

SUBDIVISION REGULATIONS



STILLWATER COUNTY, MONTANA

2022

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I. GENERAL PROVISIONS

A. TITLE

These Regulations shall be known and may be cited as "The Subdivision Regulations of Stillwater County, Montana" herein after referred to as these "Regulations."

B. AUTHORITY

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

C. PURPOSE

The purpose of these Regulations is to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion on streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public needs; to require development in harmony with the natural environment; protect the rights of property owners; to require uniform monumentation of land subdivisions, and to provide procedures for transferring interests in real property by reference to plat or certificate of survey (76-3-102, MCA).

Further, in concert with the purposes of 76-3-102, MCA, these Regulations are intended to promote:

1. The orderly development of the jurisdictional area.
2. The coordination of roads within subdivided land with other roads, both existing and planned.
3. The dedication of land for roadways and for public utility easements.
4. The provision of proper physical and legal access, including necessary easements.
5. The provision of adequate open spaces for travel, light, air, and recreation.
6. The provision of adequate transportation, water, drainage, and sanitary facilities.
7. Avoiding or minimizing congestion.

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

D. JURISDICTION

These Regulations govern the subdivision of land within Stillwater County

If a proposed subdivision lies within one mile of Columbus, the application must also be submitted to the City-County Planning Board for review and comment. If a proposed subdivision lies partly within Columbus, the preliminary plat must be submitted to, and approved by, both the City and the County.

A copy of the proposed subdivision shall also be sent to the school district in which the development is located.

These Regulations supplement all other land use 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. GENERAL PROCEDURES

A. SUBDIVISION REVIEW AND APPROVAL PROCEDURES

1. Construction Timing:

The subdivider shall not proceed with any construction work on the proposed subdivision, including grading or excavating to install public improvements, until the governing body has granted preliminary approval of the proposed subdivision plat. The County Attorney will be notified in writing of all violations.

2. Transfers of Title:

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 subdivisions 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.

b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder.

c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract.

d. That the County Treasurer has certified that all real property taxes and special assessments on the land to be divided have been paid.

e. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner."

f. A copy of the contracts and escrow agreement described above must be submitted to the Planning Office.

3. Pre-Application Meeting Required:

All owners of record, subdividers, and/or their authorized representative shall meet with County Planning Staff prior to submitting the required preliminary plat application. The purpose of this meeting is to discuss these Regulations and standards and to familiarize the subdivider with the applicable goals and objectives of Stillwater County. The subdivider must provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan may be legibly drawn showing the rough layout of proposed features in relation to existing conditions. The sketch plan may be made directly on a topographic map with scale sufficient to show all required information. Approximate tract and lot boundaries, location of easements, utilities, rights-of-way, parks and open spaces, roadways, and a description of general terrain, natural features, existing structures and improvements, and proposed public improvements must be included.

a. A Pre-Application Meeting Checklist specifying the items required for subdivision application, review, and approval will be utilized to conduct the pre-application meeting and must be signed by a member of the County Planning Staff and the owners of record, subdividers, or their authorized representatives attending the pre-application meeting. This checklist will also identify State and local regulations and Growth Policy provisions that apply to the subdivision review process.

b. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the time frame for response.

c. Preliminary plats for divisions of land proposed at a pre-application meeting must be submitted within twelve months of the meeting or a new pre-application meeting must be conducted. The preliminary plat application shall be substantively the same as what was presented at the pre-application meeting.

4. Permission to Enter:

The governing body or its designated agents may conduct such investigations, examinations and site evaluations as they deem necessary to verify information supplied. The owner, if other than the subdivider, shall grant the governing body or its designated agent permission to enter upon the property to evaluate the land for subdivision. This granting of permission to enter shall be in writing and shall be signed by the owner, if other than the subdivider, and accompany the preliminary plat application. If the owner and subdivider are the same, the submission of a preliminary plat for review shall constitute permission to enter the property.

B. PRELIMINARY PLATS

1. Preliminary Plat Submission:

An application form for approval of the preliminary plat together with the appropriate review fee, preliminary plat, and plat supplements, shall be submitted to the County Planning Office in triplicate hard copies and electronic format. Additional hard copies of the complete application shall be submitted once the application has been determined to be complete and sufficient. All preliminary plat submissions must conform to the procedures and standards contained in these Regulations. An application may be withdrawn in writing by the application at any time during the review process.

2. Preliminary Plat Application Form:

The Preliminary Plat Application Form must be completed and signed by the owners of record and subdivider. The Montana Department of Environmental Quality/Local Government Joint Subdivision Form, if required, must be submitted and shall be in addition to the Preliminary Application Form.

3. Review Fees:

The required review fee, as presented in the adopted fee schedule, must be paid when the application is submitted. All checks should be payable to the County Treasurer. All review fees are non-refundable.

4. Preliminary Plat:

A preliminary plat shall be submitted at a scale sufficient to legibly represent the required data on the plat. The preliminary plat shall be neatly drawn and conform to the design standards set forth in Section IV of these Regulations and shall contain the following information:

a. Name of the subdivision, scale, north-arrow, date of preparation, and location quarter-section(s), section, township, range, principal meridian, and county.

b. The exterior boundaries of the tract with the names of plats and numbers of certificates of survey previously recorded within and adjacent to the exterior boundaries of the subdivision.

c. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary must be shown along with section and quarter section lines.

d. All lots and blocks, designated by numbers, and the approximate dimensions and area of each lot. In addition, a tabulation of the numbers of lots by various sizes, type of use, and number of units must be shown on the face of the plat.

e. Approximate total net and gross acreage of proposed subdivision. Gross area is figured from outside dimensions of the parcel to be subdivided. Net area uses the same figures minus any area dedicated to public access or park.

f. All streets, alleys, avenues, roads, and highways, and the width of the rights-of-way, grades, and curvature of each with existing and proposed street names, and proposed locations of intersections or other access points to existing roads or highways (see Section IV, Design and Improvement Standards). Rural street names are subject to approval by the County GIS Department.

g. The approximate location, width, and length of all existing and proposed driveways.

h. The approximate location, boundaries, dimensions, and areas of any parks, schools, common grounds, water storage facilities, or other grounds dedicated for public use.

i. The approximate location, identity, and metes and bounds description of all existing easements and rights-of-way of record and proposed public and private easements, rights-of-way, and public access (MCA 76-3-504(1)(m)).

j. The location and description of all existing agricultural water user facilities.

k. The approximate location, size, and depth of existing and proposed sanitary and storm sewers, water mains, fire hydrants, street lights, gas, electric, internet/telephone lines, and similar utilities.

l. The ownership of lands immediately adjoining the site, and mailing addresses for the owners of said lands.

m. Location of buildings, structures, fences and other improvements, railroads, powerlines, towers, roads, and land uses on or within 100 feet of the property.

n. Existing or proposed zoning of the tract and adjacent lands within 100 feet. If such lands are unzoned, so note on the plat.

o. Vicinity map (color) showing the location of the proposed subdivision, its relation to specifically named access roads, and distance to nearest town.

p. Conformance to Section IV, Design and Improvement Standards.

q. Notation on plat that physical and legal access are provided (MCA 76-3-608(3)(d)).

r. Elevations with contours at five-foot intervals for all areas of planned improvements. If flat, spot elevations at three locations across plat to show the lay of the land.

5. Preliminary Plat Supplements:

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

a. **An environmental assessment** shall accompany the preliminary plat unless the subdivider has been exempted. Appendix A provides the format of and questions to be addressed in the environmental assessment.

(1) The requirement for preparing an environmental assessment does not apply when the application is the first minor subdivision created from a tract of record, or

(2) when the proposed subdivision conforms to an adopted Growth Management Plan; meets zoning regulations adopted pursuant to 76-2-203, MCA, and will be served by public services and facilities, such as public or municipal water and sewer.

b. **A complete grading and drainage plan** shall be submitted and must contain the following information:

(1) Location and details, with accurate dimensions, courses, elevations, and cross sections of the existing and proposed grades of streets, bridges, ditches, culverts, and other drainage improvements. All drainage structures must be capable of accommodating the 100-year event for runoff passing through the subdivision.

Stormwater detention/retention requirements shall be designed per Circular DEQ 8, Montana Standards for Subdivision Drainage.

(2) Ground contours shall be provided at two feet intervals for all areas where new improvements or changes in existing topography are planned. For all other subdivision areas it will be sufficient to show U.S. Geological Survey topographical map contours (20-foot interval). If the site is generally flat, provide three spot elevations over the site.

(3) Information describing the ultimate destinations of storm runoff waters from the subdivision and the effect of the runoff on downslope drainage structures.

(4) Rainfall records or hydrographs that were used to determine runoff quantities along with a description of the design procedures used to prepare the drainage plan.

(5) Describe construction procedures, slope protection, riprap, and reseeding methods used to minimize erosion.

c. **Water and sanitation information**, as per MCA 76-3-601, 76-4-104, and 76-3-622 and unless exempted from review under MCA 76-4-125, proposed subdivisions that will include new water supply or wastewater facilities shall include information that must provide:

- (1) a vicinity map or plan that shows:
- (a) the location within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
- (i) flood plains;
 - (ii) surface water features;
 - (iii) springs;
 - (iv) irrigation ditches;

(v) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems;

(vi) for parcels less than 20 acres, mixing zones identified as provided in subsection (B)(5)(c)(7); and

(vii) the representative drainfield site used for the soil profile description as required under subsection (B)(5)(c)(4); and

(b) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;

(2) a description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including:

(a) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the department of environmental quality; and

(b) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement of whether the systems will be public utilities as defined in MCA 69-3-101 and subject to the jurisdiction of the public service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the exemption;

(3) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the department of environmental quality pursuant to MCA 76-4-104;

(4) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:

(a) a soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (B)(5)(c)(7), that complies with standards published by the department of environmental quality;

(b) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and

(c) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (B)(5)(c)(4)(b);

(5) for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:

(a) obtained from well logs or testing of onsite or nearby wells;

(b) obtained from information contained in published hydrogeological reports; or

(c) as otherwise specified by rules adopted by the department of environmental quality pursuant to MCA 76-4-104;

(6) evidence of sufficient water quality in accordance with rules adopted by the department of environmental quality pursuant to MCA 76-4-104;

(7) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to MCA 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality. The preliminary analysis may be based on currently available information and must consider the

effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection, the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under MCA Title 76, chapter 4.

d. **Water, mineral, and development rights.** The subdivider must disclose the status of developments rights and water rights along with the source of water for such rights. Mineral rights are not part of the subdivision review process. For water rights, if the proposed subdivision creates lots averaging less than five acres in size, pursuant to 76-3-504(1)(j), MCA, the subdivider shall:

(1) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(2) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(3) reserve and sever all surface water rights from land.

e. **Overall development plan (76-3-617, MCA).** If a subdivision is proposed to be developed in phases, the following regulations apply:

(1) a subdivision proposed to be developed in phases is subject to the review requirements for a major subdivision, except as modified below.

(2) an overall development plan must be submitted with the preliminary plat application showing independent platted development phases, a schedule for when the subdivider plans to submit each phase, and subdivision application documents required pursuant to these Regulations for each phase of the subdivision.

(3) the subdivider may change the schedule for submittal of each phase upon approval of the governing body after a public hearing, only if the change does not negate conditions of approval or adversely affect public health, safety, and welfare.

(4) the governing body may grant conditional approval beyond three (3) years, but in no case shall the conditional approval period extend beyond 20 years.

(5) prior to the commencement of each phase, the subdivider shall provide written notice to the Planning Staff.

(6) the Planning Board shall hold a public hearing within 30 working days after written notice from the subdivider has been received.

(7) after the hearing, the Planning Board will make a recommendation to the governing body of approval or denial based on whether any changed primary criteria impacts or new information exist that create new potentially significant adverse impacts for the phase or phases, and may recommend imposing additional conditions to minimize potentially significant adverse impacts identified in the review of each phase.

(8) within 20 working days of the hearing, the governing body shall consider the Planning Board recommendation and issue supplemental written findings of fact.

(9) any additional conditions must be met before final plat approval for each particular phase.

(10) the approval period for each phase may not exceed 3 calendar years or be less than 1 calendar year.

f. **A subdivision improvements agreement (SIA)**(derived from the authority granted local governments by statute (MCA 76-3-102)) shall be submitted to show the location and time frame for construction of planned improvements, existing improvements that may be on-site, how planned improvements will be financed, and who is responsible for such improvements. The following must be included:

- (1) reference can be made to the Grading and Drainage Plan.
- (2) sanitary sewage treatment facilities.
- (3) potable water facilities.
- (4) cross sections of planned roadways and related transportation improvements such as traffic control facilities, street name signs, sidewalks, pathways, street lights, curbs and gutters, individual lot access, and parking.
- (5) utilities by name and type to include electricity, telephone, natural gas, and cable.
- (6) water facilities for fire fighting (see design standard).
- (7) park land, park improvements, cash-in-lieu of required park land, or combinations thereof and provisions for maintenance.
- (8) planned mail delivery location.
- (9) noxious weed management plan.
- (10) waiver of protest for future improvements.
- (11) facilities for central water distribution and treatment and/or sanitary sewer collection and treatment and major subdivision roadways must be designed and inspected during construction by a licensed professional civil engineer. The subdivider must also coordinate with the Stillwater County Road and Bridge Superintendent an inspection of road facilities two years after construction completion and certify that such improvements are built as required by the local governing body. The latter may hire an independent professional engineer, after notifying the subdivider in writing of its intent, to inspect any water, sewer, or roadway plans or installation at any time during the subdivision development process. Provisions in this paragraph must be delineated in the SIA.
- (12) The SIA is a legal contract between the local government and the subdivider. As such it is signed and notarized by the subdivider and signed by the local

government and is enforceable by that government. It is also an important source of relevant information for future landowners in the subdivision.

(13) If required improvements are to be constructed after the filing of the final plat, provisions to insure the construction of such improvements (see Appendix B) must be made prior to the filing of the final plat in a manner acceptable to Stillwater County as applicable.

(14) A final plat in phased subdivisions will be contingent upon completion and acceptance of all improvements in that phase by the Stillwater County Commission.

(15) As provided in section 76-3-510, MCA, local governments may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs shall reasonably reflect the increase in costs to public services directly attributable to the subdivision.

(16) The SIA and attachments thereto become a covenant running with the land (see MCA 70-17-201). As such, future purchasers of lots within the subdivision are bound by obligations contained in the SIA.

g. **Subdivision Guarantee or Certificate of Title Abstract** as per MCA 76-3-612 less than 45 days old.

h. **Traffic Impact Analysis** is required when the proposed subdivision contains 10 or more residential lots. For commercial developments, the need for such analysis will be indicated at the pre-application meeting. This study must be prepared by a licensed professional engineer.

(1) The analysis will include supporting documentation including maps and, at a minimum:

- (a) existing traffic circulation conditions and patterns;
- (b) anticipated traffic circulation conditions and patterns generated by the proposed subdivision;
- (c) the affect on the existing road network; and
- (d) recommendations to alleviate negative effects.

(2) The Traffic Impact Analysis will be reviewed as part of the proposed subdivision and may be reviewed by a traffic engineering consultant as provided in Section II.B.6 of these Regulations.

i. **Draft of homeowners' association incorporation, by-laws, and covenants and restrictions.** If common property, such as dry hydrants, roads, and parkland, is to be managed by subdivision homeowners, a homeowners' association shall be created which, shall at a minimum, provide for:

- (1) mandatory membership for each lot owner and any subsequent buyer.
- (2) perpetual reservation and maintenance of any common property.

(3) association responsibility for liability insurance, local taxes, and the maintenance of recreational and other common land and facilities.

(4) property owners paying their pro-rata share of the cost and the provision for delinquent assessments charged by the association becoming a lien on the lot/property.

(5) adjusting assessments to meet changing needs.

(6) means of enforcement.

(7) routine safety inspection and immediate follow-up maintenance to correct unsafe conditions on any common areas such as roads and signage, parks, dry hydrants, bridges, . Where, because of public safety issues, the local governing body must replace signage, repair a bridge or dry hydrant, or similar activity, the governing body will assess the cost of such activity to the homeowners' association, and the by-laws of the latter must include provision to reimburse the local governing body for such expense.

(8) receiving and processing complaints.

(9) require permission of the governing body before the association can be dissolved or any provisions pertaining to roadway, noxious weed control, and common facilities can be modified.

(10) control of noxious weeds.

(11) proof of registration of the Association with the State of Montana must be provided.

j. **Documentation of all planned and existing utility and access easements and rights-of-way of record and in the Subdivision Guarantee.** Such easements and documentation of easement and rights-of-way must be described, dimensioned, and located on the plat, and all new public utility easements must be of sufficient width to allow placement and maintenance of such utilities (MCA 76-3-504(1)(m)).

6. Use Consulting, Appropriately Licensed, Professionals for Review:

The governing body may, as part of its review process, contract with professional engineers, traffic analysts, surveyors, attorneys, and similar experts to examine proposed plans and improvements of a subdivision application. The cost of such contracting will be paid by the subdivision applicant prior to filing the final plat of the subject subdivision. The applicant will be notified of the impending cost to applicant of such third part professional review during the Pre-Application Meeting or at the time of the Sufficiency Review of the elements of the application.

7. Review of Subdivision Application for Required Elements and Sufficiency of Information:

a. A subdivision application is considered to be received on the date of delivery to the County Planning Office and when accompanied by the review fee.

b. Within five (5) working days of receipt of a subdivision application, the County Planning Office shall notify the applicant in writing (which may be email) if an element,

required in such application per Subsections II.B.1 through II.B.5., is not included in the application (MCA 76-3-604 (1)(b)).

c. Within 15 working days after the County Planning Staff has notified the applicant that the application is complete, the latter shall notify the applicant in writing (which may be email) of any missing, needed, or incorrect information in any of the elements of the application (MCA 76-3-604 (2)(a)).

d. Acceptance by the Planner of the application starts the review timeframe required by statute. Acceptance of an application by the Planner does not ensure that it will be approved by the governing body and does not limit the ability of the Planner or the Planning Board to request additional information during the review process (MCA 76-3-604 (3)). The time limits provided in the preceding paragraphs “b” and “c” apply to each submittal of the application.

e. After the Planner has determined the application to be complete and sufficient, County Planning Staff shall notify the applicant of the anticipated date the subdivision will be on the County Planning Board agenda and the number of paper copies to be submitted prior to the Planning Board meeting.

f. After the Planner has found that the application is complete and sufficient, the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days (35 days for minor plats) based on its determination of whether the application conforms to the provisions of these Regulations. The subdivider and the Planner may agree to an extension or suspension of the review period, not to exceed one year, or a subsequent public hearing is scheduled and held as provided in Section 8.a herein. For subdivisions containing 50 or more lots, the review period is 80 working days (MCA 76-3-604(4)).

g. If the governing body denies or conditionally approves the proposed subdivision, it shall send the applicant a letter stating its decision.

(1) Review and approval, conditional approval, or denial of a proposed subdivision under this chapter may occur only under those subdivision Regulations in effect at the time a subdivision application is determined to contain sufficient information for review as provided in Subsection 5 (MCA 76-3-604(9)(a)).

(2) If Regulations change during the review periods provided in preceding Subsections 7.a and 7.b, the determination of whether the application contains the required elements and sufficient information must be based on the new Regulations.

8. Public Hearing (MCA 76-3-605):

a. After receiving a complete subdivision application, the Planning Board, acting on behalf of the local government, will schedule, advertise, and conduct at least one public hearing on the application of all major subdivision proposals and for the second or subsequent minor subdivision from a tract of record. Notice of time, place, and date of the hearing shall be published twice in a newspaper of general circulation in the County, the first publication not less than 15 days prior to the date of the hearing. The subdivider and each purchaser under a contract

for deed of record of property immediately adjoining the land proposed to be subdivided and each owner of property immediately adjoining the exterior boundaries of the plat shall be notified of the hearing by certified mail not less than 15 days prior to the date of the hearing. All affected units of local government will also be notified of all subdivision proposals. A presentation of the subdivision proposal must be made at the public hearing by the subdivider or an authorized representative. The County Planning Office shall provide a written, draft, findings of fact to the Planning Board, when the agenda for the latter meeting is sent, based on these regulations and the review criteria. After presentations of the proposed subdivision, questions and comments both verbal and written will be accepted. Participants are invited by the Planning Board President to state if they are in favor or opposed to the subdivision and give the reasons for their position. After the public hearing is closed, the Planning Board shall discuss the proposed development, receive input from the County Planning Staff, and make a recommendation to the governing body.

b. If new information is presented after the public hearing for a subdivision application, the governing body shall determine whether such information is new and has never been submitted as evidence or considered by either the governing body or the County Planning Staff at a hearing during which the subdivision application was considered.

c. If the governing body determines that the public comments or documents constitute information described in the preceding, it may:

(1) approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if it determines that the new information is either irrelevant or not credible; or

(2) schedule or direct its agent or agency to schedule a subsequent public hearing for consideration of only the new information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

d. If a public hearing is held as provided in for in the preceding paragraph, the 60-working-day subdivision review period is suspended, and the new hearing must be noticed and held within 45 days of the governing body's determination to schedule a new hearing. After the new hearing, the 60-working-day time limit resumes at the governing body's next scheduled public meeting for which proper notice for the public hearing on the subdivision application can be provided. The governing body may not consider any information regarding the subdivision application that is presented after the hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

9. Preliminary Plat Approval, Conditional Approval, or Disapproval:

The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the preliminary plat, plat supplements, public hearing, Planning Office reports, Planning Board recommendation, findings of fact, and any requested additional information demonstrate that development of the subdivision would be in conformance with the provisions of these Regulations.

The governing body may conditionally approve a preliminary plat and require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review. The governing body shall issue written findings to justify the reasonable mitigation required. When requiring mitigation, subdividers will have the opportunity to express their preference. The subdividers preference will be considered by the governing body along with the Planning Office report, Planning Board recommendations, information from public meetings and hearings, any additional information that was requested, and the findings of fact.

The governing body shall reject any subdivision which it finds does not comply with these Regulations. When a preliminary plat is denied or conditionally approved the governing body shall provide a written statement of the reasons, evidence that justifies the denial or conditional approval, and information describing the appeal process for the denial or conditional approval to the applicant.

10. 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 such approval (MCA 76-3-604(5) and 76-3-620). This statement must also include a summation of public comment from the public hearing (76-3-604(6)(a)). This approval shall be in force for not less than one or 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 mutually agreed-upon period of time. Any agreed upon extension must be in writing and dated and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension (MCA 76-3-610(1)). Any request for such extension must be made to the planning office and accompanied with an Application for Subdivision Approval Period Extension. The Planning Board will review the request and make a recommendation to the County Commissioners to either approve or deny the requested extension. Approval of the request is at the sole discretion of the governing body.

After the preliminary plat is approved, the governing body 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 above. The governing body may not impose additional conditions as part of approving a request to extend the preliminary plat approval period.

11. Amending a Plat after Preliminary Plat Approval but Before Final Plat Approval

a. If the Subdivider proposes to change the Preliminary Plat, or any required condition after Preliminary Plat approval but before Final Plat approval, the Subdivider shall submit the proposed changes to the Planning Department for review. Within 15 working days of receiving the proposed changes, the Planning Department shall make one of the following determinations:

(1) A determination that the proposed changes are material. The Planning Department shall require the Subdivider to restart all or part of the Subdivision review process as

needed to specifically address the proposed changes, and require payment of the appropriate application fee. The following changes, although not an exhaustive list, may be considered material:

- i. configuration of lots;
- ii. road layout;
- iii. water and/or septic proposals;
- iv. configuration of park land or Open Spaces;
- v. Easement provisions;
- vi. designated access; or
- vii. change (including any additions or subtractions) to conditions

of approval.

(2) A determination that the proposed changes are not material. The Planning Department shall accept the changes and notify the Subdivider of its decision.

b. A Subdivider whose proposed changes have been deemed material by the Planning Department may appeal the decision to the County Commission by written notice within 10 working days. During a properly noticed hearing before the County Commission, the Subdivider may submit evidence to show that the changes are not material. The County Commission may reverse or affirm the determination of the Planning Department.

c. A Subdivider whose proposed changes to a Preliminary Plat increases the number of lots, or results in a new Subdivision proposal as determined by the Planning Department, shall follow the procedures established in this Section.

d. If the Subdivider and Planning Department determine that a condition of approval appears to be illegal or impossible to comply with due to circumstances outside the Subdivider's control, economic hardship notwithstanding, the condition shall be reviewed by the County Commission at a properly noticed public hearing in order to determine if the condition may be waived or amended.

C. FINAL PLATS

1. Final Plat Submission:

The final plat must be submitted before the expiration of the preliminary plat approval period. An application for final plat approval, shall be electronically submitted to the Planning office.

2. Final Plat Contents:

The final plat submitted for approval shall conform to the preliminary plat as previously reviewed by the Planning Board and approved by the governing body. The final plat shall incorporate all modifications and conditions of approval required in the review process and the Montana Uniform Standards for Final Subdivision Plats (ARM 24.183.1107).

3. Final Plat Review:

The final plat will be reviewed by the County Planning Staff to assure that it conforms to the conditions of approval for preliminary plats or minor subdivision plats.

- a. A final plat is considered to be received on the date of delivery to the Planning Office when accompanied by the review fee submitted as provided in 76-3-602.
- b. Within 20 working days of receipt of a final plat, the Planning Staff shall determine whether the final plat contains the required information and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of that determination in writing. If the Planning Staff determines that the final plat does not contain the required information, Planning Staff shall identify the final plat's defects in the notification.
- c. The Planning Staff may review subsequent submissions of the final plat only for information found to be deficient during the original review of the final plat.
- d. When satisfied that the final plat and accompaniments are in compliance, the Planning Staff shall advise the subdivider to submit two reproducible mylars of the final plat along with original copies of all required signatures, notaries, dates, and final plat accompaniments, and forward the information to the governing body for final decision.
- e. The governing body may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. The governing body may also require the review of the Certificate of Title Abstract for the land in question by the County Attorney. If the governing body determines that an examining land surveyor must review a final plat, Planning Staff shall identify the requirement in its notification.
- f. The time limits apply to each submission of the final plat until a written determination is made that the final plat contains the required information and the subdivider or the subdivider's agent is notified.
- g. If a determination is made that the final plat contains the required information, the governing body shall review and approve or deny the final plat within 20 working days.
- h. The subdivider or the subdivider's agent and the governing body or its reviewing agent or agency may mutually agree to extend the review periods provided for in this section.

When satisfied that the final plat and accompaniments are in compliance, the Planning Staff shall advise the subdivider to submit two reproducible mylars of the final plat along with original copies of all required signatures, notaries, dates, and final plat accompaniments.

4. Guarantee of Public Improvements:

a. As a condition of approval of the final plat, the subdivider shall have installed all required improvements or shall enter into an agreement guaranteeing the construction and installation of all such improvements by one of the following methods:

(1) Irrevocable Letter of Credit (ILOC). Subject to approval of the Stillwater County Commission, the subdivider shall provide an irrevocable letter of credit from a Montana bank or related institution certifying the following:

i. that the creditor guarantees funds in the amount equal to 150 percent of the cost, as approved by the appropriate governing body through the County Planning Office, of completing all required improvements.

ii. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements up to the limit of credit stated in the letter.

iii. That this letter of credit may not be withdrawn or reduced in amount until released by the governing body.

(2) Special Improvements District

i. The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed before the improvement district has been created.

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

b. The County Road and Bridge Superintendent, consulting engineer designated by the governing body, or other local public official with relevant authority, shall inspect all required public improvements for conformance with the approved plans and specifications submitted for such improvements.

c. As per MCA 76-3-510, all payments made by a subdivision developer for required improvements must be expended on such improvements.

d. The Stillwater County Commission may require a percentage of the improvements necessary to protect public health and safety be completed before allowing financial guarantees (MCA 76-3-507(4)).

5. Final Plat Approval or Disapproval:

The governing body shall examine every final subdivision plat and shall approve it when and only when it conforms to the conditions of approval set forth for the preliminary plat

and to the terms of such approval. Acceptance of any public dedication of land shall be indicated by the signature of the local governing body officials on the final plat.

If the final plat is disapproved, the reasons for disapproval shall be stated in the records of the governing body with written explanation and references to all pertinent statutes, administrative rules, and local regulations substantiating the reasons for denial. The final plat along with the reasons for disapproval shall be returned to the subdivider within ten days of the decision of the governing body. This letter shall also include information describing the appeal process for the denial to the applicant. The applicant may make necessary corrections and resubmit the final plat for approval.

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

6. Final Plat Filing:

Within 14 days of the approval of the final plat the approved final plat and required documents shall be submitted to the County Clerk and Recorder for filing. After filing, the plats may not be altered in any manner. 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 conform to the requirements of ARM 24.183.1107 and are accompanied by the following items:

- a. notarized signatures of all owners of record of the land to be subdivided certifying the purpose of the subdivision.
- b. notarized signatures of all lien holders or claimants of record against the land to be subdivided.
- c. certification of plat approval by the governing body.
- d. certification of by the landowner of dedication of streets, parks, or other public improvements.
- e. Subdivision Guarantee dated not more than 45 days of the complete final plat application date.
- f. Subdivision Improvements Agreement signed and notarized by subdivider and the governing body.
- g. copy of approval by the DEQ for lots of less than 20 acres. For lots 20 acres to 160 acres in size a copy of the County Sanitarian's approval.
- h. copies of articles of incorporation and by-laws of any property owner's association with covenants and deed restrictions.
- i. copies of final plans, profiles, grades, and specifications for installed improvements, including complete grading and drainage plan, with statement by the subdivider's

engineer (if required) indicating that all the required improvements installed are in conformance with the attached plans. Furthermore, this statement must reiterate the provision in the subdivision improvements agreement that all installed public improvements have been constructed to the governing body's standards and that such improvements are guaranteed for two years.

- j. locations of all driveways.
- k. copy of the State or County highway permit or authorization when a new street or road will intersect with a State or County road.
- l. statement that the County will not be required to improve or maintain any proposed roads within, or providing access to, the subdivision including dust control.
- m. signature of the County Treasurer noting all real property taxes and special assessments on the land to be divided has been paid.
- n. Flood Hazard Evaluations if required.
- o. Statement of source of water for any water rights in the subdivision along with a statement as to who owns such water rights, if any, in the subdivision.
- p. Statement that "The status of mineral rights is not part of the subdivision review process."
- q. Statement that legal and physical access is provided to each parcel within the subdivision.

7. Correcting or Amending Recorded Final Plats:

a. Correcting Filed Recorded Plats:

Corrections of drafting or surveying errors that in the governing body's opinion will not materially alter the plat, its land division, or the improvements to less than the standards contained herein, 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) Subdivision," and the reason for the correction shall be stated on the face of the plat.

b. Amending Final Plats:

(1) Material Alterations: Changes that materially alter the final plat or any portion thereof or its land divisions or improvements 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 by the County Planning Staff 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 subdivision as appropriate. The final amended plat submitted for approval shall comply with the Montana Uniform Standards for Final Subdivision Plats (ARM 24.183.1107) with the exception that the title shall include the word "Amended," or "Amended Plat of the (name) Subdivision," or (name) Subdivision Amended."

(2) Exemption from Amended Plat Review: The relocation of common boundaries and the aggregation of lots within platted subdivisions where five or fewer of the original lots are affected within a platted subdivision filed with the County Clerk and Recorder are exempt from approval as subdivisions. An amended plat must be prepared following the requirements of the Montana Uniform Standards for Final Subdivision Plats (ARM 24.183.1107) 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 76-3-207(2), MCA. These exemptions must be submitted for review by the County Planning Staff, along with the required review fee for evaluation against the County's subdivision evasion criteria.

D. MINOR SUBDIVISIONS (MCA 76-3-609)

If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has more than five parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record (MCA 76-3-609(2)). Minor subdivisions must conform to all provisions for major subdivisions found in Sections II.A, B, and C of these Regulations, including review of application and timeframes (MCA 76-3-209 (2)(a)), except for the following provisions:

1. Environmental Assessment and Public Hearing:
 - a. For the first minor subdivision created from a tract of record the requirement for an environmental assessment and a public hearing do not apply. Subsequent minor subdivisions from a tract of record will be considered a major subdivision.
 - b. The Planning Office will notify adjoining landowners in the County of the Planning Board Meeting at which minor subdivisions will be reviewed. At the County Planning Board Meeting, the public shall be asked to provide input about the proposed subdivision
2. The subdivider must submit a summary of probable impacts and community impact report per the template provided by the Planning Department.
3. Parkland dedication shall be required for a first minor subdivision if the proposed subdivision will have (or zoning permits) condominiums or other multi-family housing (MCA 76-3-621(3)(e) and MCA 76-3-621(8)).
4. The review period for the first minor subdivision from a tract of record may be extended or suspended by agreement between the developer and the reviewing agent for a period not to exceed one year (MCA 76-3-609(2)(b)).

5. Any minor subdivision that is not a first minor subdivision from a tract of record is a subsequent minor subdivision and must be reviewed as a major subdivision (MCA 76-3-609(3)) to include application submission dates, public hearing, etc.; however, the requirement for an environmental assessment is waived. A summary of probable impacts and community impact report are still required.

E. LAND SUBDIVISIONS CREATED BY RECREATIONAL CAMPING VEHICLES, MOBILE HOME PARKS, AND CONDOMINIUMS

1. Recreational Camping Vehicles--Definition:

Developments which are subject to subdivision review because they will provide two or more spaces for recreational camping vehicles will be reviewed under Recreational Vehicle Park Standards in the Design and Improvements Standards section of these Regulations. For purposes of these Regulations the term “recreational camping vehicle” means 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.

2. Mobile/Manufactured Homes--Definition:

Developments which are subject to subdivision review because they will provide two or more spaces for mobile/manufactured homes will be reviewed under Mobile Home Park Standards in the Design and Improvements Standards Section of these Regulations. For purposes of these Regulations the term “mobile/manufactured home” means a detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes but is not limited to “trailer homes,” “house trailers,” and “manufactured homes” whether or not the unit has been constructed after July 1, 1976 in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include “modular” or “factory-built buildings” that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes and are transported to the site for final assembly on a permanent foundation.

3. Condominiums, Townhomes, or Townhouses:

As defined in 70-23-102, condominiums, townhomes, or townhouses constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

a. the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or

b. the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.

4. If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a “trailer court,” “work camp,” “youth camp,” or “campground” as those terms are defined in section 50-52-102, MCA, the appropriate governing body will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA.

F. PLANNED UNIT DEVELOPMENTS (PUD) AND CLUSTER PLANNED DEVELOPMENTS (CPD):

1. Intent:

The purpose of a PUD or CPD is to allow flexibility and innovation in subdivision design and land utilization through the relaxation of zoning and subdivision regulations, particularly in certain provisions of the Design and Improvement Standards in Section IV. In view of these relaxations, a PUD or CPD should provide a more desirable environment than could be achieved within the existing zoning and subdivision regulations in terms of:

- a. more economical and efficient use of land
- b. clustering of dwellings and structures
- c. variable road widths
- d. emphasis on planning, designing, and constructing of roads and other improvements in relation to topography and other natural features
- e. a choice in the types of physical environment, occupancy tenure, building types, types of ownership, and community facilities available to existing and potential residents or tenants
- f. enhancement and preservation of open space and unique natural features
- g. usable open space, recreation areas, bike paths, pedestrian networks, and similar features in excess of existing requirements
- h. aesthetic appeal

2. Procedures and Submittal:

- a. Pre-Application Meeting and Plan:
 - (1) A layout plan showing the proposed location and use of lots and structures and the footprint of each structure on the site
 - (2) Pedestrian and vehicular traffic circulation plan

(3) A description of measures to be taken to assure permanence and maintenance of open space and other facilities to be under common ownership

(4) A description of all proposed modifications from the Design and Improvement Standards along with the justifications therefore. Such modifications shall not endanger the public health and safety.

b. Preliminary Plat:

The preliminary plat for PUDs and CPDs shall follow the procedures for preliminary plats contained in Section II.B of these Regulations as well as any additional information found to be necessary during pre-application.

c. Criteria:

(1) General: The PUD or CPD shall conform to the intended purposes of these Regulations, the special intent of this Section, and one or more of the following:

(a) Preserve to the maximum extent possible the natural characteristics of the land including topography, vegetation, streams, or other bodies of water
(b) Preserve productive agricultural land
(c) Protect important historic sites or structures or areas of important wildlife habitat.

(2) Open Space. Each PUD or CPD shall provide an area for dedicated park or common open space constituting at least 30 percent of the gross area of the parcel being subdivided.

(3) Pedestrian Access.

Sidewalks, walkways, trails, or other forms of pedestrian circulation and access to exterior roads and open space shall be required.(4) Watercourse Enhancement. Natural watercourses and wetlands shall be protected and/or enhanced.

(5) Roads. Roads designed to furnish access to adjacent areas shall include a public access easement. Width of road easements and driving surfaces within a PUD or CPD shall be based on the traffic generated by the subdivision and as designed by a professional engineer registered in Montana to do transportation analysis. Responsibility for the improvement and maintenance of all roads shall be assumed by the homeowners' association.

(6) Clustering. No more than 9 lots may be sited in a single cluster, though multiple clusters may exist within a single development.

(7) PUD and CPD developments are exempt from park dedication requirements.

(8) Homeowners' association. A homeowners' association, registered with the State, shall be established and shall be responsible for maintenance of all roadways, pedestrian facilities, open spaces, watercourses, parks, dry hydrants, landscaping, and other common areas.

G. ADMINISTRATIVE PROVISIONS

1. Variances From Subdivision Design Standards (MCA 76-3-506):

a. Purpose. Where the Planning Board finds that extraordinary hardship, practical difficulty, or unnecessary environmental degradation may result from strict compliance with the subdivision Design Standards of these Regulations and/or the purposes of these Regulations may be served to a greater extent by an alternative design, it may recommend and the governing body may so grant variances, so that substantial justice may be done, or unnecessary environmental degradation may be avoided, and the public interest secured, provided that any such variance shall not have the effect of nullifying the intent and purpose of these Regulations, and further provided no variance shall be approved unless supported by written findings of fact based upon the evidence presented that all of the following conditions in this Section are met:

b. Review Criteria. The governing body shall not approve subdivision variances unless it makes findings based upon the evidence presented in each specific case that:

- (1) the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- (2) the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
- (3) there are special and unusual circumstances or conditions affecting said property such that the strict application of the regulations from which the variance is requested would deprive the owner of reasonable use of said property and is not the mere grant of a privilege, or because of particular environmental features or characteristics (which may include viewsheds, specimen trees, wetlands, historic sites, etc.), physical surroundings, shape, or topographical conditions of the specific property involved or the nature of adjoining properties warrant relief from the standard in question;
- (4) the variances will not in any manner vary the provisions of any other regulations, ordinances, or plans adopted by the governing body;
- (5) the variance is necessary for the preservation and enjoyment of a substantial property right of the owner;
- (6) the granting of the variance would not be in conflict with the intent of the subdivision and platting provisions of these Regulations;
- (7) the hardship is not a result of the applicant's own actions or from previous actions of the applicant;
- (8) the granting of the variance would not be in conflict with the general purpose and intent of Growth Management Plan of Stillwater County, any zoning regulations, or any other applicable ordinances and resolutions of the governing body;
- (9) the subdivision would be better designed if the variance were granted;
- (10) the requested variance is the minimum variance needed;
- (11) the variance will not cause an increase in public costs;

c. When the Planning Board recommends approval of the requested variance, with or without conditions, the Planning Office shall notify the subdivider and the Stillwater County Commission of its recommendation. The recommendation shall be forwarded to the governing body with the planning recommendations accompanying the preliminary plat.

d. When the Planning Board recommends denial of a variance request, the Planning Office shall forward the original request for variance to the governing body along with the Planning Board's recommendation for denial and the reasons therefore.

e. Conditions for Approval. In recommending approval of variances, the governing body may require such conditions as will, in its judgment, secure substantially the objections of the standards or requirements of these Regulations;

f. Variances from Floodway Provisions Not Authorized. The governing body may not, by subdivision variance, permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined in Title 76, Chapter 5, MCA.

g. Conditions. In granting subdivision variances, the governing body may require such conditions as will, in its judgment, secure the objectives of these regulations. Any approval under this Section shall be subject to the terms of the conditions designated in connection therein. Any conditions required shall be related both in purpose and scope with the relief sought through the variance.

h. Findings of Facts. When any variance is granted, the motion of approval shall contain a statement describing the variance and conditions upon which the issuance of the variance is based.

i. Cluster Planned Developments/Planned Unit Developments. Where the Design Standards of these Regulations are proposed to be modified through a cluster planned development or a planned unit development, the applicable process shall be a deviation rather than a variance.

j. Limitations on Approvals. For subdivision variances, the variance approval shall be null and void if the final plat is not filed within the time allowed for final approval by the governing body.

k. A subdivider may submit a petition for variance either prior to or concurrently with the preliminary plat application, or with a request to amend a conditionally approved preliminary plat. If submitted prior to a preliminary plat application, the preliminary plat application must be submitted within one month of the approval of the variance.

l. A written petition for any variance shall be submitted by the subdivider along with the required review fee. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner to justify the variance. At a minimum, the following must be addressed:

(1) a sketch of the area showing the location and characteristics of the requested variance;

- (2) why a literal interpretation of the Design Standards would deprive the applicant of rights enjoyed by other property owners and not be a mere grant of privilege;
- (3) that the peculiar conditions do not result from previous actions of the applicant;
- (4) list the specific provisions of the Design Standards which prevent the proposed construction on or use of the property;
- (5) list the special conditions or characteristics of the land that prevent compliance with the requirements of the Design Standards;
- (6) list the particular hardship which would result if the specified provisions of the Design Standards were applied to this property;
- (7) indicate the extent to which it would be necessary to vary the requirements or provisions of the Design Standards in order to permit the proposed subdivision of the property;
- (8) that the requested variance is the minimum variance that will allow a reasonable, better designed division of the land or one with much less environmental degradation;
- (9) show how the granting of the variance would not be detrimental to the public safety, convenience, welfare, or be injurious to other property in the vicinity.

2. Violations:

Every final subdivision plat must be filed for record with the Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. If illegal transfers or offers of any manner are made, the County Attorney shall commence action to enjoin further sales or transfers and compel compliance with the provisions of the Montana Subdivision and Platting Act and these Regulations.

a. Violation Procedure: The following process will be followed when investigating potential subdivision violation(s):

- (1) The Planner or designated representative will investigate the complaint to determine if there is a violation.
- (2) If the investigation indicates there is a violation, the Planner or designated representative will send a letter to the person(s) involved informing them of the problem, potential solutions, and setting a time limit for compliance.
- (3) If the violation is not resolved, two additional letters will be sent. The time allowed for compliance will decline with each letter sent.
- (4) If the problem is not resolved after three letters, the matter will be submitted to the County Attorney for action.

b. Penalty for Violations: Pursuant to MCA 76-3-105, any person who violates any provision of the MSPA or these Regulations is guilty of a misdemeanor and punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in the County jail for no less than three months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these Regulations shall be deemed separate and distinct offence.

3. Appeals:

Pursuant to 76-3-620 and 76-6-625, MCA, a decision on a subdivision application may be appealed as follows:

a. A party who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed subdivision may, within 30 days after the decision, appeal to the District Court in Stillwater County. The petition must specify the grounds upon which the appeal is made (MCA 76-3-625).

b. The following parties may appeal under the provisions of this subsection:

- (1) the subdivider and/or
- (2) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the County where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value; and/or
- (3) the County Commissioners of Stillwater County; and/or
- (4) the City of Columbus if a subdivision is proposed within one mile of its limits.

4. Amendment of Regulations:

The governing body shall use the following procedure to amend these Regulations:

a. Planning staff will present the proposed Regulations to the Planning Board and allow them the opportunity to discuss the proposed changes including possible revisions of the draft language.

b. Public notice of the intent to amend these Regulations and of the public hearing will be given by publishing notice of the time and place of the hearing in a newspaper of general circulation in the County not less than 15 and not more than 30 days prior to hearing date, at least two times prior to the proposed hearing.

c. The public hearing may be taped and either a transcript or minutes prepared and given to the governing body.

d. The governing body will make a decision by resolution.

III. DEFINITIONS

ACCESS (LEGAL): Legal access means each lot in a subdivision abuts a City, County, State, or Federal street or road, or that the subdivider has obtained adequate and appropriate easements across all necessary properties from a City, County, State or Federal street or road to each lot in the subdivision.

ACCESS (PHYSICAL): Physical access means that a street or road conforming to the design standards herein provides vehicular access from a City, County, State or Federal street or road--which conforms to the subdivision design standards herein--to each lot in the subdivision. Physical access may include driveways—which can be shared between adjacent lots.

ADJOINING (ADJACENT) PROPERTY OWNER: The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a common road.

AGRICULTURAL ACTIVITY: As defined in 76-2-902, MCA means an activity that provides an annual gross income of not less than \$1,500 or that occurs on land classified as agricultural or forest land for taxation purposes. Agricultural activity means the growing, raising, or marketing of plants or animals by the owner, owner's agent, or lessee of land or that occurs on land that is classified as agricultural or forest land for taxation purposes. The term includes but is not limited to: (a) forages and sod crops; (b) dairy and dairy products; (c) poultry and poultry products; (d) livestock, including breeding, feeding, and grazing of livestock and recreational equine use; (e) fruits; (f) vegetables; (g) flowers; (h) seeds; (i) grasses; (j) trees, including commercial timber; (k) fresh water fish and fish products; (l) apiaries; (m) equine and other similar products; or (n) any other product that incorporates the use of food, feed, fiber, or fur.

AGRICULTURAL WATER USER FACILITY: Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes. An agricultural water user facility includes but is not limited to ditches, siphons, flumes, dams, ponds, and head gates. It may include natural springs when the water from such springs is part of a recognized ditch system.

AIR NAVIGATION EASEMENT: An easement granted by a subdivider or landowner to the public the right for aircraft to fly over the airspace directly above the land and applicable to land in and near the Columbus City-County airport.

ARM: Administrative Rules of Montana.

CAPITAL FACILITIES: Any facilities necessary to serve the residents of a subdivision or the general public including roads, sewer lines, water supply lines, storm drains, or any

other capital facilities in a capital improvement program adopted pursuant to 7-12-4102 or 7-12-2102, MCA.

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; used for exemptions to the MSPA, and to describe an existing tract of record. COS's are also governed by the Stillwater County Evasion Criteria as per these Regulations.

CLUSTERING: A design concept in which the property owner concentrates development on one or several portions of land leaving the remainder in open or undeveloped space (see 76-3-103(2), MCA).

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 of the other units. This term does not include a townhome or townhouse. Condominiums can be exempt from the subdivision review process pursuant to 76-3-203, MCA.

COUNTY ROAD: A street or road which was established and/or altered according to the provisions of Title 7, Chapter 14, MCA. A County road may be created by a court order and by right-of-way dedications accepted by Stillwater County.

COVENANT: An agreement, in writing, between two or more parties by which any of the parties pledge to the others that something is done or shall be done. Covenants may restrict uses and dictate other aspects of development within the subdivision. Covenants run with the land and are generally not enforced by the local governing body.

DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted (76-3-103(3), MCA).

DENSITY: The number of lots or dwelling units per acre.

DEQ: Montana Department of Environmental Quality.

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 a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. 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 (MCA 76-3-103(4)).

DWELLING UNIT: A residential structure in which a person or persons reside (76-3-621 (10)(b) MCA).

EASEMENT: A right to use a portion of another's land, other than as a tenant, for a specific purpose; a right-of-way or similar right over another's land. Examples of easements include those for roads, utilities, ditches, and drainage.

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

EVASION OF THE MONTANA SUBDIVISION AND PLATTING ACT (MSPA): A use of the statutory exemptions from subdivision review which, in the judgment of the governing body, is not consistent with the legislative intent of MSPA, or which creates a pattern of development which is the equivalent of a subdivision without local government review and approval. The use of exemptions is governed by the Stillwater County Evasion Criteria per these Regulations.

FLOOD OF 100-YEAR FREQUENCY (BASE FLOOD): A flood magnitude expected to recur on the average of one every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year (MCA 76-5-103(9)).

FLOOD BOUNDARY: The boundary based on a base flood elevations. The mapped floodplain boundary may be used as a guide for determining whether the property is within the designated floodplain, but the exact boundary shall be determined according to the base flood elevation.

FLOOD ELEVATION (BASE FLOOD ELEVATION): The elevation above sea level of the base flood in relation to national geodetic vertical datum of 1929, unless otherwise specified.

FLOOD FRINGE: Means that portion of a designated floodplain outside the limits of a designated floodway.

FLOODPLAIN: The area adjoining the watercourse or drainage which would be covered by the floodwater of a flood of 100-year frequency or base flood except for sheetflood areas that receive less than one foot of water per occurrence and are considered "zone b" areas by the Federal Emergency Management Agency. The floodplain consists of the floodway and the flood fringe (MCA 76-5-103(10)).

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainage (MCA 76-5-103(11)).

GOVERNING BODY: The Board of County Commissioners of Stillwater County or the (MCA 76-3-103(7)).

HIGH FIRE HAZARD AREAS: High fire hazard areas contain "fire chimneys", heads of draws, excessive slopes, heavy fuels or other hazardous wildfire components, and as

may be determined by the U.S. Forest Service or the Forestry Division of the Montana Department of State Lands or based on their criteria.

IMMEDIATE FAMILY: A spouse, children by blood or adoption, and parents (76-3-103(8), MCA).

IMPACT (OFF-SITE): This is an impact to a public facility(s) attributable to a proposed subdivision when the impacted facility is not located wholly within the boundaries of the proposed subdivision. Examples of off-site impacts include but are not limited to roads, bridges, sewer and water facilities (including mains), and storm drainage.

IRREGULARLY SHAPED TRACT OF LAND: A parcel of land other than an aliquot part of a U.S. government survey section or lot the boundaries of which cannot be determined without a survey or trigonometric calculation.

LOT: A parcel, plot, tract, or other land area created by subdivision.

LOT MEASUREMENTS: Will be taken as follows:

1. Lot Depth--the length of a line drawn perpendicularly from the front lot line and extending to the rear lot line.
2. Lot Width--the average width of the lot.
3. Lot Frontage--the width of the front lot line.
4. Lot Area--the area of a lot determined exclusive of street, highway, alley, road, or other right-of-way.

LOT TYPES:

1. Corner Lot: A lot located at the intersection of two streets.
2. Interior Lot: A lot with frontage on only one street.
3. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
4. Flag Lot: A lot which is connected to a public or private street or road by a long, narrow strip of land used for access.

MAJOR SUBDIVISION: A subdivision containing six or more proposed lots.

MOBILE/MANUFACTURED HOME: Is a residential dwelling, eight feet or more in width and 40 feet or more in length, containing at least 320 square feet on a permanent chassis, designed for human occupancy, built in a factory in accordance with the U.S.

Department of Housing and Urban Development Code or the Federal Manufactured Home Construction and Safety Standards. A manufactured home includes a house trailer or mobile home.

MINOR SUBDIVISION: A subdivision that creates 5 or fewer lots from a tract of record (MCA 76-3-103(9)). If the tract of record proposed to be subdivided has not been subdivided; was not created by a subdivision under the MSPA; has not resulted from a tract of record, regardless of size, that has more than five parcels created from it via MCA 76-3-201 or 207 since July 1, 1973 (MCA 76-3-609(2)); or is at least 160 acres in size, then the proposed subdivision is a first minor subdivision from a tract of record. Further, such a minor subdivision contains five or fewer parcels and proper access to all lots is provided (MCA 76-3-609(2)).

MODULAR HOME: A dwelling constructed at a factory in accordance with the Uniform Building Code applicable to site-built homes and transported to the site for final assembly on a permanent foundation.

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 and expressly placed for surveying reference.

MSPA: The Montana Subdivisions and Platting Act, Title 76, Chapter 3, MCA

NUISANCE: Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway is a nuisance (27-30-101, MCA).

PHASED DEVELOPMENT: The plan of a subdivision design for a single tract of land which is proposed to be subdivided by stages or phases. The plan may be the preliminary plat for a phased major subdivision or a conceptual sketch which may be developed in the future.

PLANNED UNIT DEVELOPMENT (PUD): A subdivision application and preliminary plat that at the time of submission consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider (MCA 76-3-103(10)).

PLANNING BOARD: The Stillwater County Planning Board.

PLANNING STAFF: The person or persons authorized by the Stillwater County Board of County Commissioners to conduct planning activities, such as subdivision review, and delegated such authority by the head of the County Planning Department.

PLAT: A graphic representation of a subdivision.

1. Preliminary Plat: A neat, scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, site features and improvements, and other elements of a subdivision which furnish a basis for review by a governing body.

2. Final Plat: The final drawing of the subdivision prepared for filing for record with the County Clerk and Recorder and containing all elements and requirements set forth in these Regulations and MSPA and all relevant ARM's.

PRE-APPLICATION SKETCH: A legible drawing showing approximate boundaries, acreages, lots, access, and other pertinent information of a proposed subdivision.

PRIVATE ROAD: A road which is not owned by Columbus, the County, State, or Federal government and which is usually not dedicated to use by the public. The private road is generally owned, built, repaired, and maintained by a homeowners' association or an individual, corporation, trust, or other legal entity. Use of the road may be restricted by the owner(s) of the road.

PROPERTY OWNER: The legal title-holder of land.

PUBLIC ROAD: Public highways, roads, or streets which have been established by the public authorities under the statutes in effect at the time the road or street was established, were recognized by them and used generally by the public, or which had become such by prescription or adverse use. Documentation of the process used to create the road must be provided to verify the road's status if used in subdivision. A public road may or may not be a Town, County, State, or Federal roadway.

RECREATIONAL VEHICLE: As defined in 61-1-101(60), MCA, includes motor homes, travel trailers, and campers.

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, recreational vehicles, or automobiles for transient dwelling purposes. Approval of such parks requires conformance to these Regulations.

REMAINING TRACT OF RECORD: A remaining tract of record is that part of an original tract that is left following the subdivision activity. See "Remainder Tract of Record" in Subsection J of Section V., Evasion Criteria, of these Regulations.

RIGHTS-OF-WAY: Means the privilege of immediate use of the roadway (MCA 61-8-102).

SECOND OR SUBSEQUENT MINOR SUBDIVISION: Any additional subdivisions created out of a tract of record from which the first minor subdivision was developed. There is no time limit on the creation of second or subsequent minor subdivisions.

STREET TYPES: For purposes of these Regulations, street types are defined as follows:

1. **Alley:** A street used primarily for vehicular access to the rear of properties which abut on and are served by public roads.
2. **Arterial:** Supports statewide or interstate travel. Characteristics include movements between population centers over 50,000 and a large majority over 25,000 population.
3. **Collector:** A street or road having the equally important functions of moving traffic and providing access to adjacent land. Serves county seats not on arterial routes, larger towns not served by higher systems, and other traffic generators such as shipping points, regional or county parks, and important mining and agricultural areas. Collectors link nearby larger towns and cities.
4. **Local Streets:** Provide access to land adjacent to the collector network and serve travel over relatively short distances.
5. **Cul-de-sac:** A street having only one outlet for vehicular traffic and terminating in a turn-around area.
6. **Frontage Access (Service Road):** A local or collector street, usually parallel and adjacent to an arterial/interstate highway, which provides access to abutting properties and controls traffic access to the arterial.

SUBDIVIDER: Any person, firm, corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land (76-3-103(15), MCA).

SUBDIVISION: A division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

SUBDIVISION APPLICATION: An application package for a proposed subdivision which meets all the requirements identified in Section II.B.

SUBDIVISION IMPROVEMENTS AGREEMENT (SIA): A contract between the subdivider and the local governing body specifying what improvements are presently on the land to be subdivided, what improvements are planned, when such improvements will be constructed, and how such improvements will be financed. Draft SIA's are required to be submitted with all subdivision applications and include information such as weed control measure, fire fighting water supplies, and waivers of protest. SIA's are filed with the final plat.

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A surveyor selected by the governing body to review surveys and plats submitted for filing.

TOWNHOME OR TOWNHOUSE: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities. Townhomes and townhouses can be exempt from the subdivision review process pursuant to 76-3-203, MCA.

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's Office (76-3-103(17)(a), MCA. (a) 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; (b) An instrument of conveyance does not merge parcels of land under subsection (a)(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.

VICINITY SKETCH: A map at a legible scale suitable to locate the proposed subdivision, the roads by name/number that serve the site, and the distance to the nearest town.

IV: DESIGN AND IMPROVEMENT STANDARDS

A. PURPOSE

All subdivisions approved by the governing bodies shall comply with the provisions of this section as applicable except where granted a variance (see Section II.G).

B. GENERAL STANDARDS

The design and development of a subdivision shall conform with adopted growth management plans, zoning ordinances, health department regulations, annexation policies and City/County Airport control provisions. The design and development of subdivisions shall provide satisfactory building sites which are properly related to topography and shall preserve the natural terrain, natural drainage, existing topsoil, trees, and natural vegetation to the extent possible.

C. COMMON AREAS AND NOXIOUS WEEDS

In subdivisions with common areas, a homeowners' association is required to provide for maintenance of all common areas, including parkland, roads, dry hydrant facility, and for the control of noxious weeds. Control of noxious weeds is also the responsibility of the individual lot owner in areas without homeowners' associations. In case of failure by such individual lot owner or by a homeowners' association to maintain common areas and facilities and dry hydrants, the County may cause the required maintenance to be done and assess the cost thereof as taxes back to the individual lot owners. It is required advisory language be placed in the Subdivision Improvements Agreement and the Covenants and Restrictions for the proposed development.

D. LANDS UNSUITABLE FOR SUBDIVISION

Lands which the governing bodies have found to be unsuitable for subdivision shall not be subdivided for building or residential purposes unless the hazards are eliminated or mitigated. Mitigation measures should be identified and proposed by the subdivider with the application. Unsuitable lands may have one or more of the following potential hazards:

Flooding; snow avalanches, rock falls, or land slides; unstable soils; steep slopes in excess of 25% grade; high water table; inadequate, polluted, or non-potable water supply; high voltage or high pressure gas lines; air or vehicular traffic hazards or congestion; inadequate access; and lands placing unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation.

E. FLOODPLAIN PROVISIONS

Each subdivided parcel with individual water and sewer system shall contain at least one acre of buildable land outside the floodplain portion of a delineated 100-year floodway as defined by the official City of Columbus and/or Stillwater County Flood Hazard Maps, contained in the Stillwater County Floodplain Regulations, and approved by the County Floodplain Administrator.

1. For major subdivisions where the floodway portion of a delineated floodplain has not been identified, the subdivider shall survey the 100-year floodway and floodplain and delineate same on the preliminary plat.
2. All identified floodway and floodway fringe portions of the 100-year floodplain shall be delineated on the final plat.

F. CONSTRUCTION SETBACKS FROM PERENNIAL STREAMS AND WATER BODIES

The river, stream, pond, and lake frontage property in Stillwater County is among the most desirable for new development. It is also recognized that the frontage is of major ecological importance for wildlife habitat and protection of water quality.

Minimum construction setbacks may be specified by the County in order to protect riparian areas, wetland, trout spawning areas, streambank stability, non-degradation of water quality, critical wildlife habitat, important historical or archaeological sites or viewsheds. The issue of setbacks may be raised by the public or staff and subsequently addressed as a condition of preliminary plat approval.

The Planning Staff, Planning Board, and Commission may consult with appropriate agencies, (including but not limited to the State Department of Fish, Wildlife, and Parks; the Environmental Protection Agency; U.S. Fish and Wildlife Service; the U.S. Forest Service; the Stillwater County Conservation District; and the State Historic Preservation Office), prior to determining a setback. Mitigation measures proposed by the subdivider shall be considered prior to establishing a setback.

G. IMPROVEMENT DESIGN

Engineering plans, specifications, and reports required in connection with public improvements and other elements of a subdivision required by the governing bodies shall be prepared by a registered professional engineer or a registered land surveyor as their respective licensing laws allow.

H. LOTS

1. Each lot shall contain a satisfactory building site properly related to topography and conforming to the most recent DEQ Regulations, any adopted zoning Regulations, and these 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 or private street, road, alley, or right-of-way.
4. Each lot shall have access to a public or private street.
5. Alleys may not be used to provide the primary means of access to a lot in new subdivisions.
6. Corner lots shall have driveway access to the same street or road as interior lots.
7. Corner lots shall be of sufficient area to provide acceptable visibility for traffic safety.
8. Side lot lines shall be at substantially right angles to street or road lines and radial to curved street or road lines.
9. All lots must have a minimum 30-foot frontage onto the street or road providing access to the lot.
10. Show proposed building site grade on the preliminary plat.

I. STREETS, ROADS, ALLEYS, AND SIDEWALKS

1. Information regarding proposed roads, both public and private, must be submitted to the Planning Office with the subdivision application to include: length, width, turning radii, fill, base, sub-base, surfacing, and cross-section drawings. The governing body may require any or all of the following: paving, curb, gutter, alley construction and gravelling, sidewalks, drainage facilities, and paved connection to the nearest existing paving.
2. Approval of roads will be made by the appropriate governing body only after passing inspection by the County Road and Bridge Superintendent. The governing body will accept roads for dedication only as part of the final plat approval process and at their discretion.

3. In each subdivision where the appropriate governing body has not accepted dedication of the roadways therein, the plat and each instrument of conveyance of the lots therein must contain acknowledgment of the improvement and maintenance provisions for such roadways via the following or similar statement, “The purchaser or owner of lots in this subdivision understand that roadways within the subdivision are for public, mail delivery, and emergency access, and the continued improvement and maintenance thereafter of such roadways after the filing of the final subdivision plat—to include snow removal, sign replacement, and bridge reconstruction—are the obligation of the subdivision lot owners through the subdivision homeowners’ association.”.

4. All major subdivisions are required to pave internal roads. Minor subdivisions with access from paved roads must provide paved internal streets or roads, unless the access is through a private driveway, not serving more than 2 lots. Paving must be completed prior to final plat approval. Minor subdivisions receiving access from a graveled road may have internal graveled roads.

5. Subdivision applicants may be required to provide a waiver of the rights to protest the creation of a special improvement district and/or a submit petition to establish a special improvement district to provide ongoing maintenance for required public improvements. A waiver of the right to protest the creation of a special improvement district must identify the specific improvements for which protest is being waived and may not be valid for longer than 20 years after the date the final plat is filed.

6. Street or Road Design:

a. 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, and in their relation to the proposed uses of the land they will serve.

b. In areas where the Stillwater County Soil Survey designates severe limitations in soil stability, aggregate surfacing thickness road design shall be based upon analysis of sub-grade foundation strength.

c. Residential driveways shall avoid direct access to collector highways to the extent possible.

d. Driveway locations shall be shown on the plat.

e. Where a subdivision abuts a collector, the governing body may require frontage roads, turn lanes, and prohibit access along the rear property line, deep lots, or other appropriate actions to adequately protect residential properties and to separate local traffic from arterial or collector traffic.

f. State and County road encroachment permits or approvals must be obtained, to the extent possible, for any proposed approaches or obstructions in the public rights-of-way, including, but not limited to central mailbox facilities and driveway approaches, both residential and commercial. In some cases, as determined by the Road and Bridge Superintendent, a Road Maintenance Agreement may be required of the developer when such development has a negative impact on the public rights-of-ways. Road Maintenance Agreements are separate contractual agreements outside of the Subdivision and Platting Act and these local regulations. In no way shall failure to enter into a maintenance agreement be basis for denial of a preliminary plat.

g. Local streets shall be designed to discourage through-traffic.

h. Streets which are a continuation of existing streets outside the proposed subdivision shall be aligned to assure their center lines coincide.

(1) Where straight continuations are not physically possible, the center line offset shall not be less than 125 feet.

(2) Continuation of existing streets shall have the right-of-way width of at least that of the existing streets unless otherwise specified by the governing body.

i. Dead-end streets are prohibited. Where future street extension is proposed, or where extension of the street is not possible, a temporary or permanent cul-de-sac and/or hammerhead T intersection shall be provided by the subdivider and must include signage that adheres to the Manual of Uniform Traffic Control Devices. Any proposed turn-a-round must be built in accordance with the standards specified in these regulations. Fire, Emergency services and Road and Bridge may review the proposed plans to ensure adequate space has been provided for equipment needs.

j. Half streets are prohibited

k. Names of new streets aligned with existing streets shall be the same as those of the existing streets. The proposed street name(s) shall be reviewed by the County GIS Department and street names are subject to approval of the governing body.

l. A second access shall be required for all subdivisions with ten or more lots.

m. Driveway standards:

(1) No more than two lots may share a driveway.

(2) Easements for driveways shall be at least 30 feet in width.

(3) Driveways must provide a pullout/turnaround for every 1000 feet of driveway length.

n. All proposed off-site improvements shall meet the local government standards for that improvement. The specifications will be reviewed and approved by the County Road and Bridge Superintendent.

o. Private Roads: The driving width of all private roads and bridges must be at least 24-feet wide, and private roads must have provisions for maintenance, signage, and emergency access. Private roads must at a minimum meet the requirements for local streets in Table IV-3. An application for a variance must be submitted and approved for all private roads that deviate from design standards.

p. All public road and bridges must meet the requirements shown in Table IV-1 3 and in Figures IV-1 thru 3

7. Intersections:

a. Streets shall intersect at right angles,

b. Two streets meeting a third street from opposite sides shall meet at the same point or their centerlines shall be offset at least 125 feet.

c. Intersection design shall provide acceptable visibility for traffic safety as indicated by the designed operating speeds on the individual roadways.

d. Intersections of local streets and/or roads with collectors shall be kept to a minimum.

e. Intersections shall provide adequate sight distances.

8. Sidewalks and/or trails shall be located to facilitate connectivity throughout the subdivision, as well as access to school bus stops whenever possible.

9. General Improvements:

a. All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage shall be constructed in accordance with the specifications and standards prescribed in these Regulations, the Montana Public Works Standard Specifications, and/or Stillwater County standards. Sidewalks in residential subdivisions shall be boulevard or curb walk type.

b. In areas with severe soil limitations, aggregate surface thickness road design must be adjusted accordingly.

c. Existing trees and other vegetation shall be preserved where possible. The governing body may require plantings for buffering, screening, or soil erosion prevention.

d. Street name and traffic control signs shall adhere to the standards in the Manual for Uniform Traffic Control be installed by the subdivider at all intersections and other appropriate locations as per direction of the County Road and Bridge Superintendent.

e. 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 U.S. Postal Service and the jurisdiction having responsibility for the road. The governing body will not be responsible for maintaining or plowing any mail delivery area.

10. Platted, Unincorporated Townsite Standards:

The purpose of this section is to set out specific design standards which apply to platted, but unincorporated communities in Stillwater County. These requirements are in addition to the requirements specified in previous sections.

a. In addition to the general standards found in Chapter IV of these Regulations the following shall also apply:

(1) Design:

(a) Streets and roads in subdivisions shall meet the design specifications of the County Road and Bridge Department and this Section.

(b) Alleys shall be a minimum of 20 feet in width.

(c) Sidewalks or walkways shall be provided when required by the governing body and shall be a minimum width of 5 feet and may be curb walk or boulevard type.

(d) The road cross section shown in Figure IV-1, may be utilized in proposed subdivisions when approved by the County Road and Bridge Superintendent.

(e) Rights-of-way for pedestrian walks, not less than 10 feet wide, shall be required where deemed essential to provide access to schools, playgrounds, shopping centers, transportation, and other community facilities.

(2) General Improvements:

(a) Street lights may be required by the governing body on all streets within the subdivision. Where required they shall be designed to meet or exceed the following minimum standards:

Location	Average Horizontal Foot Candles
Entrance Streets	1.2
Other Local Streets	.9

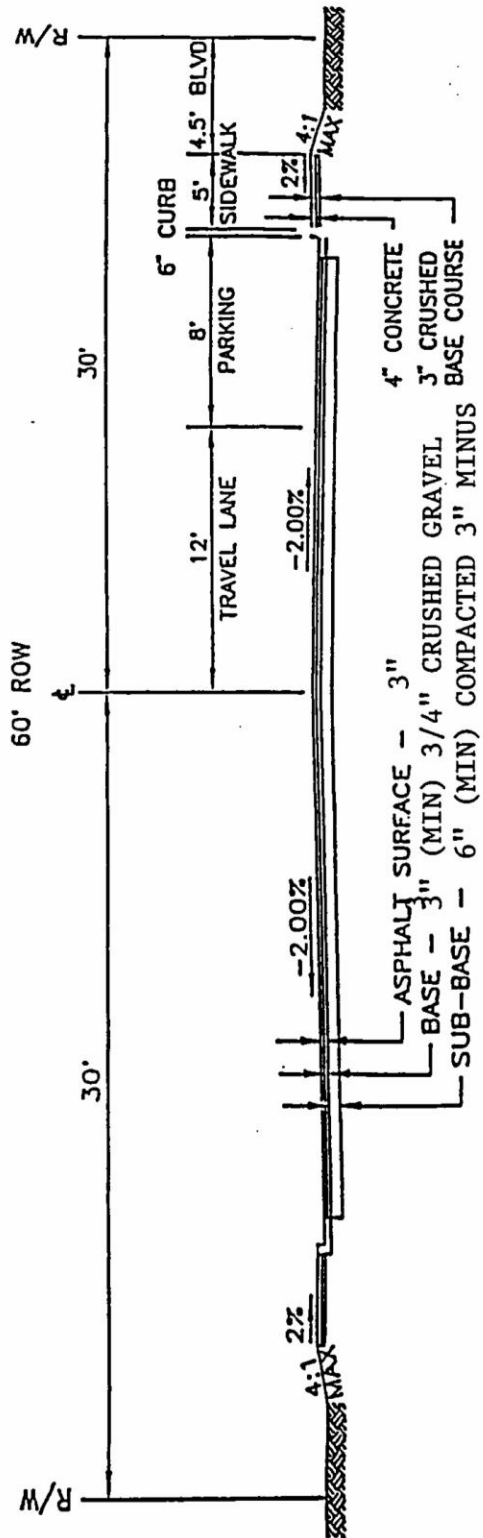
(b) A photometric lighting plan may be required to determine areas/intersections requiring light and/or to ensure the subdivision is not ‘over-lit’.

(c) Off-street parking shall be provided when required by zoning regulations.

(d) If no on-street parking is to be provided, signs prohibiting parking shall be required.

FIGURE IV-1

MINIMUM DESIGN STANDARDS - STREET SECTION WITH CURB AND GUTTER

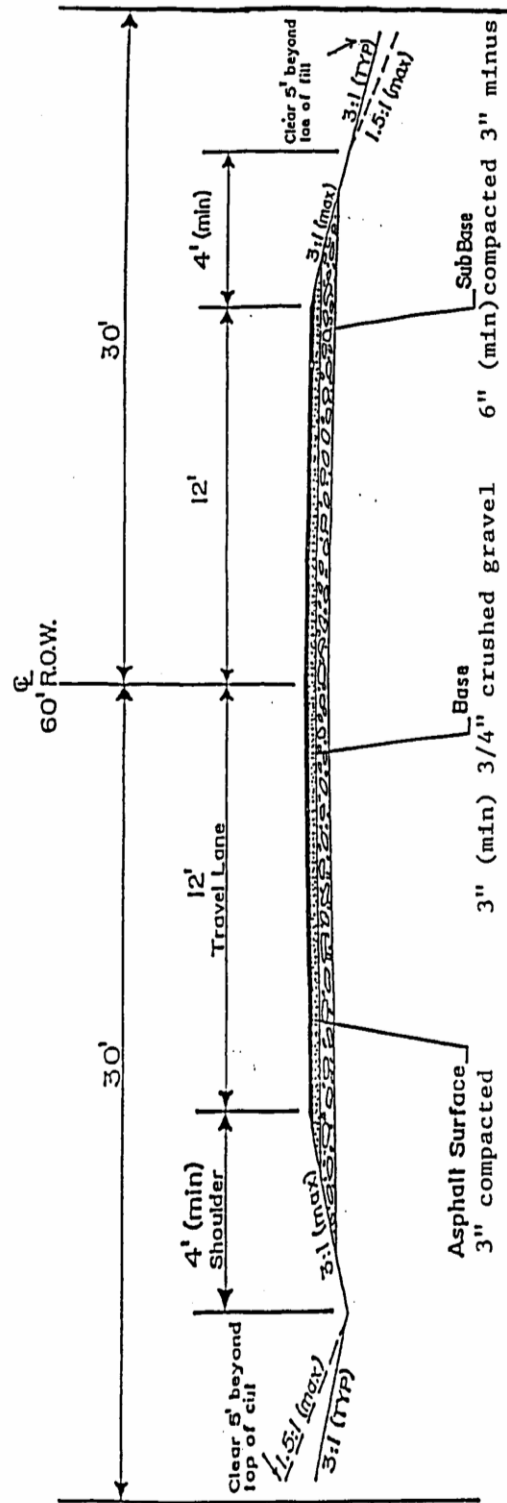


NOTE:

1. Superelevate where appropriate
2. All surfacing courses, including subgrade, shall be compacted per MPWSS.

FIGURE IV-2

Minimum Design Standards-Street Section with Drainage Swales



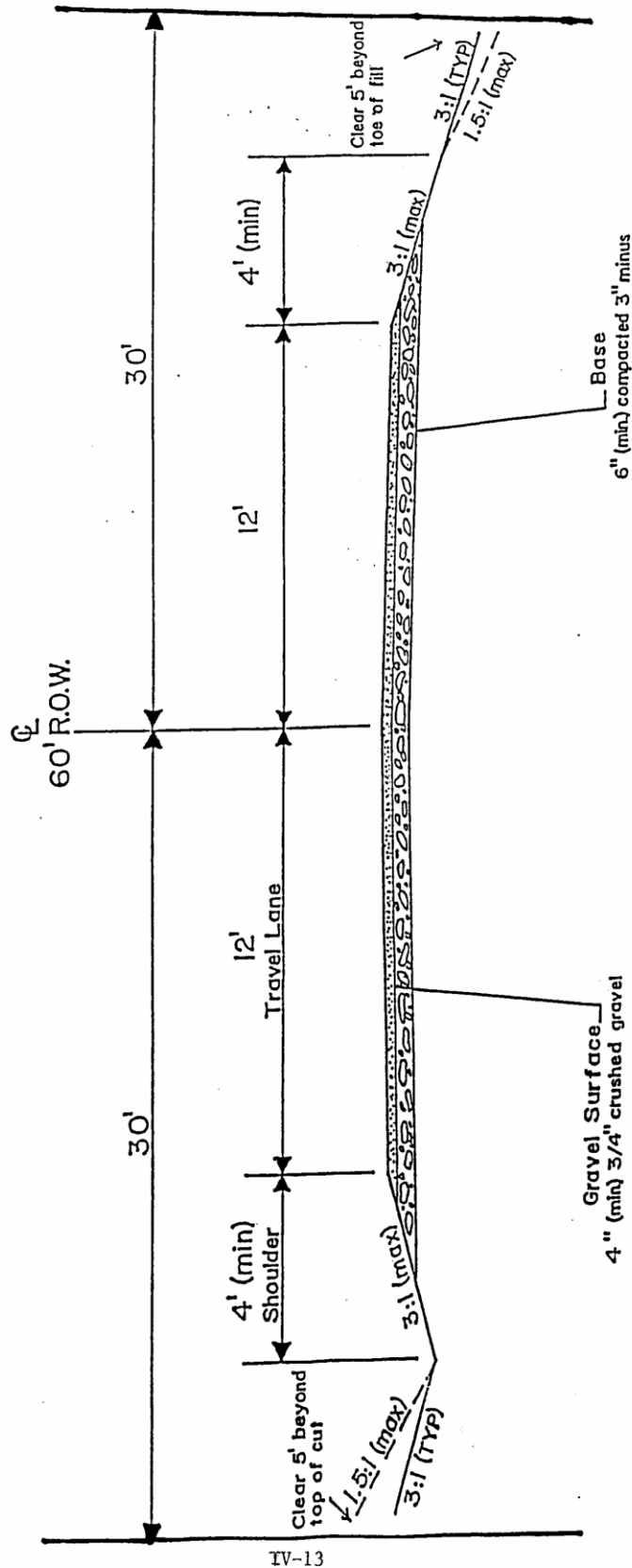
Notes:

1. Crown grade .02'/ft.
2. Superelevated where appropriate
3. All surfacing courses, including subgrade, shall be compacted per MPWSS.

Town of Columbus and Stillwater County, Montana, Draft Subdivision Regulations;
Nov2005

FIGURE IV-3.

Minimum Design Standards- Gravel Road Section



Notes:

1. Crown grade 4%
2. Super-elevated where appropriate
3. All surfacing courses, including subgrade, shall be compacted per MPWSS.

**TABLE IV-1
MINIMUM ROAD DESIGN STANDARDS**

1	Minimum right of way	60 ft
2	Minimum travel lane width (d)	2-12 ft
3	Maximum grades (a)	
	a. flat & rolling terrain	10%
	b. hilly terrain (b)	10% (f)
4	Minimum stopping distance	150 ft
5	Curvature (c)	
	a. design speed of road	25 mph
	b. maximum curve	53 deg
	c. minimum outside roadway	120 ft
6	Cul-de-sacs/Turnarounds	
	a. maximum length	1000 ft
	b. cul-de-sacs: minimum outside right-of-way radius	60 ft (d)
	c. cul-de-sac: minimum outside roadway radius	48 ft (d)
	d. "T" turnaround: backup lengths (2 required)	60 ft each
7	Bridges	
	a. Curb to Curb widths	24 ft (d)
	b. AASHTO (e) design load	HS-20
	c. Vertical clearance	14.5 ft

Notes:

- (a) Flat and rolling terrain is that with a cross slope of less than 15%
- (b) Hilly terrain is that with a cross slope of 15% or greater.
- (c) Curvature is based on a superelevation of .08/feet.
- (d) Where parking will be permitted add 8 feet.
- (e) American Association of State Highway Transportation Officials.
- (f) If over 8% must be on a south-facing slope; allowed only with a variance.

J. WATER SUPPLY AND SANITARY SYSTEMS:

The following shall apply as appropriate

1. Where the subdivision is within 500 feet of the service area of a public water supply or sewer treatment system, as defined and approved by the Montana Department of Environmental Quality (DEQ), the subdivider shall install complete water system and/or sanitary sewer treatment facilities in accordance with the requirements of the water or sewer system administrator, the Rules and Regulations Governing Utility Services and Streets, and DEQ. The subdivider shall submit plans and specifications for the proposed facilities to the County Sanitarian and DEQ.

2. Where public water supply or sewer treatment system is/are not within a serviceable distance or not made available to the subdivider, the subdivider shall apply to DEQ and the County Sanitarian for subdivision review under their regulations, for all lots 20 acres or less.

3. For lots 20 acres to 160 acres in size, approval by the County Sanitarian must be obtained.

K. SOLID WASTE

The subdivider shall assure that provisions for collection and disposal of solid waste are available and meet the regulations and minimum standards for Public Works Improvements, the Rules and Regulations Governing Utility Services and Streets, and DEQ.

1. The means for solid waste collection and disposal shall be subject to approval by the Solid Waste Board.

2. Easements for collection sites and solid waste containers may be required depending on distance from existing facilities.

L. ADDRESSING

The addresses for all lots must be obtained from the County GIS Department prior to final plat.

M. OFF-SITE IMPROVEMENTS

New subdivisions may require additional mitigation measures if the review process determines that there will be impacts to existing public facilities because of the new subdivision. If required, the Traffic Impact Analysis will aid in determining the impacts to public road and bridge facilities. Other analyses include but are not limited to roads, bridges, sewer lines, water supply lines, and storm drainage systems (MCA 76-3-510). These impacts may require additional engineering analysis at the cost of the developer. When a determination has been made that a particular facility will be impacted, the following may be required as a condition of subdivision application approval:

1. Payment for Other Costs Directly Attributable to the Subdivision. When any road or segment of road impacted by the subdivision will not meet or exceed the local jurisdictions road standards at the time of full build out of the subdivision, the governing body shall require the subdivider to pay or guarantee payment of the costs of improving the road so that it meets the local standards. The subdivider shall be required to pay or guarantee payment of costs that reflect the expected impacts directly attributable to the subdivision, as described below.

If an engineer, licensed in the State of Montana, certifies that the road or segment of road affected by the proposed subdivision will not be negatively impacted and the additional traffic will continue to meet or exceed the applicable road standards at full build out of the subdivision, the subdivider shall not be required to contribute to the cost of improving that road or segment of road.

2. Determining Costs Directly Attributable to the Subdivision. A Preliminary Engineering Report (PER), prepared and certified by an engineer license in the State of Montana shall provide estimated costs of improvements necessary to make a road or segment of road meet or exceed the local road standards. The PER shall describe the existing and proposed conditions of the impacted road facility. Estimated costs shall include the following:

1. Estimated preliminary and final engineering costs including, but not limited to, design plans and specifications, material testing during construction, inspection and administration;
2. Estimated costs of obtaining and completing necessary permits;
3. Estimated surveying costs;
4. Estimated right-of-way acquisition costs;
5. Estimated utility relocation costs;
6. Estimated costs for geotechnical and miscellaneous design related site testing and laboratory analysis;
7. Estimated costs for road construction/improvements including materials, turning lanes, horizontal alignment and vertical grade adjustments, construction staking, temporary and permanent erosion control, road subgrade stabilization including geotextiles and subbase, sidewalks, curb and gutter, topsoil salvage and replacements, revegetation, weed management, traffic signals, traffic signal timing changes, temporary traffic control, traffic control, approaches, bridges, guardrails, signage and/or pavement markings, non-motorized facilities, provisions for stormwater drainage, and contingencies to bring the facility into compliance to these regulations; and

3. Estimated costs for any other items necessary to improve the road. Estimated costs shall not be older than 6 months at the time of final plat application. The burden of proof for estimate costs is the responsibility of the subdivider. Estimate costs must be prepared and certified by an engineer license in the State of Montana. Estimated costs shall be submitted to the appropriate road and bridge or public works department for review and recommendation. The governing body may, at the subdivider's expense, require a third party, designated by the governing body, to review estimated costs as described in the PER.

With preliminary approval of the subdivision application, the governing body shall determine a percentage of the costs described above by comparing projected annual

average daily traffic (AADT) at full build out of the subdivision with existing AADT. The percentage of costs shall be calculated for each segment of road impacted using the following formula

$$\frac{P}{(P-E)} * (100) = I$$

Where:

P=Projected AADT

E=Existing AADT

I=Percentage of Impact

4. Use of Funds. Upon receipt of funds related to estimated costs, the County shall place funds in an interest bearing reserve account, held and used by the County strictly for the impacted roads or segments of road within the Subdivision's impacted area.

N. GRADING AND DRAINAGE

1. The drainage system and facilities required for any surface run-off affecting the subdivision shall meet minimum DEQ standards and are subject to the approval of the governing body.

2. Curbs, gutters, swales (drainage ditches), or other designed stormwater mitigation measures will be required in all subdivisions in the County. These improvements shall be required in areas when they are continuous to curb and gutter. In areas where curb and gutter is not contiguous the governing body may require the developer to construct it.

3. Natural terrain for drainage ditches will be used as much as possible.

4. The design of culverts shall be consistent with the requirements of the agency (Stillwater County, DEQ, Montana Department of Transportation, etc.) issuing the permits needed to install the facility.

5. Plans, specifications, and reports required with the grading and drainage plan shall be prepared by a registered professional engineer or a registered land surveyor as their respective licensing laws allow. The applicable portions of the Montana Public Works Standard Specifications and these Regulations must be utilized.

6. The construction and installation standards of the American Association of State Highway and Transportation Officials (AASHTO) and the State Department of Transportation Drainage Manual will be utilized.

O. UTILITY EASEMENTS

Such easements shall be provided as per the utility company providing same with the approval of the appropriate governing body.

1. Easements may also be provided for drainage, vehicular or pedestrian access, water, septic, sewer facilities, and/or other uses determined by the local government during review of the proposed subdivision. Easements for irrigation laterals that can be moved as needed do not need to be described by metes and bounds.

2. Easements shall be shown by metes and bounds on the preliminary and final plats. If the easement is recorded, the book and page and/or the document number shall be shown on the face of the plat in lieu of the metes and bounds description.

3. Written easements which clearly define the rights, roles, and responsibilities of each party will be required whenever sewer, septic or water facilities, and/or roads/access and driveway easements are either shared or located on adjacent property.

4. The subdivider must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision.

5. Utility easements located between adjoining lots must be centered on lot lines. If easements are placed in the street, they must be located between the roadway and the right-of-way line.

6. Utility easements must be 30 feet wide unless otherwise specified by a utility company or governing body.

7. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body, or local or state highway department.

8. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear on the final plat:
“The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, broadband, 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.”

P. AGRICULTURAL WATER USER FACILITIES

Whenever an agricultural water user facility or ditch crosses the proposed subdivision or an existing easement is referenced in the title policy, easements and dedication language must be placed on the face of the plat. In addition, the following shall apply:

1. If the size of the easement is not clear, it shall have a minimum width of ten feet from centerline on each side of the facility. A larger easement may be required which includes the width of the facility plus ten feet on each bank. All easements shall be shown on the face of the plat by metes and bounds description or with the book and page of record and/or reception number.

2. The following statement shall be on the final plat relating to existing agricultural water user facilities:

"The undersigned hereby grants unto each and every person, firm, or corporation that has a documented water right or agricultural water user facility, as shown on this plat, an easement for the maintenance and repair of said agricultural water user facilities shown on the plat."

3. Trees or shrubbery in such easements maybe required to be removed prior to final plat.

Q. FENCING PROVISIONS

Historical location and ownership/responsibility of perimeter fencing will transfer to all subsequent owners of any subdivision lots. It is the responsibility of the subdivision lot owner to avoid harmful interactions with historical agricultural practices and neighbors outside of the subdivision.

R. PARKLAND REQUIREMENTS

Consistent with the appropriate parkland policies for each jurisdiction, the following shall apply:

1. A subdivider shall dedicate to the governing body cash, park improvements, or/and land donation equal, (except as provided in Subsections 2, 3, and 6 below) as follows:

a. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller; and/or

b. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre; and/or

c. 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than three acres; and/or

d. 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than five acres.

2. When a subdivision is located totally within an area for which density requirements have been adopted, or pursuant to existing 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 above, and may not exceed 0.03 acres per dwelling unit.

3. As per (MCA 76-3-621(3), a park dedication may not be required for:

a. land proposed for subdivision into parcels larger than 5 acres;

b. subdivision into parcels that are all nonresidential;

c. a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or

d. a subdivision in which only one additional parcel is created.

4. Park dedication is required for subsequent minor subdivisions as described in MCA 76-3-609(3)—unless only one additional lot is being created—and for first minor subdivisions from a tract of record (as described in 76-3-609(2)) if the proposed subdivision plat indicates development of condominiums or other multifamily housing, zoning regulations permit condominiums or other multifamily housing, or any of the lots are located within the Columbus municipal limits (MCA 76-3-621(8)(a)).

5. The governing body, in consultation with the applicant, the Planning Board, and park board that has jurisdiction, may determine suitable locations for parks and, giving due weight and consideration to the expressed preference of the subdivider, will determine whether the park dedication must be a land donation, cash donation, park improvements, or a combination thereof.

6. The governing body may use cash-in-lieu monies to acquire, develop, or maintain-within its jurisdiction-parks, public open space, or conservation easements only if such areas are within a reasonably close proximity to the proposed subdivision; and the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

- a. The governing body may not use more than 50% of the cash-in-lieu monies for park maintenance.
 - b. Cash-in-lieu monies may also be used in parks defined as regional in nature in the adopted park plan(s).
7. The local governing body shall waive the park dedication requirement if:
 - a. The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development;
 - b. the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area or value of the dedication required under preceding Subsection 1; and
 - c. the preliminary plat provides long-term protection of critical wildlife habitat, cultural historical or natural resources, agricultural interests, or aesthetic values.
8. Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in Subsection 1 to a school district, adequate to be used for school facilities or buildings.
9. Cash-in-lieu of park land is determined by the current fair market value of the unsubdivided, unimproved land as estimated by the written opinion of two independent real estate professionals.

S. FIRE PROTECTION

1. All subdivisions must be planned, designed, constructed, and maintained so as to minimize the risk of fire, and to permit the effective and efficient suppression of fires to protect persons, property, and forested areas. All subdivisions shall have the availability, through a fire protection district, of fire protection services adequate to respond to fires that may occur within the subdivision. If a subdivision is not located within one mile of a fire department or in a fire district or fire service fee area, one of the following fire protection arrangements shall be provided.
 - a. If contiguous to a fire district or fire service area, the subdivision shall annex into the fire district or fire service area.
 - b. If the annexation is unsuccessful, the subdivider/property owner(s) shall either:
 - (1) contract for fire protection services; or
 - (2) form a new fire district or fire service area and contract with an existing rural fire district or fire service area.

2. Fire Prevention and Control Plan (FPCP): All applications for proposed subdivisions in “high” to “extreme” fire hazard areas as determined by the Fire Protection Authority Having Jurisdiction (FPAHJ) shall contain a FPCP which details how the subdivision will meet the requirements of this Section. Provisions for the FPCP shall be included in the homeowners’ association agreement, if any, and in the subdivision improvements agreement (SIA). (A copy of the Fire Hazard Assessment Determination Form is in Appendix F.) The statement “This subdivision is located in a high to extreme fire hazard area” must be noted on the final plat. Additionally, all subdivisions with a high or extreme fire hazard area designation shall be required to meet criteria a, b or c of subsequent *section 3. Water Supply Requirements* of these Regulations. No variance or alternative from water supply requirements will be granted or accepted when it is determined a subdivision is located in a high to extreme fire hazard area.

3. Water Supply Requirements: All new subdivisions containing six or more lots shall provide for adequate water for fire protection by meeting either a, b, c, d or e below for minimum water supply requirements. This includes subsequent minor subdivisions which bring the total number of lots in the existing subdivision to six or more; such cumulative subdivisions must comply with all the requirements of this section such as maintenance, access, reimbursement, and determination of high and extreme fire hazard areas. All fire protection provisions must be in place before filing of the final plat. Variances to these standards must follow the variance procedures outlined in Section II. G. 1. of these Regulations. The governing body will rely on the recommendation of the FPAHJ when determining whether or not to grant a requested variance.

a. a municipal water supply system meeting National Fire Protection Association (NFPA) standards or the current Montana fire code;

c. a 30,000-gallon, year-around water source, approved by the FPAHJ, with six-inch and 2.5-inch dry hydrant-type fittings capable of flowing 1000 gallons per minute (gpm) located not more than one-half road mile from any structure in the subdivision.

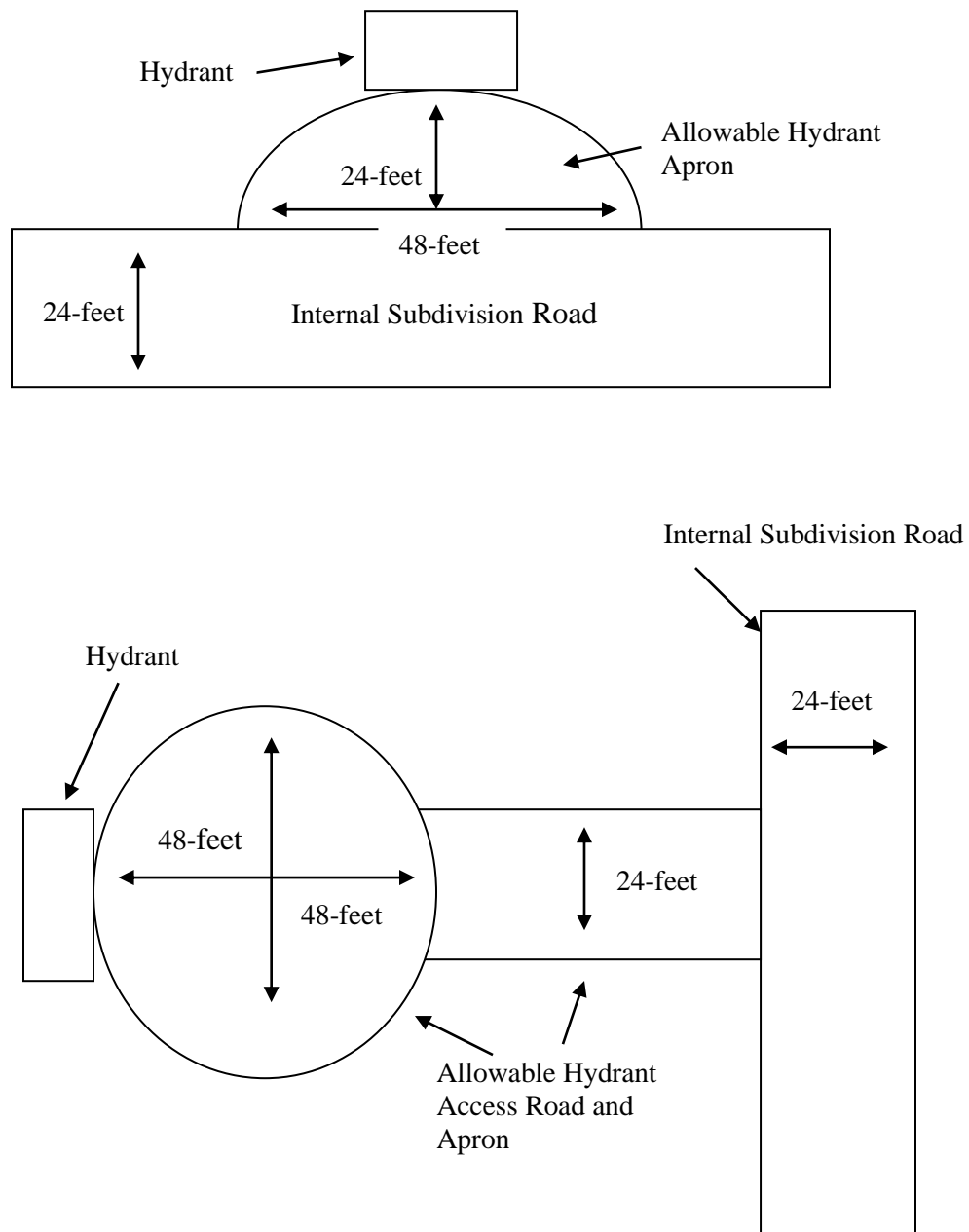
d.

e. For buildings other than one- and two-family dwellings, the minimum fire flow and duration shall be as specified in Table H.5.1 of NFPA 1, Uniform Fire Code.

f. An all-weather access road to and the apron area for the hydrant must at a minimum meet the design standards for a gravel road section as outlined in Figure IV-3. The access road must be 24-feet wide and the apron must have a 48-foot radius to allow for the passing and turning around of fire apparatus (see Figure IV-4 for examples of allowable hydrant aprons). An 18- by 24-inch aluminum reflective sign with red letters on a white background attached to a standard County road sign post five feet above the ground and clearly visible from the access road must be provided. The sign must contain the words “Dry Fire Hydrant” and the address of the hydrant (obtained from the County GIS Department). Prior to final plat approval, the developer shall have a professional engineer certify the hydrant has been built and installed to county

specifications. Upon certification the PE shall submit a letter to the FPAHJ and the planning office. The County Disaster and Emergency Services (DES) Department must be invited to review the installation of the dry hydrant and the construction of the access road and apron; he/she will inspect the construction and installation upon completion and must be provided with as-built drawings of the facility. The DES Department must coordinate activities with the FPAHJ and provide a written summary of findings and a recommendation to the Planning Office, in order that this summary may become part of the decision-making process of the final plat.

Figure IV-4 Hydrant Aprons



4. The subdivider/developer shall provide detailed descriptions, specifications, and drawings of all components of the proposed fire protection water tank(s) or pond to include fittings and couplings, capacity, risers, and construction material shall be provided with the preliminary plat application. As-built drawings signed by the contractor must be submitted to the Planning Office and DHL upon completion of construction. The Subdivider shall have a Professional Engineer inspect and sign off on the facility during and after construction for compliance to these Regulations.

5. Water Supply Maintenance: Homeowners' Associations are responsible for the continued operation and maintenance of fire protection systems within their respective subdivisions. This requirement shall be referenced in the Subdivision Improvements Agreement and also the covenants and restrictions. The same requirements applies for implementation of the FPCP in areas of high to extreme fire hazard. Fire protection systems include but are not limited to dry hydrant or water storage facility, fittings needed by the FPAHJ to connect to the storage facility, water supply, power supply—if applicable, and access. If the FPAHJ determines that maintenance is not being addressed appropriately, the FPAHJ may perform such maintenance—or have it performed, and such cost will be assessed, as provided by statute, against the lot owners of the subdivision.

6. Fire protection facilities described herein for subdivisions may also be maintained by rural special improvement districts formed at the time of subdivision approval or by areas of the County at any time. The petition and documents creating such districts must be submitted with the preliminary and final plats.

7. Fire Department Authority, Access, and Use: Duly authorized fire fighting agencies are authorized to enforce fire protection provisions in these regulations as approved by the local governing body by the State Department of Justice. The FPAHJ shall have unrestricted use in perpetuity to all water supply systems for fire suppression, training, and systems testing.

8. Additional Water Supply Requirement: The FPAHJ may require additional fire protection system components in areas of high to extreme fire hazard.

9. Reimbursement for Joint Use of Fire Protection Systems: If a subsequent subdivision may be served adequately by an existing fire protection system, as determined by the FPAHJ, the developer of the subsequent subdivision must contribute a proportionate share of the original cost of providing fire protection systems for his subdivision to the party responsible for the existing fire protection system. The subsequent developer may also, at the direction of the FPAHJ, upgrade an existing fire protection system. Subsequent developers must also share in the on-going maintenance of such facilities. Owners of existing systems may not prohibit new subdivisions from using their existing system nor demand prohibitively high reimbursement costs.

10. High and Extreme Fire Hazard Areas: Subdivisions in high or extreme fire hazard areas, as determined by the FPAHJ, shall include the following in the FPCP:

- a. an analysis of the wildfire hazards on the site as influenced by existing vegetation and topography;
- b. a map showing the areas to be cleaned of dead, dying, or severely diseased vegetation;
- c. a map of tree growth to be trimmed to reduce interlocking tree canopies;
- d. identification of roads, driveways, and bridges that are sufficient for emergency vehicle access and fire suppression activities; (Slopes/grades on all roads and driveways must be shown.)
- e. Designate building envelopes. Building sites may not be located on slopes greater than 20 percent or at the apex of fire chimneys (usually drainageways or swales which tend to funnel or otherwise concentrate fire toward the top of the slope).
- f. At least two entrances/exits must be provided and constructed to County minimum standards except that the turning radii must be 100 feet minimum for curves, and bridges must be built to carry 20 tons and constructed of non-flammable materials. Roads must be cleared of all slash.
- g. Open space, park land, trails, etc. should be located to separate residences and other buildings from densely vegetated and forested areas.
- h. The standards in the July 1993 *Fire Protection Guidelines for Wildland Residential Interface Development* shall be used in developing the FPCP.
- i. The FPCP must be in place and approved by the FPAHJ before final plat approval. No building of dwelling units shall commence before approval is obtained by the FPAHJ.

11. Fire protection water tanks shall be constructed from plastic, concrete, fiberglass, or other materials approved by the FPAHJ. The capacity of the tanks shall be a minimum of 30,000 gallons with approved dry fire hydrant fittings.

12. A fee must be paid at the time of submission of preliminary plat to cover the cost of subdivision and fire fighting facilities plan review.

13. The further a subdivision is from the base for emergency services, such as fire, ambulance, and police services, the more subject the subdivision will be to delays caused by road and weather conditions and availability of personnel and equipment.

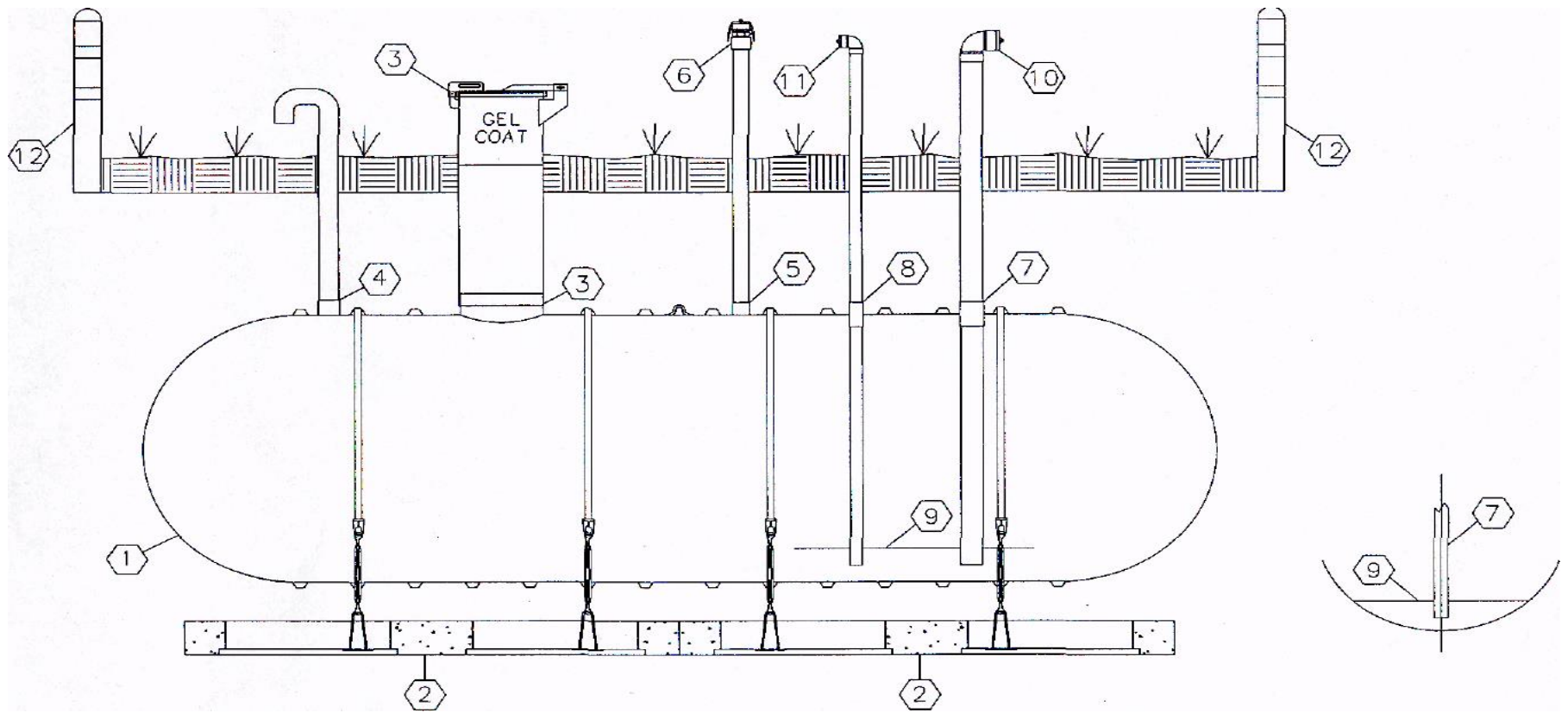


Figure IV-5 FIRE WATER STORAGE

1. Single-wall FRP tank, 8' dia, 10,000 gal (nominal)
2. Precast deadman system with hold-down strap and turnbuckle assy (Optional)
3. 24" dia (nominal) access opening with hinged and lockable access
4. 6" NPT vent (screened!)
5. 4" NPT fill
6. 4" auxiliary fill with cam lock connection (Optional)
7. 6" NPT full coupling and 6" PVC suction down pipe with Wale threaded adopter
8. 3" NPT full coupling and 3" PVC suction down pipe with Male threaded adapter
9. FRP anti-vortex plat
10. 6" primary suction with cap
11. 2.5" auxiliary suction with cap
12. Protective bollards (4 total—1 on each corner)

Figure IV-4

T. AIRPORT STANDARDS

For Subdivisions within the adopted Airspace Map for the Columbus Airport Woltermann Memorial, the following shall apply:

1. compliance with all applicable airport zoning height requirements, airspace maps, and related standards,
2. provision of an Air Navigation Easement (see Definitions Section).
3. notice of all subdivisions within the adopted airspace map for the airport will be provided to the FAA and Montana Aeronautics along with the other service providers.

U. TRAFFIC IMPACT ANALYSIS

A traffic impact analysis will be required when the proposed subdivision contains 10 or more residential lots. Non-residential lot traffic analysis needs will be determined at the time of the Pre-application Meeting. The trip generation rates shall be based on the most recent edition of the “Trip Generation” manual published by the Institute of Transportation Engineers.

1. The analysis shall be prepared by a registered engineer with expertise in transportation planning.
2. The Traffic Impact Analysis will be written with supporting documentation including maps and other information as specified below. At minimum, it shall include:
 - a. existing traffic circulation, conditions, and patterns;
 - b. anticipated traffic circulation conditions and patterns generated by the proposed subdivision;
 - c. the effect on the existing road network; and
 - d. recommendations to alleviate negative effects.
3. The Traffic Impact Analysis will be reviewed as part of the proposed subdivision and may be reviewed by a traffic engineering consultant as provided in Section II. B.6. of these Regulations.
4. Subdividers will be required to repair damage done to existing roads serving new subdivisions during construction of the new subdivision and its improvements to include cement and dump truck trips made during construction of the dwelling units or commercial facilities. Damages will be assessed on the degradation of existing road conditions

only. Estimation of such damage based on subdivision build-out will be made by the County Planning Staff and County Road Bridge Superintendent. A bond covering the estimated cost of damage and projected damage must be submitted by the applicant subdivider prior to the filing of the final plat of the subject subdivision.

V. MOBILE HOME PARK STANDARDS

1. Mobile Home Spaces:

a. Mobile home spaces must be arranged to permit the safe and practical placement and removal of mobile homes.

b. All mobile homes must be located at least twenty 20 feet from external property lines.

c. The mobile home pad must be located at least 15 feet from the street that serves it.

d. The size of the mobile home pad must be suitable for the general market to be served and must fit the dimensions of mobile homes anticipated.

e. A mobile home pad may not occupy more than one-third of the area of its space. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds of the area of a space.

f. The mobile home pad shall be improved to provide adequate support for the placement and tie-down of the mobile home.

g. No mobile home or its attached structures, such as awnings and carports, may be located within 10 feet of any other mobile home or its attached structures.

h. No detached structure, such as a storage shed, may be located within 5 feet of any mobile home or its attached structures.

i. A minimum of two off-street parking spaces must be provided on each mobile home space. Parking spaces shall be 9 feet by 20 feet in size. The driveway must be located to allow for convenient access to the mobile home and be a minimum of 12 feet wide.

j. One guest parking space must be provided for each ten mobile home spaces. Group parking may be provided.

k. The limits of each mobile home space must be clearly marked on the ground by permanent flush stakes, markers, or other suitable means. Location of space limits on

the ground must be approximately the same as those shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground.

1. The rules governing the operation of the park must require that each mobile home be skirted within 30 calendar days after it is moved to a space. The skirting must be of a fire-resistant material similar to that of the mobile home exterior.

m. Minimum space area for each mobile home shall be 6,000 square feet.

2. Streets:

Streets within a mobile home park must meet the design standards for Streets and Roads shown herein. Streets must be designed to allow safe placement and removal of mobile homes.

a. Streets must be designed to provide safe access to private or public roads.

b. Roads within the mobile home park must be designed to provide safe traffic circulation and parking.

W. RECREATIONAL VEHICLE PARK STANDARDS

1. Recreational Vehicle Spaces:

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

b. Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking. One-way roads must be at least 15 feet wide; two-way roads must be at least 24 feet wide.

c. Recreational vehicles must be separated from each other and from other structures by at least 20 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.

d. No recreational vehicle space may be located less than 25 feet from any private or public street or highway right-of-way.

e. Minimum space area for each recreational vehicle shall be 1,000 square feet.

2. Density:

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

X. CONDOMINIUMS, TOWNHOMES, OR TOWNHOUSES

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

1. Condominium, townhome, or townhouse developments must be in compliance with, and may be subject to review under, the Stillwater County Development Regulations and/or the Stillwater County Building for Lease or Rent (BLR) regulations, available through the Planning Office.
2. If a proposed condominium, townhome, or townhouse development will involve a division of land, the subdivision must be reviewed under the procedures contained in Section II.
3. Condominium, townhome, or townhouse developments must comply with applicable standards contained herein (Section IV, Design and Improvement Standards).
4. Condominium, townhome, or townhouse developments must also comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA.

V. EVASION CRITERIA

A. PROCEDURES AND GENERAL REQUIREMENTS

1. Any person seeking exemption from the requirements of the MSPA (76-3-101, MCA) shall submit to the County:

a. A certificate of survey, exempt amended plat, or, where a survey is not required, an instrument of conveyance;

b. evidence of, and an affidavit affirming, entitlement to the claimed exemption; and

c. an application for exemption and requisite review fee.

2. When a certificate of survey, exempt amended plat or instrument of conveyance is submitted to the Planning Office, it shall be reviewed by the County Planner, Sanitarian, County Attorney, Examining Land Surveyor, and Clerk and Recorder as the designated agents of the governing body. The agents shall review the proposed land division to determine whether it complies with the requirements set forth in the Montana Subdivision and Platting Act and Title 24, Administrative Rules of Montana.

3. Any person whose proposed use of exemption has been denied by the designated agents because the use of the exemption raised a rebuttable presumption established by these guidelines may appeal the decision to the County Commissioners.

a. The person may request a hearing, and may submit evidence to show that the use of the exemption in question is not intended to evade the Act, and, thereby overcome the rebuttable presumption.

b. If the governing body concludes that the evidence and information overcomes the presumption that the exemption is being invoked to evade these criteria, they may authorize the use of the exemption in writing.

c. A certificate of survey claiming such an exemption from subdivision review, which otherwise is in proper form, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the governing body.

4. **Advisory Examination.** Landowners or their representatives are encouraged to meet with the County Planning Office to discuss whether a proposed land division or use of an exemption is in compliance with these criteria. The agents may issue an advisory opinion only, and the opinion creates no commitment on the local officials when the documents creating the proposed land division are submitted to the County.

5. The local governing body and its agents, when determining whether an exemption is claimed for the purpose of evading the Act, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to:

- a. the nature of the claimant's business;
- b. the prior history of the particular tract in question;
- c. the proposed configuration of the tracts if the proposed exempt transaction is completed; and
- d. Any pattern of development or transactions that will result in the equivalent of a subdivision without local government review

6. Exempt divisions of land that would result in a pattern of development equivalent to a subdivision shall be presumed to be adopted for purposes of evading the Act. A "pattern of development" occurs whenever three or more parcels of less than 160 acres would result in a pattern of development with such characteristics as common roads, sewer, water, utility easements, restrictive covenants, open space, or common marketing or promotional plan.

7. If the use of an exemption is determined to be an evasion of the Act, the landowner may submit a subdivision application for the proposed land division.

9. Exempt divisions of land are subject to applicable zoning.

B. EXEMPTION AS A GIFT OR SALE TO A MEMBER OF THE IMMEDIATE FAMILY (76-3-207(1)(b), MCA)

1. The intention of this exemption is to allow a landowner to convey one parcel to each of member of the immediate family without local subdivision review.

2. MCA 76-3-103(8) defines "immediate family" as the spouse, children by blood or adoption, or parents of the grantor.

3. Filing of any certificate of survey (or recording of an instrument of conveyance) that would use this exemption to create a parcel for conveyance to a family member must show the following:

- a. name of the grantee;
- b. relationship to the landowner;
- c. the parcel to be conveyed under this exemption; and

d. the landowner's certification of compliance.

4. One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review under this provision. However, the use of the exemption may not create more than one remaining parcel of less than 160 acres.

5. The use of the family conveyance exemption to create a pattern of development which is the equivalent of a subdivision with such characteristics as common roads, sewer, water, utility easements, restrictive covenants, open space or common marketing or promotional plan shall constitute a rebuttable presumption that the use of the exemption is adopted for purposes of evading the Act.

6. The use of the family conveyance exemption to create a tract currently listed for sale shall constitute a rebuttable presumption that the use of the exemption is adopted for the purposed of evading the Act.

C. EXEMPTION TO PROVIDE SECURITY FOR A CONSTRUCTION MORTGAGE, LIEN, OR TRUST INDENTURE (76-3-201(1)(b), MCA)

1. This exemption allows a landowner who is buying a tract using financing or contract for deed to segregate a smaller parcel from the tract for security for financing or construction of a home on the property.

2. When this exemption is to be used, the landowner shall submit to the County a signed statement from the owner of record of the property to be divided and the lending institution that the creation of the exempted parcel is necessary for the owner to secure financing through a construction mortgage, lien, or trust indenture on the exempted parcel.

3. The use of this exemption does not create an individually transferrable tract of record unless it has been foreclosed upon by a lending institution, or if one of the parcels created by the exemption was conveyed to another party without foreclosure prior to October 1, 2003 (76-3-201(3) and (4), MCA).

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

a. it will create more than one building site; and

b. the loan is for someone other than the owner of record of the parcel to be divided; and

c. the use of the mortgage exemption will create a pattern of development which is the equivalent of a subdivision with such characteristics as common roads, sewer, water, utility easements, restrictive covenants, open space or common marketing or promotional plan.

D. EXEMPTION FOR AGRICULTURAL PURPOSES (76-3-207(1)(c), MCA)

1. The intent of this exemption is to allow a landowner to create a parcel without subdivision review where the parcel will be used only for production of livestock or agricultural crops and where no residential, commercial, or industrial buildings will be built.

2. "Agricultural purpose," for purposes of these evasion criteria, means the use of land for raising crops or livestock, or for the preservation of open space, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review, provided the applicable exemptions are properly invoked by the property owner.

3. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purposes of evading the Act:

a. The landowner and any other parties to the transaction must enter into a covenant running with the land and revocable only by mutual consent of the County Commissioners and the property owner that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by the property owner, the buyer or lessee, and the County Commissioners.

b. No building or structure requiring sewage facilities will be erected or utilized on the property. Residential, commercial, and industrial structures, including facilities for commercial processing of agricultural products, are excluded uses on parcels created under this exemption unless the covenant is revoked.

4. Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a subdivision unless:

a. The original lot lines are restored through aggregation of the covenanted land prior to or in conjunction with the revoking of the covenant, or

b. A government or public entity seeks to use the land for public purposes as defined below. If a governing body proposes to revoke a covenant pursuant to this section, the governing body shall hold a public hearing. Within 15 days of the hearing, the governing body shall issue written findings of fact and a decision based on the record. If the governing body approves the revoking of the covenant, the approval must be recorded with the clerk and recorder.

c. For the purposes of this section, a public purpose means parks and recreational facilities, such as a swimming pool or recreation center; utility sites; and irrigation facilities.

d. The revocation of a covenant pursuant to this section does not affect sanitary restrictions imposed on the parcel.

E. RELOCATION OF COMMON BOUNDARY (76-3-207(1)(a, d, & e), MCA)

1. The intended purpose of this exemption is to allow a change in the location of a boundary line between parcels to transfer a tract or a portion of a tract to effect the change in boundary without subdivision review.

2. Certificates of survey or exempt amended plats claiming this exemption must clearly distinguish between the existing boundary location and the new boundary. This shall be accomplished by representing the existing boundary with a dashed line and the new boundary with a solid line. The appropriate certification must be included on the certificate of survey or exempt amended plat.

3. If the relocation of a common boundary would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision.

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

a. it will create additional tracts of record above the beginning number of tracts;

b. the boundary line being relocated is not currently the boundary line of a tract of record;

c. it will redesign or rearrange six or more lots within a platted subdivision (76-3-207(1)(d), MCA).

F. DIVISIONS OF LAND BY COURT ORDER (76-3-201(1)(a), MCA)

1. Any court of record in the state of Montana may create a division of land by order or by operation of law or that, in the absence of agreement between the parties to

the sale, could be created by an order of any court in this state pursuant to the law of eminent domain.

2. A court-ordered division may not create more than four new lots or parcels from the original lot or parcel.

3. Before a court of record orders a division of land, the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division.

4. A survey for a court-ordered division of land shall include a reference to the court decision or case number.

G. OTHER EXEMPTIONS (MCA 76-3-201(1)(c) through (h))

1. Divisions creating an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property.

2. Divisions creating cemetery lots.

3. Divisions creating a life estate.

4. Divisions created by lease or rental for farming and agricultural purposes.

5. Divisions over which the State has no jurisdiction.

6. Divisions created by rights-of-way or utility sites.

H. AGGREGATION OF LOTS (MCA 76-3-207(1)(f))

The aggregation of parcels or lots, when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregated parcel are established, are exempt from subdivision review; however, restrictions and conditions on the original platted lot or original unplatted parcel continue in effect. (See also MCA 76-3-103(17)(b) and (c)).

I. EXEMPTIONS REQUIRING NO CERTIFICATE OF SURVEY (MCA 76-3-401)

Exempt parcels which can be described as 1/32 or larger (20 acres or larger) aliquot parts (i.e., S1/2, NW1/4, SW1/4) are exempt from survey requirements. Deeds conveying exempted parcels, , must include required certification language in or with the deed. If a

parcel exempt from subdivision review cannot be described by aliquot parts, it must be surveyed and a certificate of survey must be filed.

J. EXEMPTION FOR CERTAIN CONDOMINIUMS (MCA 76-3-203)

Condominiums, townhomes, or townhouses, as those terms are defined in 70-23-102, MCA, constructed on land divided in compliance with this chapter are exempt from the provisions of this chapter if:

1. The approval of the original division of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or
2. Local zoning regulations are adopted and the condominium, townhome, or townhouse proposal is in conformance with such zoning.

K. EXEMPTION FOR AIRPORT LAND AND STATE-OWNED LANDS-EXCEPTION (76-3-205 MCA)

1. A division of land created by lease or rental of contiguous airport-related land owned by Columbus, Stillwater County, the state, or an airport is not subject to the requirements of this chapter if the lease or rental is for onsite weather or navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier-related activities.
2. A division of State-owned land is not subject to the requirements of these Regulations unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.

L. REMAINDER TRACT OF RECORD

A remainder parcel is that part of an original tract that is left following the segregation of other parcels from the tract for the purpose of subdivision. If the remaining tract of record is less than 160 acres, it shall be considered an additional lot and must be included in the subdivision. A remaining tract of record can be less than 160 acres if it has been created by the use of an exemption to the MSPA and these Regulations (both tracts of record are exempt); the remaining tract of record cannot have been created for the purpose of transfer. Only one remainder parcel can be established in the parcel segregation process, and new residential construction may not be started on the remainder tract without review by and approval of DEQ/County Sanitarian.

M. CERTIFICATIONS FOR USE OF SUBDIVISION AND PLATTING ACT EXEMPTIONS

1. In order to file exempted amended plats or certificates of survey, the exempted amended plat or certificate of survey must include certification that it is exempt from review under the Montana Subdivision and Platting Act. Exemption Certifications should read substantially as shown below.

2.a. Gift or Sale to Member of Immediate Family: "I (we) hereby certify that the purpose for this division of land is to transfer parcel ____#____ as shown on this certificate of survey to _____ (Grantee) _____, my (our)(daughter, son, mother, father, wife or husband), that this is the first and only gift or sale to this person. I (we) am (are) entitled to use this exemption in that I(we) am(are) in compliance with all conditions imposed on the use of this exemption; therefore, this division of land is exempt from review as a subdivision pursuant to section 76-3-207(1)(b) MCA."

2.b. Gift or Sale to Member of Immediate Family and Exempt From Surveying Requirements: "The grantor(s) hereby certifies(y) that the purpose for this division of land is to transfer the aliquot part of a section described in this deed to (Grantee), my (our)(daughter, son, mother, father, wife or husband), that this is the first and only gift or sale to this person. Furthermore, I(we) am(are) entitled to use this exemption in that I(we) am(are) in compliance with all conditions imposed on the use of this exemption; therefore, this division of land is exempt from review as a subdivision pursuant to section 76-3-207(1)(b) MCA and is furthermore exempt from any survey requirements pursuant to 76-3-401 MCA."

3. Construction Mortgages, Liens, or Trust Indentures: "We hereby certify that the purpose of this survey is to describe (tract description) pursuant to 76-3-201(1)(b), the creation of which is necessary for the owner of record of the parcel to be divided to obtain a loan for said property and to provide security for the lender through a construction mortgage, lien, or trust indenture." The lender must provide a letter substantiating the need for use of this exemption.

4.a. Use for Agriculture: "I (we) hereby certify that the purpose of this survey is to create a parcel as an agricultural tract, and that a covenant has been entered into, with the landowner, buyer, or lessee revocable only by mutual consent of the governing body and the property owner, that the land will be used exclusively for agricultural use, and that this division of land is therefore exempt from review as a subdivision pursuant to Section 76-3-207(1)(c), MCA."

4.b. Use for Agriculture and Exempt From Surveying Requirements: "The grantor(s) hereby certifies(y) that the division(s) of land described in this deed as (aliquot part description) is(are) an agricultural tract(s), and that a covenant has been entered into, with the buyer, revocable only by mutual consent of the governing body and the property owner, that the land will be used exclusively for agricultural use and that this division of land is therefore exempt from review as a subdivision pursuant to section 76-3-207(1)(c), MCA, and is furthermore exempt from survey requirements pursuant to 76-3-401, MCA."

5. Relocation of Common Boundary Outside of Platted Subdivisions: "I (we) hereby certify that the purpose of this survey is to relocate common boundary lines between adjoining properties outside of platted subdivisions and is exempt from subdivision review pursuant to 76-3-207(1)(a), MCA ."

6. Re-arranging or Re-designing Lots Within a Platted Subdivision: "I (we) hereby certify that the purpose of this survey is to relocate common boundary lines and the aggregation of five or fewer lots within a platted subdivision, fewer than six (6) lots are affected, and no additional lots are hereby created; therefore, this survey is exempt from review as a subdivision pursuant to Section 76-3-207(1)(d), MCA."

7. Relocating Common Boundaries between a Lot Within a Platted Subdivision and Land Outside: "I (we) hereby certify that the purpose of this survey is to relocate a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision; therefore, this survey is exempt from review as a subdivision pursuant to Section 76-3-207(1)(e), MCA."

APPENDIX A

**ENVIRONMENTAL
ASSESSMENT**

**SUMMARY OF PROBABLE
IMPACTS**

**COMMUNITY IMPACT
REPORT**

APPENDIX A

Environmental Assessment, Summary of Probable Impacts, and Community Impact Report

Using best available information the subdivider shall provide narrative responses to the following questions and provide materials as required; sources of information must be identified. Preparation of the environmental assessment shall follow this outline and shall be identified with the appropriate section, heading, number and letter. On-site inspections may be made regarding any question. Falsification or omission of any part of the questionnaire shall constitute grounds for rejection of the application for plat approval.

I. DESCRIPTION OF ENVIRONMENT

Describe the following environmental features, provide responses to the following questions and provide reference materials.

A. Surface Water

1. Locate on a plat overlay or sketch map all surface water and the delineated floodways that may affect or be affected by the proposed subdivision including natural water systems (streams, lakes, rivers, or marshes), artificial water systems (canals, ditches, aqueducts, reservoirs, irrigation or drainage systems), and land subject to flooding.

2. Describe all surface water that may affect or be affected by the proposed subdivision including name, approximate size, present use, and time of year that water is present.

3. Describe the proximity of proposed construction (such as buildings, sewer systems, roads) to surface water.

4. Describe any existing or proposed stream bank or shoreline alterations and/or any proposed construction or modification of lakebeds or stream channels. Provide information on the location, extent, type, and purpose of any proposed alteration.

5. Please indicate which of the following water quality permits have been or will be applied for and describe the reasons why these permits are required.

<u>PERMIT</u>	<u>AGENCY</u>
310 Permit	Local Conservation District
SPA 124 Permit	Department of Fish, Wildlife and Parks
Floodplain Permit	County Floodplain Administrator
Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers
318 Authorization	Department of Environmental Quality

Navigable Rivers Land Use License or Easement	Department of Natural Resources and Conservation
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B. Groundwater

Using available data, provide the following information:

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

C. Topography, Geology, and Soils

1. Provide a map of the topography of the area to be subdivided, and an evaluation of suitability for the proposed land uses. Address conditions such as: shallow bedrock, unstable slopes, unstable or expansive soils, and excessive slope.
2. On the map identify any areas with highly erodible soils or slopes in excess of 15% grade. Identify the lots or areas affected. In considering any unusual conditions specifically address any problems which may be encountered in excavating for: basements, water supply trenches, sewer line trenches, septic tanks and drainfields, and underground electrical and telephone lines.
3. Locate on an overlay or sketch map any known hazards affecting the development which could result in property damage or personal injury due to: falls, slides or slumps (soil, rock, mud, and snow), rock outcroppings, seismic activity, and high water table.
4. Describe measures proposed to prevent or reduce these dangers.
5. Describe the location and amount of any cut or fill more than three feet in depth. Indicate these cuts or fills on a plat overlay or sketch map. Where cuts or fills are necessary, describe plans to prevent erosion and to promote vegetation such as replacement of topsoil and grading.
6. Include soil reports obtained from the U.S.D.A., Natural Resource and Conservation Service (NRCS) containing the physical properties and engineering indices for each soil type, the soil limitations for sanitary facilities, building site development, and water features for each soil type. Describe any special design methods planned to overcome the soil limitations.

D. Vegetation

1. On a plat overlay or sketch map:

- a. Indicate the distribution of the major vegetation types, such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
- b. Identify the location of critical plant communities such as: stream bank or shoreline vegetation, vegetation on steep, unstable slopes, vegetation on soils highly susceptible to wind or water erosion, and type and extent of noxious weeds.

2. Describe measures to:

- a. Preserve trees and other natural vegetation, e.g., locating roads and lot boundaries and planning construction to avoid damaging tree cover.
- b. Protect critical plant communities, e.g., keeping structural development away from these areas or setting areas aside for open space.
- c. Prevent and control grass, brush or forest fires, e.g., green strips, water supply, access.
- d. Measures to control noxious weeds.

E. Wildlife

1. Describe any species of fish and wildlife that use the area affected by the proposed subdivision.
2. On a copy of the preliminary plat or overlay, identify known critical wildlife areas, such as big game winter range, calving areas and migration routes, riparian habitat and waterfowl nesting areas, habitat for rare or endangered species, and wetlands.
3. Describe proposed measures to protect or enhance wildlife habitat or to minimize degradation (e.g., keeping buildings and roads back from shorelines, setting aside wetlands as undeveloped open space, utilizing wildlife friendly fencing practices, etc.).
4. Provide a written statement outlining any recommendations from the Montana Department of Fish, Wildlife, and Parks, and any efforts to mitigate adverse impact.

II. SUMMARY OF PROBABLE IMPACTS

Except where exempt by state law (per 76-3-509, 76-3-609 or 76-3-608(6), MCA) all subdivisions must be reviewed for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety (76-3-608 (3)(a), MCA).

The evaluation of the effect of the proposed subdivision on the six criteria listed below determines if there are significant unmitigated adverse impacts. Unmitigated adverse impacts are potential grounds for denial of a proposed subdivision. Depending on the proposed subdivision, some of these items may not apply. In addition, some proposals may require evaluation of other factors not included in these examples to weigh the subdivision's effect on these criteria. It is the subdivider's responsibility to document proposed mitigation of any adverse impacts on these six criteria.

Provide a written response that clarifies the probable impact of the proposed subdivision in relation to the specific item.

A. Effect on Agriculture

1. Number of acres that would be removed from the production of crops, livestock, or timber.
2. Acres of prime farmland (as defined by the USDA) that would be removed from production.
3. Potential conflicts between the proposed subdivision and adjacent agricultural operations including:
 - a. Interference with movement of livestock or farm machinery, maintenance of fences, weed proliferation, vandalism or theft, or harassment of livestock by pets or humans.
 - b. Other items to be considered include the effect on market value of surrounding land and the net effect on taxes resulting from additional services.

B. Effect on Agricultural Water User Facilities

1. Location of or proximity to agricultural water user facilities.
2. Potential conflicts between facility users and subdivision residents including seeps, flooding, washouts; obstructions and interference, and unintended uses (recreation or landscaping).
3. Existing and required water rights.
4. Vehicular access to facility.

C. Effect on Local Services

1. Increased demand on services and need to expand services
2. Ability to provide services to subdivision:
 - a. Response times of fire, law enforcement, ambulance services, etc.
 - b. Conditions of roads, bridges, and railroad crossings
 - c. Physical barriers
3. Provision of adequate local services and public facilities simultaneous or prior to onset of impact.

4. Present County and school taxes generated by parcel before subdivision and expected tax revenue after subdivision is complete and structures built.

D. Effect on Natural Environment

1. Runoff reaching surface waters (e.g., streams, rivers or riparian areas).
2. Impacts on ground water quantity and quality.
3. Impacts on air quality.
4. Impacts on scenic resources.
5. Impacts on historic, pre-historic, and cultural resources
6. Noxious weeds.
7. Wetlands not covered under nationwide permits.

E. Effect on Wildlife and Wildlife Habitat

1. Loss of significant, important, and critical habitat, as defined by Montana Fish, Wildlife and Parks or the U.S. Fish and Wildlife Service.
2. Impacts on significant, important, and critical habitat including potential effects of: roads and traffic; closure of existing operations and/or potential to provide new access to public lands; and effects of humans and pets on wildlife.

F. Effect on Public Health and Safety

1. Creation of potential man-made hazards (e.g., unsafe road intersection, development in wild-land residential interface fire areas).
2. Natural hazards (e.g., wildfire, flooding, steep slopes).
3. Existing potential man-made hazards (e.g., high pressure gas lines, lack of fire protection, cumulative impacts).
4. Traffic safety.
5. Emergency vehicle access.
6. Emergency medical response time.
7. Condition of road leading to proposed subdivision.

8. Condition of bridges on road leading to proposed subdivision.
9. Any other item that endangers public health and safety

III. COMMUNITY IMPACT REPORT

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

A. Education and Busing

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

B. Roads and Maintenance

1. Estimate how much daily traffic the subdivision, when fully occupied, will generate on existing streets and arterials.
 - a. Describe the capability of existing and proposed roads to safely accommodate this increased traffic.
 - b. Describe increased maintenance problems and increased cost due to this increase in volume.
2. Describe proposed new public or private access roads including:
 - a. Measures for disposing of storm run-off from streets and roads.
 - b. Type of road surface proposed and provisions to be made for dust control.
 - c. Facilities for streams or drainage crossing (e.g., culverts, bridges).
 - d. Seeding of disturbed areas.
3. Describe the closing or modification of any existing roads.
4. Explain why road access was not provided within the subdivision, if access to any individual lot is directly from arterial streets or roads.

5. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision? Identify the owners of any private property over which access to the subdivision will be provided.

6. Estimate the cost and completion date of the system, and indicate who will pay the cost of installation, maintenance, and snow removal.

7. What is the opinion of the County Road and Bridge Superintendent?

C. Water, Sewage, and Solid Waste Facilities

1. Briefly describe the water supply and sewage treatment systems to be used in serving the proposed subdivision (e.g., methods, capacities, locations).

2. Provide information on estimated cost of the system, who will bear the costs, and how the system will be financed.

3. Describe the amount of solid waste generated and the proposed method of collecting and disposing of such waste from the development.

4. What company will dispose of solid waste and where.

D. Fire Protection

1. Describe the fire district that serves the project.

2. Describe the provisions for storage of fire fighting water proposed

3. Describe the response time to the subdivision.

4. Describe the requirements of the fire district to serve the site.

5. Provide the source of above information by name, title, and telephone number.

E. Police Protection

1. Describe the location of the nearest law enforcement personnel and response time to site.

2. Describe the requirements of law enforcement to serve site.

3. Provide the name, title, and telephone number of source of information.

F. Payment for Extension of Capital Facilities

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

APPENDIX C

**FLOOD HAZARD
EVALUATION**

2022

APPENDIX C

STANDARDS FOR FLOOD HAZARD EVALUATIONS

A. General

Land subject to being flooded by a flood of 100-year frequency as defined by Title 76, Chapter 5, M.C.A., or land deemed to be subject to flooding by the governing body may not be subdivided unless the subdivision provides for assurance that structures built therein will be approved by state or local floodplain or floodway regulations.

B. Intent

The intent of a flood hazard evaluation is to assess all possible flooding hazards to a subdivision. Part of this evaluation must therefore address the uncertainty of predicted conditions during significant meteorologic, geologic, and hydrologic events, and the evaluation draws upon known and observed flood behaviors and dynamics for context. The regulatory flood maps and associated flood studies recognized by Stillwater County may contain some of this information but do not address the full range of hazards and flooding conditions necessary for a Flood Hazard Evaluation.

C. Procedure

If any portion of a proposed subdivision is within 2,000 horizontal feet and less than 20 vertical feet of a stream draining an area of 25 square miles or more, and no official floodplain or floodway delineation (study) of the stream has been made, the subdivider shall provide in detail the calculated 100-year frequency water surface elevations and/or 100-year floodplain boundaries. This detailed study must be performed by a licensed professional engineer experienced in this field of work.

D. Submission of Report

Copies of the required Flood Hazard Evaluation shall be submitted at the time of subdivision and preliminary plat application. The governing body shall forward the study to the Floodplain Administrator and the Water Resources Division of the Montana Department of Natural Resources and Conservation (DNRC) for comment. The governing body shall not delay the preliminary plat review process to wait for comments. Any comments received by the governing body shall be forwarded to the subdivider.

E. Flood Hazard Evaluation

A Flood Hazard Evaluation is a professional assessment of all possible flooding hazards and a report of the risks associated with this potential flooding in the proposed subdivision. In addition to industry standard, one-dimensional, steady state water surface evaluation modeling, a flood hazard evaluation includes:

1. A discussion of overbank flow path uncertainty related to: rivers and stream channels that are topographically higher than surrounding floodplains, shallow flooding channels, alluvial fan flooding, debris jams, ice jams and/or diversions, and ditches.
2. A discussion of possible or predicted channel stability during flood events, including the possibility of channel avulsion and/or channel migration that could affect the flooding dynamic in the project area.
3. A discussion of the risk of landslides and/or debris flows occurring and affecting flood behavior in the project area drainages.
4. An analysis of the stability and structural integrity of permitted and unpermitted floodplain fill in the vicinity of the project that contacts the regulatory 100-year floodplain, including rip rap, berms, levees, and other fill.
5. A statement attesting that all proposed sanitary sewer infrastructure meets 100-year flood design standards and/or will not otherwise contribute to water pollution during periods of flooding or high groundwater.
6. A discussion of irrigation ditches in the area and how they would affect the project should they fail, overtop or route surface runoff.
7. An identification of depressional areas (areas below the Base Flood Evaluation or design flood evaluation but unconnected to a separate and discrete flow path).

F. Detailed Information

The detailed information to be included in the Flood Hazard Evaluation shall include the following:

1. Project information:
 - a. Brief description of project and study objectives
 - b. Project location: address, Legal, and common
 - c. Map or aerial photograph of project location
2. Hydrology:
 - a. Summary of available gauge sites and discharge estimations
 - b. Explanation of choice of discharge estimation method
 - c. Computations
3. Survey:

- a. Benchmark description with datum (NGVD 1929, NAVD 1988, or reference)
- b. Plan view showing watercourse, property bounds, cross section locations, proposed flood boundaries, benchmarks, and any bridges, diversion dams, levees or other pertinent structures.
- c. Photocopy of current FIRM at project location with panel number noted
- d. Plots of cross sections looking downstream

(1) 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.

(2) Each cross-section must cross the entire floodplain. The cross-section alignment should be perpendicular to the general flow of the watercourse (approximately perpendicular to contour lines). Occasionally, wide floodplains require a dog-leg alignment to be perpendicular to the anticipated flow lines. Shots should be taken at the water's edge and measurements taken (if elevation shots cannot be taken) to determine the channel bottom shape. Cross sections must be accurately located on a USGS 7 ½ minute quad sheet.

(3) The number of cross-sections needed, and the distance between cross-sections will vary depending on the site, the slope of the watercourse, the slope of the channel, and the hydraulic characteristics of the reach. A minimum of four cross sections are required over the entire reach with at least two cross-sections at the property where the elevations are desired. Additional cross-sections must be taken at bridges, control structures, or natural constrictions in topography.

- e. Photos of channel, overbanks, and any hydraulic structures
- f. Establish temporary benchmark near development
- g. Topographic data if flood boundaries are being drawn. Spot elevations or contours.

4. Hydraulics:

- a. Discussion of choice of methodology, Normal Depth, Step Backwater (HEC-RAS), Other
- b. Discussions of model parameters including Manning's n values, starting surface water elevations, flow regime, etc.
- c. Discussion of any special concerns, bridges, levees, side channels, ineffective flow areas, etc.
- d. Discussion of model results, model warnings, assumed critical depths

5. Results:
 - a. Summary
 - b. BFE at project location
 - c. Maps of floodplain boundary (if required)
 - d. P.E. stamp
 - e. Cover letter to Floodplain Administrator

APPENDIX B

SUBDIVISION IMPROVEMENTS AGREEMENT AND IMPROVEMENTS GUARANTEES

APPENDIX B

SUBDIVISION IMPROVEMENTS AGREEMENT

The below is an example only, intended to provide guidance to subdividers and land owners. Individual subdivision may differ from the example provided based on specific cases.

(Name of Subdivision)

This agreement is made and entered into this ____ day of _____, 20____, by and between *(Subdivider)*, whose address for the purpose of this agreement is **ADDRESS**, hereinafter referred to as “Subdivider,” and Stillwater County, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, the plat of *(Subdivision Name)*, located in Stillwater County, Montana, was submitted to the Stillwater County Planning Board; and

(for minor subdivisions insert the following)

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the Planning Board recommended conditional approval of a preliminary plat of *(Subdivision Name)*; and

(for major subdivisions, exclude above and insert the following)

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, and following a public hearing, the Planning Board recommended conditional approval of a preliminary plat of *(Subdivision Name)*; and

(both minor and major subdivisions insert the following)

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the Stillwater County Board of County Commissioners conditionally approved a preliminary plat of *(Subdivision Name)*; and

WHEREAS, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to *(Subdivision Name)* upon the filing of the final plat thereof in the office of the Clerk and Recorder of Stillwater County, Montana. The Subdivision shall comply with all requirements of the Stillwater Subdivision Regulations, the rules, regulations, policies, and resolutions of Stillwater County, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

A. Subdivider has requested, and the County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County's Subdivision Regulations (*list applicable variances*):

II. CONDITIONS THAT RUN WITH THE LAND

(Insert any applicable conditions following the below format. The following are typical conditions that run with the land and may or may not be applicable to each subdivision)

A. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

B. Lot owners should be aware that soil characteristics within the area of this subdivision indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

C. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

E. Lot owners should be aware that portion(s) of this property lie within the floodplain/floodway, as depicted on the FEMA maps for this area. Please be advised that special development restrictions may apply within these specified areas.

F. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.

G. Acquisition of road signs and replacement of old road signs are the responsibility of the subdivider or subsequent lot owners/homeowners' association.

H. When required by future road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public

right-of-way and any relocation outside of the public right-of-way shall be subject to securing easements.

I. Lot owners or their agent will obtain any necessary permits prior to construction, including, but not limited to, an approach permit, a septic permit, or a conditional use permit. Lot design and use must be in compliance with the approved subdivision documents or additional review may be required.

III. TRANSPORTATION

The subdivider agrees to guarantee all improvements for a period of two years from the date of final acceptance by the County Road and Bridge/Town Public Works Department.

This section should include, but not be limited to the following:

- A.** rights-of-way widths
- B.** pavement widths and surface types
- C.** curb and gutter design
- D.** other required street improvements
- E.** responsibility for construction and timeframe
- F.** location and type of proposed stop signs, signals, or other required traffic control devices
- G.** location and widths of proposed accesses
- H.** restrictions on access
- I.** other required access improvements

IV. EMERGENCY SERVICE

This section should include, but not be limited to the following:

- A.** location and specifications for emergency access road including width, base and surface material, blockade, and required signage
- B.** water storage tanks/dry hydrants
- C.** responsibility for construction and timeframe
- D.** High Fire Hazard Area Fire Plan

V. STORM DRAINAGE

All drainage improvements shall comply with the stormwater management plan submitted to and approved by the County Sanitarian/DEQ.

VI. UTILITIES

A. Water

This section should include, but not be limited to the following:

1. size/type of proposed systems
2. responsibility for construction and timeframe
3. State Department of Environmental Quality (DEQ) approval (letter submitted with final plat)

B. Septic System

This section should include, but not be limited to the following:

1. size of existing or proposed systems
2. responsibility for construction and timeframe
3. DEQ approval (letter submitted with final plat)

C. Power, Telephone, Gas, and Cable Television

This section should include, but not be limited to the following:

1. services to be provided within the public right-of-way or private easement existing or planned
2. width and location of easements shown on plat
3. responsibility for installation and timeframe

VII. PARKS/OPEN SPACE

This section should include, but not be limited to the following:

- A. the parkland requirement for this subdivision

- B.** required park improvements to the park and timing of construction
- C.** required formation of a Park Maintenance District, if any

For minor plats, where no parkland dedication is required, insert the following statement:

There is no parkland requirement for proposed (Subdivision Name), as this is a minor subdivision (MCA 76-3-621(3) (e)).

VIII. IRRIGATION

This section should include, but not be limited to:

- A.** irrigation District affected by the proposed development
- B.** required mitigation efforts to protect the ditches during construction
- C.** location and width of existing and proposed onsite easements for ditches
- D.** water shares to be transferred

IX. WEED MANAGEMENT

All noxious weeds on the latest Stillwater County Noxious Weed List shall be controlled on all properties in the subdivision by the lot owners. A Weed Management Plan must be filed and updated as needed for approval by the Stillwater County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.

A revegetation plan for all areas disturbed by construction activities shall be submitted as part of the management plan and here described. A seeding recommendation can be obtained from the Stillwater County Weed Department pursuant to 7-22-2152, MCA. The Stillwater County Weed Department reserves the right to revise these recommendations based on the site inspection.

X. SOILS/GEOTECHNICAL STUDY

This section should include, but not be limited to:

- A.** results of geotechnical study, if one was required
- B.** construction restrictions and recommendations due to the results of the study
- C.** required mitigation efforts

XI. PHASING OF IMPROVEMENTS

Description of each Phase including:

- A.** required improvements
- B.** timing of improvements
- E.** financial guarantees for improvements

XII. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender, or by other method acceptable to the Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the County. Upon completion of the improvements, the consulting engineer shall file with the Planning Department, a statement certifying that the improvements have been completed in accordance with approved as-built plans.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 150% of the estimated total cost by one (1) of the methods Chapter II.C.4. of the Subdivision Regulations. Construction of the improvements for which a monetary guarantee is provided must be completed within one year unless a longer timeframe is allowed by the governing body at the time of conditional approval of the preliminary plat.)

XIII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvements for a period of two years from the date of final acceptance by Stillwater County.
- B.** The owners of the properties involved in this proposed subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C.** The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.
- D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any

notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

- E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER” (Name of Subdivider)

By: _____

Its: _____

STATE OF MONTANA)

: ss

County of Stillwater)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of (Subdivider), who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public in and for the State of Montana

Printed Name: _____

Residing at: _____

My commission expires: _____

This agreement is hereby approved and accepted by Stillwater County, this ____ day of _____, 20__.

“COUNTY”

COUNTY OF STILLWATER

MONTANA

Board of County Commissioners
Stillwater County

By: _____

Chairman

Commissioner

Commissioner

Attest: _____

County Clerk and Recorder

STATE OF MONTANA)

: ss

County of Stillwater)

WAIVER OF RIGHT TO PROTEST

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more Rural Special Improvement Districts (RSID's) for the following purposes:

Street lights, street light energy, street light maintenance, and the construction and/or maintenance of streets, alleys, traffic control devices, curb, gutter, sidewalks, drive approaches, survey monuments, water mains, sanitary sewer mains, and storm drain line either within or without the area to provide drainage for runoff water from real property hereinafter described, parks and park maintenance, and any other incidental improvements which Stillwater County may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Stillwater County, Montana.

This Waiver of Right to Protest shall be valid for a time period not longer than twenty (20) years after the date that the final subdivision plat is filed with the County Clerk and Recorder.

The real property hereinabove mentioned is more particularly described as follows:

Signed and dated this _____ day of _____, 20__.

Subdivision Description/Name

Subdivider/Owner

By: _____

Its: _____

STATE OF MONTANA)

: ss

County of Stillwater)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be Subdivider/Owner Name, the person who executed the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

Notary Public in and for the State of Montana

Printed Name: _____

Residing in _____, Montana

My Commission expires: _____

APPENDIX D

SAMPLE APPROVAL PERIOD EXTENSION AGREEMENT

2022

SUBDIVISION

THIS AGREEMENT, made and entered into this ____ day of _____, 20__ by and between _____, hereinafter referred to as “Subdivider” and **STILLWATER COUNTY, MONTANA**, hereinafter referred to as “County.”

WITNESSETH:

THAT WHEREAS, a preliminary plat of an area known as _____
Subdivision, hereafter referred to as the “Subdivision” was approved by the Stillwater
County Commission on _____, 20__ subject to certain conditions;

WHEREAS, 76-3-610, MCA states that approval of a preliminary plat must be in force for a maximum of three years unless extended by agreement between the subdivider and the governing body;

WHEREAS, in a letter dated _____, 20____, subdivider requested an additional one-year extension to the approval of the subdivision;

WHEREAS, 76-3-610, MCA states that an extension of subdivision approval must be in writing and signed by members of the governing body and the subdivider or subdivider's agent, and that the governing body may issue more than one extension;

NOW, THEREFORE, the parties to this Agreement agree to extend the approval for the subdivision for a period of _____ months. The approval now expires on ____ day of _____, 20____.

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year first above written.

STATE OF MONTANA)
)SS
County of _____)

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, appeared _____, known to me to be the person who executed the within instrument and acknowledged to me that she executed the same.

Print

Notary Public for the State of Montana
Residing at _____
My commission expires _____

“COUNTY”
COUNTY OF STILLWATER
BOARD OF COUNTY COMMISSIONERS

By _____

By _____

By _____

Attest _____
County Clerk

APPENDIX E

POTENTIAL MITIGATION CONDITIONS

APPENDIX E

Potential Mitigation Conditions

Montana Law, 76-3-620(2), MCA, requires that if a proposed subdivision is conditionally approved, each condition required for subdivision approval must identify a specific, documentable, and clearly defined purpose or objective related to the primary criteria set forth in 76-3-608(3), MCA. The following is a list of potential mitigation conditions that may be imposed on a proposed subdivision in order to mitigate impacts.

Impacts on Agriculture:

1. A subdivider may be required to fence the subject property to reduce possible conflicts with adjacent agricultural practices.
2. A subdivider may be required to establish easements for access to adjacent agricultural properties.
3. A subdivider may be required to post signage warning of agricultural practices, such as cattle crossing signs or implement traffic signs on roads within or accessing the subdivision.
4. A subdivider may be required to disclose potential conflicts with agricultural practices in subdivision covenants and to recognize the right to farm per 76-2-901, MCA.

Impacts on Agricultural Water User Facilities:

1. A subdivider may be required to show easements for existing ditches on the final plat.
2. A subdivider may be required to establish easements for ditches conveying water across the subject property.
3. A subdivider may be required to provide a notation on the final plat granting the right of access for maintenance and repair to any water rights holders using a ditch crossing the subject property.
4. A subdivider may be required to place a notation on the final plat restricting construction of buildings or planting of certain types of vegetation within any ditch easements.
5. A subdivider may be required to take steps to ensure safety around the ditch, such as fencing or posting warning signs, or culverting the ditch, especially when a subdivision will result in residential uses near a ditch.
6. A subdivider may be required to disclose the existence of and the right of water rights holders to access and maintain ditches on the subject property.
7. A subdivider may be required to place a notification in the covenants that water within irrigation ditches is not allowed to be used for lots within the subdivision, unless a water right has been secured.

Impacts on Local Services:

1. A subdivider may be required to establish an area for a centralized box unit, if requested by the local post office.
2. A subdivider may be required to provide off-site road improvements, or to pay for a proportional share of off-site road improvements, if required by the County Road and Bridge Department and as established through a Traffic Impact Analysis and/or Road Maintenance Agreement.
3. A subdivider may be required to place notations on the final plat notifying future lot owners of existing maintenance measures for local roads, such as availability, or lack thereof, of dust control, snow plowing, or other maintenance provisions.
4. A subdivider may be required to place notations on the final plat notifying future lot owners about excessive response times of emergency providers.
5. A subdivider may be required to obtain approval from the owners of existing public water and/or sewer systems, if connection to these systems are proposed or required as part of the subdivision.
6. A subdivider may be required to waive the right to protest the creation of one or more special improvement districts.
7. A subdivider may be required to complete any required public improvements prior to filing a final plat.
8. A subdivider may be required to establish or expand one or more special improvement districts to ensure maintenance of required improvements.
9. A subdivider may be required to establish private maintenance provisions to ensure maintenance of required improvements.

Impacts on the Natural Environment:

1. A subdivider may be required to obtain approval from the Montana Department of Environmental Quality and/or the Environmental Health Department for existing or new water, wastewater, storm water drainage, and solid waste disposal provisions.
2. A subdivider may be required to show evidence of sufficient water rights to serve the subdivision, as determined by the Montana Department of Natural Resources and Conservation and the Montana Department of Environmental Quality.
3. A subdivider may be required to identify any floodplain or flood way on the property on the final plat, and place a notation on the final plat restricting building in the floodplain, if floodplain exists on the property and subject to the opinion of the County Floodplain Development Coordinator.
4. A subdivider may be required to place a notation on the final plat identifying areas of steep slopes and/or unstable soils, and restricting building in these areas.

5. A subdivider may be required to identify historic or cultural features, as determined by the State Historic Preservation Office and/or the County Historic Preservation Officer, on the final plat and/or ensure public access is available to such features.
6. A subdivider may be required to enter into a Weed Management Plan with the County Weed District.

Impacts on Wildlife:

1. A subdivider may be required to utilize wildlife friendly fencing, such as smooth wire, when fencing is required in the subdivision.

Impacts on Wildlife Habitat:

1. A subdivider may be required to meet any requirements of the Montana Fish, Wildlife, and Park Departments, Montana Sage Grouse Habitat Conservation Program, the United States Fish and Wildlife Service, or other similar agency.
2. A subdivider may be required to provide corridors for wildlife movement, if such corridors are identified within the subdivision.

Impacts on Public Health and Safety:

1. A subdivider may be required to meet any design standards as discussed in the Subdivision Regulations, such as road width and surfacing and the provision of water supply for firefighting purposes.
2. A Subdivider may be required to place notations on the final plat warning of high fire hazards and restricting building locations.
3. A subdivider may be required to provide multiple access points, wider roads, turnaround areas, and similar provisions as required by the local fire department.
4. A subdivider may be required to name roads within a subdivision, per the requirements of the County GIS Department.
5. A subdivider may be required to limit access on to collector roads through no-access strips on the final plat, identified approach location on the final plat, or other means as required by the County Road and Bridge Department.
6. A subdivider may be required to provide evidence that existing infrastructure which will be utilized by the subdivision, such as roads, drainage features, water supply for firefighting, etc., is working properly and will be sufficient for the additional development.
7. A subdivider may be required to provide for maintenance of required improvements through private covenants to be filed with the final plat.

Compliance with Survey Requirements:

1. A subdivider may be required to meet all requirements of the Administrative Rules of Montana, Montana Code Annotated, and the Subdivision Regulations related to survey preparation.
2. A subdivider may be required to submit the final plat to an Examining Land Surveyor for review prior to filing the final plat.

Compliance with the Subdivision Regulations:

1. A subdivider may be required to comply with the provisions of the Subdivision Regulations regarding design standards.
2. A subdivider may be required to provide as-built documents demonstrating that required improvements have been installed per the design standards in the Subdivision Regulations.
3. A subdivider may be required to correct areas of non-compliance with County or State rules and regulations.
4. A subdivider may be required to provide evidence of consent to the subdivision from a lienholder, if there is a lienholder on the property.
5. A subdivider may be required to provide a notation on the final plat indicating which uses were contemplated on each lot, as further review may be necessary if certain uses that were not contemplated are placed on a lot, such as townhomes, condominiums, commercial, or industrial development.

Compliance with the Local Subdivision Review Procedures:

1. A subdivider may be required to comply with processes and procedures outlined in the Subdivision Regulations, including variance procedures, subsequent public hearing requirements, and requirements for amending or changing pending applications.
2. A subdivider may be required to enter into a Subdivision Improvements Agreement per the sample provided in the Subdivision Regulations.

The Provision of Easements within and to the Proposed Subdivision for the Location and Installation of Planned Utilities:

1. A subdivider may be required to secure and show on the final plat easements to each lot to accommodate gas, electricity, phone, cable, and other necessary utilities.
2. A subdivider may be required to provide a notation on the final plat granting utility easements, as shown on the final plat, to any entity providing utilities.
3. A subdivider may be required to place new utilities underground.

4. A subdivision may be required to site utilities and utility easements per the requirements of utility companies.

The Provision of Legal and Physical Access:

1. A subdivider may be required to place a notation on the final plat stating that each lot is provided legal and physical access.
2. A subdivider may be required to improve roads leading to the subdivision to meet minimum standards for access, as outlined in the Subdivision Regulations.
3. A subdivider may be required to provide access easements and construct roads to any and all lots within the subdivision, regardless of anticipated schedule for development.

APPENDIX F

PETITION PROCEDURE TO CREATE A RURAL SPECIAL IMPROVEMENT DISTRICT (RSID) UNDER SECTION 7-12- 2101, M.C.A.

2022

APPENDIX F

PETITION PROCEDURE TO CREATE A RURAL SPECIAL IMPROVEMENT DISTRICT (RSID) UNDER SECTION 7-12-2101 M.C.A.

A. GENERAL

The Board of County Commissioners is authorized and empowered to order and create special improvement districts whenever the public interest or convenience may require (7-12-2102, MCA). The purpose of a Rural Special Improvement District (RSID) is to provide funding for improvements and maintenance of pre-existing improvements including, but not limited to roads (streets, lanes, alleys, crossings or intersections, courts, and places which have been dedicated and accepted according to the law or in common and undisputed use by the public for a period of not less than five years next preceding), ditches, bridges, culverts, curbs, gutters, sewers, dry hydrants and waterworks.

1. Use the petition guidelines available at the end of this appendix. Read the petition procedure carefully. If you have any questions or need clarification about the petition procedure, please contact the Planning Office at 406-322-8050. Incomplete or inaccurate petitions will cause delays in the petition process and will not be processed by the Planning Office.

2. Complete the cover sheet of the Petition to Establish a Rural Special Improvement District. Include the date submitted and the name, address, phone number, and signature of the petitioner.

3. Provide a map detailing the Rural Special Improvement District. Darken and/or highlight the map to clearly identify the District boundary (Section A).

The proposed District boundary could be shown on the following:

- a. Subdivision Plat
- b. Certificate of Survey

These maps are available at the Clerk and Recorder's Office.

4. Provide legal descriptions of the property within the proposed District (Section B).

Example:

Lots 1-8, Block 1, Sunshine Subdivision

Lots 1-4, Block 2, Happy Subdivision

Etc.

5. Indicate the annual maintenance activities desired (Section C), including the estimated costs. Contact the Town Public Works Director (for Columbus), the County Road and Bridge Superintendent, or the Fire Department of jurisdiction for assistance with cost estimates based on activities requested. Maintenance activities could include but are not limited to:

- a. snow plowing/road blading
- b. water system maintenance
- c. weed control
- d. sewer system maintenance
- e. dry hydrant maintenance
- f. maintenance of common land areas

If specific improvements are desired please list them as well as the estimated cost. Petitioner may want to consider hiring a consulting engineer to assist in the development of a cost estimate.

6. Choose a method of assessment for the properties in the proposed Rural Special Improvement District (Section D):

- a. Square Footage: Each lot, tract, or parcel of land in the district is assessed based on its area as a percentage of the total property within the district.
- b. Equal Amount: Each lot, tract, or parcel of land in the district is assessed the same amount.
- c. Front Footage: Each lot, tract, or parcel of land in the district abutting upon the improvement is assessed based on its lineal feet abutting the improvement as a percentage of the total lineal feet of property abutting the improvement.

7. Provide recommendations for property owners to serve on an Ad Hoc Committee for the proposed Rural Special Improvement District (Section E). *An Ad Hoc Committee is made up of property owners within the district that make recommendations on matters related to the Rural Special Improvement District expenditures to all the property owners within the district and to the Board of County Commissioners.*

8. Obtain signatures of all of the property owners who consent to the creation of the proposed Rural Special Improvement District (Section F).

9. Obtain and attach an Ownership Report from a Title Company for all legal descriptions listed in step 4 (Section G). This report must include owner names, mailing addresses, and tax codes. *Note: Cost of ownership report can only be recovered by the applicant(s) if the district is formed.*

10. Submit the petition and all necessary attachments to the Stillwater County Board of County Commissioners. If the Board finds that the proposed District benefits the properties listed in the petition, the Board will pass a Resolution of Intent to Create a Rural Special Improvement District. The County Clerk and Recorder will publish notice of the passage of the Resolution of Intent to Create the Rural Special Improvement District and mail a copy of the notice to each property owner within the proposed District.

At any time within 15 days after the date of the first publication of the notice of passage of the Resolution of Intent to Create a Rural Special Improvement District, any owner of property liable to be assessed for improvements or maintenance activities may make written protest against the proposed District. Written protests must be delivered to the County Clerk and Recorder.

If protests are filed within the expiration date, a public hearing will be held at the next regular meeting of the Board of County Commissioners.

11. If no protests are delivered to the County Clerk and Recorder within 15 days after the date of the first publication or when a protest filed is found by the Board to be insufficient or overruled, the Board of County Commissioners will appoint members to the Ad Hoc Committee and pass a Resolution Creating the Rural Special Improvement District.

PETITION TO ESTABLISH A RURAL SPECIAL IMPROVEMENT DISTRICT (RSID)

COVER SHEET

TO: STILLWATER COUNTY BOARD OF COMMISSIONERS

This petition is respectfully submitted this _____ day of _____, 20__.

Petitioner/Initiator (and/or) Contact Person:

NAME: _____

ADDRESS: _____

PHONE NO: _____

I swear that all of the information presented in this petition is true and correct and the landowner's signatures (Section F) are the original true and consenting landowners.

Petitioner's Signature

Date

LIST ALL ADDITIONAL ATTACHMENTS:

SECTION A
MAPS OF RURAL SPECIAL IMPROVEMENT DISTRICT BOUNDARY (ATTACHED)

SECTION B

LEGAL DESCRIPTIONS

PROPERTY LEGAL DESCRIPTIONS

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

SECTION C
ESTIMATED ANNUAL MAINTENANCE COST
(SAMPLE)

FALL MAINTENANCE:

ACTIVITY	ESTIMATED COST
	\$
	\$

WINTER MAINTENANCE:

ACTIVITY	ESTIMATED COST
	\$
	\$

SPRING MAINTENANCE:

ACTIVITY	ESTIMATED COST
	\$
	\$

SUMMER MAINTENANCE:

ACTIVITY	ESTIMATED COST
	\$
	\$

TOTAL ESTIMATED ANNUAL MAINTENANCE COST: _____

SECTION D
METHOD OF ASSESSMENT

CHOOSE A METHOD OF ASSESSMENT:

Square Footage:

Equal Amount:

Front Footage:

Other (Describe):

SECTION E
PROPOSED RURAL SPECIAL IMPROVEMENT DISTRICT
RECOMMENDATIONS FOR AD HOC COMMITTEE

NAME
TELEPHONE NUMBER

1. _____ (Chairman)

Printed Name

Signature

2. _____

Printed Name

Signature

3. _____

Printed Name

Signature

4. _____

Printed Name

Signature

5. _____

Printed Name

Signature

SECTION F
CONSENT OF PROPERTY OWNERS IN PROPOSED RURAL SPECIAL
IMPROVEMENT DISTRICT

PROPERTY LEGAL DESCRIPTION

OWNER (PRINTED NAME)

OWNER SIGNATURE

Consent of Property Owners

continued

PROPERTY LEGAL DESCRIPTION

OWNER (PRINTED NAME)

OWNER SIGNATURE

SECTION G
OWNERSHIP REPORT (ATTACHED)