

TITLE 12  
CITY OF THREE FORKS  
SUBDIVISION REGULATIONS

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## DEFINITIONS

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

### ACCESS OR ACCESS WAY:

The place, means or way by which pedestrians and vehicles shall have adequate and usable ingress and egress to property or use as required by this title.

### ACCESSORY BUILDING OR USE:

A subordinate building, or portion of the principal building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building by a common wall, such accessory building shall be counted as part of the principal building. Individual public utility installations above ground are considered accessory buildings.

**AGRICULTURE:** All aspects of farming or ranching including the cultivation or tilling of soil; Dairying, the production, cultivation, growing, harvesting, of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market or to carriers for transportation to market.

**AGRICULTURE WATER USER FACILITIES:** Those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.

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

**CERTIFICATE OF SURVEY:** A drawing of a field survey prepared by a registered surveyor of the purpose of disclosing facts pertaining to boundary locations.

**CLUSTER DEVELOPMENT:** A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots while allowing other lands to remain undeveloped. [76-3-103(2), MCA]

**CONDOMINIUM:** A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.

**COVENANT (RESTRICTIVE COVENANT):** A limitation contained in a deed that restricts or regulates the use of the real property.

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

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

**DIVISION OF LAND:** The segregation of one or more parcels of land from a larger tract held in a single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land. [76-3-103(3), MCA]

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

**EASEMENT:** Authorization by a property owner for another to use all or a portion of the owner's property for a specified purpose.

**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 the state of Montana.

**FIRST MINOR SUBDIVISION:** A proposed minor subdivision of a tract of record that has not been subdivided or created by a subdivision under these regulations, or has not resulted from a tract of record that has had more than five parcels created from that tract of record since July 1, 1973. [Mont. Code Ann. § 76-3-609(2)].

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

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

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

**FLOODWAY:** The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that is reasonably required to carry and discharge the flood water of any watercourse drainage.

**GROWTH POLICY:** A comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or a policy that was adopted pursuant to Title 76, MCA, after October 1, 1999.

**GOVERNING BODY:** The governing authority of a county, city, town, or consolidated local government organized pursuant to law.

**LOCAL SERVICES:** Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens.

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

**LOT MEASUREMENT:**

- a. Lot Depth- The length of line drawn perpendicularly to the front lot line and extending to the rear lot line.
- b. Lot Width- The average width of the lot.
- c. Lot Frontage- The width of the front lot line.
- d. Lot Area- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

**LOT TYPES:**

- a. Corner Lot- A lot located at the intersection of two streets.
- b. Interior Lot- A lot with frontage on only one street.
- c. Through or Double-Frontage Lot- A lot whose front and rear lines both abut on streets.

**MAJOR SUBDIVISION:** Those divisions of land containing six or more lots, or subdivisions of five or fewer lots that do not otherwise qualify for review as minor subdivisions under 76-3-609, MCA and these regulations.

**MINOR SUBDIVISION:** A subdivision that creates five or fewer lots from a tract of record.

**MOBILE HOME:** A detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, “trailer homes”, “house trailers”, and “manufactured homes” whether or not the unit has been constructed after July 1, 1976, in conformance with the 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.

**MOBILE HOME SPACE:** A designated partition of a parcel of land designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

**MOBILE HOME PARK:** A tract of land that provides or will provide spaces for two or more mobile homes.



**MOBILE HOME PAD:** That area of a mobile home space which has been prepared for the placement of a mobile home.

**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS:** Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.

**MSPA:** Montana subdivision and Platting Act, Title 76, Chapter 3, MCA.

**NATURAL ENVIRONMENT:** The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light, and objects of historic and aesthetic significance.

**OPEN SPACE:** Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

**OPEN SPACE, USEABLE:** That space which is capable of being used by the public for recreation, relaxation and social purposes. Parking lots and perimeter landscaping are specifically excluded from this definition of useable open space.

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

**PARK:** For the purposes of this title only, park means an open space, as defined in this title, under the ownership or other legal control of the City of Three Forks which provides area for active and passive recreational purposes.

**PLANNED UNIT DEVELOPMENT (P.U.D.):** A land development project consisting of residential clusters, industrial clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

**PLANNING BOARD:** A planning board formed pursuant to Title 76, Chapter 1, MCA.

**PLAT:** A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

a. **Preliminary Plat:** A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.

b. **Final Plat:** The final drawing of the subdivision and the dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA)

c. **Amended Plat:** The final drawing of any change to a filed platted subdivision.

**PUBLIC HEALTH AND SAFETY:** The prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.

**PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve the residents of a subdivision or the general public.

**PUBLIC ROAD OR STREET:** A road or street which has been dedicated for public use.

**RECREATIONAL CAMPING VEHICLE:** A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

**RECREATIONAL VEHICLE PARK:** A tract of land available to and principally used by the public for camping, where persons can park recreational vehicles for camping and sleeping purposes.

**RECREATIONAL VEHICLE SPACE:** A designated portion of a recreational vehicle park designed for the replacement of a single recreational vehicle and the exclusive use of its occupants.

**RIGHT OF WAY:** A linear public way established or dedicated for public purposes by duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority or by operation of the law and intended to be occupied by a street, crosswalk, railroad, electric transmissions lines, water line, sanitary sewer line, storm sewer line or other similar uses.

**ROADWAY:** That portion of the street or road right-of-way which is improved or is proposed to be improved to carry traffic and provide for the on-street storage of automobiles; where curb is provided, the roadway is measured from back-of-curb to back-of-curb.

**STATE:** The State of Montana.

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

a. Alley: A street used primarily for vehicular access to the rear of properties which abut on and are served by public roads.

b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes for moving traffic and should provide only limited access to abutting property.

c. Collector: A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and up to two park lanes.

d. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.

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

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

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

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

**SUBDIVIDER:** Any person, firm or corporation, or other entity which causes land to be subdivided or which proposes a subdivision of land [76-3-103(3), MCA]. When used in these regulations, the term “subdivider” also includes the subdivider’s agent, if the subdivider has provided the subdivision administrators written notification that the subdivider’s agent is authorized to act on the subdivider’s behalf and to receive notices regarding local government decisions concerning the subdivision.

**SUBDIVISION:** A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, lease, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes [76-3-103(3), MCA].

**SUBDIVISION ADMINISTRATOR:** The person authorized by the governing body to perform the duties of the subdivision administrator set forth in these regulations.

**SUBSEQUENT MINOR SUBDIVISION:** Any subdivision of five or fewer parcels that is not a first minor subdivision.

**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 the State of Montana.

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

**SWALE:** A drainage channel or depression designed to direct surface water flow.

**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.

**USE:** The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

**VICINITY SKETCH:** A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

**WATERCOURSE:** Any stream, river, creek, drainage, waterway, gully, ravine or wash in which some or all of the water is naturally occurring, such as runoff or springs, and which flows either continuously or intermittently and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow.

In the event of braided or other multiple channel configuration of a watercourse, the area of the watercourse shall be that area lying between the two outermost high water marks. The term watercourse shall not be construed to mean any facility created exclusively for the conveyance of irrigation water or storm water. The City may consult with other agencies with expertise in this matter when there is a question of whether a particular water body is a watercourse.

**WETLAND:** Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. The provisions contained in these regulations do not apply to wetlands created by wholly man-made water source used for irrigation purposes or storm water control.

**WILDLIFE:** Any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg, or offspring or the dead body or parts of the animal.

**WILDLIFE HABITAT:** The place or area where wildlife naturally lives or travels through.

## **SUBDIVISION REGULATIONS**

### **I. GENERAL PROVISIONS**

#### **I-A. Title**

These regulations will be known and may be cited as “The Subdivision Regulations of The City Of Three Forks; Hereinafter referred to as “these regulations.”

#### **I-B. Authority**

Authorization for these regulations is contained in the MSPA. [Title 76, Chapter 3, MCA].

#### **I-C. Purpose**

The purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lesson congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks, and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA).

These regulations are intended to comply with part five of the MSP, and are intended to promote:

1. The orderly development of the jurisdictional area.
2. The coordination of roads within subdivided land with other roads, both existing and planned.
3. The dedication of land for roadways and for public utility easements.
4. The provision of proper physical and legal road access, including obtaining of necessary easement.
5. The provision of adequate open spaces for view sheds, travel, light, air, and recreation.
6. The provision of adequate transportation, water, drainage, and sanitary facilities.
7. The avoidance or minimizing of 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 for the supply of public services.
11. The manner and form of making and filing of any plat 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.

#### **I-D. Jurisdiction**

These regulations govern the subdivision of land within the jurisdictional area of the governing body of the City of Three Forks.

If a proposed subdivision lies within one mile of the City of Three Forks Municipal Boundary the county governing body must submit the preliminary plat to the city governing body or its designated agent for review or comment. If a proposed subdivision lies partly within The City, the preliminary plat must be submitted to, and approved by, both the City of Three Forks and the county governing bodies.

If the proposed subdivision is located in the Three Forks School District, the governing body shall provide a summary of the information contained in the subdivision application and preliminary plat to school district trustees.

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

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

#### **I-E. Severability**

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

## **II. GENERAL PROCEDURES**

### **II-A-1. Construction Timing**

The subdivider may not proceed with any construction work on a proposed subdivision, including grading and excavation relating to public improvements, until the governing body has given preliminary approval of the proposed subdivision plat.

### **II-A-2. Transfers of Title**

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

- a. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
- b. That under the terms of the contracts and the escrow agreement that 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 with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- d. That the contracts contain the following language conspicuously set out therein: “The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner.”
- e. That the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and
- f. A copy of the contracts and escrow agreement described above must be submitted to the subdivision administrator.

### **II-A-3. Permission to Enter**

The governing body or its designated agent(s) or agency may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is approved

conditionally. The submission of a subdivision application constitutes a grant of permission by the subdivide to enter the subject property.

**II-A-4.**      **Appeals**

A party identified below who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or final subdivision plat may, within 30 days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

The following parties may appeal under the provisions of subsection above:

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



### **III. MAJOR SUBDIVISIONS**

#### **III-A. Review and Approval Procedures for Major Subdivisions**

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

##### **III-A-1. Pre-application Process**

- a. Prior to submittal of the subdivision application, the subdivider shall request a pre-application meeting with the Three Forks City-County Planning Board. The meeting shall occur within 30 days after the subdivider submits a written request for the meeting to the Board.
- b. At the time of the pre-application meeting request, the subdivider shall provide the Board with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be drawn to scale directly on a print of the topographic map and must include the following:
  - (i) Information on the current status of the site, including:
    - (A) Location;
    - (B) Approximate tract and lot boundaries of existing tracts of record;
    - (C) Description of general terrain;
    - (D) Natural features;
    - (E) Existing utility lines and facilities; and
    - (F) Existing easements and rights of way.
  - (ii) Information on the proposed subdivision, including:
    - (A) Tract and lot boundaries;
    - (B) Proposed public improvements;
    - (C) Location of utility lines and facilities;
    - (D) Easements and rights of way; and
    - (E) Parks and open space.

c. At the pre-application meeting:

- (i) The Board shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;
- (ii) The Board shall provide the subdividers with a list of public utilities, local, state, and federal agencies, and any other entities that have a substantial interest in the proposed subdivision and that may be contacted for comment on the subdivision application.
- (iii) The Board shall identify particular additional information the Board anticipates will be required for review of the subdivision application pursuant to Section III-B-2. This does not limit the ability of the Board to request additional information at a later time.

d. Unless the subdivider submits the subdivision application as provided in Section III-B-1 of these regulations within 180 days of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application.

### **III-B. Subdivision Applications**

#### **III-B-1. Subdivision Application and Preliminary Plat Submittal**

a. The subdivider shall submit to the governing body or to the agent or agency designated by the governing body a subdivision application containing the following materials:

- (i) Three (3) copies of the completed Subdivision Application Form (see Appendix A, part 1).
- (ii) The required review fee as stated in the Fee Schedule in Section XI;
- (iii) Twenty five (25) copies of the preliminary plat of the proposed subdivision which:
  - A. Is in the form required by Appendix A, part II subsection 1;
  - B. Contains the information and supplements required by Appendix A, part II, subsection 2.
- (iv) An environmental assessment that has all the material and information required by Appendix A, Part III, unless exempt under subsections (b) and (c) below;

- (v) Proof that the subdivider has submitted for review copies for the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and
  - (vi) Such additional relevant and reasonable information as identified by the Board during the pre-application meeting pursuant to section III-A-1(c)(ii) that is pertinent to the required elements of this section.
- b. The requirement for preparing an environmental assessment does not apply when:
- (i) The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA; and
  - (ii) The governing body has adopted zoning regulations pursuant to sections 76-2-301 through 76-2-328, MCA (municipal zoning); or sections 76-2-201 through 76-2-228, MCA (county zoning pursuant to section 76-1-601(3)(e), MCA.
  - (iii) The governing body has adopted a strategy for development, maintenance, and replacement of public infrastructure pursuant to section 76-1-601(3)(e), MCA.
- c. The planning board may waive the requirement for preparing any portion of the environmental assessment when:
- (i) The proposed subdivision is in an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA, and the proposed subdivision will be in compliance with the policy; or
  - (ii) The subdivision will contain fewer than 10 parcels and less than 20 acres.
- d. When an exemption from preparing any portion of the environmental assessment is granted, the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review.

**III-B-2. Review Process**

- a. Local Government to Perform Element and Sufficiency Review
- b. Element Review
  - (i) Within five (5) working days of receipt of a subdivision application and fee, the subdivision administrator shall determine whether the application contains all of the applicable materials required by Section III-B-1, including Appendix A of

these regulations, as applicable, and shall give written notice to the subdivider of the subdivision administrator's determination.

- (A) If the subdivision administrator determines that elements are missing from the application, the subdivision administrator shall return the application and identify those elements in the notification and no further action shall be taken on the application by the subdivision administrator until the missing elements are submitted.
- (B) The subdivider may correct the deficiencies and resubmit the application.
- (C) If the subdivider corrects the deficiencies and resubmits the application in accordance with (b)(i)(B) above, the subdivision administrator shall have five (5) working days to notify the subdivider whether the resubmitted application contains all the materials required by Section III-B-1 and by Appendix A of these regulations, as applicable.
- (D) This process shall be repeated until the subdivider submits an application containing all the materials required by Section III-B-1, including Appendix A, as applicable.

c. Sufficiency Review

- (i) Within fifteen (15) working days after the subdivision administrator notifies the subdivider that the application contains all of the required elements as provided in subsection (b), the subdivision administrator shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under provisions of the MSPA and these regulations and shall give written notification to the subdivider of the subdivision administrator's determination.
  - (A) If the subdivision administrator determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the subdivision administrator shall identify the insufficient information in its notification and no further action shall be taken on the application by the subdivision administrator until the material is resubmitted.
  - (B) The subdivider may correct the deficiencies and resubmit the application.
  - (C) If the subdivider corrects the deficiencies and resubmits the application in accordance with (i)(B) above, the subdivision administrator shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under provisions of the MSPA and these regulations.

- (D) This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of the MSPA and these regulations.
  - (ii) A determination that an application contains sufficient information for review as provided in this subsection (c) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the subdivision administrator, planning board, or the governing body to request additional information during review process.
  - (iii) A determination of sufficiency by the subdivision administrator pursuant to this subsection does not limit the DEQ from requiring additional water and sanitation information as part of the DEQ review of water and sanitation.
- d. Applicable Regulations
- Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, for the subdivision review, shall be based on the new regulations.
- e. Time Period for Approval, Conditional Approval or Denial
- Within sixty (60) working days, the governing body shall approve, conditionally approve or deny the proposed subdivision according to Section II-B-8 of these regulations, unless the subdivider and the subdivision administrator agree to an extension or suspension of the review period, or a subsequent public hearing is held pursuant to Section III-B-7 of these regulations. The review period of sixty (60) working days begins once the subdivision administrator has given notice to the subdivider that the subdivision application is sufficient for review. Notification constitutes the date when the subdivision administrator sends the notice to the subdivider.
- f. Public Agency and Utility Review
- Review and comment by public agencies or utilities may not delay the governing body's action on the subdivision application beyond the 60 working day review period. The governing body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the subdivision administrator or the planning board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the subdivision administrator shall notify the subdivider of the contact and the timeframe for response.

### **III-B-3. Public Hearings and Notices – In General**

#### a. Hearings

The planning board and the governing body shall each hold a public hearing on the subdivision application when a hearing is required by these regulations.

#### b. Notice

- (1) Notice of the times and dates of the hearing shall be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the dates of the hearings.
- (2) At least 15 days prior to the dates of the hearings, notices of the hearings shall be given by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.
- (3) The planning board or governing body may require the notices be posted at the conspicuous places on the site of the proposed subdivision.

### **III-B-4. Planning Board Hearing, Consideration and Recommendation**

#### a. Hearing

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

#### b. Consideration-Standards

In recommending approval, conditional approval or denial of the subdivision application, the planning board shall base its recommendation on compliance of the subdivision application with the following:

- (i) These regulations, including but not limited to the design standards set forth in Section VI;
- (ii) Applicable zoning regulations;
- (iii) The MSPA, including but not limited to 76-3-608(3), as delineated in section III-B-8(a) and (b) of these regulations; and
- (iv) Other applicable regulations.

c. Consideration-Evidence

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

- (i) The subdivision application and preliminary plat;
- (ii) The environmental assessment;
- (iii) Discussion of probable impacts;
- (iv) An officially adopted growth policy;
- (v) Public hearing(s);
- (vi) Planning staff report and recommendation; and
- (vii) Any additional information authorized by law.

d. Recommendation

Within 10 working days of the public hearing, the planning board shall submit the following, in writing, to the subdivider and the governing body:

- (i) Recommended finding of fact based on the evidence in subsection (c) above;
- (ii) Discuss and weigh the subdivision's compliance with and impact on subsection (b) of these regulations; and
- (iii) A recommendation for approval, conditional approval (including any recommended conditions and/or mitigation measures), or denial of the subdivision application and preliminary.

e. Water and Sanitation Information

The planning board or planning staff shall collect public comment regarding the water and sanitation information required by Appendix A. The planning board shall forward all comments regarding water and sanitation to the governing body.

**III-B-5. Subdivider's Preference for Mitigation**

No later than ten (10) days before the meeting or hearing at which the governing body is to consider the subdivision application and preliminary plat, the subdivider may submit in writing to the governing body the subdivider's comments on and responses to the planning board's recommendations. This document may include the subdivider's alternative proposals, if any, for

mitigating the impacts identified in the planning board's recommendations. The governing body will consult with the subdivider and consider the subdivider's expressed preference.

**III-B-6. Governing Body Hearing**

- a. After the planning board makes its recommendation, the governing body shall hold a public hearing on the subdivision application.
- b. The governing body shall determine whether public comments or documents presented at the governing body's hearing constitute either:
  - (i) Information or analysis of information that was presented at the planning board hearing on the subdivision application that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment, in which case the governing body shall proceed to its decision whether to approve, conditionally approve, or deny the proposed subdivision; or
  - (ii.) New information or analysis of information that has never been submitted as evidence or considered by the planning board at a hearing on the subdivision application, in which case the governing body shall proceed as set forth in subsection c below.
- c. If the governing body determines that public comments or documents presented constitute new information or analysis of information regarding a subdivision application that has never been submitted as evidence or considered by the planning board at a public hearing on the subdivision application, the governing body shall determine whether the public comments or documents are relevant and credible with regard to the governing body's decision.
  - (i) If the governing body determines the information or analysis of information is either irrelevant or not credible, then the governing body shall approve conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information; or
  - (ii) If the governing body determines the new information or analysis information is relevant and credible, then the governing body shall schedule or direct the planning board to schedule a subsequent public hearing pursuant to Section III-B-7 for consideration of only the new information or analysis of information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision of the proposed subdivision.
- d. New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.



- e. New information or analysis of information is considered to be credible if it is based on one or more of the following:
  - (i) Physical facts or evidence;
  - (ii) Corroborated personal observation; or
  - (iii) Scientific data.

**III-B-7. Subsequent Public Hearing**

- a. If a subsequent public hearing is held pursuant to Section III-B-6(c)(ii), it must be held within forty-five (45) days of the governing body's determination to schedule a subsequent hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing.
  - (i) Notice of the time and date of the subsequent hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the subsequent hearing.
  - (ii) At least 15 days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.
  - (iii) The governing body may require the notice be posted at conspicuous places on the site of the proposed subdivision.
- b. If a subsequent public hearing is held, the sixty (60) working day review period is suspended as of the date of the governing body's decision to schedule a subsequent hearing. The 60 working day review period resumes on the date of the governing body's next scheduled public meeting for which proper notice for the public meeting on the subdivision can be provided.
- c. The governing body may not consider any information regarding the subdivision application that is presented after the subsequent hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

**III-B-8. Governing Body Decision and Documentation**

a. Prerequisites to Approval

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

- (i) Provides easements for the location and installation of any planned utilities;
- (ii) Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;
- (iii) Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by section III-C-5 of these regulations; and
- (iv) Complies with the requirements of 76-3-504, MCA, regarding the disclosure and disposition of water rights as follows:

If the proposed subdivision will create lots averaging less than five acres in size, pursuant to 76-3-504(1)(i), MCA, the subdivider shall:

- (A) 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 transfer to the City of Three Forks any remaining surface water rights from the land;
- (B) If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide 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
- (C) Reserve and transfer to the City of Three Forks all surface water rights from the land.

b. Consideration-Standards

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

- (i) These regulations, including, but not limited to, the design standards set forth in Section VI;
- (ii) Applicable zoning regulation;
- (iii) Other applicable regulations; and

- (iv) The MSPA, including but not limited to the following factors that are representative of, but not an exhaustive list of impacts on the criteria identified in 76-3-608(3)(a), MCA:

- (A) Impacts on agriculture

Agriculture is defined as all aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparations for market or delivery to storage, to market, or to carriers for transportation to market.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction are considered to have a minimal effect on agriculture.
- (2) Proposed subdivisions or associated improvements that are located on prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service are considered to have an impact on agriculture.
- (3) Proposed subdivisions or associated improvements that predominately border land defined as agricultural or timberland by the Montana Department of Revenue or state trust lands are considered to have an impact on agriculture.

- (B) Impact on agricultural water user facilities

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

- (1) Proposed subdivisions located on land with agricultural water user facilities or adjoining an agricultural water use facility are considered to have an impact on agricultural water user facilities.
- (2) Proposed subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are considered to have an impact on agricultural water user facilities.

- (3) Proposed subdivisions or associated improvements that will alter access for maintenance of agricultural water user facilities are considered to have an impact on agricultural water users' facilities.
- (4) Proposed subdivisions or associated improvements that will alter the movement or availability of water are considered to have an impact on agricultural water user facilities.

(C) Impact on local services

Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction and will use existing utilities located within one-half mile of the subdivision are considered to have a minimal impact on local services.
- (2) Proposed subdivisions that will require the extension of public facilities by more than one-half mile are considered to have an impact on local services.

(D) Impact on natural environment

The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light, and objects of historic and aesthetic significance.

- (1) Proposed subdivision that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction and will use existing utilities located within one-half mile of the subdivision are considered to have a minimal impact on the natural environment except as otherwise provided in subsection (5) below.
- (2) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, rivers, streams, lakes, or other natural surface water are considered to have an impact on the natural environment.
- (3) Proposed subdivisions or associated improvement that are proposed on land with a high water table (less than 4 feet from the surface), wetlands, or groundwater recharge

areas are considered to have an impact on the natural environment.

- (4) Proposed subdivisions or associated improvement that are proposed in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 25 percent are considered to have an impact on the natural environment.
- (5) Proposed subdivisions or associated improvements that are proposed on land with historical, cultural, archaeological, or paleontological features are considered to have an impact on the natural environment.

(E) Impact on wildlife and habitat

Wildlife is defined as those animals that are not domesticated or tamed; and wildlife habitat is defined as the place or area where wildlife naturally lives or travels through.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction are considered to have a minimal impact on wildlife and wildlife habitat.
- (2) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are considered to have an impact on wildlife and wildlife habitat.
- (3) Proposed subdivisions or associated improvements that are proposed in an area with rare or endangered species, as identified by state or federal agencies, are considered to have an impact on wildlife.
- (4) Proposed subdivisions or associated improvements that are proposed on or adjunct to land identified by state or federal agencies as critical habitat are considered to have an impact on wildlife and wildlife habitat.

(F) Impacts on public health and safety

Public health and safety is defined as the prevailing healthful, sanitary condition of well being for the community at large.

Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire, or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other air or vehicular traffic safety hazards.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction and utilize available public facilities are likely to have an impact on public health and safety.
- (2) Proposed subdivisions or associate improvements that are located in an area identified as a high fire hazard area by a fire district are considered to have an impact on public health and safety.
- (3) Proposed subdivisions or associated improvements that are proposed on land with high pressure gas line or high voltage lines are considered to have an impact on public health and safety.
- (4) Proposed subdivision or associated improvement that are proposed on land or adjacent to Superfund or hazardous waste sites are considered to have an impact on public health and safety.
- (5) Proposed subdivision or associated improvements that are proposed on or adjacent to abandoned landfills, mines, wells, waste sites, or sewage treatment plants are considered to have an impact on public health and safety.

c. Consideration-Evidence

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

- (i) The subdivision application and preliminary plat;
- (ii) The environmental assessment;
- (iii) The statement of probable impacts and mitigation;
- (iv) An officially adopted growth policy;
- (v) Comments, evidence and discussions at the public hearing(s):

- (vi) Planning staff report and recommendations;
- (vii) Planning board recommendations; and
- (viii) Any additional information authorized by law.

d. Water and Sanitation-Special Rules

- (i) The governing body may conditionally approve or deny a proposed subdivision application as a result of the water and sanitation information provided in Section III-B-1-(a)(i) or public comment received pursuant to subsection (iv) below.
- (ii) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the DEQ as a condition of approval of the final plat.
- (iii) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.
- (iv) The governing body shall collect public comments submitted regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) days after conditional approval or approval of the subdivision application and preliminary plat.
- (v) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:
  - (A) Reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and
  - (B) Local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

e. Documentation of Governing Body Decision

- (i) In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the governing body shall issue written Findings of Fact that discuss and weigh the proposed subdivision's compliance with subsection (a) above and impact on the standards set forth in subsection (b) above.

(ii) When the governing body approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, and make the letter available to the public. The letter shall:

- (A) Contain information regarding the appeal process for the denial or imposition of conditions;
- (B) Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
- (C) Provide the facts and conclusions that the governing body relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision; and
- (D) Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

f. Subdivision Application and Preliminary Plat Approval Period

(i) The governing body must establish the term of the approval or conditional approval of the subdivision application and preliminary plat, which must be at least one but not more than three calendar years.

- (A) At the end of this period, the governing body may, at the request of the subdivider, extend its approval period of one year.
- (B) The governing body may extend the approval for more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the governing body and the subdivier, provided for in Section III-C-5.

(ii) After the application and preliminary plat are approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires.

(iii) The governing body may withdraw approval of an application and preliminary plat if it determines information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

**III-B-9. Amended Applications**

a. If the subdivider changes the subdivision application or preliminary plat after the subdivision administrator makes a determination of sufficiency pursuant to section III-



B-2(c) but before the Planning Board hearing, the subdivider shall submit the amended application to the subdivision administrator for review.

- (i) Within five (5) working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material.
  - (ii) The sixty (60) working days review period is suspended while the subdivision administrator considered whether the changes to the subdivision application or preliminary plat are material.
  - (iii) If the subdivision administrator determines the changes are not material, the 60 working day review period resumes when the subdivision administrator mails notice of the decision to the subdivider.
  - (iv) If the subdivision administrator determines the changes are material, the subdivision administrator may either require the subdivider to schedule a new pre-application meeting and submit the application as a new subdivision application or proceed with the 60 working day review period.
- b. If the subdivider changes the subdivision application or preliminary plat after the Planning Board hearing but before the governing body hearing, the subdivider shall submit the amended application or preliminary plat to the subdivision administrator for review.
- (i) Within five (5) working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material.
  - (ii) The 60 working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.
  - (iii) If the subdivision administrator determines the changes are not material, the 60 working day review period resumes when the subdivision administrator mails notice of the decision to the subdivider.
  - (iv) If the subdivision administrator determines the changes are material, the subdivision administrator shall either:
    - (A) Require the subdivider to begin the subdivision review process again, starting with the pre-application process, and require payment of a new application fee; or
    - (B) Schedule a new Planning Board hearing to take comment of the amended application or preliminary plat. Notice of the subdivision

administrator determination to schedule a new planning board hearing shall be provided as set forth in section III-B-3. A supplement staff report shall be prepared to address the changes to the original application.

- (v) If a new Planning Board hearing is held pursuant to subsection (b)(iv)(B) above, the 60 working day review period is suspended for the time period between notice of the subdivision administrator's determination and 10 working days after the date of the second Planning Board hearing.
- c. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsection (a)(ii) and (b)(ii).
- d. The following changes, although not an exhaustive list, may be considered material:
- (i) Configuration or number of lots;
  - (ii) Road layout;
  - (iii) Water and/or septic proposals;
  - (iv) Configuration of park land or open spaces;
  - (v) Easement provisions; and
  - (vi) Designated access.
- e. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the governing body by written notice within ten (10) working days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- (i) The 60 working day review period is suspended until the governing body decision on the appeal is made.
  - (ii) If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the governing body shall determine whether the subdivision application should be resubmitted or scheduled for rehearing in front of the planning board pursuant to subsection (b)(iv)(A) or (B).
  - (iii) If the governing body concludes that the evidence and information demonstrate that changes to the subdivision application or preliminary plat

are not material, the 60 working day review period resumes as of the date of the decision.

- (iv) By appealing the decision of the subdivision administrator, the subdivider agrees to suspension of the 60 working day review period provided in subsection (i) above.

### **III-C. Final Plats**

#### **III-C-1. Final Plat Submittal**

The final plat must be submitted to the subdivision administrator before the expiration of the subdivision application and preliminary plat approved period described in Section III-B-8(f). An application for final plat approval (see form, Appendix D), the final plat, and the appropriate review fee, if any, must be submitted to the City of Three Forks.

#### **III-C-2. Final Plat Contents**

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

#### **III-C-3. Final Plat Review**

##### **a. Final Plat Submittal**

The final plat and all supplementary documents shall be submitted to the subdivision administrator at least thirty (30) working days prior to the expiration of preliminary plat approval or an extension thereto, and no less than twenty (20) working days prior to the date the final plat is presented to the governing body for approval. The submittal shall include, as applicable;

- (i) A final plat application;
- (ii) The appropriate fee;
- (iii) All required information;
- (iv) County and/or city attorney approvals; and
- (v) A written explanation of how each of the conditions of the preliminary plat approval has been satisfied.

##### **b. Review by Subdivision Administrator**

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

The subdivision administrator may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped certificate on the plat. The certificate must be signed by the surveyor.

**III-C-4. Restrictive Covenants – Approval, Content and Enforcement by Governing Body**

- a. The governing body requires that all restrictive covenants governing the use of land within the subdivision, whether proposed by the subdivider or required by the governing body, contain the following language: These covenants may not be repealed or amended without the prior written consent to the City Of Three Forks.
- b. The governing body may, but is not required to, enforce any or all restrictive covenants.
- c. If common property is to be deeded to a property owners' association, the covenants and by-laws which govern the association must, at a minimum, provide for the:
  - (i) Formation of a property owners' association concurrently with the filing of the final subdivision plat;
  - (ii) Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
  - (iii) Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA.
  - (iv) Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
  - (v) Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
  - (vi) Adjustment of assessments to meet changing needs;
  - (vii) Means of enforcing the covenants, and of receiving and processing complaints;

- (viii) Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and
- (ix) Regular maintenance of roads, parks, building, drainage facilities, and other facilities controlled by the association.

**III-C-5. Public Improvement Agreement; Guaranty**

As a condition of approval of the final plat, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. (A model improvements agreement and alternative methods of guaranteeing public improvements, the procedures and requirements for securing an agreement, and suggested conditions for maintenance are provided in Appendix E).

**III-C-6. Final Plat Approval**

a. Approval by the Governing Body

The governing body shall examine every final subdivision plat and within thirty (30) working days of its submission to the subdivision administrator shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations or deny it pursuant to (ii) below.

- (i) If the final plat is approved, the governing body shall certify its approval on the face of the final plat. When applicable, a certificate of the governing body expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.
- (ii) If the final plat is denied, the governing body shall write a letter stating the reason for denial and forward a copy to the subdivider. The governing body will return the final plat to the subdivider within ten (10) working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.

b. Final Plat Substantially Different

If the final plat differs substantially from the approved preliminary plat, the governing body shall return the final plat to the subdivision administrator for additional review.

c. Inaccurate Information

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

### **III-C-7. Final Plat Filing**

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

### **III-D. Amending Filed Plats**

- a. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration which increases the number of lots or modifies six or more lots, or abandons a public dedicated road right-a-way must be reviewed and approved by the governing body.
- b. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The governing body may not approve an amended final plat without the written consent of the owners (or lenders) of all lots which will be modified by the proposed amendment.
- c. The governing body may not approve an amendment that will place a lot in non-conformance with the design standards contained in section VI of these regulations unless the governing body holds a public hearing on the amendment and issues a written variance from the standards pursuant to Section XI-B, Variances.
- d. The final amended plat submitted for approval must comply with the requirements for final subdivisions plats (Appendix G).
- e. Plats may only be amended for reasons of public health and safety.

#### **IV. REVIEW AND APPROVAL PROCEDURES FOR MINOR SUBDIVISIONS**

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

First minor subdivisions shall be reviewed pursuant to section IV-A and subsequent minor subdivisions shall be reviewed pursuant to section IV-8.

##### **IV-A. First Minor Subdivision Review**

##### **IV-A-1. Pre-application Process**

- a. Prior to submittal of the subdivision application, the subdivider shall request a pre-application meeting with the Three Forks City-County Planning Board. The meeting shall occur within 30 days after the subdivider submits a written request for the meeting to the Board.
- b. At the time of the pre-application meeting request, the subdivider shall provide the Board with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be drawn to scale directly on a print of the topographic map and should include the following:
  - (i) Information on the current status of the site, including:
    - (A) Location;
    - (B) Approximate tract and lot boundaries of existing tracts of record;
    - (C) Description of general terrain;
    - (D) Natural features;
    - (E) Existing structures and improvements;
    - (F) Existing utility lines and facilities; and
    - (G) Existing easements and rights of way.
  - (ii) Information on the proposed subdivision, including:
    - (A) Tract and lot boundaries;
    - (B) Proposed public improvements;
    - (C) Location of utility lines and facilities;
    - (D) Easements and right of way; and

(E) Parks and open space.

c. At the pre-application meeting:

- (i) The Board shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;
- (ii) The Board shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision and that may be contacted for comment on the subdivision application.
- (iii) The Board shall identify particular additional information the Board anticipates will be required for review of the subdivision application pursuant to Section IV-A-5. This does not limit the ability of the Board to request additional information at a later time.

d. Unless the subdivider submits the subdivision application as provided in Section IV-A-1 of these regulations within 180 working days of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application .

**IV-A-2. First Minor Subdivision Application and Preliminary Plat Submittal**

a. The subdivider shall submit to the governing body or to the agent or agency designated by the governing body a subdivision application containing the following materials:

- (i) Three (3) copies of the completed Subdivision Application Form (see Appendix A, part 1).
- (ii) The required review fee as stated in the Fee Schedule in Section XI;
- (iii) Twenty five (25) copies of the preliminary plat of the proposed subdivision which;
  - A. Is in the form required by Appendix A, part II subsection 1; and
  - B. Contains the information and supplements required by Appendix A, part II, subsection 2.
- (iv) Sufficient evidence demonstrating that the subdivision will be the first minor subdivision from a tract of record;
- (v) A summary of probable impacts, pursuant to Appendix H and section IV-A-8, including any mitigation of impacts;



- (vi) Proof that the subdivder has submitted for review copies of the subdivision application to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having s substantial interest in the proposed subdivision; and
- (vii) Such additional relevant and reasonable information as identified by the subdivision administrator during the pre-application meeting pursuant to section IV-A-1(c)(ii) that is pertinent to the required elements of this section.

**IV-A-3. First Minor Subdivision Plat Form and Contents**

For a first minor subdivision, the subdivider shall submit a preliminary plat that conforms to the Montana Uniform Standards for Monumentation, and Subdivision Plats (Appendix G). The subdivider must also submit the supplement required for preliminary plats described in Appendix A of these of these regulations. The minor subdivision plat must conform to the design standards set forth in Section VI of these regulations.

**IV-A-4. First Minor Subdivision Exceptions**

The following do not apply to the first minor subdivision:

- a. Preparation of an environmental assessment;
- b. Public hearing requirements; and
- c. Review of the subdivision application for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, if the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts.

**IV-A-5. First Minor Subdivision Review Process**

- a. Local Government to Perform Element and Sufficiency Review

The local government shall be the entity to complete element and sufficiency review even if the subdivider has applied to the DEQ first pursuant to 76-4-129, MCA.

- b. Element Review

- (i) Within five (5) working days of receipt of a subdivision application and fee, the subdivision administrator shall determine whether the application contains all of the applicable materials required by Section IV-A-2, including Appendix A of these regulations, as applicable, and shall give written notice to the subdivider of the subdivision administrator’s determination.

- (A) If the subdivision administrator determines that elements are missing for the application, the subdivision administrators shall identify those elements in the notification and no further action shall be taken on the application by the subdivision until the missing elements are submitted.
- (B) The subdivider may correct the deficiencies and resubmit the application.
- (C) If the subdivider corrects the deficiencies and resubmits the application in accordance with (i)(B) above, the subdivision administrator shall have five (5) working days to notify the subdivider whether the resubmitted application contains all the material required by Section IV-A-2 and by Appendix A of these regulations, as applicable.
- (D) This process shall be repeated until the subdivider submits an application containing all the materials required by Section IV-A-2, including Appendix A as applicable.

c. Sufficiency Review

- (i) Within fifteen (15) working days after the reviewing agent or agency notifies the subdivider that the application contains all of the required elements as provided in subsection (b), the subdivision administrator shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provision of the MSPA and these regulations and give written notification, to the subdivider of the subdivision administrator's determination.
  - (A) If the subdivision administrator determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the subdivision administrator shall identify the insufficient information in its notification and no further action shall be taken on the application by the subdivision administrator until the material is resubmitted.
  - (B) The subdivider may correct the deficiencies and resubmit the application.
  - (C) If the subdivider corrects the deficiencies and resubmits the application in accordance with (i)(B) above, the subdivision administrator shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient

to allow for review of the proposed subdivision under provisions of the MSPA and these regulations

(D) This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of the MSPA and these regulations.

(ii) A determination that an application contain sufficient information for review as provided in this subsection (c) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does limit the ability of the subdivision administrator, planning board, or the governing body to request additional information during the review process.

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

d. Applicable Regulations

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

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

Within thirty-five (35) working days, the governing body shall approve, conditionally approve or deny the proposed subdivision according to Section IV-A-8 of these regulations, unless the subdivider and the subdivision administrator agree to an extension or suspension of the review period, not to exceed one year. The review period of 35 working days begins once the subdivision administrator has given notice to the subdivider that the subdivision application is sufficient for review. Notification constitutes the date when the reviewing agent or agency sends the notice to the subdivider.

f. Public Agency and Utility Review

Review and comment by public agencies or utilizes may not delay the governing body's action on the subdivision application beyond the 35 working day review period. The governing body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the subdivision

administrator or the planning board contracts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the subdivision administrator shall notify the subdivider of the contact and timeframe for response.

**IV-A-6. First Minor Planning Board Consideration and Recommendation**

a. Consideration-Standards

In recommending approval, conditional approval, or denial of the subdivision application, the planning board shall base its recommendation on compliance of the subdivision application with the following:

- (i) These regulations, including but not limited to the design standards set forth in Section VI:
- (ii) Applicable zoning regulations;
- (iii) The MSPA, including but not limited to 76-3-608(3), MCA, as delineated in Section IV-A-8(a) and (b) of these regulations; and
- (iv) Other applicable regulations.

b. Consideration-Evidence

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

- (i) The subdivision application and preliminary plat;
- (ii) Discussion of probable impacts;
- (iii) An officially adopted growth policy;
- (iv) Planning staff report and recommendation; and
- (v) Any additional information authorized by law.

c. Recommendation

Within 10 working days of the meeting at which the governing body is to consider the subdivision application and preliminary plat, the planning board shall submit the following in writing to the subdivider and the governing body;

- (i) Recommended finding of fact based on the evidence in subsection (b) above that discuss and weigh the subdivisions compliance with and impact on these regulations; and
- (ii) A recommendation for approval, conditional approval (including any recommended conditions and/or mitigation measures), or denial of the subdivision application and preliminary plat.

d. Water and Sanitation Information

The planning board or planning staff shall collect public comment regarding the water and sanitation information required by Appendix A. The planning board shall forward all comments regarding water and sanitation to the governing body.

**IV-A-7. Subdivider's Preference for Mitigation**

No later than ten (10) days before the meeting at which the governing body is to consider the subdivision application and preliminary plat, the subdivider may submit in writing to the governing body the subdivider's comment on and responses to the planning board's recommendations. This document may include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the planning board's recommendations. The governing body will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preferences [76-3-608(5)(b), MCA].

**IV-A-8. First Minor Subdivision Governing Body Decision and Documentation**

a. Prerequisites to Approval

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

- (i) Provides easements for the location and installation of any planned utilities;
- (ii) Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;
- (iii) Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by section III-C-5 of these regulations; and
- (iv) Complies with the requirements of 76-3-504, MCA regarding the disclosure and disposition of water rights as follows:

If the proposed subdivision will create lots averaging less than five acres in size, pursuant to 76-3-504(1)(j), MCA, the subdivider shall:

- (A) 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 transfer to the City of Three Forks any remaining surface water rights from the land;
- (B) If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide 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
- (C) Reserve and transfer to the City of Three Forks all surface water rights from the land.

b. Consideration – Standards

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

- (i) These regulations, including but not limited to, the design standards set forth in Section VI;
- (ii) Applicable zoning regulations;
- (iii) Other applicable regulations; and
- (iv) The MSPA, including but not limited to the following factors that are representative of, but not an exhaustive list of impacts on the criteria identified in 76-3-608(3)(a), MCA.

(A) Impacts on agriculture

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

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction are considered to have a minimal effect on agriculture.
- (2) Proposed subdivisions or associated improvements that are located on prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service are considered to have an impact on agriculture.
- (3) Proposed subdivisions or associated improvements that predominately border land defined as agricultural or timberland by the Montana Department of Revenue or state trust lands are considered to have an impact on agriculture.

(B) Impact on agricultural water user facilities

Agricultural water user facilities are defined as those facilities which provide water for irrigation or stock watering to agricultural or timberland by the Montana Department of Revenue or state trust lands are considered to have an impact on agriculture.

- (1) Proposed subdivisions located on land with agricultural water user facilities or adjoining an agricultural water use facility are considered to have an impact on agricultural water user facilities.
- (2) Proposed subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are considered to have an impact on agricultural water user facilities.
- (3) Proposed subdivisions or associated improvements that will alter access for maintenance of agricultural water user facilities are considered to have an impact on agricultural water user facilities.
- (4) Proposed subdivisions or associated improvements that will alter the movement or availability of water are considered to have an impact on agricultural water user facilities.

(C) Impact on local services

Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction and will use existing utilities located within one-half mile of the subdivision are considered to have a minimal impact on local services.
- (2) Proposed subdivisions that will require the extension of public facilities by more than one-half mile are considered to have an impact on local services.

(D) Impact on natural environment

The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction and will use existing utilities located within one-half mile of the subdivision are considered to have a minimal impact on the natural environment except as otherwise provided in subsection (5) below.
- (2) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, rivers, streams, lakes, or other natural surface waters are considered to have an impact on the natural environment.
- (3) Proposed subdivisions or associated improvements that are proposed on land with a high water table (less than 4 feet from the surface), wetlands, or groundwater recharge areas are considered to have an impact on the natural environment.
- (4) Proposed subdivisions or associated improvements that are proposed in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 25 percent are considered to have an impact on the natural environment.
- (5) Proposed subdivisions or associated improvements that are proposed on land with historical, cultural, archeological, or paleontological features are considered to have an impact on the natural environment.

(E) Impacts on wildlife and habitat



Wildlife is defined as animals that are not domesticated or tamed; and wildlife habitat is defined as the place or area where wildlife naturally lives or travels through.

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction are considered to have a minimal impact on wildlife and wildlife habitat.
- (2) Proposed subdivisions or associated improvements that are proposed in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are considered to have an impact on wildlife and wildlife habitat.
- (3) Proposed subdivisions or associated improvements that are proposed in an area with rare or endangered species, as identified by state or federal agencies, are considered to have an impact on wildlife.
- (4) Proposed subdivisions or associated improvements that are proposed on and or adjacent to land identified by state or federal agencies as critical habitat are considered to have an impact on wildlife and wildlife habitat.

(F) Impacts on public health and safety

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

- (1) Proposed subdivisions that are contiguous to developed unincorporated town sites or within the city-county planning jurisdiction and utilize available public facilities are likely to have an impact on public health and safety.
- (2) Proposed subdivisions or associated improvements that are located in an area identified as a high fire hazard area by a fire district are considered to have an impact on public health and safety.
- (3) Proposed subdivisions or associated improvements that are proposed on land with high pressure gas lines or high voltage lines are considered to have an impact on public health and safety.

- (4) Proposed subdivisions or associated improvements that are proposed on land or adjacent to Superfund or hazardous waste sites are considered to have an impact on public health and safety.
- (5) Proposed subdivisions or associated improvements that are proposed on or adjacent to abandoned landfills, mines, wells, waste sites, or sewage treatment plants are considered to have an impact on public health and safety.

c. Consideration – Evidence

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

- (i) The subdivision application and preliminary plat;
- (ii) The statement of probable impacts and mitigation;
- (iii) An officially adopted growth policy;
- (iv) Planning staff report and recommendations;
- (v) Planning board recommendation; and
- (vi) Any additional information authorized by law.

d. Water and Sanitation-Special Rules

- (i) The governing body may conditionally approve or deny a proposed subdivision application as a result of the water and sanitation information provided in Section IV-A-2(iii)(A) or public comment received pursuant to subsection (iv) below.
- (ii) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the DEQ as a condition of approval of the final plat.
- (iii) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.
- (iv) The governing body shall collect public comments regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) days

after conditional approval or approval of the subdivision application and preliminary plat.

- (v) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:
  - (A) Reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and
  - (B) Local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

e. Documentation of Governing Body Decision

- (i) In rendering its decision to approve, conditionally approve, or deny the proposed subdivision the governing body shall issue written Findings of Fact that discuss and weigh the proposed subdivision's compliance with (a) and impact on the standards set forth in subsection (b) above.
- (ii) When the governing body approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, and make the letter available to the public. The letter shall:
  - (A) Contain information regarding the appeal process for the denial or imposition of conditions;
  - (B) Identify the regulations and statutes that were used in reaching the decision to approve, deny, or impose, conditions and explain how they apply to the decision;
  - (C) Provide the facts and conclusions that the governing body relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision; and
  - (D) Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

f. Subdivision Application and Preliminary Plat Approval Period

- (i) The governing body must establish the term of the approval or conditional approval of the subdivision application and preliminary plat, which must be at least one but not more than three calendar years.

- (A) At the end of this period the governing body may, at the request of the subdivider, extend its approval for a period of one year.
- (B) The governing body may extend the approval for more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the governing body and the subdivider, provided for in Section IV-A-10.
- (ii) After the application and preliminary plat are approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires.
- (iii) The governing body may withdraw approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

**IV-A-9. First Minor Subdivision – Amended Applications**

- a. If the subdivider changes the subdivision application or preliminary plat before the governing body makes its decision, the subdivider shall submit the amended application or preliminary plat to the subdivision administrator for review
  - (i) Within five (5) working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material.
  - (ii) The 35 working day review period is suspended while the subdivision administrator considers the amended application or preliminary plat.
  - (iii) If the subdivision administrator determines the changes are not material, the 35 working day review period resumes when the subdivision administrator mails notice of the decision to the subdivider.
- b. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsection (a)(ii).
- c. The following changes, although not an exhaustive list, may be considered material:
  - (i) Configuration or number of lots;
  - (ii) Road layout;
  - (iii) Water and/or septic proposals;

- (iv) Configuration of park land or open spaces;
  - (v) Easement provisions; and
  - (vi) Designated access.
- d. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the governing body. The person may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- (i) The 35 working day review period is suspended until the governing body decision on the appeal is made.
  - (ii) If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the governing body shall determine whether the subdivision application and preliminary plat should be resubmitted pursuant to subsection (a)(iv).
  - (iii) If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are not material, the 35 working day review period resumes as of the date of the decision.
  - (v) By appealing the decision of the subdivision administrator, the subdivider agrees to suspension of the 35 working day review period provided in subsection (c)(i).

**IV-A-10. First Minor Subdivision Final Plat**

The final plat must have the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section III-C, Final Plat.

**IV-B. Subsequent Minor Subdivisions**

Subsequent minor subdivisions shall be reviewed as major subdivisions. All the requirements and procedures of Section III of these regulations must be followed for subsequent minor subdivisions.

**V. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW**

**V-A Purpose**

The State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the MSPA.

**V-B. Divisions of Land Entirely Exempt from the Requirements of These Regulations and the Montana Subdivision and Platting Act**

Unless the method of disposition is adopted for the purpose of evading these regulations or the MSPA, the requirements of these regulations and the MSPA do not apply unless otherwise specifically provided when:

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

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

- b. A division of land is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes;
- c. A division of land creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
- d. A division of land creates cemetery lots;
- e. A division of land is created by the reservation of a life estate;
- f. A division of land is created by lease or rental for farming and agricultural purposes;
- g. A division of land is in a location over which the state does not have jurisdiction;
- h. A division of land is created for public rights-of-way or public utility sites;

**V-C. Specific Exemptions**

- a. Condominiums are constructed on land divided in compliance with these regulations and the MSPA provided that:

- (i) The approval of the original division of land expressly contemplated the construction of the condominiums and 76-3-621, MCA, is complied with; or
- (ii) The condominium proposal is in conformance with applicable zoning regulations.
- b. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land;
- c. A division of land created by lease or rental of contiguous airport related land owned by a city, county, the state, or a municipal or regional airport authority provided that the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier related activities;
- d. A division of state-owned land unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974;
- e. Deeds, contracts, leases, or other conveyances which were executed prior to July 1, 1974.

**V-D. Specific Exemptions from Review by Subject to Survey Requirements and Zoning Regulations**

Unless the method of disposition is adopted for the purpose of evading these regulations or the MSPA, the following divisions of land are not subdivisions under these regulations and the MSPA, but are subject to the surveying requirements of 76-3-401, MCA, and zoning regulations adopted under Title 76 chapter 2. A division of land may not be made under this section unless the County Treasurer has certified that no real property taxes and special assessments assessed and levied on the land to be divided are delinquent. The Clerk shall notify the subdivision administrator of any land division described in this section or 76-3-207(1), MCA.

**V-D-1. EXEMPTION AS A GIFT OR SALE TO A MEMBER OF THE IMMEDIATE FAMILY [76-3-207(1)(b), MCA]**

a. Statement of Intent.

The intention of this exemption is to allow a landowner to convey on parcel to each member of his or her immediate family without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

The term “immediate family” means the spouse, children (by blood or adoption), or parents of the grantor [76-3-103(8), MCA]. This exemption may be used only by grantors who are natural persons and not by non-corporal legal entities such as corporations, partnerships, and trusts.

b. Required Information

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 name of the grantee, relationship to the landowner, and the parcel to be conveyed under this exemption, and the landowner's certification of compliance. Also, the certificate of survey or instrument of conveyance must be accompanied by a deed or other conveying document.

c. Use of Exemption

One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review under 76-3-207(1)(b), MCA, and these regulations. However, the use of the exemption may not create more than one new parcel per exemption.

d. Rebuttable Presumptions

- (i) Any proposed use of the family conveyance exemption to divide a tract that was created through use of an exemption will be presumed to be adopted for purposes of evading the Act.
- (ii) The use of the family conveyance exemption to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space or common marketing or promotional plan raises a rebuttable presumption that the use of the exemption is adopted for purposes of evading the Act.

**V-D-2. EXEMPTION TO PROVIDE SECURITY FOR CONSTRUCTION MORTGAGES, LIENS, OR TRUST INDENTURES [76-3-201(1)(b), MCA]**

a. Statement of Intent

Under policies by many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a person who is buying a tract using financing or contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.

b. Use of Exemption

This exemption is not available to simply create a parcel without review by claiming that the parcel will be used for security to finance construction of a home or other structure on the proposed lot.

This exemption may not be properly invoked unless (1) the claimant is purchasing a larger tract through financing or a contract for deed (and thus does not hold title) and (2) a lending



institution requires the landowner to hold title to a small parcel of the tract because the smaller tract is required as security for a building construction loan.

c. Required Materials

When this exemption is to be used, the landowner must submit to the clerk and recorder:

- (i) A statement of how many parcels within the original tract will be created by use of the exemption;
- (ii) The deed, trust indenture or mortgage for the exempt parcel (which states that the tract of land is being created only to secure a construction mortgage, lien or trust indenture);
- (iii) A statement explaining who will have title to and possession of the balance of the original parcel after title to the exempted parcel is conveyed; and
- (iv) A signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.

d. Rebuttable Presumptions

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

- (i) It will create more than one new building site;
- (ii) The financing is not for construction on the exempted parcel;
- (iii) The person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is anyone other than the borrower of funds for construction;
- (iv) Title to the exempted parcel will not be initially obtained by the lending institution if foreclosure occurs;
- (v) It appears that the principal reason the parcel is being created is to create a building site and using the parcel to secure a construction loan is a secondary purpose;
- (vi) If the division of land is created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.

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

a. Statement of Intent.

The intention of this exemption is to allow a landowner to create a parcel without local review if the parcel will be used only for the production of livestock or agricultural crops and no residential, commercial or industrial buildings will be built on it.

b. Use of Exemption.

“Agricultural purpose,” for purposes of these evasion criteria, means the use of land for raising crops or livestock, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the DEQ, provided the applicable exemption under the Sanitation in Subdivisions Act is properly invoked by the property owner.

c. Rebuttable Presumptions.

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

- (i) The 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. The covenant must be signed by the property owner, the buyer, and the county commissioners.
- (ii) The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial, or industrial buildings will be built on it.
- (iii) Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision.
- (iv) Residential, commercial, or industrial structures, including facilities for commercial processing of agricultural products, may not be utilized, constructed or erected on parcels created under this exemption unless the covenant is revoked.

**V-D-4. RELOCATION OF COMMON BOUNDARY [76-3-207(1)(a), MCA]**

a. Statement of Intent.

The intended purpose of this exemption is to allow a change in the location or the elimination of a boundary line between two parcels and to allow a one-time transfer of a tract to effect that relocation or elimination without subdivision review.

b. Required Information.

Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and, in case of a relocation, the new boundary. This must be accomplished by representing the existing boundary with a dashed line and the new boundary, if applicable, with a solid line. The appropriate certification must be included on the certificate of survey.

c. Use of Exemption.

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

d. Rebuttable Presumptions.

The use of this exemption is presumed to have been adopted for the purpose of evading the Act if the agent determines that the documentation submitted according to this section does not support the states reason for relocation.

**V-E. Procedures and Review of Subdivision Exemptions**

**V-E-1. Submittal**

Any person seeking exemption from the requirements of the Subdivision and Platting Act (76-3-101et.seq., MCA) shall submit to the subdivision administrator, (1) a certificate of survey or, if a survey is not required, an instrument of conveyance, and (2) evidence of, and an affidavit affirming, entitlement to the claimed exemption.

**V-E-2. Review**

When a claimed exemption is submitted to the subdivision administrator, the subdivision administrator shall cause the documents to be reviewed by the designated agents of the governing body (e.g., county planner, sanitarian and clerk and recorder). The subdivision administrator and governing body agents shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the MSPA, the Montana Sanitation in Subdivisions Act, and these regulations.

- a. Landowners or their agents are encouraged to meet with the subdivision administrator to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.
- b. Within five (5) working days of submittal the subdivision administrator shall submit a written determination whether the use of the exemption is intended to evade the purposes of the Act.

- c. If the subdivision administrator finds that the proposed use of the exemption complies with the statutes and these criteria, the subdivision administrator shall notify the governing body and advise the clerk and recorder to file the certificate of survey or record the instrument of conveyance and accompanying documents. If the subdivision administrator finds that the proposed use of the exemption does not comply with the statutes and these criteria, the subdivision administrator shall advise the clerk and recorder to not file or record the documents, and the clerk shall return the materials to the landowner.
- d. The subdivision administrator, 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: the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction is completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

**V-E-3. Appeals.**

- a. Any person whose proposed use of an exemption has been denied by the subdivision administrator because the proposed division of land has been deemed an attempt to evade the MSPA, and these regulations, may appeal the agent's decision to the governing body. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the MSPA or these regulations, and, thereby 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 the MSPA or these regulations, it may authorize the use of the exemption in writing. A certificate of survey claiming an exemption from subdivision review, which otherwise is in proper form, and which the governing body has found not to be an attempt to evade the MSPA or these regulations, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the governing body.
- c. If the person proposing to use an exemption does not seek to rebut the rebuttable presumption or if the governing body determines that the proposed use of the exemption was for the purpose of evading the Act, the landowner may submit a subdivision application for the proposed land division.

**V-E-4. Identification Codes**

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

- CO...Court order [76-3-201(1)(a), MCA]
- ME...Mortgage Exemption [76-3-201(1)(b), MCA]
- LE...Life Estate [76-3-201(1)(e), MCA]

RB...Relocation of Common Boundary [76-3-207(1)(a), MCA]  
FC...Family Conveyance [76-3-207(1)(b), MCA]  
AE...Agricultural Exemption [76-3-207(1)(c), MCA]  
OS...Occasional Sale (used prior to April 6, 1993)  
AL...Aggregation of Lots [76-3-207(e), MCA]

## **VI. DESIGN AND IMPROVEMENT STANDARDS**

All subdivisions approved by the governing body must comply with the provisions of this section, except where granted a variance pursuant to Section IX-B, Variances. The governing body may not grant variances from the provisions of Section VI-A-4, Floodplain Provisions. For subdivisions created by rent or lease, planned unit developments, and condominiums, refer to sections VII, VIII, and IX of these regulations.

### **VI-A. General Standards**

#### **VI-A-1. Conformance with Zoning**

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

#### **VI-A-2. Natural Environment**

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

#### **VI-A-3 Lands Unsuitable for Subdivision**

Land that the governing body determines is unsuitable for subdivision because of natural or human caused hazards may not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques.

#### **VI-A-4 Floodplain Provisions**

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

If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a live stream draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider must furnish survey data to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation. Survey data must comply with the Standards for Flood Hazard Evaluations contained in Appendix C of these regulations. After the Floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the subdivider must submit it to the planning board (or subdivision administrator) along with the Environmental Assessment required for the preliminary plat.

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

#### **VI-A-5. Improvement Design**

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

**VI-A-6. Lots**

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

- a. No lot may be divided by a municipal or county boundary line.
- b. No lot may be divided by a public road, alley or utility right-of-way or easement.
- c. Each lot must abut and have access to a public or private street or road. Alleys may not be used to provide the primary access to a lot.
- d. Corner lots must have driveway access to the same street or road that provides access to interior lots.
- e. Corner lots must be designed to provide acceptable sight distance for safe vehicular movement.
- f. No lot may have an average depth greater than three times its average width.
- g. Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.
- h. Through lots are prohibited except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

**VI-A-7 Blocks**

- a. Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
- b. Unless impractical, block length must not be more than 750 feet.
- c. Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation.

- d. Right-of-way for adequate and safe pedestrian access, at least 10 feet wide, must be provided to insure circulation to schools, playgrounds, shopping, transportation, and other community facilities.
- e. Alleys shall be required in all residential subdivisions. For the purpose of providing fire lanes, utility easements and off street parking access.

#### **VI-A-8. Streets and Roads**

##### **a. Design**

- (i) The agreement, type, extend, width, grade, and location of all streets must be considered in their relation to existing and planned streets and alleys, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them.
- (ii) Streets and alleys which are a continuation of existing streets and alleys outside the proposed subdivision shall be aligned to ensure their centerlines and right-of-ways coincide. Continuation of existing streets and alleys shall have the right-of-way width of at least that of the existing streets and alleys.
- (iii) Street and alleys must meet the design specification in Table 1.
- (iv) Where streets terminate, either a cul-de-sac or “T” turnaround must be provide at the terminus. Cul-de-sacs and “T” turnarounds must conform to the design specifications in Table 1.
- (v) All street must either be dedicated to the public or be private street to be owned and maintained by an approved property owners’ association.
- (vi) Residential driveways must not have direct access to primary highways or arterial roadways. Any vehicular access onto a state highway must be approved by the Montana Department of Transportation.
- (vii) Local streets must be designed so as to permit multiple routes to collector streets.
- (viii) Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the governing body may require frontage roads or other treatment as may be necessary to adequately protect residential properties and to separate arterial and local traffic.
- (ix) Half streets are prohibited except when they are essential to the development of the subdivision and when the governing body is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.



- (x) The alignment of all streets and roads must provide adequate sight distances.
- (xi) Intersections. The following requirements apply to intersections:
  - a) Streets must intersect at 90 degree angles except when topography prohibits this alignment. In no case may the angle of an intersection be less than 60 degrees to the center line of the roadway being intersected.
  - b) Two streets meeting a third street from opposite sides must be offset at least 125 feet for local roads and 300 feet for arterials or collectors.
  - c) No more than two streets may intersect at one point.
  - d) Intersections of local streets with major arterials or highways must be avoided.
  - e) Intersection must be designed to provide adequate visibility for traffic safety based on the designed operating speeds of the intersecting roadways.
  - f) Hilltop intersections are prohibited, unless no alternatives exist. Intersections on local roads within 100 feet of a hilltop are prohibited. Intersections on arterial and collector roads within 200 feet of a hilltop are prohibited. If no alternative to a hilltop intersection exists, additional traffic control devices will be required.
- (xii) Names of new streets or roads aligned with existing streets must be the same as those of the existing streets. Proposed street names may not duplicate or cause confusion with existing street names. All street names must be reviewed and approved by the City of Three Forks and the Gallatin County GIS Office

b. Improvements

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

Easements must be granted by each property owner in a signed and notarized document. (Appendix F contains a model road access easement).

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

- (v) Existing trees and other vegetation must be preserved whenever possible. Planting may be required for buffering, screening, or prevention of soil erosion and is subject to approval by the governing body.
- (vi) Street lights will be required in subdivisions to protect public safety.
- (vii) Street or road signs and traffic control devices of the size, shape, and height approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the *Manual on Uniform Control Devices* available from the Montana Department of Transportation.
- (viii) When required by the United States Postal Service, the developer must provide an off-street area for mail delivery.

**TABLE 1: Road Design Standards for Subdivision**

<u>Minimum Design Standards Roads</u>	<u>Minor Collector</u>	<u>Local</u>
1. Minimum right-of-way	60 ft.	
a. level terrain		50 ft.
b. hilly terrain		60 ft.
2. Minimum roadway width <sup>1</sup>	26 ft.	24 ft.
3. Minimum alley width		20 ft.
4. Minimum curb radius or edge of pavement at intersections	25 ft.	15 ft.
5. Maximum grades <sup>2</sup>	8 %	9 %
6. Approaches onto Public Roads		
a. minimum sight distance	200 ft.	150 ft.
b. minimum width	35 ft.	30 ft.
c. maximum grade for 20'	5 %	5 %
7. Curvature		
a. design speed	30 mph	20mph

b. maximum curve	23 ft.	53.5 ft.
c. minimum curve	249 ft.	107 ft.
8. Cul-de-sac/Turnarounds		
a. maximum road length	-	500 ft.
b. cul-de-sac: minimum outside right-of-way radius	-	40 ft.
c. cul-de-sac: minimum outside roadway radius	-	35 ft.
d. "T" turnaround: backup lengths (2 required)	-	30 ft. each
9. New bridges		
a. curb-to-curb widths	26 ft.	24 ft.
b. design load capacity	20 tons	20 tons
c. vertical clearance	14.5 ft.	4.5 ft.

<sup>1</sup> Where parking will be permitted add eight feet on each side. If guardrail installation is required or a shoulder is desired, add two feet to each side of roadway.

<sup>2</sup> Grades over 10% must not exceed 100 feet in length.

<sup>3</sup> Curvature is based on a super-elevation of .08/ft.

<sup>4</sup> Width of the bridge roadway surface should match the width of the roadway system it joins.

**VI-A-9. Drainage Facilities**

- a. The drainage system and facilities required for any surface run-off affecting the subdivision is subject to approval by the governing body. Subdivisions containing lots less than 20 acres in size must also be reviewed and approved under Title 76, Chapter 4, MCA, by the DEQ.
- b. Curbs and gutters or swales will be required based on the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended in conformance with current specifications of local and state authorities.
- c. Culverts and bridges of adequate size must be provided and installed by the subdivider where drainage channels intersect any street or road right-of-way or easement. All culverts and bridges must be constructed and installed according to applicable local and state standards. Culverts and other drainage facilities must be large enough to accommodate potential run-off from upstream drainage areas.
- d. The subdivider must provide suitable drainage facilities for any surface run-off affecting the subdivision. These facilities must be located in street right-of-way or in perpetual easement of appropriate widths.
- e. Drainage systems must not discharge on to adjacent properties or into any sanitary sewer facility.

- f. Drainage systems must be designed and certified by a professional engineer.
- g. The governing body may require the subdivider to grant easements to prevent encroachment or disruption of drainage ways or facilities. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat.

**VI-A-10. Water Supply Systems**

- a. The subdivider shall install complete water distribution facilities to adjoin the existing municipal system in accordance with the requirements of the City of Three Forks and the Montana Department of Environmental Quality (DEQ).
- b. The governing body may not approve the final plat of a subdivision unless the subdivision has been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, section 76-4-101 et seq., MCA.
- c. Any water supply system must provide adequate and accessible as determined by the governing body water for fire protection.

**VI-A-11. Sewage Treatment Systems**

- a. The subdivider shall install complete sanitary sewer collection facilities to adjoin the existing municipal system in accordance with the city of Three Forks and the Montana Department of Environmental Quality (DEQ).
- b. The governing body may not approve the final plat of a subdivision unless the subdivision has been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, section 76-4-101 et seq., MCA before the governing body can approve the final plat.

**VI-A-12. Solid Waste**

- a. The proposed method of solid waste removal must comply with the standards adopted by the City of Three Forks and the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.309. By this reference this DEQ standard is incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. Before the governing body will approve the final plat the subdivision must have been approved by the DEQ or other authorized reviewing authority under the Sanitation in Subdivision Act section 76-4-101, et seq., MCA.

**VI-A-13. Utilities**

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

“The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designed on this plat as ‘Utility Easement’ to have and to hold forever.”

**VI-A-14. Water Course and Irrigation Easements**

- a. Except as noted in subsection (b), below, the subdivider shall establish within the subdivision ditch easements that:
  - (1) Are in locations of appropriate topographic characteristic and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water

right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

- (2) Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch' and
- (3) Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner;

b. The subdivider need not establish irrigation easements as provided above if;

- (1) The average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or
- (2) The water rights have been removed from the land within the subdivisions or the process has been initiated to remove the water rights from the subdivided land; and
- (3) The fact that the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for the related sales transactions.

c. The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and file and record with the county clerk and recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision boundaries in quantities and in a manner that are side of irrigation canals and ditches for maintenance purposes.

#### **VI-A-15. Disposition of Water Rights**

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

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

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

**VI-A-16. Park Land Dedication – Cash in Lieu – Waivers – Administration**

- a. Except as provided below, the final plat of a residential subdivision must show that the subdivider has dedicated to the governing body a cash or land donation equal to:
  - (1) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
  - (2) 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;
  - (3) 5% of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres; and
  - (4) 2.5% of the area of the land proposed to be subdivided into parcels larger than three acres and not larger than five acres.
- b. A park dedication is not required for:
  - (1) Minor subdivision;
  - (2) Subdivision lots larger than five acres;
  - (3) Nonresidential subdivision lots;
  - (4) Subdivision in which parcels of land will not be created, other than subdivisions that will provide permanent multiple spaces for recreational camping vehicles; or
  - (5) Subdivision which will create only one additional parcel.
- c. The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable location for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land

donation. The land dedication for park use may be inside or outside the boundaries of the proposed subdivision.

- d. The governing body will waive the park dedication if it determines that:
  - (1) (a) The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and
    - (b) The area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection a;
  - (2) (a) The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and
    - (b) The provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under **a** above;
  - (3) The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsection d (1) and (2) above, is reduced by an amount equal to or exceeding the area of the dedication required under subsection **a**; or
  - (4) (a) The subdivider provides for land outside for the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
    - (b) The area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1);
- e. The local governing body may waive the park dedication requirement if:
  - (1) The subdivider provides land outside the subdivision that affords long-term protections of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
  - (2) The area of land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of dedication required under subsection (1).
- f. The governing body will administer funds dedicated to the public under this section in accordance with section MCA 76-3-621.
- g. For the purposes of this park dedication requirement “Cash donation” means the fair market value of the unsubdivided, unimproved land.



**VI-A-17. Fire Protection**

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 in order to protect persons, property, and forested areas. Measures must include;

- a. At least two entrances/exits must provide escape routes for residents and access to the subdivision by fire-fighting vehicles. Bridges providing access to the subdivision must be built to a design load of 20 tons and constructed of non-flammable materials.
- b. The placement of structures so as to minimize the potential for flame spread and to permit adequate access for fire fighting equipment.
- c. The presence of adequate fire fighting facilities on site, including an adequate water supply and water distribution system.

**VI-A-18. Special Requirements for Subdivisions Proposed in Areas of High Fire Hazards.**

For areas identified as wildfire hazard areas by the United States Forest Service, the Montana Department of Natural Resources and Conservation, a local fire protection authority, or a local growth policy, the following apply:

- a. A Fire Prevention and Control Plan must include the following items:
  - (i) An analysis of wildfire hazards on the site, as influenced by existing vegetation and topography.
  - (ii) A map showing the areas that are to be cleared of dead, dying, or severely disease vegetation;
  - (iii) A map of the areas that are to be thinned to reduce the interlocking canopy of trees;
  - (iv) The identification of roads, driveways, and bridges that are sufficient for emergency vehicle access and fire suppression activities. Slopes of all roads and driveways must be provided.
- d. Building sites may not be located on slopes greater than 25 percent or at the apex of “fire chimneys” (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).
- e. The Fire Prevention and Control Plan must be implemented before the governing body will approve the final plat, and will be considered part of the subdivider’s obligation for land development. The local fire chief, or designee, will inspect and approve the implementation of the Fire Prevention and Control Plan. The Plan will not be considered

fully implemented until the fire chief has given written notice to the planning board or subdivision administrator that the Plan has been completed as approved.

- f. Provisions for the maintenance of the Fire Prevention and Control Plan shall be included in the covenants, conditions, and restrictions for the development. A property owners' association must be formed and designated to enforce the covenants, conditions, and restrictions.
- g. Open space, park land, and recreational areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.
- h. A water supply of sufficient volume for effective fire control must be provided in accordance with standards set by Three Forks City and Rural Fire Department.

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

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

**VII-A-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 section **VII-E Recreational Vehicle Park Standards** below. 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.

**VII-A-2. Mobile Homes – Definition**

Developments which are subject to subdivision review because they will provide two or more spaces for mobile homes will be reviewed under section **VII-D Mobile Home Park Standards** below. For purposes of these regulations to term “mobile 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.

- a. Land subdivision created by rent or lease will be reviewed under the procedures described in Section III, Major Subdivisions, or Section IV, Minor Subdivision, as may be appropriate, except that the subdivider shall submit an unsurveyed final plan drawn to scale, rather than a final plat.
- b. Land subdivisions created by rent or lease are subject to the applicable design and improvements standards contained in Section VI, Design and Improvements Standards.

**VII-B. Procedures for Review**

**VII-B-1. Definition**

A subdivision created by rent or lease, including a mobile home or recreational vehicle park, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one

parcel under single ownership (which can include a number of persons owning property in common).

**VII-B-2**      **Review and Approval**

Subdivisions which will provide multiple spaces for recreational camping vehicles or mobile homes and subdivisions created for rent or lease are exempt from the surveying and filing requirements of the MSPA. These subdivisions must be submitted for review and approved by the governing body before portions of the subdivision may be rented or leased. The subdivider shall submit a completed application form and a plan of the proposed development. The procedure used to review subdivisions for rent or lease will depend on the number of spaces within the proposed subdivision. Proposed subdivisions contained six or more spaces must be reviewed pursuant to Section IV of these regulations. The subdivider shall submit to the governing body the preliminary plans, profiles, tentative grades, and specifications for proposed improvements drawn to scale by a registered engineer. The plan must show the lot layout and the proposed location of the mobile home, recreational vehicle, or other unit on the lot.

**VII-B-3.**      **Improvements**

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

**VII-B-4**      **Final Plan Review**

In lieu of filing a final plat, the subdivider shall submit a plan conforming to the requirements for preliminary plats contained in Appendix A, Preliminary Plat Form, Contents, and Supplements. The subdivider shall submit the plan to the governing body or subdivision administrator. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the office of the city clerk and recorder.

**VII-B-5.**      **DPHHS License**

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

**VII-C.**            **Design Standards for Subdivisions Spaces Created by Rent or Lease**

**VII-C-1.**        **Design Standards**

Subdivisions created by rent or lease must comply with the provisions of Section VI, Design and Improvements Standards.

### **VII-C-2. Additional Provisions**

The governing body requires provision for:

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

### **VII-D. Mobile Home Park Standards**

#### **VII-D-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 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park.
- c. The mobile home pad must be located at least 10 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 (1/3) of the area of its space. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the area of a space.
- f. The mobile home pad must 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 awning and carports, may be located within 20 feet of any other mobile home or its attached structures.
- h. No detached structure, such as a storage shed, may be located within five feet of any mobile home or its attached structures.

- i. A minimum of two off-street parking spaces must be provided on or adjacent to each mobile home space. The driveway must be located to allow for convenient access to the mobile home, and be a minimum of 10 feet wide.
- j. One guest parking space must be provided for each 10 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.
- l. Each mobile home must be skirted within 30 days after it is moved to a space within the mobile home park. The skirting must be of a fire-resistant material similar to that of the mobile home exterior.

**VII-D-2      Streets**

Streets within a mobile home park must meet the design standards specified in Section VI-A-8 Streets and Roads. Streets must be designed to allow safe placement and removal of mobile homes.

- a. Streets must be designed to provide access to public roads.
- b. Roads within the mobile home park must be designed to provide safe traffic circulation and parking.
- c. One-way roads must be at least 15 feet wide; two-way roads must be at least 24 feet wide
- d. At least two entrances/exits must provide escape routes for residents and access to the subdivision by fire fighting vehicles.

**VII-D-3.      Electrical Systems**

Electrical systems must be designed and installed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation must be designed and constructed in accordance with the applicable state electrical standards.

**VII-D-4.      Gas Systems**

- a. Gas equipment and installations must be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such as installation must be designed and constructed in accordance with the applicable provisions of the “National Fuel Gas Code” (NFPA Pamphlet 54-1981) and the “Standard for the Storage and handling of Liquefied Petroleum Gases” (NFPA pamphlet 58-1981).

- b. A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system must be installed near to the point connection of the liquefied petroleum gas container.
- c. Each mobile home lot must have an accessible, listed gas shutoff installed. This valve must not be located under a mobile home. Whenever the mobile home lot gas outlet is not in use, the shutoff valve must be plugged to prevent accidental discharge.

**VII-E. Recreational Vehicle Park Standards**

**VII-E-1. Recreational Vehicle Spaces**

- a. Spaces in recreational vehicle parks must be arranged to allow for the safe movement of traffic and access to spaces.
- b. Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking
- c. Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.
- d. No recreational vehicle space may be located less than 25 feet from any public street or highway right-of-way.
- e. At least two entrances/exits must provide escape routes for residents and access to the subdivision by fire fighting vehicles.

**VII-E-2 Density**

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

## **VIII. PLANNED UNIT DEVELOPMENT**

### **VIII-A      Purpose**

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

### **VIII-A-1      Procedures**

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

III-A      Review and Approval Procedures for Major Subdivisions

IV-B      Preliminary Plats

III-C.     Final Plats.

### **VIII-C.      Standards**

#### **VIII-C-1      Design Standards**

PUDs must comply with the standards contained in Section VI Design and Improvement Standards. However, the governing body may modify the design and improvement standards contained in Section VI-A-6 Lots, Section VI-A-7 Blocks, Section VI-A-8 streets and roads, and Section VI-A-16 Park Land Dedication upon request of the subdivider when the plan for a PUD includes provisions for efficient traffic circulation, adequate light, air, and open space. In such cases, no application for a variance under Section XI-B Variances of these regulations is necessary.

#### **VIII-C-2      Streets**

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

#### **VIII-C-3.      Open Space.**

Each PUD must comply with the requirements of subchapter VI-A-16d. of these regulations. The open space must be:

- a.      Owned by a property owners' association; or



- b. Dedicated to public use, if acceptable to the governing body; or
- c. A combination of a. and b. above.

The governing body may waive dedications or cash donation requirements when the subdivider agrees to create a property owners' association for the proposed subdivision and deed to the association land to be held in perpetuity for use as parks or playgrounds.

## **IX. CONDOMINIUMS**

### **IX-A. Procedures**

Unless exempted by section 76-3-203, MCA, all condominium subdivision must be reviewed under the procedures contained in Section VII, Subdivisions Created by Rent or Lease, with the following exception: final approval will not be given until the subdivider has either installed all required improvements, or has entered into a subdivision improvements agreement pursuant to Section III-C-5 Public Improvements Agreement; Guaranty.

#### **IX-A-2. Condominium Subdivision Involving Land Divisions**

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

III-B Review and Approval Procedures for Major Subdivisions

III-C Final Plats.

### **IX-B Standards**

#### **IX-B-1 Design Standards**

Condominium developments must comply with applicable standards contained in Section IV, Design and Improvements Standards.

#### **IX-B-2. Unit Ownership**

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

## **X. CLUSTER DEVELOPMENT**

### **X-A Cluster Development**

1. The following apply to cluster developments created under this option:
  - a. The development must preserve an open space that is at least as large as the area that will be developed.
  - b. The proposal must provide a mechanism for the maintenance of the open space in perpetuity. The open space may be dedicated to a homeowners' association for the purpose of maintenance, and may be used for agricultural or other purposes that enhance the preserved area.
  - c. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development.
2. Park dedication requirements are waived for clustered subdivisions created under this section.

**XI. ADMINSTRATIVE PROVISION**

**XI-A. Fee Schedule**

**XI-A-1 Preliminary Plat Review**

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

<u>Number of Proposed Lots or Dwelling Units</u>	<u>Fees</u>
1-5 (minor subdivisions)	\$600
6 or more (major subdivisions)	\$1,200 plus \$100 dollar per lot

**XI-A-2. Final Plat Review and Inspection.**

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

Minor Subdivisions	\$600
Major Subdivisions	\$1200

Additional cost for review by engineering and planning consultants employed by the City of Three Forks shall be at the expense of the applicant.

**XI-B. Variances**

**XI-B-1. Variances Authorized**

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

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

The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

- a. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the

owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed;

- b. The variance will not cause a substantial increase in public costs; and
- c. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

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

The governing body will not by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.

**XI-B-3. Procedure**

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

**XI-B-4. Conditions**

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

**XI-B-5. Statement of Facts**

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

**XI-C. Amendment of Regulations**

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

**XI-D. Administration**

**XI-D-1. Enforcement**

Except as provided in 76-3-303, MCA, every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the city or county attorney shall commence action to

enjoin further sales or transfers and compel compliance with all provision of the MSPA and these regulations. The cost of this action shall be imposed against the party not prevailing.

**XI-D-2.**      **Violation and Penalties**

Any person, firm, corporation, or other entity that violates any of the provisions of the MSPA or these regulations is guilty of a misdemeanor punishable by a fine of not less the \$100 or more than \$500 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these regulations shall be deemed separate and distinct offense.

**XI-D-3.**      **Appeals**

A decision of the governing body regarding a proposed subdivision may be appealed to the district court.

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

**24.183.1101 UNIFORM STANDARDS FOR MONUMENTATION**

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

the surveyor shall prepare and file an amended certificate of survey or subdivision plat.

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

#### **24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY**

- 1. A certificate of survey may not be filed by a county clerk and recorder unless it complies with the following requirements:
  - a. A certificate of survey must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches, or 24 inches by 36 inches, overall to include a 1 ½ inch margin on the binding side.
  - b. One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.
  - c. If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.



- d. A certificate of survey must show or contain on its face or on separate sheets referred to on its face the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.
  - i. A title or title block including the quarter-section, section, township, range, principal meridian and county, and, if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not bear the title “plat,” “subdivision” or any title other than “Certificate of Survey.”
  - ii. The name(s) of the person(s) who commissioned the survey and the names of any adjoining platted subdivisions and the numbers of any adjoining certificates of survey previously filed.
  - iii. The date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line or retrace an existing parcel of land.
  - iv. A north arrow.
  - v. A scale bar. (The scale must be sufficient to legibly represent the required information and data.)
  - vi. The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101 (1)(c).
    - A. If additional monuments are to be set after the certificate of survey is filed, these monuments must be shown by a distinct symbol, and the certificate of survey must bear a certification by the surveyor as to which they will be set.
    - B. All monuments found during a retracement that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).
  - vii. The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey.
  - viii. Witness and reference monuments and basis of bearings. For purposes of this rule the term “basis of bearings” means the surveyor’s statement as to the origin of the bearings shown in the certificate of survey. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the certificate of survey shows true

bearings, the basis of bearings must describe the method by which these true bearings were determined.

- ix. The bearings, distances and curve data of all boundary lines. If the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.
  - A. The courses along a meander line are shown solely to provide a basis for calculating the acreage of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
  - B. For purposes of this rule a line that indicates a fixed boundary of a parcel is not a “meander” or “meander line” and may not be designated as one.
- x. Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be so labeled, the certificate of survey must include the bearings of radial lines or chord length and bearing.
- xi. Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.
- xii. A narrative legal description of the parcel surveyed as follows:
  - A. If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is the aliquot or government lot description of the parcel.
  - B. If the survey depicts the retracement or division of a parcel or lot that is shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the parcel or lot number of the parcel surveyed.
  - C. If the parcel surveyed does not fall within (1)(d)(xii)(A) or (B), above, the information required by this subsection is the metes and-bounds description of the perimeter boundary of the parcel surveyed.
  - D. If the certificate of survey establishes the boundary of a parcel containing one or more interior parcels, the information required

by this subsection is the legal description of the encompassing parcel.

- E. The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.
- xiii. Except as provided by (1)(f)(iv), all parcels created by the survey, designated by number or letter, and the dimensions and area of each parcel. (Excepted parcels must be marked “Not included in this survey.”) If a parcel created by the survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification.
- xiv. The location of any easement that will be created by reference to the certificate of survey.
- xv. The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the certificate of survey has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-101 through 76-3-625, MCA) and the regulations adopted under that Act.
- xvi. A memorandum of any oaths administered under 76-3-405, MCA.
- xvii. Space for the county clerk and recorder’s filing information.
- e. Certificates of survey that do not represent a division of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must bear a statement as to their purpose and must meet applicable requirements of this rule for form and content.
- f. Procedures for divisions of land exempted from public review as subdivisions. Certificates of survey for divisions of land meeting the criteria set out in 76-3-207, MCA, must meet the following requirements:
  - i. A certificate of survey of a division of land that would otherwise be a subdivision but that is exempted from subdivision review under 76-3-207, MCA, may not be filed by the county clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and citing the applicable exemption.

- ii. If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it bears a signed and acknowledged recitation of the covenant.
- iii. If a certificate of survey invokes the exemption for gifts and sales to members of the landowner's immediate family, the certificate must indicate the name of the proposed grantee, the relationship of the grantee to the landowner and the parcel to be conveyed to the grantee.
- iv. If a certificate of survey invokes the exemption for the relocation of common boundary lines:
  - A. The certificate of survey must bear the signatures of all landowners whose parcels will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of or eliminate a boundary line dividing two or more parcels, and must clearly distinguish the prior boundary location (shown, for example, by a dashed or broken line or a notation) from the new boundary (shown, for example, by a solid line or notation);
  - B. The certificate of survey must show the boundaries of the area that is being removed from one parcel and joined with another parcel. The certificate of survey may, but is not required to, establish the exterior boundaries of the resulting parcels. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation;
  - C. If a boundary line will be completely eliminated, the certificate must establish the boundary of the resulting parcel.
- v. A survey document that modifies lots in a platted and filed subdivision and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d) or (e), MCA, must be entitled "amended plat of the (name of subdivision)," but for all other purposes is to be regarded as certificate of survey. The document must contain a statement signed by the property owner that approval of the local government body is not required and citing the applicable exemption.
- vii. If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must bear, or be accompanied by, a certification by the county treasurer that all taxes and special assessments assessed and levied on the surveyed land have been paid.

- viii. For purposes of (1)(f), when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner”, “landowner” and “owner” mean the seller of the parcel under the contract-for-deed.
- g. Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in 76-3-201, 76-3-205 and 76-3-209, MCA, and divisions of federally owned land made by a United States government agency are not required to be surveyed, nor must a certificate of survey or subdivision plat showing these divisions be filed with the clerk and recorder. A certificate of survey of one of these divisions may, however, be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule and bears a certificate of the surveyor performing the survey citing the applicable exemption from the Act or, when applicable, that the land surveyed is owned by the federal government.

#### **24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS**

1. A final subdivision plat may not be approved by the governing body or filed by the county clerk and recorder unless it complies with the following requirements:
  - a. Final subdivision plats must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1 ½-inch margin on the binding side.
  - b. One signed copy on cloth-backed material or on 3mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.
  - c. If more than one sheet must be used to adequately depict the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.
  - d. A survey that modifies a filed subdivision plat must be entitled “amended plat of (lot, block and name of subdivision being amended,.” and unless it is exempt from subdivision review by 76-3-201 or 76-3-207(1)(d) or (e), MCA, may not be filed with the county clerk and recorder unless it meets the filing requirements for final subdivision plats specified in this rule.
2. A final plat submitted for approval must show or contain, on its face or on separate sheets referred to on the plat, the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

- a. A title or title block indicating the quarter-section, section, township, range, principal meridian, county and, if applicable city or town, in which the subdivision is located. The title of the plat must contain the words “plat” and either “subdivision” or “addition”.
- b. The name of the person(s) who commissioned the survey and the name(s) of the owner of the land to be subdivided if other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions, and the numbers of any adjoining certificates of survey previously filed.
- c. A north arrow.
- d. A scale bar. (The scale must be sufficient to legibly represent the required information and data on the plat.)
- e. The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101 (1)(c).
  - i. If additional monuments are to be set after the certificate of survey is filed, these monuments must be shown by a distinct symbol, and the certificate of survey must bear a certification by the surveyor as to which they will be set.
  - ii. All monuments found during a retracement that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).
- f. The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey.
- g. Witness and reference monuments and basis of bearings. For purposes of this rule the term “basis of bearings” means the surveyor’s statement as to the origin of the bearings shown in the certificate of survey. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the certificate of survey shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.
- h. The bearings, distances and curve data of all boundary lines. If the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.
  - i. The courses along a meander line are shown solely to provide a basis for calculating the acreage of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

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

- iii. If the parcel surveyed does not fall within (2)(p)(i) or (ii) above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.
  - iv. If the plat establishes the boundaries of a subdivision containing one or more interior parcels, the information required by this subsection is the legal description of the perimeter boundary of the subdivision.
  - q. The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-101 through 76-3-625, MCA) and the regulations adopted under that Act.
  - r. A memorandum of any oaths administered under 76-3-405, MCA.
  - s. The dated, signed and acknowledged consent to the subdivision of the owner of the land being subdivided. For purposes of this rule when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms “owner” and “owner of the land” refers to the seller under the contract-for-deed.
  - t. Certification by the governing body that the final subdivision plat is approved.
  - u. Space for the clerk and recorder’s filing information.
3. The following documents must appear on the face of or accompany the approved final plat when it is presented to the county clerk and recorder for filing:
- a. If applicable, the owner’s certificate of dedication of streets, parks, playground easements or other public improvements.
  - b. If applicable, a certificate of the governing body expressly accepting any dedicated land, easements or improvements. An acceptance of a dedication is ineffective without this certification.
  - c. A certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.
  - d. Copies of any covenants or deed restrictions relating to the subdivision.
  - e. If applicable, a certificate from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities.



- f. A certificate from the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.
- g. Unless otherwise provided by local subdivision regulations, copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed or file them with a government official other than the county clerk and recorder, or both.
- h. If applicable, the certificate of the examining land surveyor.
- i. If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.
- j. The certification of the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

**ADMINISTRATIVE MATERIALS "A"**

**SUBDIVISION PLAT APPLICATION**

**PART I GENERAL DESCRIPTION AND INFORMATION**

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

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

7. Descriptive Data:

a. Number of lots or rental spaces \_\_\_\_\_

b. Total acreage in lots being reviewed \_\_\_\_\_

c. Total acreage in streets or roads \_\_\_\_\_

d. Total acreage in parks, open space, and/or common facilities \_\_\_\_\_

e. TOTAL gross acreage of subdivision \_\_\_\_\_

f. Minimum size of lots or spaces \_\_\_\_\_

g. Maximum size of lots or spaces \_\_\_\_\_

8. Indicate the proposed uses(s) and number of lots or spaces in each:

\_\_\_\_\_ Residential, single family

\_\_\_\_\_ Residential, multiple family

\_\_\_\_\_ Types of multiple family structures and numbers of each (e.g. duplex)

\_\_\_\_\_ Planned Unit Development (Number of units \_\_\_\_\_)

\_\_\_\_\_ Condominium (Number of units \_\_\_\_\_)

\_\_\_\_\_ Mobile Home Subdivision (Number of spaces \_\_\_\_\_)

\_\_\_\_\_ Recreational Vehicle Subdivision (Number of spaces \_\_\_\_\_)

\_\_\_\_\_ Commercial or Industrial

\_\_\_\_\_ Other (please describe) \_\_\_\_\_

9. Provide the following information regarding the development:

a. Current land use \_\_\_\_\_

b. Existing zoning or other regulations \_\_\_\_\_

- c. Depth to ground water at the time of year when water table is nearest to the natural ground surface within the drain field area \_\_\_\_\_
- d. Depth to bedrock or other impervious material in the drain field area \_\_\_\_\_
- e. If a tract of land is to be subdivided in phases, an overall development plan indicating the intent for the development of the remainder of the tract.
- f. Drafts of any covenants and restrictions to be included in deeds or contracts for sale. Drafts of homeowner's association bylaws and articles of incorporation, if applicable. (Submitting a draft copy of a homeowner's association bylaws and articles of incorporation is adequate for DEQ to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DEQ can issue a final approval.
- g. Indicate whether the mineral rights have been severed from the property:  
Yes \_\_\_\_\_ No \_\_\_\_\_
- h. Indicate whether water rights have been severed from the property:  
Yes \_\_\_\_\_ No \_\_\_\_\_

10. Is the applicant claiming an exemption under Section IV-A-1 of the subdivision regulations from the requirement to prepare an environmental assessment?  
Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

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

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

\_\_\_\_\_  
Name Signature of owner

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

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

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

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Name

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Signature of subdivider

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

---

Date

---

Phone

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

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

### **1.      Preliminary Plat Subdivision Application Form:**

The subdivider shall submit a complete subdivision application form that is signed by the landowner(s) of record.

### **2.      Preliminary Plat Review Fee:**

The subdivider shall submit the required review fee as identified in the pre-application meeting and in Section XI-A of the subdivision regulations.

### **3.      Preliminary Plat Form, Contents, and Supplements:**

The subdivider shall submit an 11” by 17” and an 18” by 24” (or 24” by 36”) preliminary plat completed by a land surveyor.

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

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

- s. Approximate area, location, boundaries, and dimensions of all parks, common grounds, and other grounds dedicated for public use;
  - t. The total gross area of the subdivision and the total net area, exclusive of public areas and rights-of-way;
  - u. Existing and proposed infrastructure and proposed utilities including:
    - i. The approximate location, size, and depth of existing and proposed sanitary and storm sewers;
    - ii. The approximate location, size, and depth of existing and proposed water mains, lines, wells, and facilities; and
    - iii. The approximate locations of gas lines, fire hydrants or firefighting water storage facilities, electric and telephone lines, and street lights.
4. A vicinity sketch showing:
    - a. The approximate locations of all existing buildings, structures, and other improvements;
    - b. Ownership of lands immediately adjoining a subdivision, and existing buildings, structures and other improvements on those lands; and
    - c. Any existing or proposed zoning of the tract and adjacent lands, if applicable.
  5. A topographic map:
    - a. For any land area which will be subdivided or disturbed, contour intervals of 2' where the average slope is less than 10%; intervals of five feet where the average slope is greater than 10% and less than 15%; and intervals of ten feet where the average slope is 15% or greater.
    - b. Slopes greater than 25% shall be shown as no-build zones.
  6. A grading and drainage plan that includes:
    - a. Proposed grades of all streets and roads;
    - b. Proposed drainage facilities for all lots, blocks and other areas displaying accurate dimensions, courses, and elevations;
    - c. Existing and proposed contours, using the contour requirements of a topography map;
    - d. Graded slopes;
    - e. Calculations for a ten year frequency one-hour storm and a method to mitigate adverse impacts for a 100-year frequency one-hour storm; and
    - f. Construction procedures, slope protection, or information describing the ultimate destinations of storm runoff used to minimize erosion; and
    - g. Slope Stability Report shall be completed if the proposed subdivision includes areas with the potential for landsliding or slope instability. The report must be completed by a qualified soil or geotechnical engineer and indicate the locations, character, and extent of all areas of all slope stability, and these areas shall be shown on the plat.
  7. Engineering plans for all public and private improvements;
  8. Overall development plan and if the improvements are to be completed in phases, the approximate area of each phase shall be shown on the plat.
  9. Abstract of Title (or Title Report) dated not more than 90 days prior to the date of submittal;
  10. Lienholders' Acknowledgement of Subdivision for each lienholder identified on the Abstract of Title or Title Report;

11. Documentation of legal and physical access;
12. Documentation of existing easements, including those for Agricultural Water User Facilities;
13. Existing covenants and deed restrictions;
14. Existing water rights;
15. Existing mineral rights;
16. Names and addresses of all adjoining property owners;
17. A proposed road plan and profile that includes:
  - a. Street names.
  - b. Right-of-way or easement widths;
  - c. Pavement widths;
  - d. Street grades;
  - e. Pavement and base thickness;
  - f. Typical cross sections for each type of road;
  - g. Road profiles and cross sections for all proposed streets and roads which have grades exceeding 5%, or cuts and fills exceeding 3'.
  - h. The type and location of sidewalks and curbs (where required);
  - i. The minimum site distances at corners;
  - j. The minimum curb radiuses at corners;
  - k. For cul-de-sac streets:
    - i. widths of turn around radiuses;
    - ii. minimum right-of-way widths at the turnarounds;
    - iii. minimum pavement or road surface width at the turnarounds;
    - iv. total lengths of the streets.
  - l. The locations and characteristics of bridges and culverts;
  - m. The locations and dimensions of adjoining lots and open spaces;
  - n. The locations and widths of easements and dedicated land, which provide a buffer between the subdivision lots and streets;
  - o. Typical grading and location of intersections with private driveways; and
  - p. Description of how the roads will be maintained.
18. Encroachment permits from Montana Department of Transportation or the local jurisdiction;
19. Proposed easements;
20. Proposed disposition of water rights, as required by Section VI-O of the subdivision regulations;
21. Proposed disposition of mineral rights;
22. Parkland dedication calculations, including a property valuation assessment or appraisal if cash-in-lieu of parkland is proposed;
23. Environmental Assessment and/or Summary of Probable Impacts including:
  - a. proof that the subdivider has submitted for review copies of the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of the local, state, and federal government identified during the pre application meeting or subsequently identified as having an interest in the proposed subdivision; and
  - b. an explanation of how the subdivider has responded to the comments of the subdivision administrator at the pre-application meeting.



24. Transportation Impact Analysis or Transportation Plan;
25. Fire Risk Rating Analysis and Fire Prevention Plan as required in Section VI-R of the subdivision regulations;
26. Weed Management Plan and Re-vegetation Plan;
27. Property owners' Association Documents shall accompany the preliminary plat, and at a minimum shall provide the information, form, and contents included in Section II-B-3 of the subdivision regulations;
28. FIRM or FEMA panel map and/or letter identifying floodplain status and other hydrologic characteristics including surface water bodies, designated floodplain and areas of riparian resource, as required in Section VI-D of the subdivision regulations and paragraph 35 of this Part II.
29. Required water and sanitation information, including:
  - a. Provide the following attachments to the preliminary plat:
    - i. A vicinity map or plan that shows:
      - A. The location, within 100 feet outside of the exterior of the property line of the subdivision and on the proposed lots, of:
        1. floodplains;
        2. surface water features;
        3. springs;
        4. irrigation ditches;
        5. existing, previously approved, and for parcels less than 20 acres, proposed water wells and wastewater treatment systems;
        6. for parcels less than 20 acres, mixing zones identified as provided in subsection (X); and
        7. the representative drainfield site used for the soil profile description as required under subsection (C)(4); and
      - B. The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities.
    - ii. A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, as provided below, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rule published by the DEQ;
    - iii. A drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by DEQ pursuant to 76-4-104;
  - b. Water Supply
    - i. High Groundwater Report indicating there is not a problem with high groundwater present on the property proposed for subdivision. When evidence of high groundwater is present, the developer must submit plans that are prepared by a professional engineer to mitigate the problem;
    - ii. A vicinity map or plan that shows:
      - A. the location, within 100' outside of the exterior property line of the subdivision and on the proposed lots of:
        1. floodplains;

2. surface water features;
  3. springs;
  4. irrigation ditches;
  5. existing, previously approved, and for parcels less than 20 acres, proposed water wells and wastewater treatment systems;
  6. for parcels less than 20 acres, mixing zones identified as provided in subsection c.i.C.1 below.
- B. the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;
- iii. A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the Department of Environmental Quality in the Administrative Rules of Montana, or 76-4-101 et seq., MCA, including the following information:
- A. If an **individual water supply system** is proposed for each parcel:
1. Indicate the distance to the nearest public water system.
  2. Attach a copy of the lot layout showing the proposed location of each spring, well, or cistern and indicating the distance to existing or proposed wastewater treatment systems.
  3. Evidence of sufficient water quality in accordance with rules adopted by the DEQ pursuant to 76-4-104;
- B. For a **multiple user water system**:
1. If an existing system is to be used:
    - a. identify the system and the person, firm, or agency responsible for its operation and maintenance;
    - b. indicate the system's capacity to handle additional load and its distance from the development;
    - c. provide evidence that permission to connect to the system has been granted;
  2. provide the following attachments:
    - a. map or plat showing location, sizes, and depth of any existing water supply lines and facilities which may directly serve parcels within the proposed development;
    - b. provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.38.305 and Circular DEQ 3.
  3. evidence of sufficient water quality in accordance with rules adopted by the DEQ pursuant to 76-4-104;
- iv. Where a new system is proposed:
- a. Provide evidence of adequate water availability, unless cisterns are proposed:

- i. obtained from well logs or testing of onsite or nearby wells;
    - ii. obtained from information contained in published hydrogeological reports; or
    - iii. as otherwise specified by rules adopted by the DEQ pursuant to 76-4-104;
  - b. indicate who will install the system, who will bear the costs, when it will be completed, and who will own it;
  - c. provide all information required in ARM 17.36.330-336 and Circular DEQ-3.
  - d. Evidence of sufficient water quality in accordance with rule adopted by the DEQ pursuant to 76-4-104;
- C. For a **public water system**:
- 1. If an existing system is to be used:
    - a. identify the system and the person, firm, or agency responsible for its operation and maintenance;
    - b. indicate the system's capacity to handle additional load and its distance from the development;
    - c. provide evidence that permission to connect to the system has been granted;
    - d. provide the following as attachments:
      - i. map or plat showing location, sizes, and depth of any existing water supply lines and facilities which may directly serve parcels within the proposed development;
      - ii. plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328-330 and Circular DEQ-1 or Circular DEQ-3.
      - iii. Evidence of sufficient water quality in accordance with rules adopted by the DEQ pursuant to 76-4-104;
  - 2. If a new system is proposed:
    - a. Provide evidence of adequate water availability:
      - i. obtained from well logs or testing of onsite or nearby wells;
      - ii. obtained from information contained in published hydrogeological reports; or
      - iii. as otherwise specified by rules adopted by the DEQ pursuant to 76-4-104;
    - b. indicate who will install the system, who will bear the costs, when it will be completed, and who will own it;
    - c. provide all information required in ARM 17.36.328-330 and Circular DEQ-1 or Circular DEQ-3.
    - d. Evidence of sufficient water quality in accordance with rule adopted by the DEQ pursuant to 76-4-104;

c. Wastewater Treatment System

- i. For new onsite wastewater treatment systems, evidence of suitability that at a minimum includes:
  - A. a soil profile description from a representative drainfield site identified on the vicinity map, as provided in section C.1.(a)(i)(G), that complies with the standards published by DEQ;
  - B. demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and
  - C. in cases in which the soil profile or other information indicates that groundwater is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in section (ii) above.
    1. For all new wastewater treatment systems a preliminary analysis of potential impacts to groundwater quality using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for groundwater, source specific mixing zones, and nonsignificant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.
- ii. If **individual wastewater treatment systems** are proposed for each parcel:
  - A. Indicate the distance to the nearest public wastewater treatment system.
  - B. Provide all information required in ARM 17.36.320-345 and in Circular DEQ-4 for conventional systems or Circular DEQ 5 for alternative systems.
  - C. evidence of suitability as provided in subsection (a) of this section
  - D. preliminary analysis of potential impact to groundwater as provided in subsection (b) of this section.
- iii. For a **multiple-user wastewater treatment** system:
  - A. If an existing system is to be used:
    1. identify the system and the person, firm, or agency responsible for its operation and maintenance;
    2. indicate the system's capacity to handle additional load and its distance from the development;

3. provide evidence that permission to connect to the system has been granted;
  4. provide the following attachments:
    - a. map or plat showing location, sizes, and depth of any existing water supply lines and facilities which may directly serve parcels within the proposed development;
    - b. plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320-345 and Circular DEQ-4 or Circular DEQ-5.
- B. If a new system is proposed:
1. indicate who will install the system, who will bear the costs, when it will be completed, and who will own it;
  2. provide all information required in ARM 17.36.320-326 and Circular DEQ-4 or Circular DEQ-5.
  3. evidence of suitability as provided in subsection (a) of this section.
  4. preliminary analysis of potential impact to ground water as provided in subsection (b) of this section.\
- iv. For a **public wastewater treatment system**:
- A. If an existing system is to be used:
1. identify the system and the person, firm, or agency responsible for its operation and maintenance;
  2. indicate the system's capacity to handle additional load and its distance from the development;
  3. provide evidence that permission to connect to the system has been granted;
  4. provide the following as attachments:
    - a. map or plat showing location, sizes, and depth of any existing water supply lines and facilities which may directly serve parcels within the proposed development;
    - b. plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 and Circular DEQ-2 or Circular DEQ-4.
- d. Storm Water
- i. Describe measures for the collection and disposal of storm run-off from streets and roads within the subdivision.
  - ii. Indicate the type of road surface proposed.
  - iii. Describe facilities for stream or drainage crossing (e.g., culverts, bridges).
  - iv. Describe how surface run-off will be drained or channeled from parcels.
  - v. Indicate whether storm run-off will enter state waters and describe any proposed treatment measures. (A storm-water discharge permit may be required)

- vi. Describe any existing or proposed streambank or shoreline alteration, and any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration.
  - vii. Provide the grading and storm water or drainage plan as required by section II-3 Preliminary Plat Supplements, subsection (e) of this appendix.
- e. Solid Waste
- i. Describe the proposed method of solid waste collection and disposal.
  - ii. If use of an existing collection system or disposal facility is proposed, indicate the name and location of the facility.
  - iii. If on-site disposal of solid waste is proposed, provide the information required in ARM 17.36.309(2).
30. A form of Subdivision Improvements Agreement, if proposed;
31. Letter requesting a revocation of agricultural covenants;
32. Letter indicating locations of cultural or historic resources;
33. Variance request or approval;
34. Re-zoning application or approval;
35. When required, a flood hazard evaluation which contains the following detailed information: [to be submitted to the Water Resources Division, Department of Natural Resources]:
- a. Certification by a registered professional engineer;
  - b. An overall scaled plan view with identified scale for vertical and horizontal distance showing the following:
    - i. Watercourse
    - ii. floodplain boundaries
    - iii. location of property
    - iv. contours
    - v. cross-sections
    - vi. bridges or other contractions in the floodplains
    - vii. USGS gauging stations (if any);
  - c. The location and elevation of a temporary benchmark(s) established within the subdivision and referenced to mean sea level with appropriate elevation adjustment.
  - d. Cross-sectional information which contains the following information:
    - i. Elevations and stations that are determined at points representing significant breaks in ground slope and at changes in the hydraulic characteristics of the floodplain (i.e., points where ground cover, soil, or rock conditions change). Elevations must be reported in NAVD 88 or NGVD 29 datum.
    - ii. Each cross-section must cross the entire floodplain. The cross-section alignment should be perpendicular to the general flow of the watercourse (approximately perpendicular to contour lines). Occasionally, wide floodplains require a dog-leg alignment to be perpendicular to the anticipated flow lines. Shots should be taken at the water's edge and measurements taken (if elevation shots cannot be taken) to determine the

channel bottom shape. Cross sections must be accurately located on a USGS 7 ½ minute quad sheet.

- iii. The number of cross-sections needed, and the distance between cross sections, will vary depending on the site, the slope of the watercourse, the slope of the channel, and the hydraulic characteristics of the reach. A minimum of four cross sections are required over the entire reach with at least two cross-sections at the property where the elevations are desired. Additional cross-sections must be taken at bridges, control structures, or natural constrictions in topography. [Photogrammetric methods may be used in lieu of cross sections whenever appropriate and when reviewed and approved by the county.]
  - e. A description and sketch of all bridges within reach, showing unobstructed waterway openings and elevations.
  - f. Elevation of the water surface is to be determined by survey as part of each valley cross section.
  - g. Supporting Documentation, such as engineering reports of computer computations, calculations, and assumptions that may include:
    - i. Hydrology (research of published hydrology or calculations showing how hydrology was derived)
    - ii. Input files (hardcopy and on diskette)
    - iii. Output files (diskette only)
36. Letter identifying and proposing mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials; and
37. Such additional relevant and reasonable information as identified by the Subdivision Administrator during the pre-application meeting that is pertinent to the required elements of this section.

### **PART III ENVIRONMENTAL ASSESSMENT**

Information specified in this Part must be provided in addition to that required in parts I and II of this application form, unless the proposed subdivision qualifies for an exemption under Section IV-A-1.b of the subdivision regulations.

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

#### **1. Surface Water**

Locate on a plat overlay or sketch map:

- a. Any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicate the names and sizes of each).
- b. Any artificial water systems such as canals, ditches, aqueducts, reservoirs, and irrigation systems (also indicate the names, sizes and present uses of each).
- c. Time when water is present (seasonally or all year).
- d. Any areas subject to flood hazard, or in delineated 100 year floodplain.
- e. Describe any existing or proposed streambank alteration from any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type and purpose of alteration, and permits applied for.

#### **2. Groundwater**

Using available data, provide the following information:

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

#### **3. Topography, Geology and Soils**

- a. Provide a map of the topography of the area to be subdivided, and an evaluation of suitability for the proposed land uses. On the map identify any areas with highly erodible soils or slopes in excess of 15% grade. Identify the lots or areas affected. Address conditions such as:



- i. Shallow bedrock
      - ii. Unstable slopes
      - iii. Unstable or expansive soils
      - iv. Excessive slope
    - b. Locate on an overlay or sketch map:
      - i. Any known hazards affecting the development which could result in property damage or personal injury due to:
        - A. Falls, slides or slumps—soil, rock, mud, snow.
        - B. Rock outcroppings
        - C. Seismic activity.
        - D. High water table
    - c. Describe measures proposed to prevent or reduce these dangers.
    - d. Describe the location and amount of any cut or fill more than three feet in depth. Indicate these cuts or fills on a plat overlay or sketch map. Where cuts or fills are necessary, describe plans to prevent erosion and to promote vegetation such as replacement of topsoil and grading.
4. Vegetation
  - a. On a plat overlay or sketch map:
    - (i) Indicate the distribution of the major vegetation types, such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
    - (ii) Identify the location of critical plant communities such as:
      - A. Stream bank or shoreline vegetation
      - B. Vegetation on steep, unstable slopes
      - C. Vegetation on soils highly susceptible to wind or water erosion
      - D. Type and extent of noxious weeds
  - b. Describe measures to:
    - (i) Preserve trees and other natural vegetation (e.g. locating roads and lot boundaries, planning construction to avoid damaging tree cover).
    - (ii) Protect critical plant communities (e.g. keeping structural development away from these areas), setting areas aside for open space.
    - (iii) Prevent and control grass, brush or forest fires (e.g. green strips, water supply, access.)
    - (iv) Control and prevent growth of noxious weeds
5. Wildlife

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

**PART IV SUMMARY OF PROBABLE IMPACTS**

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

1. Effects on Agriculture

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

2. Effects on Agricultural Water User Facilities

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

3. Effects on Local Services

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

- \_\_\_\_\_ Residential, single family
- \_\_\_\_\_ Residential, multiple family
- \_\_\_\_\_ Types of multiple family structures and number of each (e.g. duplex, 4-plex)
- \_\_\_\_\_ Planned unit development (No. of units)

- \_\_\_\_\_ Condominium (No. of units)
- \_\_\_\_\_ Mobile Home Park
- \_\_\_\_\_ Recreational Vehicle Park
- \_\_\_\_\_ Commercial or Industrial
- \_\_\_\_\_ Other (Please describe \_\_\_\_\_)

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

4. Effects on the Historic or Natural Environment

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

5. Effects on Wildlife and Wildlife Habitat

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

6. Effects on the Public Health and Safety

- a. Describe any health or safety hazards on or near the subdivision, such as: natural hazards, lack of water, drainage problems, heavy traffic, dilapidated structures, high pressure gas lines, high voltage power lines, or irrigation ditches. These conditions, proposed or existing should be accurately described with their origin and location identified on a copy of the preliminary plat.
- b. Describe how the subdivision would be subject to hazardous conditions due to high voltage lines, airports, highways, railroads, dilapidated structures, high pressure gas lines, irrigation ditches, and adjacent industrial or mining uses.
- c. Describe land uses adjacent to the subdivision and how the subdivision will affect the adjacent land uses. Identify existing uses such as feed lots, processing plants, airports or industrial firms which could be subject to lawsuits or complaints from residents of the subdivision.
- d. Describe public health or safety hazards, such as dangerous traffic, fire conditions, or contamination of water supplies which would be created by the subdivision.

## **PART V COMMUNITY IMPACT REPORT**

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

1. Education and Busing
  - a. Describe the available educational facilities which would serve this subdivision.
  - b. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the affected school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system. If not, estimate the increased expenditures that would be necessary to do so.
2. Roads and Maintenance
  - a. Estimate how much daily traffic the subdivision, when fully occupied, will generate on existing streets and arterials.
  - b. Describe the capability of existing and proposed roads to safely accommodate this increased traffic.
  - c. Describe increased maintenance problems and increased cost due to this increase in volume.
  - d. Describe proposed new public or private access roads including:
    - i. Measures for disposing of storm run-off from streets and roads.
    - ii. Type of road surface and provisions to be made for dust.
    - iii. Facilities for streams or drainage crossing (e.g. culverts, bridges).
    - iv. Seeding of disturbed areas.
  - e. Describe the closing or modification of any existing roads.
  - f. Explain why road access was not provided within the subdivision, if access to any individual lot is directly from arterial streets or roads.
  - g. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision? Identify the owners of any private property over which access to the subdivision will be provided.

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

3. Water, Sewage, and Solid Waste Facilities

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

4. Fire and Police Protection

a. Describe the fire and police protection services available to the residents of the proposed subdivision including number of personnel and number of vehicles or type of facilities for:

i. Fire protection—is the proposed subdivision in an existing fire district? If not, will one be formed or extended? Describe what fire protection procedures are planned?

ii. Law Enforcement protection, is the proposed subdivision within the jurisdiction of a County Sheriff or municipal police department?

b. Can the fire and police protection service needs of the proposed subdivision be met by present personnel and facilities? If not, describe the additional expenses that would be necessary to make these services adequate, and who would pay the costs?

5. Payment for extension of Capital Facilities

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



**ADMINISTRATIVE MATERIALS "B"**  
**FINAL PLAT APPROVAL FORM**

Date \_\_\_\_\_

1. Name of Subdivision \_\_\_\_\_

2. Location: \_\_\_\_\_ 1/4 Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ For  
Amended Plats: Lot(s) \_\_\_\_\_ Block(s) \_\_\_\_\_ Subdivision

3. Name, address and telephone number of subdivider:  
\_\_\_\_\_  
\_\_\_\_\_

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

5. Descriptive Data:  
a. Gross area in acres \_\_\_\_\_  
b. Number of lots or rental spaces \_\_\_\_\_  
c. Existing zoning or other regulations \_\_\_\_\_  
\_\_\_\_\_

6. Date Preliminary Plat Approved: \_\_\_\_\_

7. Any Conditions? \_\_\_\_\_ (If yes, attach list of conditions.)

8. Any Deed Restrictions or covenants? \_\_\_\_\_ (If Yes, attach a copy.)

9. All improvements installed? \_\_\_\_\_ (If No, attach a subdivision improvements  
agreement or guarantees.)

10. List of materials submitted with this application:  
a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
  
d. \_\_\_\_\_  
e. \_\_\_\_\_

f. \_\_\_\_\_

I do hereby certify that all the statements and information and the statements and information contained in all exhibits transmitted herewith are true. I hereby apply to the (governing body) of (city or county) for approval of the final plat of (Name of Subdivision).

\_\_\_\_\_  
Subdivider

-----  
FOR OFFICIAL USE ONLY

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

**ADMINISTRATIVE MATERIALS “C”  
SAMPLE CERTIFICATES**

Certificate of Completion of Public Improvements

Certificate of Surveyor – Final Plat

Certificate of Dedication – Final Plat

Certificate of Consent to Dedication by Encumbrances

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

Certificate of Examining Land Surveyor Where Required – Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval – County

Certificate of Final Plat Approval – City

Certificate of Filing by Clerk and Recorder

**Certificate of Completion of Public Improvements Agreement**

(To be submitted with application for approval of final subdivision plat)

**CERTIFICATE OF COMPLETION**

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

\_\_\_\_\_  
Signature of Subdivider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Professional Engineer

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Address

(Engineers Seal)



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

I, (Name of Town Clerk), (Clerk and Recorder) of The City of Three Forks, Montana, do certify that the following order was made by the City Commission of The City of Three Forks at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the City of Three Forks that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hererunto affixed the seal of City of Three Forks, Montana this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Seal)

(Signature of Clerk)

**Certificate of County Treasurer**

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

(legal description of land)

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

(seal)

(Signature of County Treasurer) Treasurer,  
\_\_\_\_\_ County, Montana



**ADMINISTRATIVE MATERIALS “D”  
SUBDIVISION IMPROVEMENTS AGREEMENT; GUARANTY**

The parties to this Subdivision Improvements agreement (“this agreement”) are \_\_\_\_\_ (“the subdivider”) and \_\_\_\_\_ (“the City”).

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

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

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

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

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

Subdivider’s Obligations

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



6. Warranty: The Subdivider warrants that each and every improvement shall be free from defects for a period of 1 year from the date that the City accepts the dedication of the last improvement completed by the Subdivider.
7. Commencement and Completion Periods: The Subdivider shall complete all of the required improvements within two years from the effective date of this Agreement.
8. Compliance with Law: The Subdivider shall comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.
9. Inspection and Certification:
  - a. The City shall provide for inspection of the improvements as they are completed and, where found acceptable, shall certify those improvements as complying with the standards and specifications set forth in Attachment (\_\_) of this Agreement. The inspection and certification, shall occur within 14 days of notice by the Subdivider that the improvements are complete and that he desires City inspection and certification. Before requesting City certification of any improvement the Subdivider shall present to the City valid lien waivers from all persons for providing materials or performing work on the improvement. Inspection services shall be by the Subdivider at the rate the City pay for contracted engineering services at the time of inspections.
  - b. Certification by the City does not constitute a waiver by the City of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.
10. Notice of Defect: The City shall provide timely notice to the Subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment (\_\_), or is otherwise defective. The Subdivider shall have 30 days from the date the notice is issued to remedy the defect. The City may not declare a default under this Agreement during the 30 day remedy period unless the Subdivider clearly indicates he does not intend to correct the defect. The Subdivider shall have no right to correct the defect in, or failure of, any improvement found after the City accepts dedication of the improvements.
11. Reduction of Security: After the acceptance of any improvement, the amount that the City is entitled to draw on the letter of credit shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment (\_\_). At the request of the Subdivider, the City shall execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all the improvements the balance that may be drawn under the credit shall be available to the City for the one year warranty period plus an additional 90 days.
12. Use of Proceeds: The City shall use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

13. Events of Default: The conditions, occurrences or actions constitute a default by the Subdivider during the completion period:

- a. failure to complete construction of the improvements within two years of final subdivision plat approval;
- b. failure to remedy the defective construction of any improvement within the remedy period;
- c. insolvency of the Subdivider or the filing of a petition for bankruptcy;
- d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.

14. Measure of Damages: The measure of damages for breach of this Agreement is the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment (\_\_\_) is prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the Subdivider's liability. The City may complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.

15. Local Government Rights Upon Default:

- a. Upon the occurrence of any even of default, the City may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost [as shown in Attachment (\_\_\_)] of all improvements previously certified by the City. The City may complete improvements itself or contract with a third party for completion, or the City may assign the proceeds of the letter of credit to a subsequent subdivider who has acquired the Subdivision and who has the same rights of completion as the City if and only if the subsequent subdivider agrees in writing to complete the unfinished improvements.
- b. In addition, the City may suspend final plat approval. During this suspension the Subdivider may not sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the City until the improvements are completed and certified by the City.

16. Indemnification: The Subdivider agrees to indemnify and hold the City harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Subdivider is not an employee or agent of the City.

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

The City shall release the original Subdivider's letter of credit if it accepts a new security from any subdivider or lender who obtains the property. However, no action by the City constitutes a release of the original subdivider from is liability under this Agreement.

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

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

\_\_\_\_\_  
City Official

\_\_\_\_\_  
Subdivider

## ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

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

### 1. Letter of Credit

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

- a. That the creditor guarantees funds in an amount equal to 150% of the cost, as approved by the governing body, of completing all required improvements.
- b. That if the subdivider fails to complete the specified improvements within the required period, the creditor shall immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
- c. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.

### 2. Escrow Account

The subdivider shall deposit cash, equal to 150% of the cost as approved by the governing body for completion of the required improvements, either with the governing body or in escrow with a bank. The selection of the bank where funds are to be deposited must be approved by the governing body.

Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

- a. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period.
- b. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

### 3. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of

improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

#### 4. Surety Performance Bond

The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the City of Three Forks. The bond must be in effect until the completed improvements are accepted by the governing body.

**IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. \_\_\_\_\_

Name of Local Government  
Address

Date

Gentlemen:

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

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

“Drawn under (lending institution), Letter of Credit # \_\_\_\_\_ dated (date of Letter of Credit),” and the amount drawn endorsed on the reverse hereof by the lending institution.

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

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

(Lending Institution)

(Signature and Title of Official)

**ADMINISTRATIVE MATERIALS "E"**

**GRANT OF ACCESS EASEMENT**

THIS INDENTURE, mad and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, of \_\_\_\_\_, Montana, hereinafter referred to as the "Grantor", and \_\_ (subdivider) \_\_ of \_\_\_\_\_, Montana, hereinafter referred to as the "Grantee."

THE GRANTOR does hereby give, grant and convey unto the Grantee, its successor and assigns, the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and to travel upon and use, a road and its necessary fixtures and appurtenances through, over, and across a corridor, 60 feet wide, shown on the attached certificate of survey, extending across the following described tract(s) of land:

(legal description of Grantor's property over which easement is granted)

THIS GRANT of right and authority shall run with the said property and be binding on the Grantor, its successors, all subsequent owners and any parties having right, title, or interest in the said property.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Grantor

STATE OF MONTANA     )  
  ) ss.  
County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ , before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My commission expires \_\_\_\_\_