be restricted from construction of structures. (*Section 76-3-608(3)(a), MCA; Section X.A.3. and 6.i., County Subdivision Regulations*)

W. A signing plan for traffic control and street identification signs, meeting the applicable County regulations, shall be submitted to the County Planning Department for review and recommendation. All specifications and requirements of the approved plan shall be met. (*Section 76-3-608(3)(a), MCA; Section X.A.9.f. and 10., County Subdivision Regulations*)

X. Prior to filing of the final plat, the following improvements shall be installed or otherwise guaranteed (*Sections 76-3-507 and 608(3)(a), MCA; Section III.A.15., County Subdivision Regulations*):

- a. roads and
- b. parking areas
- c. sewer and water facilities
- d. street identification and traffic control signs

- e. address plaques
- f. utilities
- g. any necessary improvements required by the drainage plan, sediment control plan, revegetation plan, weed management plan, signing plan, approach permit, or floodplain permit
- h. fencing
- i. screening
- j. mail delivery facilities

If said improvements are not installed, then the Applicant shall enter into a written subdivision improvements agreement with Lewis and Clark County, guaranteeing the construction and installation of such improvements and shall provide an acceptable financial security guarantee, in accordance with Section III.A.15. and Appendix E of the County Subdivision Regulations.

Y. Prior to filing of the final plat, the Applicant shall:

- A. Provide proof that all taxes and special assessments assessed and levied on the property are paid for the current tax year; including any past delinquencies. (*Section 76-3-611(1)(b), MCA; Section ... .., County Subdivision Regulations*)
- B. Provide documentation showing that the Applicant is the lawful owner of the property with the apparent authority to subdivide the same, and showing the names of lien holders or claimants of record. (*Section 76-3-612, MCA; Section ... .., County Subdivision Regulations*)

Z. This preliminary approval shall be effective for one calendar year. At the request of the Applicant, the Board of County Commissioners may extend this approval an additional calendar year, not to exceed a maximum of four calendar years. (*Section 76-3-610, MCA; Section III.A.11., County Subdivision Regulations*)

DRAFT

FINDINGS AND CONCLUSIONS

On \_\_\_\_\_, the Lewis and Clark County Commissioners held a public hearing on the proposed \_\_\_\_\_ Major Subdivision, located in the \_\_\_\_\_, Lewis and Clark County, Montana.

The Commissioners considered the Planning Board recommendation, all testimony from the public, the preliminary plat application and supplements, the staff report and related information, and additional information presented at the meetings.

The Commissioners evaluated the subdivision proposal in consideration of the criteria set forth in Section 76-3-608, MCA, and Section III.A.10 of the Lewis and Clark County Subdivision Regulations; the Commissioners made the following findings and conclusions:

1. Effects on Agriculture

- a.
- b.

Conclusion: This proposal would not have significant / would have adverse effects on agricultural lands and agricultural operations. but the conditions of approval are designed to mitigate the adverse impacts identified above.

2. Effects on Local Services

- a. water
- b. sewer
- c. The proposal is located within the Scratchgravel Landfill District and will be assessed a fee for service provision.
- d. Essential utilities are available adjacent to the proposal.
- e. access
- f.
- g.

Conclusion: This proposal would not have significant / would have adverse effects on local services. but the conditions of approval are designed to mitigate the adverse impacts identified above.

3. Effects on the Natural Environment

- a.
- b.

Conclusion: This proposal would not have significant / would have adverse effects on the natural environment. but the conditions of approval are designed to mitigate the adverse impacts identified above.

4. Effects on Wildlife and Habitat

- a. No threatened or endangered species or habitats were identified.
- b. The parcel does not provide significant wildlife habitat.

Conclusion: This proposal would not have significant / would have adverse effects on wildlife and habitat. but the conditions of approval are designed to mitigate the adverse impacts identified above.

5. Effects on Public Health and Safety

- a.
- b.
- c.
- d.

Conclusion: This proposal would not have significant / would have adverse effects on public health and safety. but the conditions of approval are designed to mitigate the adverse impacts identified above.

6. Effects on Cultural and Historic Resources

- a. No cultural resources were identified.

Conclusion: This proposal would not have significant / would have adverse effects on cultural and historic resources. but the conditions of approval are designed to mitigate the adverse impacts identified above.

7. Comprehensive Plan

- a.
- b.
- c.

Conclusion: This proposal does / does not comply with the comprehensive plan.

8. Subdivision Regulations

- a.
- b.
- c.

Conclusion: This proposal does / does not comply with all of the subdivision regulations.

9. Survey Requirements

- a. The proposal does not comply with all of the survey requirements.

Conclusion: This proposal does / does not comply with survey requirements, but said requirements are not required until final platting upon subdivision approval.

10. Utilities

- a. The proposal does not provide for required utility easements.  
b. Essential utilities are present adjacent to the proposal.

Conclusion: This proposal does not provide for utility easements, but said requirements are not required until final platting upon subdivision approval.

11. Access

- a. The proposal provides for legal access easements and standard physical access.  
b.

Conclusion: This proposal does / does not comply with access requirements.

12. Zoning and Other Regulations

- a. The proposal is not located in a zoned area.  
b. The proposal conforms with other regulations in effect.

Conclusion: This proposal does / does not conform with zoning and other regulations in effect.

**The attached conditions of approval are designed to mitigate the adverse impacts identified in the FINDINGS AND CONCLUSIONS.**

**In view of these findings and determinations, the Commissioners voted to approve the Major Subdivision. The above statement of findings and determinations, and the record on which they are based, are required by Sections 76-3-604, 609, and 620, MCA. If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within 30 days of the Commissioners' decision. The preliminary approval is for located in the , Lewis and Clark County, Montana. In order to mitigate identified adverse effects, this approval is subject to the following conditions: (See Staff Report).**

**In view of these findings and determinations, the Commissioners voted to deny the subdivision as proposed. The above statement of findings and determinations, and the record on which they are based, are required by Sections 76-3-604, 609, and 620, MCA. If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within 30 days of the Commissioners' decision.**

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

---

Michael A. Murray, Chairman

~~~~~  
LEWIS AND CLARK COUNTY PLANNING DEPARTMENT  
316 North Park Avenue, P. O. Box 1725  
Helena, MT 59624; Phone: 447-8374

STAFF REPORT

DATE:  
FILE:

TO: Board of County Commissioners

FROM: -----, Associate Planner

SUBJECT: **Proposed Minor Subdivision, Preliminary Plat / Site Plan to be Known as**

GENERAL INFORMATION

DATE OF APPLICATION:  
REVIEW PERIOD ENDS: -- State law requirement

**PUBLIC MEETING DATE:**  
**County Commissioners -- 9:00 a.m., Tuesday,**  
**(Room 330, City-County Building, 316 North Park Avenue, Helena)**

APPLICANT:  
SURVEYOR/ENGINEER:

LEGAL DESCRIPTION:

GENERAL LOCATION:  
A vicinity map is attached.

DESCRIPTION

PROPOSAL  
The Applicant proposes to create  
A site plan is attached.

SIZE  
PRESENT LAND USE  
ADJACENT LAND USE  
North --  
East --

South --  
West --

#### PRESENT AND ADJACENT ZONING

The proposed subdivision is not within any County special zoning district and no zoning regulations govern land uses in the vicinity.

#### COVENANTS

No covenants presently affect the use of the subject property and none are proposed as part of this subdivision.

#### NOTICE

A public meeting is scheduled before the Board of County Commissioners on 200\_. A legal ad has been published in the Independent Record, a sign has been posted on the property, and letters have been sent to adjacent land owners notifying them of the proposal. As of Wednesday, 200\_, had been received by the County Planning Department.

#### REVIEW CRITERIA

##### EFFECTS ON AGRICULTURE

Soil classification and productivity:  
Size of unit:  
Effects on nearby agricultural uses:  
Water rights and irrigation facilities:  
Agricultural water users:  
Easements:  
Other:

##### EFFECTS ON LOCAL SERVICES

###### Sanitary Sewer

System type:  
Soil characteristics:  
Depth to groundwater:  
Separation requirements:  
Health Dept. approval:  
Other:

###### Water Supply

System type:  
Source:  
Availability:  
Well depth:  
Yield:  
Drawdown:

Other:

Solid Waste Disposal

Landfill District: Scratchgravel

Assessment: fee assessment for each lot

Effect on capacity:

Collection and transportation:

Other:

Utilities

Electricity:

Natural gas:

Telephone:

Cable Television:

Easements:

Other:

Streets and Access

Legal access:

Physical access:

Access route:

Road classification:

Road maintenance:

Easement or right-of-way width:

Road width:

Road surface material:

Integration of road network:

Other:

Schools

District:

School attendance area/capacity:

Elementary school:

Middle school:

High school:

Estimated student generation:

Elementary school:

Secondary school:

Transportation:

Other:

Police Protection

Jurisdiction: Lewis and Clark County Sheriff's Department

Distance:  
Response time:  
Other:

Fire Protection

Jurisdiction:  
Assessment:  
Distance:  
Response time:  
Water supply and facilities:  
Other:

Ambulance and Emergency Medical Services

Jurisdiction: Saint Peter's Community Ambulance Service Lincoln Volunteer Augusta VFD  
Distance:  
Response time:  
Other:

Mail Delivery

Location:  
Other:

Other Services

EFFECTS ON NATURAL ENVIRONMENT

Surface water quality and quantity:  
Groundwater quality and quantity:  
Air quality:  
Erosion and sediment control:  
Weeds:  
Visual appearance:  
Other:

EFFECTS ON WILDLIFE AND HABITAT

Animal occurrence:  
Habitat occurrence:

EFFECTS ON PUBLIC HEALTH AND SAFETY

Floodplain:  
Steep or unstable slopes:  
Groundwater contamination:  
Access limitations:  
Physical hazards:

Radon potential:  
Liquefaction potential:  
Seismic activity:

#### OTHER SITE CONSIDERATIONS

##### Drainage

##### Cultural Resources

Occurrence:  
Potential:

##### Traffic

ADT:  
Congestion:  
Other:

#### LAND USE PLANS

##### Lewis and Clark County Growth Policy

##### Southeast Helena Valley Hazard Mitigation Plan

##### Green Meadow Study Area

##### South Hills Planning Study

##### Lewis and Clark Voluntary Agricultural Land Conservation Program

##### Scratchgravel Hills Comprehensive Management Plan

##### Helena Growth Policy

#### LEWIS AND CLARK COUNTY SUBDIVISION REGULATIONS

##### PARKLAND DEDICATION/CASH DONATION

Requirement:  
Fulfillment:  
Compliance with Parks Plan:

#### OTHER DEVELOPMENT CONSIDERATIONS

##### ADDITIONAL DISCUSSION

CONCLUSIONS May be used for denials

**RECOMMENDATION**

Staff recommends **APPROVAL/DENIAL** of the proposed preliminary plat / site plan of the Minor Subdivision. The preliminary approval is for located in the , Lewis and Clark County, Montana. Staff recommends this approval be subject to the following conditions:

A. Plans for sewage treatment and water supply systems shall be submitted to the Montana Department of Environmental Quality and the City-County Environmental Health Department for review and approval. All specifications and requirements of the approved plans shall be met. (*Sections 76-4-101, et. seq., MCA; Sections 17.36.101, et. seq., ARM; Sections 76-3-102(4), 501(1), 504(1)(f)(iii), and 608(3)(a), MCA; Sections I.C.6. and 10., XI.M. and N., County Subdivision Regulations*)

B. A storm water drainage plan, meeting the requirements of the County Subdivision Regulations, shall be submitted to the County Planning Department for review and recommendation. All specifications and requirements of the approved plan shall be met. (*Sections 76-3-102(4), 501(1), 504(1)(f)(ii) and 76-3-608(3)(a), MCA; Sections I.C.6.-11. and XI.L., County Subdivision Regulations*)

C. If required by the County Soil Conservation District, a sediment control plan, meeting the applicable sediment control regulations, shall be submitted to the District for review and approval. All specifications and requirements of the approved plan shall be met. (*Section 77-01-9, County Sediment Ordinance; Sections 76-3-102(5), 501(1), and 608(3)(a), MCA; Sections I.C.7.-11. and XI.V., County Subdivision Regulations*)

D. A Weed Management Plan and Revegetation Plan for the proposed development shall be submitted to the County Weed District for review and approval. All specifications and requirements of an approved plan shall be met. (*Section 77-22-2121, County Weed Law; Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Sections I.C.7.-9. and 11. and XI.U., County Subdivision Regulations*)

E. An Approach Permit shall be requested from the County Road Department for the proposed access point on . All requirements of an approved permit shall be met. (*Sections 76-3-102(3 and 4), 501(1), 504(1)(f)(i), and 608(3)(a), MCA; Sections I.C.2., 4., 6., and 11., XI.H. and I., County Subdivision Regulations; Resolution 1985-22*)

F. The Applicant shall establish a "no access" restriction along the \_\_\_\_\_ property lines of Lots \_\_\_\_\_, restricting direct access to \_\_\_\_\_ except at the easements for the internal access roads. (*Section 76-3-608(3)(a), MCA; Sections X.A.8.e. and 8.k.4., County Subdivision Regulations; Resolution 1985-22*)

G. The Applicant shall provide mailboxes for each lot or a neighborhood box unit for the entire subdivision. Plans for the location and installation of individual mailboxes or neighborhood box unit shall be reviewed and approved by the United States Postal Service prior to installation. (*Sections 76-3-102(4), 501(1), and 608(3)(a and b), MCA; Sections I.C.4., 10. and 11., and XI.J., County Subdivision Regulations;*)

H. The following improvements and requirements (as requested by the \_\_\_ Fire Department) for the purpose of furthering fire protection shall be installed (*Section 76-3-608(3)(a), MCA; Section XI.S. and Appendix K, County Subdivision Regulations*):

- A. All roads and bridges must be capable of carrying a 30,000 pound truck.
- B. There must be a 5,000 gallon storage tank approximately in the center of the subdivision.

I. A fire protection plan shall be submitted to the \_\_\_\_\_ Volunteer Fire Department for review and approval. All specifications of the approved plan shall be met. (*Section 76-3-608(3)(a), MCA; Section XI.S. and Appendix K, County Subdivision Regulations*)

J. The Applicant shall relocate irrigation ditches in a manner that does not alter the present flow or distribution of irrigation water. (*Sections 76-3-504 and 608(3)(a), MCA; Section XI.U., County Subdivision Regulations*)

K. The Applicant shall improve \_\_\_\_\_ Road to the specifications required by the County Subdivision Regulations (Typical Section No. 3, Peccia) from \_\_\_\_\_ to the intersection with \_\_\_\_\_ Drive. (*Sections 76-3-102(1, 3 and 4), 501(1), 504(1)(f)(i), and 608(3)(a, b, and d), MCA; Sections I.C.4., 6., 10. and 11., XI.E., H. and I., and Appendix K, County Subdivision Regulations*)

L. A "Stop" sign (oriented for \_\_\_\_\_ traffic) and a street identification sign shall be installed at the intersection of \_\_\_\_\_. (*Sections 76-3-102(1, 3 and 4), 501(1), 504(1)(f)(i), and 608(3)(a and b), MCA; Sections I.C.4., 6., 10. and 11., and XI.I.b., County Subdivision Regulations*)

M. Proposed road names shall be submitted to the County Planning Department for review. Approved road names shall be shown on the final plat and reflected in all documents of the subdivision (covenants, road easements, etc.). (*Sections 76-3-102(1, 3 and 4), 501(1), 504(1)(f)(i), and 608(3)(a, b, and d), MCA; Sections I.C.6., 10., and 11., XI.K.1., and Appendix H, County Subdivision Regulations*;

N. The final plat shall be prepared in accordance with the applicable State survey requirements and the County Subdivision Regulations; in addition, the final plat shall graphically show and describe the following (*Sections 76-3-102, 402, 501, 504, and 608(3), MCA; Section 8.94.3003, ARM; Sections I.C., IV.11. and 12., and Appendix D, County Subdivision Regulations*):

- A. public access easements;
- B. underground utility easements;
- C. an easement along the \_\_\_\_\_ of the property for the high pressure gas line;
- D. all existing and proposed utility easements;
- E. a floodplain/stream side preservation easement along \_\_\_\_\_ Creek extending at least 35 feet on either side of the stream and including all flood-prone areas;
- F. a drainage easement that includes all riparian areas;
- G. a stream side preservation easement creating a corridor along \_\_\_\_\_ Creek and related

channels;

- H. an easement for the irrigation canal that crosses the lots;
- I. a surveyed delineation of the boundaries of channeled flow;
- J. a “no access restriction” along the north property line of Lots a-x, prohibiting direct access to \_\_\_\_\_ Road.

O. Plans for development of any floodplain areas shall be submitted to the County Floodplain Administrator. All improvements to the property within the designated floodplain shall comply with the Lewis and Clark County Floodplain Ordinance and its attendant regulations. (*Section 76-3-608(3)(a), MCA; Section XI.D.4., County Subdivision Regulations; County Floodplain Regulations*)

P. The Book and Page reference to the restrictive covenants (filed with the County Clerk and Recorder) shall be indicated on the face of the plat. In addition, restrictive covenants, revocable or alterable only with the consent of the Board of County Commissioners, shall be placed upon the property and shall provide for the following (*Section 76-3-608(3)(a), MCA; Sections I.C. and IV.A.7., and XI., County Subdivision Regulations*):

- a. notification of the potential health risk from radon concentrations and that such risk can be evaluated through soil tests and mitigated through radon abatement techniques incorporated into structures; (*Section 76-3-608(3)(a), MCA; Sections I.C.10. and IV.A.7., and XI.C., County Subdivision Regulations*)
- b. a requirement that all dwelling units within the subdivision be constructed to specifications which meet or exceed equivalent provisions in the applicable state building code for this seismic zone (Zone 3); (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 10., IV.A.7., and XI.C., County Subdivision Regulations*)
- c. a road maintenance agreement and a waiver of right to protest joining a road maintenance district, in accordance with the County Subdivision Regulations (*Section 76-3-608(3)(a) and (b)(ii), MCA; Sections I.C.10. and 11., IV.A.7., and XI.I.2., and Appendix K, County Subdivision Regulations*);
- d. a prohibition of any development, alteration, or encroachment within the drainage easement; (*Section 76-3-608(3)(a), MCA; Section I.C.7.-11., IV.A.7., and XI.L., County Subdivision Regulations*)
- e. any additional, replacement, or relocated utility lines shall be installed underground, in accordance with the County Subdivision Regulations (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-10., IV.A.7., and XI.P., County Subdivision Regulations*);
- f. a "no access" restriction along the east property line of Lot \_\_\_\_\_, restricting access to \_\_\_\_\_ except at the easement for \_\_\_\_\_ Road (*Section 76-3-608(3)(a), MCA; Section XI.C.1., County Subdivision Regulations; Resolution 1985-22*);
- g. all dwelling units within the subdivision shall be constructed to meet or exceed equivalent provisions of the applicable state fire code. In addition, any roofing material shall have Class A or B Fire Rating, and wood roof materials are prohibited (*Section 76-3-608(3)(a), MCA; Sections I.C.7., 9. and 10., IV.A.7, XI.S., and Appendix L; County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development,*

- (*MT Dept. of Justice & MT Dept. of State Lands, 1993*));
- h. the prohibition against construction of basements or other below grade living spaces, due to the presence of near-surface groundwater (*Section 76-3-608(3)(a), MCA; Sections I.C.7., 9. and 10., IV.A.7., and XI.C., County Subdivision Regulations*);
  - i. any exterior lighting shall be directed downward to minimize visibility beyond the property lines. (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 8., IV.A.7., and XI.Z., County Subdivision Regulations*);
  - j. notification of the presence of the 100-year / 500-year floodplain and the designated drainage easement (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., IV.A.7., and XI.D., County Subdivision Regulations*);
  - k. notification that each lot owner must obtain a floodplain development permit (from the County Floodplain Administrator) prior to any development (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., IV.A.7., and XI.D., County Subdivision Regulations; County Floodplain Regulations*);
  - l. prohibition of any development within the drainage easement which would restrict or alter the pattern of channel flow (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., IV.A.7., and XI.L., County Subdivision Regulations*);
  - m. notification of the potential health risk from metals concentrations in the soil, and that such risk can be further evaluated through on-site soil tests and mitigated through procedures established by the Environmental Protection Agency (*Section 76-3-608(3)(a), MCA; Sections I.C.10. IV.A.7., and XI.C.1., County Subdivision Regulations*);
  - n. a waiver of the right to protest joining a special district for the purpose of providing community water and/or wastewater treatment system improvements and/or maintenance (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-10., IV.A.7., and XI.M.4. and N.4., County Subdivision Regulations*);
  - o. a restrictive covenant, binding the landowner, any heirs, successors and assigns, and all future owners of property within the subdivision, agreeing therein to hold Lewis and Clark County harmless and indemnify Lewis and Clark County from all claims, demands, obligations, suits, causes of action, damages, and liability, including the County's costs and attorney's fees, arising in any manner whatsoever out of, or relating to, the existence, use, operation, repair, and/or maintenance of the following (*76-3-608(1) and (4), MCA; I.C. 4-11, IV.A.7., County Subdivision Regulations*):
    - 1. Variances granted for right-of-way width, road width, and road construction (*Section II.B.3., County Subdivision Regulations*);
    - 2. Irrigation ditch;
    - 3. Flood plain, and any and all other flooding within the subdivision;
    - 4. Road widths and cul-de-sac designs granted by variances;
    - 5. Earthquake fault zone and any seismic activity;
    - 6. ASARCO smelter facility;
    - 7. Water availability.
  - p. easements for sewer and water facilities as required by the DEQ (*Section 76-3-608(3)(a),*

- MCA; Sections I.C.10. and IV.A.7., and XI.M.1. and N.1., County Subdivision Regulations);*
- q. the property may be occupied for seasonal recreational use only, and no year-round occupancy shall be established on the property. Permanent structures will be allowed, but use of them shall be occasional only. The use of the property as a permanent residence for purposes of voter registration, mail delivery, or similar activities is prohibited (*Section 76-3-608(3)(a), MCA; Sections I.C.11., IV.A.7., and VI.B., County Subdivision Regulations);*)
- r. notification of the presence of disturbed materials and a requirement that all building sites be prepared in accordance with the grading specifications of the applicable state building code (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 10., IV.A.7., and XI.C., County Subdivision Regulations);*
- s. access to home sites shall be constructed in accordance with the applicable standards for private roads or driveways as identified in Table 2 of the South Hills Planning Study; (*76-3-608(3)(a), MCA; Sections I.C.3.-11., and XI.B., County Subdivision Regulations);*
- t. dwellings erected on slopes 50% or greater shall be designed by a licensed architect pursuant to a geotechnical analysis of slope stability. Construction of dwellings shall be in accordance with the design specifications; (*76-3-608(3)(a), MCA; Sections I.C 5-11, and XI.C and AA, County Subdivision Regulations);*
- u. A restrictive covenant shall provide that no present or future property owner in this subdivision shall perform any act which damages or destroys the irrigation ditch (located adjacent to the subdivision), interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance (*Sections 76-3-504 and 608(3)(a), MCA; Section XI.L.13 and T., County Subdivision Regulations);*
- v. a prohibition against the application of lawn fertilizers and pesticides within twenty (20) feet of surface waters (*Section 76-3-608(3)(a), MCA; Sections I.C.8. and 9., IV.A.7., and XI.C.1. and D., County Subdivision Regulations);*
- w. a prohibition against the obstruction of the emergency access easement (*Section 76-3-608(3)(a), MCA; Sections I.C.10., IV.A.7., and XI.C.1.1, County Subdivision Regulations);*
- x. all stream channels shall be maintained in their natural state, except for projects done in accordance with an approved 310 permit from the County Conservation District (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-10., IV.A.7., and XI.D., County Subdivision Regulations);*
- y. notification that each lot owner will be responsible for providing on-site retention of all storm water runoff generated from the lot in excess of historical volumes (*Section 76-3-608(3)(a), MCA; Sections I.C.7. and 10., IV.A.7., and XI.L.7., County Subdivision Regulations);*
- z. notification of the potential for prehistoric and/or cultural artifacts to be located on the site and a requirement that landowners provide all contractors written notice this potential for cultural resources. The notice shall further state, that if such artifacts are discovered during the course of construction activities, all construction activities shall cease until the County Planning Department has been notified and a qualified professional has examined the findings to assess their significance. A copy of the notice to contractors, signed and dated by each contractor shall be filed with the County Planning Office, prior to the

commencement of development activities (*Section 76-3-608(3)(a), MCA; Sections I.C.8. and 9., and IV.A.7., County Subdivision Regulations*);

- aa. all wood burning heating devices shall be equipped with spark arresters. These devices shall be inspected annually (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., IV.A.7., XI.S., and Appendix L, County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- bb. all brush and tall grasses shall be cleared and maintained 30 feet from all permanent structures (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., IV.A.7., XI.S. and Appendix L, County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- cc. all trees shall be pruned of limbs to the height of 10 feet (*Section 76-3-608(3)(a), MCA; Sections I.C.7.-11., IV.A.7., and XI.S., and Appendix L, County Subdivision Regulations; Fire Protection Guidelines for Wildland Residential Interface Development, (MT Dept. of Justice & MT Dept. of State Lands, 1993)*);
- dd. a prohibition of the storage of foods, garbage or feeding domestic pets outdoors or other activities which may create an attractive nuisance for wildlife species (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., IV.A.7., and XI.C., County Subdivision Regulations*);
- ee. fencing, except for those protecting gardens, fruit trees, compost piles and such, shall allow for easy crossing by big game and other wildlife. The fencing shall consist of three (3) strands. The top wire shall be smooth wire, thirty six (36) inches above the ground. The middle wire may be barbed wire, twenty six (26) inches above the ground and the bottom wire may be barbed wire, sixteen (16) inches above the ground. Posts shall be sixteen feet, six inches (16' 6") apart with twisted wire stay centered between post (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., IV.A.7., and XI.X., County Subdivision Regulations*);
- ff. gardens, fruit trees and compost piles shall be fenced with deer-proof fences. These fences shall constructed of woven wire and a minimum of seven (7') feet high (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., IV.A.7., and XI.X., County Subdivision Regulations*);
- gg. all cats and dogs must be restrained or penned at all times (*Section 76-3-608(3)(a), MCA; Sections I.C.8.-11., IV.A.7., and XI.A.2., County Subdivision Regulations*);
- hh. notification of the presence of agricultural operations in the vicinity (*Section 76-3-608(3)(a), MCA; Sections I.C.7.8. and 10., IV.A.7., and XI.T., County Subdivision Regulations*);
- ii. a prohibition of the raising, confinement, and/or keeping of livestock. (*Section 76-3-608(3)(a), MCA, Section I.C. 7-10, and IV.A.7., County Subdivision Regulations*)

Q. The Applicant shall install \_\_\_\_\_ address plaques (one for each lot) at the approach to \_\_\_\_\_. The plaques shall conform to the specification for road identification signs, in accordance with the County Subdivision Regulations. (*Section 76-3-608(3)(a), MCA; Sections XI.H and K, County Subdivision Regulations*)

R. The Applicant shall install a fence along the east edge of the easement for the irrigation canal. At a minimum, the fence shall be constructed of woven wire at least three feet in height with two strands of barbed wire at the top of the fence, and shall be of sufficient construction to effectively restrict the access of small children to the irrigation ditch. *(Section 76-3-608(3)(a), MCA; Section XIC.4. and T., County Subdivision Regulations)*

S. The Applicant shall have a reconnaissance archeological survey done to evaluate the potential for cultural resources on the property. If the study identifies any cultural sites, a complete inventory of the site must be completed prior to any disturbance of the site. *(Section 76-3-608(3)(a), MCA; Section IV.A.7., County Subdivision Regulations)*

T. The Applicant shall have a reconnaissance geologic survey done to evaluate the potential hazard to structures. If the study identifies any areas of high hazard potential, these areas shall be restricted from construction of structures. *(Section 76-3-608(3)(a), MCA; Section XI.C.1.c., County Subdivision Regulations)*

U. A signing plan for traffic control and street identification signs, meeting the applicable County regulations, shall be submitted to the County Planning Department for review and recommendation. All specifications and requirements of the approved plan shall be met. *(Section 76-3-608(3)(a), MCA; Section XI.K. and Appendix H, County Subdivision Regulations)*

V. Prior to filing of the final plat, the following improvements shall be installed or otherwise guaranteed *(Sections 76-3-507 and 608(3)(a), MCA; Section III.C.4., County Subdivision Regulations):*

- a. roads and
- b. parking areas
- c. sewer and water facilities
- d. street identification and traffic control signs
- e. address plaques
- f. utilities
- g. any necessary improvements required by the drainage plan, sediment control plan, revegetation plan, weed management plan, signing plan, approach permit, or floodplain permit
- h. fencing
- i. screening
- j. mail delivery facilities

If said improvements are not installed, then the Applicant shall enter into a written subdivision improvements agreement with Lewis and Clark County, guaranteeing the construction and installation of such improvements and shall provide an acceptable financial security guarantee, in accordance with Section IV..C.11. and Appendix E of the County Subdivision Regulations.

W. Prior to filing of the final plat, the Applicant shall:

- A. Provide proof that all taxes and special assessments assessed and levied on the property are paid for the current tax year; including any past delinquencies. (*Section 76-3-611(1)(b), MCA; Section III.C.2 and Appendix D, County Subdivision Regulations*)
- B. Provide documentation showing that the Applicant is the lawful owner of the property with the apparent authority to subdivide the same, and showing the names of lien holders or claimants of record. (*Section 76-3-612, MCA; Section III.C.2. and Appendix D., County Subdivision Regulations*)

X. This preliminary approval shall be effective for one calendar year. At the request of the Applicant, the Board of County Commissioners may extend this approval an additional calendar year, not to exceed a maximum of four calendar years. (*Section 76-3-610, MCA; Section IV.A.8., County Subdivision Regulations*)

DRAFT

FINDINGS AND CONCLUSIONS

On 200\_, the Lewis and Clark County Commissioners held a public meeting on the proposed Minor Subdivision, located in the , Lewis and Clark County, Montana.

The Commissioners considered all testimony from the public, the preliminary plat application and supplements, the staff report and related information, and additional information presented at the meetings.

The Commissioners evaluated the subdivision proposal in consideration of the criteria set forth in Section 76-3-608, MCA, and Section IV.A.7. of the Lewis and Clark County Subdivision Regulations; the Commissioners made the following findings and conclusions:

1. Effects on Agriculture

- a.
- b.

Conclusion: This proposal would not have significant / would have adverse effects on agricultural lands and agricultural operations. but the conditions of approval are designed to mitigate the adverse impacts identified above.

2. Effects on Local Services

- a. water
- b. sewer
- c. The proposal is located within the Scratchgravel Landfill District and will be assessed a fee for service provision.
- d. Essential utilities are available adjacent to the proposal.
- e. access
- f.
- g.

Conclusion: This proposal would not have significant / would have adverse effects on local services. but the conditions of approval are designed to mitigate the adverse impacts identified above.

3. Effects on the Natural Environment

- a.
- b.

Conclusion: This proposal would not have significant / would have adverse effects on the natural environment. but the conditions of approval are designed to mitigate the adverse impacts identified above.

4. Effects on Wildlife and Habitat

- a. No threatened or endangered species or habitats were identified.
- b. The parcel does not provide significant wildlife habitat.

Conclusion: This proposal would not have significant / would have adverse effects on wildlife and habitat. but the conditions of approval are designed to mitigate the adverse impacts identified above.

5. Effects on Public Health and Safety

- a.
- b.
- c.
- d.

Conclusion: This proposal would not have significant / would have adverse effects on public health and safety. but the conditions of approval are designed to mitigate the adverse impacts identified above.

6. Effects on Cultural and Historic Resources

- a. No cultural resources were identified.

Conclusion: This proposal would not have significant / would have adverse effects on cultural and historic resources. but the conditions of approval are designed to mitigate the adverse impacts identified above.

7. Subdivision Regulations

- a.
- b.
- c.

Conclusion: This proposal does / does not comply with all of the subdivision regulations.

8. Survey Requirements

- a. The proposal does not comply with all of the survey requirements.

Conclusion: This proposal does / does not comply with survey requirements, but said requirements are not required until final platting upon subdivision approval.

9. Utilities

- a. The proposal does not provide for required utility easements.
- b. Essential utilities are present adjacent to the proposal.

Conclusion: This proposal does not provide for utility easements, but said requirements are not required until final platting upon subdivision approval.

10. Access

- a. The proposal provides for legal access easements and standard physical access.
- b.

Conclusion: This proposal does / does not comply with access requirements.

11. Zoning and Other Regulations

- a. The proposal is not located in a zoned area.
- b. The proposal conforms with other regulations in effect.

Conclusion: This proposal does / does not conform with zoning and other regulations in effect.

**The attached conditions of approval are designed to mitigate the adverse impacts identified in the FINDINGS AND CONCLUSIONS.**

**In view of these findings and determinations, the Commissioners voted to approve the Minor Subdivision. The above statement of findings and determinations, and the record on which they are based, are required by Sections 76-3-604, 609, and 620, MCA. If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within 30 days of the Commissioners' decision. The preliminary approval is for located in the , Lewis and Clark County, Montana. In order to mitigate identified adverse effects, this approval is subject to the following conditions: (See Staff Report).**

**In view of these findings and determinations, the Commissioners voted to deny the subdivision as proposed. The above statement of findings and determinations, and the record on which they are based, are required by Sections 76-3-604, 609, and 620, MCA. If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within 30 days of the Commissioners' decision.**

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

---

Ed Tinsley, Chairman

**APPENDIX N:**  
**LEWIS AND CLARK COUNTY EX PARTE POLICY**

**RESOLUTION NO. 2002 - 23**

**A RESOLUTION ESTABLISHING THE BOARD OF COUNTY COMMISSIONERS POLICY  
RELATING TO EX PARTE COMMUNICATIONS**

**WHEREAS**, the Board of County Commissioners wishes to establish a written policy regarding EX PARTE communications relating to quasi-judicial proceedings; and

**WHEREAS**, quasi-judicial matters include, but are not limited to:

- A) granting or denying privileges, rights, or benefits to a particular entity;
- B) interpreting, applying, enforcing rules and laws;
- C) issuing, suspending, or revoking licenses, permits, and certificates;
- D) determining rights and interests of adverse parties;
- E) evaluating and passing on facts as they apply to existing laws or rules;
- F) awarding compensation;
- G) ordering action or abatement of action;
- H) any other act necessary to the performance of a quasi-judicial function

**WHEREAS**, *a matter is quasi-judicial if the Board of County Commissioners is acting as a body to determine facts and their application to the law and a party has a legal obligation and right to seek review of the Board of County Commissioners; and*

**WHEREAS**, the County Commissioners held a public hearing on December 11, 2001 to hear evidence for or against establishment of an "EX PARTE" policy.

**NOW, THEREFORE BE IT RESOLVED** that Commissioners may not communicate with any party or his/her representative outside the setting of a public hearing on any issue of fact or law regarding any quasi-judicial matter that may come before the Commission for decision; and

**BE IT FURTHER RESOLVED** that Commissioners shall not discuss a subdivision application with the applicant, any other effected party, or his/her representative once an application has been submitted to the Planning Department. Any written comments regarding an application shall be forwarded to the Planning Department, and those comments will be presented to the Commission during the public hearing. Individual Commissioners may visit the property under review, as long as communication does not take place with the applicant or any effected party during the site visit.

Dated this 26 day of February, 2002.

Lewis and Clark County  
Board of Commissioners

\_\_\_\_\_/s/\_\_\_\_\_  
Michael A. Murray, Chairman

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Paulette DeHart, Clerk of the Board

## **APPENDIX O: WATER BODY CLASSIFICATIONS**

### **TYPE I**

Missouri River  
(excluding reservoirs)

### **TYPE II**

Trout Creek  
Beaver Creek  
Willow Creek  
Cottonwood Creek  
Little Prickly Pear Creek

### **TYPE III**

Canyon Ferry Reservoir  
Holter Lake  
Hauser Lake  
Lake Helena  
Regulating Reservoir  
Wetlands

### **TYPE IV**

Drainage channels  
capable of carrying  
or collecting storm-  
water and snowmelt  
runoff; Helena  
Valley Irrigation  
District Canals

### **TYPE I**

### **TYPE II**

Big Sheep Creek

### **TYPE III**

Lyons Creek  
Canyon Creek (and forks)

### **TYPE IV**

	Marsh Creek Lost Horse Creek Prickly Pear Creek Silver Creek Ten Mile Creek Trout Creek	Seven Mile Creek Minehaha Creek Beaver Creek Ruby Creek	
Dearborn River	Flat Creek South Fork, Dearborn North Fork, Dearborn Cundiff Creek Falls Creek  Blacktail Creek Whitetail Creek Lost Cabin Creek	West Fork East Fork	
Sun River	North Fork, Sun River South Fork, Sun River Elk Creek	Smith Fork Blubber Creek Ford Creek Gross Creek	
<b><u>TYPE I</u></b>	<b><u>TYPE II</u></b>	<b><u>TYPE III</u></b>	<b><u>TYPE IV</u></b>
	Willow Creek	North Fork, Willow Creek Barr Creek Cutrock Creek	

	Little Willow Creek		
	Beaver Creek		
	Patrick Basin Creek		
	Bear Creek		
	Prairie Creek		
	West Fork	Aborn Creek	
	Straight Creek	Wood Creek	
	Moose Creek		
	Rock Creek	Red Shale Creek	
	Gates Creek		
	Lick Creek		
	Open Creek		
Big Blackfoot River	Poorman Creek		
	Beaver Creek		
	Stonewall Creek		
	Keep Cool Creek	Sucker Creek	
	Humbug Creek		
	Seven-Up Pete Creek		
	Landers Fork	Copper Creek	
		Snowbank Creek	
	Falls Creek		
	Ringeye Creek		
	Middle Fork Creek		
	Hogum Creek		

**TYPE I**

**TYPE II**

**TYPE III**

**TYPE IV**

Willow Creek	
Alice Creek	Bartlett Creek
Shuve Creek	

Anaconda Creek

North Fork Blackfoot

Dry Fork, Blackfoot  
Cabin Creek  
Canyon Creek  
East Fork, Blackfoot  
Cooney Creek  
Dabrata Creek