

# **Planning Department**



## **Title 17**

# **Subdivision Regulations**

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**City of Columbia Falls  
130 6th Street West  
[406] 892-4391**

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## **TITLE 17 - SUBDIVISION REGULATIONS**

### **Chapter 17.04 GENERAL PROVISIONS**

#### **17.04.010 Short Title**

This title shall be known as the "Subdivision Regulations of the City of Columbia Falls, Montana."

#### **17.04.020 Statutory Authority**

Authorization for this title is contained in the "Montana Subdivision and Platting Act" (Title 76, Chapter 3, Montana Code Annotated).

#### **17.04.030 Purpose**

The purpose of this title is to promote the public health, safety and general welfare by providing for:

- A. The orderly development of the jurisdictional area;
- B. The coordination of roads within subdivided land with other roads, both existing and planned;
- C. The dedication of land for roadways and for public utility easements;
- D. The improvement of roads;
- E. The provision of open spaces for travel, light, air and recreation;
- F. The provision of adequate transportation, water, drainage and sanitary facilities;
- G. The avoidance or minimization of congestion;
- H. The avoidance of subdivision which would involve unnecessary environmental degradation;
- I. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation or other public services;
- J. The avoidance of excessive expenditure of public funds for the supply of public services;
- K. The manner and form of making and filing of any plat for subdivided lands;
- L. The administration of this title 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.
- M. The protection of the rights of property owners.

**State law reference**--Similar provisions, MCA § 76-3-501.

#### **17.04.040 Applicability**

This title applies to all land developments described as subdivisions under 76-3-103(16), MCA, as amended, and includes:

- A. Division of land which creates one or more parcels containing less than one hundred sixty acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusion of public roadways in order that the title to or possession of the parcels may be sold, rented or otherwise conveyed;
- B. Resubdivision of previously subdivided land;
- C. Condominiums, if not on land divided in compliance with these regulations;
- D. Manufactured home parks;
- E. Recreational vehicle campgrounds; and
- F. Townhouse developments.
- G. This chapter shall not be applicable to deeds, contracts, leases, or other conveyances executed prior to July 1, 1973.

#### **17.04.050 Exemptions.**

Unless the method of disposition is adopted for the purpose of evading these regulations, the requirements of this title shall not apply to any division of land which:

- A. Is created by order of any court of record in the state or by operation of law or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in the state pursuant to the law of eminent domain, Title 30, chapter 30;
- B. 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; provided, however, that this exemption applies:
  - 1. To a division of land of any size;
  - 2. If the land that is divided is not conveyed 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. A transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection B. ((2) subjects the division of land to the requirements of this title.
  - 3. To a parcel that is created to provide security as provided. The remainder of the tract of land is subject to the provisions of this title if applicable.
- C. Creates an interest in oil, gas, minerals, or water which is now or hereafter severed from the surface ownership of real property;
- D. Creates cemetery lots;
- E. Is created by the reservation of a life estate;
- F. Is created by lease or rental for farming and agricultural purposes;
- G. Condominiums constructed on land divided in compliance with these regulations if:
  - 1. The approval of the original division of land expressly contemplated



- the construction of the condominiums and any applicable park dedication requirements were met;
2. The condominium proposal is in conformance with applicable local zoning regulations where local zoning regulations are in effect.
- H. Is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this title.
- I. 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, 1973;
- J. Sale, rent, lease or other conveyance of one or more parts of a building, structure and other improvements situated on one or more parcels of land.

**State law reference**--Similar provisions, MCA §§ 76-3-201, 76-3-203.

**17.04.060 Exempted From Review But Subject To Survey Requirements.**

- A. Except as provided in subsection B of this section, unless the method of disposition is adopted for the purpose of evading these regulations, the following divisions or aggregations of land are not under these regulations, but are subject to surveying requirements of Montana Statute 76-3-401, MCA and are subject to zoning regulations:
1. Divisions made outside of a platted subdivision for the purpose of relocation of common boundary lines between adjoining properties;
  2. Divisions made outside of a platted subdivision for the purpose of a single gift or sale in each county to each member of the landowners immediate family;
  3. Divisions made outside of platted subdivisions by gift, sale or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the city and the property owner that the divided land will be used exclusively for agricultural purposes;
  4. Relocation of common boundaries of five or fewer lots within a platted subdivision;
  5. Aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established;
  6. Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. Any restriction or requirements on the original platted lot or original unplatted parcel continue to apply to those areas.
- B. Notwithstanding the provisions of subsection A of this section:
1. Within a platted subdivision filed with the county clerk and recorder, any division, redesign, or rearrangement of lots which results in an

- increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the city council and an amended plat must be filed with the county clerk and recorder;
2. Any change in use of the land exempted under subsection (A)(3) of this section for anything other than agricultural purposes subjects the division to the provisions of this title.

**State law reference--** Divisions of land exempted from review but subject to survey requirements and zoning regulations, MCA § 76-3-207.

**17.04.070 Subdivisions exempted from surveying and filing requirements but subject to review provisions.**

Subdivisions created by rent or lease are exempt from the surveying and filing requirements of this chapter but must be submitted for review and approved by the governing body before portions thereof may be rented or leased.

**State law reference--**Subdivisions exempted from surveying and filing requirements but subject to review provisions, MCA § 76-3-208.

**17.04.075. Exemption for certain subdivisions.**

A. A subdivision that meets the criteria in subsection (2) is exempt from the following requirements:

1. Preparation of an environmental assessment;
2. A public hearing on the subdivision; and
3. review of the subdivision for the criteria listed in section 17.12.090.

B. To qualify for the exemptions in subsection A., a subdivision must meet the following criteria:

1. the proposed subdivision is entirely within an area inside or adjacent the city and the city has adopted a growth policy that includes the provisions of MCA § 76-1-601(4)(c);
2. the proposed subdivision is entirely within an area subject to zoning adopted that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of MCA § 76-1-601(4)(c); and
3. the subdivision proposal includes a description of future public facilities and services, using maps and text that are necessary to efficiently serve the projected development.

#### **17.04.080 Review of Exemption Claim**

Any person seeking exemption from the requirements of the Subdivision and Platting Act shall submit to the Planning Office, (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 in accordance with Appendix G.

##### **A. Review.**

1. Upon receipt of the required submittal and payment of required fee the application shall be dated stamped as received.
2. When a claimed exemption is submitted to the Planning Office, the Director shall cause the documents to be reviewed to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the Montana Subdivision and Platting Act (MCA 76-4-101 et seq.), the Montana Sanitation in Subdivisions Act, MCA, title 76, ch. 4, pt. 1 (MCA § 76-4-101 et seq.), and these regulations.
3. Landowners or their agents are encouraged to meet with the Director to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.
4. Within ten (10) working days of submittal date the Director shall submit a written determination whether the use of the exemption is intended to evade the purposes of the Act. If the Director determines that the opinion of a licensed surveyor is necessary to make such a determination, the determination shall be provided within ten (10) working days of the determination date.
5. If the Director finds that the proposed use of the exemption complies with the statutes and these criteria, the Director shall advise the clerk and recorder to file the certificate of survey or record the instrument of conveyance and accompanying documents.

##### **B. Appeals**

1. Any person whose proposed use of an exemption has been denied by the Director because the proposed division of land has been deemed an attempt to evade the Montana Subdivision and Platting Act (MSPA), and these regulations, may appeal the agents' decision to the City Council. 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.
2. If the City Council 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 City Council 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.

3. If the person proposing to use an exemption does not seek to rebut the rebuttable presumption or if the City Council 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.

#### **17.04.090 Jurisdiction.**

This title applies to the subdivision of land within the jurisdictional area of the city.

This title supplements all other titles and where it is in conflict with other laws, regulations, ordinances or resolutions, except zoning regulations, the City Council will decide which requirement best achieves the purposes of this title. If this title is in conflict with zoning regulations, then the more restrictive requirement shall apply. Within the subdivision review and decision making process consideration must be given to the general policy and pattern of development set out in the Growth Policy and applicable supplemental neighborhood plan.

**State law reference**--Use of adopted growth policy, MCA § 76-1-605.

#### **17.04.100 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 City Council has given preliminary approval of the proposed subdivision plat.

#### **17.04.110 Transfer of Title.**

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

- A. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
- B. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the Subdivider until the final plat of the subdivision is filed with the county clerk and recorder;
- C. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall

immediately refund to each purchaser any payments made under the contract;

- D. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner;"
- E. That the county treasurer has certified that 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 Planning Director.

**State law reference**--Contract for deed permitted if buyer protected, MCA § 76-3-303.

#### **17.04.120 Permission To Enter**

The City Council 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. The submission of a subdivision application constitutes a grant of permission by the Subdivider to enter the subject property.

#### **17.04.130 Disclosure of Water Rights**

If the proposed subdivision will create lots averaging less than five acres in size 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 sever 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 sever all surface water rights from the land.

#### **17.04.140 Ditches and ditch easements.**

- A. Except as provided in subsection B, require the subdivider to establish ditch easements in the subdivision that:
  - 1. Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery

of water for irrigation to persons and lands 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. Establishment of easements pursuant to this subsection (1)(k) is not required if:

1. the average lot size is one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or
2. the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

C. The subdivider, unless otherwise provided for under separate written agreement or filed easement, shall file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights.

## **Chapter 17.08 DEFINITIONS**

### **17.08.010 Definitions.**

Whenever the following words and phrases appear in this title, they shall be given meaning attributed to them by this section. When not inconsistent with the context, the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision.

## **Definitions A - E**

- ☐ "Block" means a group of lots, tracts or parcels bounded by public streets, railroads, natural features, platted or unplatted lands or a combination thereof.
- ☐ "Certificate of survey" means a drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.
- ☐ "Clear Vision Triangle" means a triangular area at each corner of the intersection of two streets or a street and an at-grade railroad crossing; two legs of the triangle are parallel with their respective right-of-way centerlines and join at the point of right-of-way edge intersection; the third leg of the triangle is a line joining the ends of the other two sides.
- ☐ "Clerk and recorder" means the clerk and recorder for Flathead County, Montana.
- ☐ "Planning Office" means the City of Columbia Falls Planning Office.
- ☐ "Condominium" means 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.
- ☐ "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.
- ☐ "County commissioners" means the board of county commissioners of Flathead County.
- ☐ "Covenant" means an agreement, in writing, of two or more parties by which any of the parties pledge to the others that something is done or shall be done.
- ☐ "Dedication" means the deliberate appropriation of land by an owner for the general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been donated.
- ☐ "Developer" means the same as Subdivider.
- ☐ "Division of land" means the segregation of one or more parcels of land from a larger tract or held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act; provided that where required by the Act, the land upon which an improvement is situated has been subdivided in compliance with the Act, the sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of the Act.

- ☐ "Dwelling" means a building, or portion thereof, used for human residential purposes.
- ☐ "Dwelling unit" means any building or portion thereof providing complete, independent and permanent living facilities for one family.
- ☐ "Easement" means a right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner.
- ☐ "Engineer (registered professional engineer)" means a person licensed in conformance with the Montana Professional Engineers Registration Act (Title 37, Chapter 67, MCA), to practice engineering in the state.
- ☐ "Examining land surveyor" means a registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

### **Definitions F - I**

- ☐ "Flood" means the general and temporary condition of partial or complete inundation of normally dry lands from the overflow of a stream, or the unusual and rapid accumulation or runoff of surface waters from any source.
- ☐ "Floodplain" means the area adjoining a watercourse or drainway that would be covered by the floodwater of a flood of one-hundred-year flood. A one-hundred-year flood has a one percent chance of occurring in any given year.
- ☐ "Floodway" means the channel of a watercourse or drainway and adjacent overbank areas which are reserved in order to discharge a 100 year flood.
- ☐ "Floodway fringe" means that portion of the floodplain outside the limits of the floodway.
- ☐ "Governing body" means the city council of the city of Columbia Falls.
- ☐ "Growth Policy" means a general long-range plan officially adopted in the City and/or Flathead County under Sections 76-1-601 through 76-1-606, MCA, as amended.
- ☐ "Immediate family" shall be comprised of such members of the family as spouse, son(s) and daughter(s).
- ☐ "Improvements" means any structure or facility constructed to serve common use by the residents of a subdivision or the general public. Such improvements may include parks, streets and roads, parking areas, sidewalks, curbs and gutters, street lighting, utilities and systems for water supply, sewage disposal and drainage.

### **Definitions J - M**

- ☐ "Lot" means a parcel, plot or other land area created by subdivision for sale, rent, lease or other purpose, having fixed boundaries.
- ☐ "Lot line (property line)" means the boundary of a lot.
- ☐ "Lot measurement" shall be as follows:



"Lot area" means the area of a lot determined exclusive of street, highway, alley, road or other right-of-way.

"Lot depth" means the mean dimension of the lot from the front lot line to the rear lot line.

"Lot frontage" means the length of the front lot line.

"Lot width" means the mean dimension of the lot from the sides opposite of the front and rear lot lines.

- ☐ "Lot types" shall be as follows:

"Corner lot" means a lot located at the intersection of two streets.

"Interior lot" means a lot with frontage on only one street.

"Reverse lot" means a lot in which the frontage is reversed from the general pattern in the area. A reversed frontage lot may also be a corner lot or an interior lot.

"Through lot" means a lot with double frontage where the front lot line faces one public street and the rear lot line faces another public street.

- ☐ "Manufactured home" means housing built on a chassis designed and constructed for transportation to a site for installation and use when connected to required utilities. May also be commonly referred to as "mobile home" or "modular home."
- ☐ "Manufactured home lot" means a designated portion of a manufactured home park designed for the accommodation of one manufactured home and its accessory buildings or structures for the exclusive use of the occupants.
- ☐ "Manufactured home park" means an area designed for and occupied by two or more manufactured homes for lease or rent to the general public and which may be utilized for living purposes either permanent, seasonal or both.
- ☐ "Monument (permanent monument)" means any structure of masonry, metal or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
- ☐ "MSPA" means the Montana Subdivision and Platting Act.

### **Definitions N - Q**

- ☐ "Open space" means a land or water area devoid of buildings and other physical structures except where accessory to the provision of recreation. Any area used for parking or maneuvering of automotive vehicles; storage of equipment; on-lot yards; required landscape buffers; right-of-way landscaping; or refuse storage or handling shall not be deemed open space.
- ☐ "Overall development plan" means the plan for a subdivision design for a single-tract proposed to be subdivided in stages.
- ☐ "Planned unit development (PUD)" means a tract of land developed as an integrated unit. The development is unique and is based on a plan which allows for flexibility of use, design, setting and density not otherwise possible under the prevailing regulations.
- ☐ "Planning board" means the Columbia Falls City-County Planning Board.

- ☐ "Planning Director" means the planning director of the City of Columbia Falls.
- ☐ "Planning Office" means the planning office of the City of Columbia Falls.
- ☐ "Plat"
  - Plat means a graphic representation of a subdivision prepared by a licensed Montana surveyor showing the division of land into lots, parcels, blocks, streets, alleys and other divisions and dedications.
  - "Amended plat" means the final drawing of any change to a platted subdivision filed with the county clerk and recorder required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this title and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).
  - "Final plat" means the final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this title and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).
  - "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks and other elements of a subdivision which furnishes the basis for review by the governing body.
  - "Vacation of plat" means a plat which has been vacated in whole or in part as provided by 7-5-2501, 7-5-2502, subsections (1) and (2) of 7-14-2616, 7-14-2617, subsections (1) and (2) of 7-14-4114 and 7-14-4115, MCA.

### **Definitions R - Z**

- ☐ "Recreational vehicle" shall be as follows:
  - "Dependent recreational vehicle" means a recreational vehicle containing either toilet or lavatory facilities or neither of those facilities.
  - "Independent recreational vehicle" means a recreational vehicle containing toilet and lavatory facilities.
- ☐ "Recreational vehicle park" means a place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
- ☐ "Recreational vehicle space" means a designated portion of a recreational vehicle park designed for placement of a single recreational vehicle and the exclusive use of its occupants.
- ☐ "Registered land surveyor" means a person licensed in conformance with the Montana Professional Engineers Registration Act (Title 37, Chapter 67, MCA), to practice surveying in the state.
- ☐ "Right-of-way" means a strip of land dedicated or acquired for use as a public way.
- ☐ "Sidewalk" means a paved walkway designed to provide for safe and convenient circulation of pedestrians.
- ☐ "Street types," for purposes of this title, are defined as follows:

- "Alley" means a service way, open to public travel and dedicated to public use, affording a secondary means of vehicular access abutting property and not intended for general traffic circulation.
- "Arterial" means a street or road having the primary function of moving traffic and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and provide limited access to abutting property.
- "Collector" means a street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and may have one or two parking lanes.
- "Cul-de-sac" means a street having only one outlet for vehicular traffic and terminating in a turnaround area.
- "Dead-end street" means a street having only one outlet for vehicular traffic.
- "Frontage access (service road)" means 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.
- "Half-street" means a portion of the width of a street, usually along the outside perimeter of a subdivision, where the remaining portion of the street must be located on adjacent property.
- "Local street" means a street or road having the primary function of providing access to abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic and may have one or two parking lanes.
- "Loop" means a local street which begins and ends on the street, generally used for access to properties.
- ☐ "Subdivider" means any person, firm or corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land.
  - ☐ "Subdivider's Agent" means a person or entity designated in writing (retracted in writing) by the Subdivider to act as the Subdivider; any notice or information required delivered to the Subdivider is properly delivered if provided to the Subdivider's Agent.
  - ☐ "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than one hundred sixty acres, that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and includes any resubdivision and further include any condominium or area, regardless of its size, which provides or will provide multiple space for recreational camping vehicles, or manufactured homes.
  - ☐ "Sublot" means a lot created for the purpose of allowing the construction of a building that is mounted on the lot line with a common wall that permits the conveyance of a portion of the building and portion of the lot

occupied by the building as a distinct property separate from the remainder of the building and lot.

- ☐ "Subdivision - Major"  
A subdivision containing six or more lots/spaces/units, The second or successive minor subdivision where a cumulative total of six or more lots/spaces/units is proposed from the original tract of record in existence on October 1, 1993.  
Any subdivision not a Minor Subdivision.
- ☐ " Subdivision - Minor "  
"First Minor" means a tract of record proposed to be subdivided that has not been subdivided or created by a subdivision under MCA 76-3 or has not resulted from a tract of record that has had more than five parcels created from that tract of record under MCA 76-3-201 or 76-3-207 since July 1, 1973, and legal and physical access to all lots is provided.  
"Subsequent Minor" means a subdivision that creates five or fewer parcels from a tract of record, where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use for parks or playgrounds and is not a first minor subdivision.
- ☐ "Subdivision Administrator" means the Planning Director of the Planning Office.
- ☐ "Summary review" means review of a minor subdivision.
- ☐ "Swale" means a drainage channel or shallow depression designed to direct surface water flow.
- ☐ "Tent site" means that part of a recreational vehicle park designed for the placement of a tent and the exclusive use of its occupants.
- ☐ "Title report" means a report prepared by a licensed title abstractor showing the names of the owners of record of the land to be subdivided and the names of the 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.
- ☐ "Townhouse" means a building or structure that has two or more dwelling units erected in a row as a single building, and where the owner of each unit may exclusively own the land underneath the unit in addition to jointly owning the common area in the development.
- ☐ "Tract of record" means 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.
- ☐ "Variance" means an adjustment made in the application of the specific regulations to a particular piece of property. A variance is a form of special exception granted by the city council.
- ☐ "Vicinity sketch" means a map at a scale suitable to locate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

## **Chapter 17.12 APPLICATION PROCEDURE**

### **17.12.010 Preapplication Process**

- A. Preapplication Meeting: Any person intending to subdivide land shall request in writing a preapplication meeting with the Director of the City of Columbia Falls Planning Office. The Director shall prescribe a meeting date that is no more than thirty days after receipt of the request.
1. At the time of the pre-application meeting request, but not less than five (5) working days prior to the meeting, the Subdivider shall provide the Planning Director 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 a freehand sketch drawn directly on a print of the topographic map and should include the following:
    - a. Information on the current status of the site, including:
      - i. location;
      - ii. approximate tract and lot boundaries of existing tracts of record;
      - iii. description of general terrain;
      - iv. natural features;
      - v. existing structures and improvements.
      - vi. existing utility lines and facilities; and
      - vii. existing easements and rights of way.
    - b. Information on the proposed subdivision, including:
      - i. tract and lot boundaries;
      - ii. proposed public improvements;
      - iii. location of utility lines and facilities;
      - iv. easements and rights of way; and
      - v. parks and open space
  2. At the meeting, the Planning Office staff shall advise the landowner of the following: the recommendations of the Growth Policy; zoning and any other applicable regulations; availability of public services; availability of public access; any site constraints known to the staff; a list of agencies, utilities, school district(s) or entities that shall be contacted to comment on the subdivision and the timeframe for the response period; and the subdivision application and review procedure.
  3. If during the review process, the list of reviewers changes, the Planning Director shall notify the Subdivider of the new list and timeframe for review.
- B. Application Submittal Timeline:
1. Within ten (10) working days after the preapplication meeting, the Planning Director shall inform of the Subdivider, in writing, of additional relevant and reasonable information as may be required to adequately assess whether the proposed subdivision complies with these regulations and the Montana Subdivision and Platting Act.
  2. Not more than ninety (90) calendar days after the preapplication meeting nor less than forty five (45) days prior to the regularly scheduled meeting date on which the Subdivider desires a public hearing, the Subdivider shall submit a complete application.

- a. The Planning Director may extend the post preapplication submittal date, not to exceed an additional 120 calendar days if Subdivider requests an extension in writing, not less than ten (10) working days prior to the timeline expiration, and the request provides substantial evidence that the extension is necessary to provide essential element(s) identified in the preapplication meeting. The director's decision may be appealed to the City Council.
- b. The Director shall not alter the forty five (45) day requirement.

**State law reference**--Preapplication process required, 76-3-504(1)(q)

#### **17.12.020 Phasing of plats**

- A. The subdivider, as part of the preliminary plat application, may propose to delineate on the preliminary plat two or more final plat filing phases and establish the schedules of the preliminary plat review and approval.
1. The subdivision must contain at least one gross acre.
  2. Each phase must be free-standing, that is, fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time.
  3. A phasing plan must be submitted which includes:
    - a. A plat delineating each phase and a general time frame for each phase;
    - b. Public improvements phasing plan showing which improvements will be completed with each phase.
  4. The preliminary plat of a phased subdivision shall have time limits:
    - a. If a subdivision is part of an approved planned unit development (PUD) which contains a specific phasing plan complete with time lines, such phasing plan shall be binding.
    - b. For all other subdivisions, upon final plat approval of the first phase, final plats for each successive phase must be filed within two years of the previous final plat approval. Failure to meet this time frame will cause the preliminary plat to be voided unless an extension has been granted.
  5. Extensions may be granted to phases following the process outlined in Chapters 17.12.050.I.c & d. and Chapter 17.12.060.J.3.
  6. Minor modifications to an approved phasing plan which do not change impacts on the adjoining property may be approved or denied by the planning director.

#### **17.12.024 Simultaneous Applications**

When applications for a single project, including zone map amendment, conditional use permit, planned unit development and/or subdivision are simultaneously submitted and to be considered at the same time, the hearing body may allow a single hearing before the body to receive comments on said applications.

### **17.12.030 Application And Review Process**

- A. The subdivision application and review process involves four parts:
  - 1. Preapplication conference.
  - 2. Application submittal.
  - 3. Preliminary plat review and action.
  - 4. Final plat review and action.
- B. Application Process:
  - 1. Application Submittal:
    - a. The Subdivider shall submit a complete application to the Planning Office containing the following:
      - i. Preliminary plat application (form available at the Planning Office);
      - ii. Copies of the preliminary plat and supplemental information required in Appendix A and the application;
      - iii. Application fee as established by the City.
  - 2. Determination of Completeness:
    - a. Upon receipt of the submitted documents and review fee, the application shall be received and date stamped showing the working day it arrived.
    - b. Within five (5) working days of the receipt, the Planning office shall determine whether the application contains all of the required materials.
      - i. If the application is complete, the Subdivider shall be notified of the determination of completeness.
      - ii. If the submitted documents and information are found to be incomplete or insufficient, the applicant shall be notified of the deficiencies and informed that the application will not be formally accepted for processing until the missing items are submitted. Upon resubmittal of the application the determination timeline is five (5) working days after the receipt date. 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 prescribed herein.
  - 3. Determination of Sufficiency:
    - a. Within fifteen working days after giving the Subdivider notice of determination of completeness, the Planning Office shall determine whether the application and required elements contain sufficient detail and supporting information to allow for review of the proposed subdivision.
      - i. If the application is determined to contain sufficient information for review, the Planning Office shall notify the Subdivider of the determination of sufficiency.
      - ii. If the application information is determined not sufficient for review, the Planning Office shall notify the Subdivider that the application is not sufficient and identify the information that is insufficient. Upon resubmittal of the application the process

returns to a determination of completeness and the timeline begins anew.

- b. A determination that an application contains sufficient information for review as provided in this subsection does not ensure that the proposed subdivision will be approved or conditionally approved by the City Council and does not limit the ability of the Planning Director, planning board, or the City Council to request additional information during the review process.
- c. A determination of sufficiency by the Planning Director pursuant to this subsection does not limit other agencies having authority, from requiring additional information.

C. Review Process:

The review process depends on the subdivision type; see the appropriate section for major or minor subdivision.

**State law reference**--Subdivision regulations to list material to be included in application, MCA § 76-3-504(1)(a); water and sanitation information required on submission of application and preliminary plat for review, MCA § 7-3-601; fees, MCA § 7-3-602; Review of subdivision application]for required elements and sufficiency of information, MCA 76-3-604(1)(a); determination of sufficiency of application, MCA § 76-3-604(2)(a); effect of determination of sufficiency, MCA § 76-3-604(2)(c).

#### **17.12.040 Amended Application**

- A. If the subdivider changes the subdivision application or preliminary plat after the Planning Director makes a determination of sufficiency but before the Planning Board hearing (for major subdivision application), or before Council action (for minor subdivision application), the subdivider shall submit the amended application to the Planning Director.
  - 1. Within five (5) working days of receiving the amended application or preliminary plat, the Planning Director shall determine whether the changes to the subdivision application or preliminary plat are material.
  - 2. The review period is suspended while the Planning Director considers whether the changes to the subdivision application or preliminary plat are material.
  - 3. If the Planning Director determines the changes are material, the Planning Director may require the subdivider to resubmit the application as a new subdivision application and assessing one forth of the fee.
  - 4. If the Planning Director determines the changes are not material, the review period resumes when the Planning Director sends notice of the decision to the subdivider.
- B. For a major subdivision application: if the subdivider changes the subdivision application or preliminary plat after the Planning Board hearing but before the City Council hearing, the subdivider shall submit



the amended application or preliminary plat to the Planning Director for review.

1. Within five (5) working days of receiving the amended application or preliminary plat, the Planning Director shall determine whether the changes to the subdivision application or preliminary plat are material.
  2. The review period is suspended while the Planning Director considers whether the changes to the subdivision application or preliminary plat are material.
  3. If the Planning Director determines the changes are not material, the review period resumes when the Planning Director sends notice of the decision to the subdivider.
  4. If the Planning Director determines the changes are material, the Planning Director shall either:
    - a. require the subdivider to resubmit the application as a new subdivision application and assessing one half of the fee; or
    - b. schedule a new Planning Board hearing to take comment on the amended application or preliminary plat. A supplemental staff report shall be prepared to address the changes to the original application. An additional one fourth of the fee shall be charged.
  5. If a second Planning Board hearing is held pursuant to subsection 4.b. above, the review period is suspended for the time period between notice of the Planning Director'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.
- D. The following changes, although not an exhaustive list, may be considered material:
1. configuration or number of lots;
  2. road layout;
  3. water and/or septic proposals;
  4. configuration of park land or open spaces;
  5. easement provisions; and
  6. designated access.
- E. A Subdivider whose subdivision application or preliminary plat has been deemed materially changed by the Planning Director may appeal the Planning Director's decision to the City Council. The Subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
1. If the City Council agrees to a hearing, the review period is suspended until the City Council decision on the appeal is made.
  2. If the City Council concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the City Council shall determine whether the subdivision application shall be resubmitted or schedule a rehearing in front of the planning board, for a major subdivision, or the Council, for a minor subdivision.
  3. If the City Council concludes that the evidence and information demonstrate that the changes to the subdivision application or

preliminary plat are not material, the review period resumes as of the date of the decision.

4. By appealing the decision of the Planning Director, the subdivider agrees to suspension of the review period not to exceed ninety (90) days.

**State law reference**--Subdivision regulations to list materials to be included in application for subdivision, MCA § 76-3-504(1)(a).

### **17.12.050 Preliminary Plat Process-Major Subdivision**

- A. Time Period for Approval, Conditional Approval, or Denial  
Within 60 working days or 80 working days if the proposed subdivision contains 50 or more lots, the City Council shall approve, conditionally approve or deny the proposed subdivision, unless the Subdivider and the Planning Director agree to an extension or suspension of the review period, ~~the Subdivider amends the application,~~ or a subsequent public hearing is held. The review period of sixty (60) working days begins once the reviewing agent has given notice to the Subdivider that the application is sufficient for review. Notification constitutes the date when the reviewing agent or agency has sent the notice to the Subdivider.
- B. Planning Office Review:  
Upon providing notice to the Subdivider that the application is sufficient to allow review, the Planning Office shall:
  1. Distribute copies of the submitted application for review and comment to the appropriate affected rural school district(s) as well as other departments, agencies and utility companies identified in the pre-application meeting; and inform them of the review timeline.
  2. Set a date for public hearing by the City-County Planning Board. The notice of such hearing shall be published in a newspaper of general circulation in the city not less than fifteen days prior to the date of the hearing, exclusive of the date of notice and the date of hearing. The Subdivider and each property owner of record immediately adjoining the land included in the application shall also be notified of the hearing by registered or certified mail not less than fifteen days prior to the date of the hearing, exclusive of the date of notice and the date of hearing;
  3. Review the submitted application and supplemental information to determine compliance with these regulations and prepare its report which shall include comments received from other departments, agencies and utility companies, findings of fact and recommendations;
  4. Submit the application, staff report and associated agency and public comments to the planning board members and provide the staff report with associated agency and public comments to the Subdivider at least five (5) days prior to the meeting;
  5. Present the application and staff report at the hearing.
- C. Planning Board Hearing and Action.  
The planning board shall:

1. Review the application, the Planning Office report, comments from other departments, agencies and any supplemental information;
2. Hold public hearing and receive public comments;
3. Prepare and adopt written findings of fact. Such findings of fact shall be based on the following:
  - a. Compliance with the following:
    - i. these regulations, including but not limited to design standards;
    - ii. applicable zoning regulations; other applicable regulations; and
    - iii. the Montana Subdivision and Platting Act
  - b. Consideration of the following:
    - i. the subdivision application and preliminary plat;
    - ii. the environmental assessment;
    - iii. discussion of probable impacts (See Impact Criteria);
    - iv. an officially adopted growth policy;
    - v. public hearing(s);
    - vi. planning staff recommendation;
    - vii. provision for easements within and to the proposed subdivision for the location and installation of any planned utilities;
    - viii. provisions for legal and physical access to each parcel within the subdivision; and
    - ix. any additional information authorized by law.
4. Based on the above findings, make a recommendation to the city council to approve, conditionally approve or deny the application. The planning board, at its discretion, may decide to forward the application without recommendation;
  - a. A positive recommendation may incorporate reasonable conditions of mitigation to reasonably minimize potentially significant adverse impacts identified above;
  - b. When requiring conditions of mitigation, the board shall:
    - i. consult with the Subdivider and shall give due weight and consideration to the expressed preference of the Subdivider;
    - ii. issue written findings to justify the mitigation required.
  - c. A subdivision shall not be denied based solely on its impact on educational services.
  - d. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy.
5. Forward, three copies of the application signed by the president of the planning board, with or without recommendation, in writing, to the city council and a copy of the recommendation to the subdivider, not more than ten (10) days after the decision unless a subsequent hearing is held.
6. The requirement to forward the application and the review period timeline are suspended under the following conditions:
  - a. The Subdivider requests, in writing, a suspension of the sixty day review period, not to exceed one year. The Planning Director may approve or deny the request; the Director's decision may be appealed to the City Council.

- b. A subsequent public hearing be held before the Planning Board:
      - i. The Planning Board or Director may determine that a subsequent hearing before the Planning Board is necessary if:
        - (a) The public has not had a reasonable opportunity to examine and comment on information or analysis of information that was presented at a hearing;
        - (b) The information is new and has never been submitted as evidence or considered by either the Planning Board or planning staff prior to the hearing.
      - ii. The Subdivider makes changes to the subdivision application (see the section for Amended Application).
- D. No later than 10 days before the meeting at which the City Council is to consider the planning board's recommendation on the subdivision application and preliminary plat, the subdivider may submit in writing to the City Council 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 City Council will give due weight and consideration to the subdivider's expressed preferences.
- E. City Council Review and Action.
 

Upon receipt of the planning board recommendation, the city council shall:

  - 1. Review the application, planning board recommendation, the Planning Office report, public and agency comments, and other related information.
  - 2. Hold a public hearing and receive public comments, if the Council has not held a previous public hearing for this application. The City Council may not consider any new 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.
    - a. The City Council shall determine whether public comments or documents presented at the City Council's public hearing constitute either:
      - i. information or analysis of information that was presented at the planning board hearing on the subdivision application that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; 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.
    - b. If the City Council 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 City Council may either:

- i. approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information if the City Council determines the information or analysis of information is either irrelevant or not credible; or
  - ii. schedule, or direct the planning board to schedule, a subsequent public for consideration of only the new information or analysis of information that may have an impact on the findings and conclusions that the City Council will rely upon in making its decision on the proposed subdivision. The 60-working-day review period required in subsection A. is suspended and the new hearing must be noticed and held within 45 days of the council's determination to schedule a new hearing. After the new hearing, the 60-working-day time limit resumes at the council's next scheduled public meeting for which proper notice for the public hearing on the subdivision application can be provided. The council may not consider any information regarding the subdivision application that is presented after the hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.
- c. New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the City Council will rely upon in making its decision on the proposed subdivision.
- d. New information or analysis of information is considered to be credible if it is based on one or more of the following:
  - i. physical facts or evidence;
  - ii. corroborated personal observations;
  - iii. or scientific data.
- 3. Adopt the written findings of fact as presented by the planning board or make and adopt new written findings of fact. Such findings shall be based on the following:
  - a. Compliance with the following:
    - i. these regulations, including but not limited to design standards;
    - ii. applicable zoning regulations; other applicable regulations; and
    - iii. the Montana Subdivision and Platting Act
  - b. Consideration of the following:
    - i. the subdivision application and preliminary plat;
    - ii. the environmental assessment;
    - iii. statement of probable impacts and mitigations(See Impact Criteria);
    - iv. an officially adopted growth policy;
    - v. public hearing(s);
    - vi. planning staff recommendation;
    - vii. Planning Board recommendations; and
    - viii. any additional information authorized by law.
- F. The City Council may not approve a subdivision application unless the proposed subdivision:

1. Provides easements within and to the proposed subdivision for the location and installation of any planned utilities;
  2. 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;
  3. Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed; and
  4. Complies with the requirements of 17.04.130, regarding the disclosure and disposition of water rights.
- G. Based upon the above findings, the city council shall then approve, conditionally approve, or deny the preliminary plat.
1. Preliminary Plat Approval.
    - a. The city council shall provide the following:
      - i. A dated and signed Statement Of Approval along with one signed copy of the plat provided to the subdivider.
      - ii. A dated and signed Statement Of Approval and a signed copy of the plat provided to the Planning Office.
      - iii. A Statement of Approval shall be retained by the City Clerk.
  2. The Statement Of Approval shall be available to the subdivider and public, and include the following:
    - a. Provide the information regarding the appeal process found in 17.36.080;
    - b. Identify the regulations and statutes that were used in reaching the decision;
    - c. Identify the expiration date of the plat and procedure for requesting an extension;
    - d. Require that the final plat and supplemental submittal conform with Appendix C of these regulations;
- H. An approval may incorporate reasonable conditions of mitigation to reasonably minimize potentially significant adverse impacts identified in the review process. If conditions are placed on the preliminary plat, the Statement Of Approval must include the following:
1. A list of the conditions and a statement requiring that the conditions must be met before a final plat may be approved.
  2. The facts and conclusions the Council relied upon in making its decision to impose conditions;
  3. Reference the documents, testimony or other material that forms the basis of the decision.
- I. When requiring conditions of mitigation, the city council shall consult with the Subdivider and shall give due weight and consideration to the expressed preference of the Subdivider. The council may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.
1. A Subdivider may be required to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health

- and safety, including but not limited to public roads, sewer lines, water supply lines and storm drains to a subdivision but the costs must reasonably reflect expected impacts attributable to the subdivision.
2. The city council may not require a Subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.
  3. All fees, costs, or other money paid by a subdivider under subsection I.1. must be expended on the capital facilities for which the payments were required.
- J. The approval of the preliminary plat shall be in force for not more than three calendar years, nor less than one calendar year. At least thirty days prior to the end of this period, the Subdivider may request, in writing, an extension of the approval for no more than two calendar years and the Council may grant such extension. The total life of a preliminary plat shall not exceed ten calendar years.

All requests for preliminary plat extensions shall include the following information:

- i. Progress on completing conditions of preliminary plat.
- ii. Duration of the requested extension.

Prior to granting a second, or subsequent, extension for a major subdivision, the governing body shall hold a public hearing. Notice of the hearing shall be given by publication in a newspaper of general circulation in the County for not less than 15 days.

- K. After the preliminary plat is approved, the city council may not impose any additional conditions as prerequisite to final plat approval providing the approval is obtained within the original or extended approval period as provided in this section.
- L. Preliminary Plat Denial.  
If the city council denies the preliminary plat it shall provide the Subdivider a letter, over the appropriate signature, stating the following:
1. Provide the information regarding the appeal process found in 17.36.080;
  2. Identify the regulations and statutes that were used in reaching the decision
  3. Reference the documents, testimony or other material that forms the basis of the decision.
- M. A subdivision may not be denied based solely on its impact on educational services.
- N. A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the

date that the final subdivision plat is filed with the county clerk and recorder.

- O. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy.
- P. Any decision by the governing body to deny or conditionally approve a proposed subdivision shall be given to applicant in writing and shall include the information required by MCA § 76-3-620 and be provided to the applicant within 30 working days following the decision.

**State law reference**--Preliminary plat approval deadlines, MCA § 76-3-604(4); hearing on subdivision application, MCA § 76-3-605; findings of fact by governing body required, MCA § 76-3-608(2); requiring mitigation, MCA § 76-3-608(5); use of adopted growth policy in reviewing subdivision applications, MCA § 76-1-605; subsequent hearings -- consideration of new information, MCA § 76-3-615; advisory recommendations after hearing on application by agency or board, MCA § 76-3-605(4); consideration by governing body of information submitted at public hearings, MCA § 76-3-615(2); written statement of decision to deny conditionally approve subdivision, MCA § 76-3-620; 76-3-608; restrictions or requiring mitigation, MCA § 76-3-608(5)(a); subdivision approval not to be denied because of impact on educational services, MCA § 76-3-608(1); requiring waiver of right to protest creation of special improvement district or rural improvement district as a condition of subdivision approval prohibited, MCA § 7-3-608(7).

#### **17.12.060 Preliminary Plat Process-Minor Subdivision**

- A. Time Period for Approval, Conditional Approval, or Denial  
Within 35 working days, the City Council shall approve, conditionally approve or deny the proposed subdivision, unless the Subdivider and the Planning Director agree to an extension or suspension of the review period, the Subdivider amends the application, or a subsequent public hearing is held. The review period of thirty five (35) working days begins once the reviewing agent has given notice to the Subdivider that the application is sufficient for review. Notification constitutes the date when the reviewing agent or agency has sent the notice to the Subdivider.
- B. The following does not apply to first minor subdivisions:
  - 1. preparation of an environmental assessment;
  - 2. public hearing requirements and subsequent hearing requirements;  
and
  - 3. review of the subdivision application for the critical impact, if the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts
- C. Upon providing notice to the Subdivider that the application is sufficient to allow review, the Planning Office shall:
  - 1. Distribute copies of the submitted application for review and comment to the appropriate affected rural school district(s) as well as other



- departments, agencies, and utility companies, identified in the pre-application meeting; and inform them of the review timeline.
2. If a subsequent minor subdivision: set a date for public hearing by the City Council. The notice of such hearing shall be published in a newspaper of general circulation in the city not less than fifteen days prior to the date of the hearing, exclusive of the date of notice and the date of hearing. The Subdivider and each property owner of record immediately adjoining the land included in the plat shall also be notified of the hearing by registered or certified mail not less than fifteen days prior to the date of the hearing, exclusive of the date of notice and the date of hearing.
  3. Review the submitted plat and supplemental information to determine compliance with this title and prepare its report which shall include comments received from other departments, agencies and utility companies, written findings of fact and a recommendation.
  4. Forward the application materials, staff report, and associated agency and public comments to the city council with a copy of the report with agency and public comments to the Subdivider.
- D. Review the application in accordance with section Amended Application, if the Subdivider amends the application prior to Council action, for a first minor, or public hearing or Council action, if a subsequent minor.
- E. Action by City Council.
1. Hold a public hearing and receive public comments if the application is for a subsequent minor subdivision.
  2. The city council shall review the application, the Planning Office report and other related information and, thereupon, shall prepare and adopt written findings of fact. Such findings shall be based on the following criteria:
    - a. Compliance with the following:
      - i. these regulations;
      - ii. applicable zoning regulations;
      - iii. other applicable regulations; and
      - iv. the Montana Subdivision and Platting Act
    - b. Consideration of the following:
      - i. the subdivision application and preliminary plat;
      - ii. the environmental assessment;
      - iii. discussion of probable impacts and mitigations (See Impact Criteria);
      - iv. an officially adopted growth policy;
      - v. public hearing(s);
      - vi. planning staff recommendation;
      - vii. any additional information authorized by law.
  3. The City Council may not approve a subdivision application unless the proposed subdivision:
    - a. Provides easements within and to the proposed subdivision for the location and installation of any planned utilities;

- b. Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;
    - c. Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed; and
    - d. Complies with the requirements of 76-3-504, MCA, regarding the disclosure and disposition of water rights.
  - 4. Based on the above findings, the city council shall then approve, conditionally approve or deny the preliminary plat application within thirty-five (35) working days of notice to the Subdivider that the application is sufficient for review, unless:
    - a. The Subdivider may request, in writing, a suspension of the thirty-five (35) day review period, not to exceed one year. The Planning Director may approve or deny the request; the Director's decision may be appealed to the City Council.
    - b. If a Subsequent Minor Subdivision, the City Council may determine that a subsequent hearing is necessary if:
      - i. The public has not had a reasonable opportunity to examine and comment on information or analysis of information that was presented at a hearing;
      - ii. The information is new and has never been submitted as evidence or considered by public or planning staff prior to the hearing.
    - c. If a subsequent public hearing is held, the 35-working-day review period is suspended and the new hearing must be noticed and held within 45 days of the determination to schedule a new hearing. After the new hearing, the 35-working-day time limit resumes at the City Council's next scheduled public meeting for which proper notice for the public hearing on the subdivision application can be provided.
    - d. The Subdivider consents to an extension of the review period in writing; such extension shall not exceed one year.
- F. Preliminary Plat Approval.
- 1. Upon approving the preliminary plat, the council shall provide the following:
    - a. A dated and signed Statement Of Approval along with one signed copy of the plat provided to the subdivider.
    - b. A dated and signed Statement Of Approval and a signed copy of the plat provided to the Planning Office.
    - c. A Statement of Approval shall be retained by the City Clerk.
  - 2. The Statement Of Approval shall be available to the subdivider and public, and include the following:
    - a. Provide the information regarding the appeal process found in 17.36.080;
    - b. Identify the regulations and statutes that were used in reaching the decision;

- c. Identify the expiration date of the plat and procedure for requesting an extension;
  - d. Require that the final plat and supplemental submittal conform with Appendix C of these regulations.
- G. An approval may incorporate reasonable conditions of mitigation to reasonably minimize potentially significant adverse impacts.
- H. If conditions are placed on the preliminary plat, the Statement of Approval must include the following:
  - 1. A list of the conditions and a statement requiring that the conditions must be met before a final plat may be approved.
  - 2. The facts and conclusions the Council relied upon in making its decision to impose conditions;
  - 3. Reference the documents, testimony or other material that forms the basis of the decision.
- I. When requiring conditions of mitigation, the city council shall consult with the Subdivider and shall give due weight and consideration to the expressed preference of the Subdivider.
- J. A Subdivider may be required to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines and storm drains to a subdivision but the costs must reasonably reflect expected impacts attributable to the subdivision.
- K. The city council may not require a Subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.
- L. An approved preliminary plat shall be in force for not more than three calendar years, nor less than one calendar year. At least thirty days prior to the end of this period, the Subdivider may request, in writing, an extension of the approval for no more than two calendar years and the council may grant such extension. The total life of a preliminary plat shall not exceed ten calendar years.  
All requests for preliminary plat extension shall include the following information:
  - i. Progress on completing conditions of preliminary plat.
  - ii. Duration of the requested extension.
- M. After the preliminary plat is approved, the city council may not impose any additional conditions as prerequisite to final plat approval providing the approval is obtained within the original or extended approval period
- N. Preliminary Plat Denial.  
If the city council denies the preliminary plat it shall provide the Subdivider a letter, over the appropriate signature, stating the following:
  - 1. Provide the information regarding the appeal process found in 17.36.080;
  - 2. Identify the regulations and statutes that were used in reaching the decision;
  - 3. Reference the documents, testimony or other material that forms the basis of the decision.

- O. A subdivision shall not be denied based solely on its impact on educational services.
- P. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy.

**State law reference--** Use of growth management policy, MCA § 76-1-605.

#### **17.12.070 Preliminary Plat-Minor Subdivision Preliminary Plat Waiver**

- A. Based on information at the preapplication conference, the requirement for a preliminary plat may be waived by the Planning Director. The Subdivider must request the waiver in writing and the director must determine:
  - 1. The plat contains five or fewer lots;
  - 2. There is no public dedication of streets or public or private park land;
  - 3. All lots have suitable access conforming to these standards;
  - 4. Each lot has a suitable building site and there are no environmental hazards present;
  - 5. Each lot possesses an approved access to potable water and a septic system;
  - 6. The subdivision complies with these regulations and current zoning regulations;
  - 7. No significant effects are anticipated on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and the public health and safety.
- B. When preliminary plat has been waived, the city council shall adopt findings of fact for approval based on subsections (A)(1) through (7) of this section concurrent with final plat approval.

#### **17.12.075 Additional information to be given applicant after approval, denial or conditional approval of subdivision plat**

The governing body shall collect public comment submitted at a hearing or hearings regarding the information presented pursuant to MCA § 76-3-622 and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat. Any decision by the governing body to deny or conditionally approve a proposed subdivision shall be given to applicant in writing and shall include the information required by MCA § 76-3-620 and be provided to the applicant within 30 working days following the decision.

#### **17.12.080 Amending A Preliminary Plat**

The Subdivider may request an amendment to an approved preliminary plat prior to approval of the final plat. The City Council may approve, conditionally approve or deny an amendment to the preliminary plat.

An amendment to a preliminary plat is intended to correct a deficiency in the original preliminary plat or conditions, that, if completed as approved, would likely result in a significantly undesirable impacts on the public welfare or natural environment. An amendment shall permit the minimum change necessary to allow reconfiguration of the original plat or addition, deletion or alteration of a condition in a manner that substantially complies with the findings and facts of the original approval process.

- A. An amended plat is required if the Subdivider proposes a substantial change to the approved preliminary plat or a condition. Substantial changes include, but are not limited to, moving ingress-egress points; rearranging five or more lots; increasing the number of lots; significant relocation of buildings, parking facilities or common areas; or requesting a deletion or substantial change to any condition of written approval except when a condition of approval is effectively changed as a result of new or modified governmental regulations.
- B. A proposal to amend a preliminary plat shall be submitted not less than six months prior to expiration of the preliminary plat or the expiration of an extension.
- C. Amendment Application Procedures:
  - 1. The Subdivider shall:
    - a. Request in writing a presubmittal meeting with the Planning Director.
    - b. Provide, with the request, a detailed description of the proposed change(s).
  - 2. The Director shall:
    - a. Schedule a presubmittal meeting not later than thirty days after receipt of the written request.
    - b. Inform the Subdivider of additional information and submittals that are required to review the request for amendment.
    - c. Not more than thirty days after the presubmittal meeting the subdivider shall submit the prescribed drawing(s), documentation and information.
    - d. Within ten (10) working days after receipt of the submitted material the Director shall determine that the material is sufficient for review.
- D. If the submitted documents and information are sufficient for review, the Director shall notify the subdivider of sufficiency and schedule the request before the City Council within thirty days after the subdivider is provided notice of sufficiency.
- E. If the submitted documents and information are found to be incomplete or insufficient, the applicant shall be notified of the deficiencies and informed that the application will not be formally accepted for processing, and determination period begins anew until the missing items or required information are submitted.
- F. Planning Office Review:
  - 1. Set a date for public hearing by the City Council and notice adjoining land owners if the original preliminary plat process required such hearing and notice. The notice of such hearing shall be published in a

newspaper of general circulation in the city not less than fifteen days prior to the date of the hearing, exclusive of the date of notice and the date of hearing. The Subdivider and each property owner of record immediately adjoining the land included in the application shall also be notified of the hearing by registered or certified mail not less than fifteen days prior to the date of the hearing, exclusive of the date of notice and the date of hearing.

2. Review the submitted request and supplemental information to determine compliance with these regulations and prepare a report which shall include a review of the original preliminary plat findings of fact and recommendations;
3. Submit the request, supporting documentation and staff report to the City Council, and provide the staff report to the Subdivider at least five (5) days prior to the meeting;
4. Present the request, supporting documentation and staff report at the hearing.

G. Action by City Council.

1. Hold a public hearing and receive public comments if such a hearing is required.
2. The city council shall review the request, supporting documents, the Planning Office report and other related information and, thereupon, shall prepare and adopt written findings of fact. Such findings shall be based on the following criteria:
  - a. Compliance with the following:
    - i. these regulations;
    - ii. applicable zoning regulations;
    - iii. other applicable regulations; and
    - iv. the Montana Subdivision and Platting Act
  - b. Consideration of the following:
    - i. the subdivision application and preliminary plat;
    - ii. the environmental assessment;
    - iii. discussion of probable impacts and mitigations (See Impact Criteria);
    - iv. an officially adopted growth policy;
    - v. public hearing(s) – if applicable;
    - vi. planning staff recommendation;
    - vii. any additional information authorized by law.

H. The City Council may not approve an amendment unless the amended proposed subdivision:

1. Provides easements within and to the proposed subdivision for the location and installation of any planned utilities;
2. 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;
3. Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed; and

4. Complies with the requirements of 76-3-504, MCA, regarding the disclosure and disposition of water rights.
- I. Based on the above findings, the city council shall then approve, conditionally approve or deny the amendment to the original preliminary plat not later than two regularly scheduled Council meeting after the Council meeting in which the request was first heard by the Council.

#### **17.12.090 Impact Criteria**

The following factors are representative of, but not an exhaustive list of impacts:

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 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 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 unincorporated town sites or within the city-county planning jurisdiction and will use existing utilities are considered to have a minimal impact on local services.
  2. Proposed subdivisions that will require the extension of public facilities 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, noise, light and objects of historic and aesthetic significance.
1. Proposed subdivisions that are contiguous to unincorporated town sites or within the city-county planning jurisdiction and will use existing utilities 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 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 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 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 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.

#### **17.12.100 Subsequent Hearing**

- A. If a subsequent public hearing is held, it must be held within 45 days of the City Council's determination to schedule a subsequent hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing.
1. 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 15 days prior to the date of the subsequent hearing.
  2. 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.

3. The City Council 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 review period is suspended as of the date of the City Council's decision to schedule a subsequent hearing. The review period resumes on the date of the City Council's next scheduled public meeting for which proper notice for the public meeting on the subdivision application can be provided.
- C. The City Council may not consider any new 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.

#### **17.12.110 Final Plat Process**

- A. Purpose. The purpose of the final plat is to review the proposed subdivision for proper final engineering and subdivision design, to provide for dedication of lands required for public use, for the construction of public improvements, and for conformance with the preliminary plat. The final plat shall incorporate all modifications required in its preliminary review.
- B. Final Plat Application:
  1. After receiving preliminary plat approval, the Subdivider may proceed with the preparation and submission of the final plat of the proposed subdivision. All required improvements shall either be installed, or the Subdivider shall enter into a subdivision improvements agreement with the city prior to the filing of the final plat guaranteeing the installation of remaining improvements (See Appendix E of this title, Subdivision Improvements Agreement).
  2. A complete application for final plat approval shall be submitted to the Planning Office at least sixty days prior to the expiration date of the preliminary plat. (Because of processing time, complete final plat applications submitted less than sixty days prior to expiration face the possibility of expiring prior to city council review and action). The submittal shall include the following:
    - a. Completed final plat application form (available at the Planning Office);
    - b. Application review fee prescribed by the City Council;
    - c. The final plat prepared in accordance with and in the quantities prescribed in Appendix C of this title;
    - d. All attachments to the final plat as specified in Appendix C of this title;
    - e. Certification by the Subdivider indicating which required improvements have been completed on the site or are subject to an attached subdivision improvements agreement in conformance with Appendix E of this title securing the future construction of public improvements to be installed.
- C. Action by the Planning Office.

1. The Planning Office shall review the submitted plat and documents to assure completeness as well as compliance with:
    - a. The approved preliminary plat;
    - b. The preliminary plat conditions of approval;
    - c. The city of Columbia Falls subdivision regulations;
    - d. The Montana Subdivision and Platting Act.
  2. If the Planning Office determines that the submitted final plat and attachments are complete and in substantial compliance with subsection (C)(1)(a) through (d) of this section, it will review and make its recommendation to the city council within thirty days of receipt of a complete application.
  3. The city council must approve the completed final plat application and recommendation prior to actual expiration of the preliminary plat.
  4. The final plat must conform to the preliminary plat map and conditions of preliminary plat approval.
  5. Insignificant changes which have a minimal impact on the scale or scope of the project or immediate neighborhood shall be so noted in the report to the city council.
  6. Changes which either the Planning Director or the City Council determine to be substantial shall be returned for rehearing and consideration as amendments to the original preliminary plat. Substantial changes include, but are not limited to:
    - a. moving ingress-egress points;
    - b. rearranging five or more lots;
    - c. increasing the number of lots;
    - d. significant relocation of buildings, parking facilities or common areas; or
    - e. requesting a deletion or substantial change to any condition of written approval except when a condition of approval is effectively changed as a result of new or modified governmental regulations.
- D. Action by the City Council.
1. The city council shall approve the final plat if:
    - a. The final plat conforms to:
      - i. The preliminary plat and conditions of preliminary plat approval;
      - ii. The Montana Subdivision and Platting Act;
      - iii. The city of Columbia Falls subdivision regulations and in particular Appendix C of this title;
  2. The Subdivider has installed all the required improvements or has entered into a written subdivision improvements agreement with the city pursuant to Appendix E of this title. The City Council may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security under subsection (2)(a) for purposes of filing a final plat.
- E. The city council may withdraw approval of a plat if they determine that information provided by the Subdivider, and upon which such approval was based, is inaccurate.

- F. If the final plat is disapproved, the reasons for disapproval shall be stated in the minutes of the city council and a copy forwarded to the Subdivider.
- G. The acceptance of land dedications shall be made by specific action of the city council and shall be noted on the plat.
- H. The city council shall approve or deny a final plat application within thirty days after receiving the Planning Office recommendation, unless the Subdivider waives in writing the right to have such a decision within the prescribed time limit. The city council shall notify in writing the Subdivider and the Planning Office of their approval or denial of the final plat.
- I. Final Plat Filing. The Subdivider shall have thirty days from the date of the approval of the final plat to file the approved final plat and documents as described in Appendix C of this title with the county clerk and recorder.

#### **17.12.120 Correcting Or Amending Filed Final Plats.**

- A. Correcting Filed Final Plats. Correction of drafting or surveying errors that in the city councils opinion will not materially alter the plat, its land division, or the improvements to less than the standards contained in this chapter, may be made by the submission of a corrected final plat for the city council approval. The plat shall be entitled "Corrected Plat of the (name of subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat.
- B. Amending Filed Final Plats.
  - 1. Changes that materially alter the final plat or any portion thereof or its land divisions or improvements shall be made by the filing of an amended plat showing all alterations. Within a platted subdivision, any division of lots which result in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the city council and an amended plat must be filed with the county clerk and recorder.
  - 2. The relocation of common boundaries and the aggregation of lots within platted subdivision where five or fewer of the original lots are affected are exempt from approval procedures as a subdivision. In such case, an amended plat shall be prepared following the requirements of Appendix C of this title, except that in place of the city councils approval, the landowner certifies that the approval of the city council is not required pursuant to Section 76-3-207(1), MCA, as amended.
  - 3. The amended plat shall be subject to procedural requirements for major and minor subdivisions and shall be subject to all standards contained in this title.
- C. The final amended plat submitted for approval shall comply with the final plat requirements of this chapter and Appendix C of this title with the exception that the title shall include the word "Amended" ("Amended Plat of the [name] Subdivision" or "[Name] Subdivision, Amended").

### **17.12.130 Procedure for Subdivisions Created By Lease or Rent(Condominiums, Manufactured Home Parks, Campgrounds)**

- A. Subdivisions created by lease or rent, such as manufactured home and recreational vehicle parks, are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act, but must be submitted for review and approved by the city council before portions thereof may be leased or rented.
- B. Manufactured home parks, recreational vehicle parks, and condominium developments comprised of six or more dwelling units, lots, or spaces shall comply with and shall be processed in accordance to the procedure for a major subdivision and other chapters in Title 17 specific to condominiums, manufactured home parks, campgrounds.
- C. Manufactured home parks, recreational vehicle parks and condominium developments comprised of five or fewer dwelling units, lots, or spaces shall comply with and shall be processed in accordance to the procedure for a minor subdivision and other chapters in Title 17 specific to condominiums, manufactured home parks, and campgrounds.
- D. Exemption for certain condominiums. Condominiums constructed on land subdivided in compliance with the MSPA or on lots annexed to the city are exempt from further review if:
  - 1. the approval of the original subdivision of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in 76-3-621 are complied with; or
  - 2. the condominium proposal is in conformance with applicable zoning regulations.
- E. Condominium developments must comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA

**State law reference--**Exemption for certain condominiums, MCA § 76-3-203.

## **Chapter 17.14 DESIGN STANDARDS APPLICABLE TO ALL SUBDIVISIONS**

### **17.14.010 Qualified Submittal**

Engineering and survey plans, specifications, design details and reports required by the city council shall be prepared by a registered engineer or registered surveyor as their respective license laws allow in accordance with the Montana Subdivision and Platting Act and this title.

### **17.14.014 Conformance with Other Guidelines and Regulations**

The design and development of a subdivision must conform with Columbia Falls Growth Policy, and shall comply with Columbia Falls zoning ordinances, public works standards, and other resolutions and regulations adopted by the city where enforceable within the Planning Jurisdiction.

#### **17.14.016 Warranty for Improvements**

Prior to approval of the final plat the subdivider shall warrant the improvements required and completed in the development of the subdivision for a period of two (2) years after the date of final plat approval. If the final plat approval includes a Subdivision Improvement Agreement, then the subdivider shall also warrant the improvements required and completed in accordance with the Agreement for a period of two (2) years after the date of accepted completion of these improvement.

- A. The Subdivider warrants that work performed in the construction of improvements required as a condition of approval of this subdivision conforms to the approved construction plan and standards and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Subdivider or an Contractor or Subcontractor or any lower-tier subcontractor or supplier at any tier.
- B. This warranty shall continue for a period of two (2) years from the date of final acceptance of the work. If the governing authority takes possession of any part of the work before final acceptance, this warranty shall continue for a period of two (2) year from the date the authority takes possession.
- C. The Subdivider shall remedy at the Subdivider's expense any failure to conform, or any defect. In addition, the Subdivider shall remedy at the Subdivider's expense any damage to governing authorities owned or controlled real or personal property, when that damage is the result of the following:
  - 1. The Subdivider's failure to conform to the approved construction plans or construction standards; or
  - 2. Any defect of equipment, material, workmanship, or design furnished.
- D. The Subdivider shall restore any work damaged in fulfilling the terms and conditions of this clause. The Subdivider's warranty with respect to work repaired or replaced will run for two (2) years from the date of repair or replacement.
- E. The Planning Director shall notify the Subdivider in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- F. If the Subdivider fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the governing authority shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Subdivider's expense and pursue by any available means reimbursement of any and all expenses associated with the repair, including any legal fees and court costs

#### **17.14.020 Preservation of Natural Environment**

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

#### **17.14.030 Lands Unsuitable For Subdivision**

Land on which there is evidence of hazards such as flooding, snow avalanches, rock falls, landslides, slopes equal to or greater than twenty-five percent (25%), subsidence, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, air or vehicular traffic hazards or congestion, or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation; or other features which may be detrimental to the health, safety or general welfare of existing or future residents shall be deemed unsuitable for subdivision and shall not be subdivided in a manner that creates a lot(s) or parcel(s) whose only building site lies wholly or partially within the hazard area, unless the hazards are eliminated or will be overcome by approved design and construction plans.

**State law reference**--Authority for above section, MCA § 76-3-504(1)(e).

#### **17.14.040 Planning Considerations**

The subdivision design shall take into consideration the following planning considerations:

- A. Particular consideration shall be given to topography in relation to slope stability.
- B. Land subject to flooding shall be set aside for uses which will not aggravate the danger of a flood hazard, will not be endangered by flooding, nor endanger the general health, safety and welfare of the residents.
- C. The subdivision plan shall be designed to permit continuation of streets into adjacent subdivisions unless there is justification for an alternate design.
- D. Land area for floodplains, natural or scenic areas, schools, parks, open space, road right-of-way and easements shall be reserved and located according to good planning practices and principles.
- E. Multiple land uses within the subdivision must be properly situated within the subdivision to provide the maximum convenience to the residents.
- F. Land subject to hazardous conditions such as land slides, rock falls, possible subsidence, shallow water table, open quarries, floods and polluted or non-potable water supply shall be identified.
- G. When only a portion of an ownership is to be subdivided and development is contemplated for the remainder, the Subdivider shall provide a reasonable development plan indicating the intentions for the remainder. Such a plan shall show in a general fashion: proposed roadways, residential lot location, and parks or common areas. Remainders shall be provided a legal and physical access to a public road or street on land that is suitable and available for the road construction.

#### **17.14.050 Floodplain Provisions**

Land located in the floodway of a flood of one-hundred-year frequency as defined by the Montana Code Annotated, or land deemed subject to flooding as delineated by the most current maps available and accepted for use in the city, or land possessing an elevation at or below the one-hundred year frequency base flood elevation of an immediately adjacent floodway, shall not be subdivided creating a lot or parcel whose only building site lies within the 100-Year floodplain, nor other subdivision support uses made of these lands that may increase flood hazard to life, health or property.

If any portion of a proposed subdivision is adjacent to a floodway or connected to a floodway and no official floodway delineation or floodway studies of the land have been made, the subdivider shall furnish survey data compliant with Standards of Flood Hazard Evaluation as prescribed by Water Resources Division of the Montana Department of Natural Resources and Conservation. If the proposed subdivision is determined to be within a flood hazard area, the subdivider shall comply with the flood plain regulations of the City of Columbia Falls.

#### **17.14.054 High Groundwater Provisions**

Surface areas where monitored groundwater elevation is four feet or less to the surface, generally from March 15 through June 30, during average precipitation years, shall not be subdivided for residential or development purposes, unless municipal or public sewer service is available or a properly engineered private community waste water treatment system is constructed. Land shall be deemed subject to high groundwater and unsuitable for development based on the following:

- A. Areas historically inundated with high ground water.
- B. Soil types as determined from test pit data which do not provide adequate percolation and absorption or indicate oxidation reduction or mottling.
- C. Other relevant information indicating areas of seasonal or periodic high ground water levels.

The subdivider shall provide groundwater elevation monitoring data as required by Department of Environmental Quality and Flathead County Health Department with the preliminary plat application.

Land deemed to be subject to high groundwater shall be identified in a written analysis of the project area's likelihood to experience subsurface flooding due to rising groundwater by a licensed professional engineer or hydrologist and mapped accordingly.

In areas where seasonally high groundwater is within eight feet of the surface lots shall be a minimum size of five acres, if not connecting to municipal, community or public sewer system or unless scientific evidence demonstrates that a different density is appropriate.



#### **17.14.060 Temporary Erosion and Sedimentation Control**

During the construction of improvements in the subdivision, the Subdivider shall be responsible for installing temporary erosion and sedimentation control facilities to control surface runoff. No silt laden water or excess shall flow to downstream areas storm basins, sanitary sewers or lakes. Such controls shall be in accordance to the Flathead Conservation District Standards, the and the State Health Department, Water Quality Bureau.

#### **17.14.070 Dust Control and Noise Mitigation**

During the construction of improvements, the subdivider shall use approved construction practices that accomplish the following:

- A. Minimizes the tracking of construction material onto surfaces outside the construction limits of the project.
- B. Provide dust mitigation to work in the project where dust will travel offsite.

When performing work that generates noise and within 500 feet of occupied structures, limit such work to the hours between 6:00 AM and 6:00 PM. Excessive noise may require abatement measures.

#### **17.14.080 Park Land**

- A. Park Dedication Requirements.
  - 1. A Subdivider shall dedicate to the governing entity where the park will reside a cash or land dedication equal to:
    - a. Eleven percent of the combined area of all land to be divided into lots one-half acre or smaller;
    - b. Seven and one-half percent of the combined area of all land to be divided into lots above one-half acre to one acre in size;
    - c. Five percent of the combined area of all land to be divided into lots above one acre to three acres in size;
    - d. Two and one-half percent of the combined area of all land to be divided into lots above three acres to five acres in size;
- B. The city council and planning board, 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 and cash donation is required, the cash donation may not exceed the proportional amount covered by the land donation.
- C. The city council may, at its discretion, require a park dedication for:
  - 1. a subsequent minor subdivision; or
  - 2. a first minor subdivision from a tract of record if:
    - a. the subdivision plat indicates development of condominiums or other multifamily housing;
    - b. zoning regulations permit condominiums or other multifamily housing; or

- c. any of the lots are located within the boundaries of a municipality.
- D. Exceptions to Park Dedication.

Park dedication shall not be required for:

  - a. Lots created greater than five acres in size;
  - b. Subdivision into parcels that are all nonresidential;
  - c. A subdivision where lots are not created except when that subdivision provides permanent multiple spaces for recreational camping vehicles, manufactured homes or condominiums;
  - d. The creation of only one additional lot;
  - e. A first minor subdivision from a tract of record (except as provided in Subsection C);
  - f. Planned unit developments or other developments which propose land permanently set aside for park and recreation purposes to meet the needs of the persons who ultimately reside in the development and equals or exceeds the dedication requirements of subsection A of this section;
  - g. Where a subdivision provides for long term protection of critical wildlife habitat; cultural, historical or natural resources; agricultural interests or aesthetic values and said area equals or exceeds the dedication requirements in subsection A of this section.
  - h. the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections D f. and D g. a is reduced by an amount equal to or exceeding the area of the dedication required under subsection A of this section; or
  - i. the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection A. of this section.
  - l. The city council may waive the park dedication requirement if the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and the area of such land to be subject to long-term protection equals or exceeds the area of the dedication required under subsection A. of this section.
- E. Criteria for Park Land Dedication.

The governing body, in consultation with the planning board and the Subdivider, may determine suitable locations for parks and playgrounds.

Land dedicated for park or playground purposes shall be useable land, shall serve residents of the entire subdivision, shall be of appropriate shape and size and shall have convenient access by public or private roads meeting Columbia Falls standards and specifications. The following land shall not be considered appropriate for park purposes:

Average cross slope of the park site is greater than twenty percent and more than ten percent of the park site has a cross slope greater than twenty-five percent;

More than ten percent of the park site is swampy or marshy;

Is less than two acres in area;

Is an undeveloped open space area within a subdivision which does not have appropriate size, dimensions or access to serve as a park;

Commercial or for-fee recreational facilities such as golf courses, athletic clubs, etc., unless the residents of the affected development are guaranteed substantially reduced fee or free use and access.

F. Cash in Lieu of Park Land.

1. Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks and playgrounds is undesirable, the city council may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land that would have been dedicated. For the purpose of this section, the fair market value is the value of undivided, unimproved land.
2. It shall be the responsibility of the Subdivider to provide satisfactory evidence of the fair market value. When the Subdivider and the city council are unable to agree upon the fair market value, the city council may require that the fair market value be established by an appraisal done by a qualified real estate appraiser of its choosing. The appraisal fee shall be the responsibility of the Subdivider.
3. The governing body may use the dedicated money to acquire, develop or maintain within its jurisdiction parks or recreational areas or for the purchase of public open space or conservation easements only if:
  - a. The park, recreational area, open space or conservation easement is within a reasonably close proximity to the proposed subdivision;
  - b. The city council has formally adopted a park plan that establishes the needs and procedures for use of the money.
4. The governing body may not use more than fifty percent of the dedicated money for park maintenance.

G. Dedication of park land to school. Subject to the approval of the city council and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection A of this section to a school district, adequate to be used for school facilities or buildings.

H. Definitions. For the purposes of this section:

1. "Cash donation" is the fair market value of the unsubdivided, unimproved land.
2. "Dwelling unit" means a residential structure in which a person resides.

I. Location of donated land. A land donation under this section may be inside or outside of the subdivision.

#### **17.14.090 Lots**

Each lot or subplot shall contain a satisfactory building site which is properly located to topography and conforms to health department regulations, zoning regulations, and this title. The proposed lots shall meet the following standards:

- A. No single lot or subplot shall be divided by a municipal boundary line;
- B. No single lot or subplot shall be divided by a public street, road, alley, right-of-way or access easement;
- C. Each lot or subplot shall abut and have access to a public or private street or road that meets the requirements of 17.16 Table 1;
- D. Corner lots or subplot shall have a driveway access to the same street or road as interior lots, shall have sufficient area to provide acceptable visibility for traffic safety and the access shall be outside the clear vision triangle;
- E. Each lot and subplot shall have a building site meeting the following requirements:
  - 1. an area of at least 1,600 square feet with at least one dimension not less than 40 feet (if a subplot then the building site is astride the common boundary and the prescribed area is divided among the included lots and no dimension is less than 20 feet);
  - 2. on land suitable for subdividing;
  - 3. each building site must be able to be accessed by a minimum 12 foot wide drive with a maximum 10% slope.
- F. Where the average slope of a lot or subplot exceeds 10%, a minimum two foot ground contour intervals shall be shown on the preliminary plat for the building pad and drive way and a statement shall be placed on the final plat noting the specific lots as enumerated may be subject to steep terrain and that the driveway shall be approved by the local Fire Marshal or Fire Chief as suitable access prior to the start of combustible construction.
- G. Any lot or subplot containing a slope equal to or exceeding 25% shall show on the plat a building envelope not containing the slope and a building pad within the envelope a responsible distance away from the slope, or if the lots contains insufficient area to provide the required area, an envelope that minimally impinges upon the slope necessary to provide a building pad. If impinging upon the slope, the lot shall be required to receive a favorable geotechnical soils analysis report conducted by a licensed engineer and an engineered prescription for development and construction on the pad that minimizes the disturbance to existing vegetation and stabilizing elements. The planning director shall review the plan and approve the drawing and information to be included on the face of the final plat.
- H. No lot or subplot shall have an average depth greater than three times its average width unless the average lot width is more than 200 feet. The dimension of a curved side shall be the arc distance for a curve with a radius greater than 50 feet and chord distance if the radius is equal to less than 50 feet.

- I. Side lot lines and subplot lines shall be substantially right angles to streets or road lines and radial to curved streets or road lines;
- J. Front lot lines and subplot lines shall not be less than thirty feet in length. The front lot line will be considered as the length of the lot adjoining the road or street from which the access to the lot shall be provided;
- K. Through lot and subplot or reverse lot and subplot are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation;
- L. A planting screen easement of a minimum width of ten feet, across which there shall be no right-of-access, shall be provided along the line of lots abutting a non-compatible use; the easement shall be 15 feet for lots abutting a right-of-way designated a collector street; the easement shall be 20 feet for lots abutting a right-of-way designated an arterial and an additional 5 feet shall be provided for each 2000 vehicles above the average daily traffic count (ADTC) above 10,000.
- M. All lots in unzoned areas shall have:
  - 1. A minimum average width of 60 feet; a subplot may be not less than 30 feet;
  - 2. Lakeshore and river front lots shall have a minimum average width of 100 feet with a minimum 100 foot of frontage on the river or lake as measured at the high water line; a subplot may have not less than 50 feet average width and 50 feet of water frontage.

#### **17.14.100 Blocks**

- A. Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated and to take advantage of the limitations and opportunities of the topography.
- B. Block lengths shall not be less than three hundred feet nor more than one thousand feet.
- C. Blocks shall be wide enough to allow for two tiers of lots except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation or unless the city council approves the design of irregularly shaped blocks indented by culs-de-sac.
- D. Right-of-way for non-motorized and pedestrian use not less than twenty feet wide shall be required where necessary to provide access to public or common facilities such as park, playground, streams and lakes or public assemble areas; where the subdivision is adjacent to an existing non-motorized and pedestrian right-of-way and such use would reasonably extend through the block or when necessary to provide access across blocks that are longer than 500 feet.

#### **17.14. 110 Alleys**

- A. Alleys may be required by the city council.
- B. Alleys, if required, shall be at least twenty feet wide and shall be open at both ends. If an existing alley is to be extended, then the width of the proposed alley shall be the same as the existing alley.
- C. Alley intersection, sharp changes in alignment, and deadened alleys shall be avoided.
- D. If connected to a collector or arterial, a clear vision triangle may be required at the intersection of the alley and street.

#### **17.14.120 Bikeways**

Bikeways may be required, in lieu of a sidewalk and at locations shown on the comprehensive plan adopted by the city council. If required, the bikeways will be at least nine feet in width.

#### **17.14.130 Street Lighting**

Street lights shall be installed at each street intersection, and at intermediate locations on blocks longer than 500 feet. Light location and type shall be in conformance with standards prescribed by the Columbia Falls public works department. Consultation with local utility companies is advised in order to minimize energy consumption.

#### **17.14.140 Solid Waste**

- A. The Subdivider shall assure that provisions for collection and disposal of solid waste meets the minimum requirements of the city council.
- B. The location and means for solid waste collection and disposal shall be subject to approval by the city council.
- C. If the subdivision has an overall density greater than one (1) lot per net acre and licensed solid waste hauler services the area, each owner shall be required to contract with the hauler for on-site pickup and a stipulation of that requirement shall be included in a subdivision covenant.

#### **17.14.150 Utilities**

- A. Utilities shall be placed underground wherever practical. Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced to eliminate, so far as practicable, the necessity of disturbing such surfacing for the connection of individual services.
- B. Utility lines shall be designed by utility firms in cooperation with the Subdivider; subject, however, to all applicable laws and all rules and

regulations of any appropriate private regulatory authority having jurisdiction over such facilities.

#### **17.14.160 Easements**

- A. Where required by the City Council, easements shall be provided for utilities, drainage and vehicular or pedestrian access.
- B. Utility easements shall be located along side and rear lot lines wherever necessary and, if placed in the street right-of-way, are located between roadway and the right-of-way line, or as otherwise requested by the utility company involved.
- C. Utility easements shall be 15 feet wide unless otherwise specified by a utility company or the City Council.
- D. Where a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the appropriate public agency administering the right-of-way.
- E. Where a subdivision is traversed by a watercourse drainage way, channel, ditch or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance. A minimum width of 10 feet is required on each side of drainage canals or streams for maintenance purposes.
- F. Where portions of a subdivision abut a river, stream or lake, all abutting areas which contain slopes of 25% or greater shall be protected via the placement of a conservation easement. The purpose of the easement is to maintain these areas in their natural undisturbed condition and shall prohibit the construction of any dwellings, buildings or other structures, road work or major vegetative clearance.

### **Chapter 17.16 DESIGN STANDARDS FOR AREAS ANNEXED OR WAIVING PROTEST OF ANNEXATION**

#### **17.16.010 Compliance Required**

All subdivisions within the City Limits, subdivisions that petition to annex to the City, and subdivisions that waive the right to protest annexation after December 31, 2006 shall comply with design standards included in this chapter, unless a variance from any particular section is requested in writing and is granted by the city council pursuant to Section 17.36.010 of this title.

#### **17.16.080 Access**

- A. Any private or public street or road providing ingress and egress to a subdivision shall meet the street design standards and specifications stated in Section 17.16.090 and Table 17.16.090 of this chapter.
- B. The city council may require two or more vehicular access routes for separate multi-ingress/egress into the subdivision based on the following considerations:

1. Fire and emergency situation;
  2. Safe and convenient circulation;
  3. Without regard to conditions when the access serves more than twenty lots/units/spaces.
- C. Loop drives, with one access point, shall not satisfy this need.

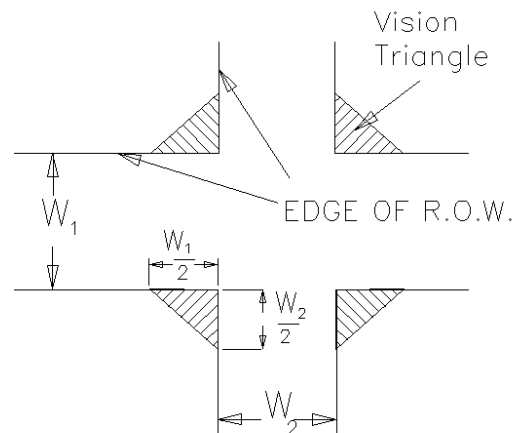
#### **17.16.090 Streets and Roads**

The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions and to public convenience and safety, and in their relation to the proposed uses of the land to be served by them. All streets shall meet the following requirements:

- A. All streets and roads within the subdivision as well as providing access to the subdivision shall extend to the furthest lot line of the furthest lot and meet the design standards stated in Section 17.16.
- B. Residential driveways shall not have direct access to arterial streets or major highways. No lot shall have direct vehicle access to an arterial or major highway, where any reasonable alternative is available.
- C. Local streets shall be designed so as to discourage through traffic. Collector streets shall be designed to afford easy access to arterial or other collector streets or for street continuation to adjoining areas.
- D. When a subdivision abuts or contains an existing or proposed arterial street or major thoroughfare, the frontage roads or other treatment as may be necessary will be required for adequate protection of residential properties and to separate arterial and local traffic. Screen planting or other means of screening may be required in areas abutting arterial streets or major highways.
- E. When a subdivision abuts or contains a railroad right-of-way, controlled access highway or irrigation ditch right-of-way, a street approximately parallel to and on each side of such right-of-way at a distance suitable for an appropriate use of the intervening land shall be provided. Such distances shall also be determined with regards to the requirements of approach grades and future grade separations.
- F. Dead-end streets are not permitted. Where future street extension is proposed, a cul-de-sac or temporary turn-around of adequate size shall be provided.
- G. Half streets are prohibited.
- H. A triangular "clear vision" area shall be established and maintained on all lots at the intersection of two streets, a street and an alley, or a street and an at-grade railroad crossing in the following manner:
  1. For subdivisions existing prior to December 31, 2005, the triangle is the two sides of which are the street centerlines measured from their point of intersection of a distance of not less than eighty feet on each side. The third side of the triangle is a line across the corner of a lot joining the ends of the other two sides.



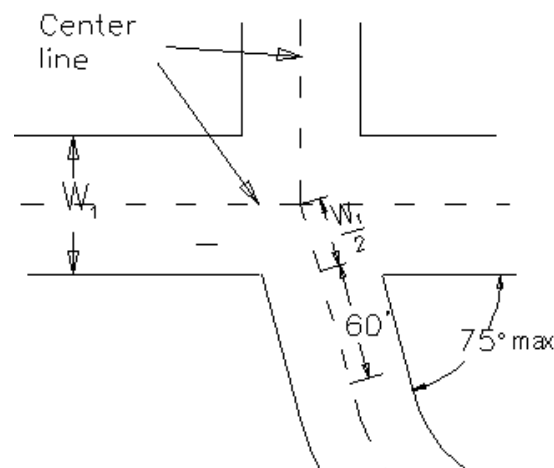
2. For subdivisions platted after December 31, 2005, the right-of-way at a street intersection shall include the area of the clear vision triangle at each corner. The triangle legs that meet at the corner shall be a length equal to one half the width of the right-of-way adjacent to that leg.



3. The maximum height of plantings and/or manmade features shall not exceed thirty inches, except that street trees may be situated in such areas, provided that all branches and foliage are removed to a height of no less than eight feet.

I. Street intersections shall meet the following requirements:

1. Streets shall intersect at ninety degree angles, except where topography precludes and in no case shall the angle of intersection be less than seventy-five degrees. The alignment shall continue along the center line of each leg of the intersection for a minimum distance of one half the adjoining right-of-way width plus sixty feet.



2. Two streets meeting a third street from opposite sides shall meet the same point, or their centerlines shall be offset at least one hundred twenty-five feet for local road offset and three hundred feet for an arterial or collector offset.
3. No more than two streets will intersect at one point.
4. Intersections of local streets with major arterials shall be kept to a minimum.
5. Hilltop intersections are prohibited, except where no alternatives exist. The distance between a hilltop and an intersection shall be determined by analysis of sighting distance, posted speed limit, stopping distance, sight obstruction at corners and other reasonably potential safety factors. The analysis method shall be a method common to current highway safety design approved by the City.
6. Maximum grade of street approach to any intersection shall not exceed three percent for the last 60 feet of the approach terminating at the edge of the adjacent traveled way.
7. Names of new streets aligned with existing streets shall be the same as

- those of existing streets. Proposed street names shall not duplicate or cause confusion with existing street names. All roads shall be named.
- J. Location of collector and arterial streets shall reasonably comply with the street and highway plan adopted by the city.
  - K. All roadway improvements including pavement, curbs, gutters, sidewalks and drainage systems shall be constructed in accordance with the specifications and standards prescribed in this title, using materials approved by the city council.
  - L. Where access to the subdivision will be by an easement across privately owned property, the subdivider must provide evidence that the necessary easement has been acquired and that the easement encompasses the nature and intensity of the use which will result from development of the subdivision.
  - M. Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening or soil erosion protection and are subject to approval by the city council.
  - N. Street or road signs and traffic-control devices of the size, shape and height as approved by the city council shall be placed at all intersections by the developer or included as part of an improvements agreement. Traffic-control devices shall be consistent with the latest edition of the "Manual of Uniform Control Devices" available from the Montana Department of Transportation.
  - O. If mail delivery will not be to each individual lot or dwelling within the subdivision, the subdivider shall provide an off-street area for mail delivery within the subdivision in cooperation with the United States Post Office.
  - P. If solid waste disposal is not to be the responsibility of individual lot or dwelling owners within the subdivision, the subdivider shall provide an off-street area for solid waste collection which will be conveniently accessible to collection vehicles.

17.16 Table 1 STREET DESIGN STANDARDS			
	Arterial	Collector	Local
Minimum right-of-way	100 ft	80 ft.	60 ft.
Minimum roadway width without parking <sup>a</sup>	36 ft.	28 ft.	24 ft.
Minimum curb radius or edge of pavement radius at intersection	30 ft.	25 ft.	20 ft.
Maximum grade <sup>b</sup>	7%	8%	9%
Minimum sight distance	375 ft.	200 ft.	150 ft.
Curvature:			
Maximum curve	10°	19°	53°
Centerline radius	560 ft.	300 ft.	120 ft.
Culs-de-sac:			
Maximum length			600

Minimum inside curb radius without parking			40
Minimum inside curb radius with parking			45 ft
Minimum turnaround right-of-way radius			55 ft
Bridges:			
Curb to curb width	36 ft.	26 ft.	26 ft.
AASHTO design load <sup>c</sup>	H-20	H-15	H-15
Vertical clearance	14.5 ft.	14.5 ft.	14.5 ft.

- a. Where parking will be permitted, add an additional twelve feet.
- b. Grade may be permitted up to and including ten percent for a length not to exceed one hundred feet.
- c. American Association of State Highway Transportation Officials.

### **17.16.110 Sidewalks**

- A. Sidewalks shall be required on all streets, unless the city council waives this requirement.
- B. The minimum width of the sidewalk shall be:
- C. Five feet, if a boulevard separates the sidewalk from the street; and
- D. Six feet, if the sidewalk abuts the street.

### **17.16.140 Curbs And Gutters**

The developer shall provide curb and gutter along paved streets, unless the city council finds that collecting storm water is not beneficial. They shall be designed as part of an overall grading and drainage plan. Federal and state regulations for storm water treatment are substantially based on volume of collected waters due to the potential concentrated pollutants.

### **17.16.150 Grading And Drainage**

- A. Adequate provisions for storm water drainage shall be provided in accordance with requirements specified by this title and the standards of the Columbia Falls public works department. Those areas where a trunk storm sewer does not exist may require design and installation of drainage facilities for connection to a future storm sewer system. A waiver of protest against a future storm sewer special improvement district may be required to be executed by the Subdivider and filed with the final plat when recorded. The grading and drainage plan shall be submitted to and meet the approval of the Columbia Falls public works department.
- B. Drainage Analysis. Unless otherwise waived by the city council, an analysis shall be made, and documents submitted by a professional engineer, of the storm water conditions as it affects and is affected by any subdivision having five or more lots. The analysis shall include:
  - Location of intermittent streams or drainage courses which are within the subdivision boundaries and a determination of their water surface elevation for a twenty-five-year storm;
  - Volume of storm water entering the subdivision on a ten-year storm;

Volume of storm water contributed by the subdivision before development and after development, based on a ten-year storm;

Analysis of the effects of the storm water discharging from the site after development for a distance of one thousand feet downstream from the subdivision boundary at the point(s) of discharge;

In areas where groundwater may be a factor, the analysis shall include the effects of the groundwater on the total storm drainage system proposed for the subdivision.

- C. Temporary Erosion and Sedimentation Control. During construction of improvements in the subdivision, the developer shall control the surface runoff by the installation of temporary erosion and sedimentation control facilities. No silt-laden waters or excess surface runoff caused by the development shall flow to downstream areas.

#### **17.16.160 Water System**

All water supply systems shall meet with the minimum standards of the city, the city-county health department and the Montana Department of Environmental Quality. Plans for the water system shall be submitted to and reviewed by the Columbia Falls public works department. The plans shall be approved by the city council upon the recommendation of the public works department in order to ensure adequate water supply as well as adequate pressure for fire protection. Plans for the water system shall be submitted to and reviewed by the Columbia Falls public works department. The department shall then make its recommendation to the city council. The applicant shall submit a copy of the proposed water system plan(s) to the Planning Office.

#### **17.16.170 Sanitary Sewer System**

All sewer systems and sewage treatment shall meet the minimum standards of the city, the city-county health department and the Montana Department of Environmental Quality. Plans for the sewer system shall be submitted to and reviewed by the Columbia Falls public works department. The plans shall be approved by the city council upon the recommendation of the public works department. A copy of the proposed sewer system plan(s) shall be forwarded to the Planning Office.

#### **17.16.240 Fire Protection**

- A. All subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.
- B. Hydrants shall be provided as per the standards and requirements of the city. The locating of the hydrants and the water flow pressure shall meet the approval of the public works department and the Columbia Falls City/Rural Fire Department Chief. The hydrants shall be placed not more

than three hundred feet apart unless otherwise approved by the public works director and the Columbia Falls fire official.

- C. The covenants for the subdivision shall include: All house numbers will be visible from the road either at the driveway entrance or on the house.
- D. The city council may impose additional fire protection requirements which it may deem necessary based on the consideration of size, location, density and nature of the subdivision.

## **CHAPTER 17.18 - DESIGN STANDARDS FOR PROPOSED SUBDIVISIONS OUTSIDE THE CITY LIMITS AND NOT ELIGIBLE FOR ANNEXATION**

### **17.18.010 Subdivisions to Comply With Design Standards**

All subdivisions of lands not annexed to the City of Columbia Falls nor petitioning or waiving annexation, but within the City's Planning Jurisdiction, shall comply with design standards included in this chapter, unless a variance from any particular section is requested in writing and granted by the City Council pursuant to Section 17.36.010 of these Regulations. Engineering and survey plans, specifications, design details and reports required by the City shall be prepared by a licensed professional engineer or registered surveyor as their respective license laws allow in accordance with the Montana Subdivision and Platting Act and these Regulations. The design and development of a subdivision shall conform with any adopted Growth Policy (formerly Master Plan)s, zoning ordinances, public works standards, and other regulations adopted by the City. County regulations, applicable to land use and land development, may be imposed where these regulations either do not address the issue or the City does not have jurisdiction.

### **17.18.080 Access**

- A. Each lot shall have legal and physical access provided and must abut and have access to a public or private street or road. Alleys and emergency secondary access roads shall not be used to provide the primary means of access to a lot.
- B. Any private street or road providing ingress and egress to a subdivision or to one or more lots within a subdivision shall meet the street design standards and specifications stated in of these Regulations.
- C. The City Council may require multiple access routes into a subdivision when any of the following are present:
  - 1. Where the primary access road is over 1,200 feet long.
  - 2. Where a primary access road is over 750 feet long and it serves at least 20 lots/ units/spaces.
  - 3. Where safe and convenient access and emergency vehicle circulation dictate.
- D. The City Council shall require multiple accesses into a subdivision in high hazard fire areas:

1. Where the primary access is over 1,200 feet long or;
  2. Where the primary access road is over 600 long and it serves 20 lots/units/spaces.
- E. Where more than one access is required into a subdivision and the sole intent of the second or additional access is for emergency access, R/W and travel surface width may be reduced below herein adopted Standards for primary roads. Note that such secondary access road cannot function now or in the future as a primary access road for existing or proposed development unless upgraded to current road standards. Secondary emergency access standards shall be as a minimum:
1. 20 foot gravel improved travel surface;
  2. 40 foot right-of-way;
  3. less than 10% grade;
- Note: A loop drive with one access point does not qualify as providing multiple, secondary or emergency access.

### **17.18.090 Streets And Roads - Design Standards**

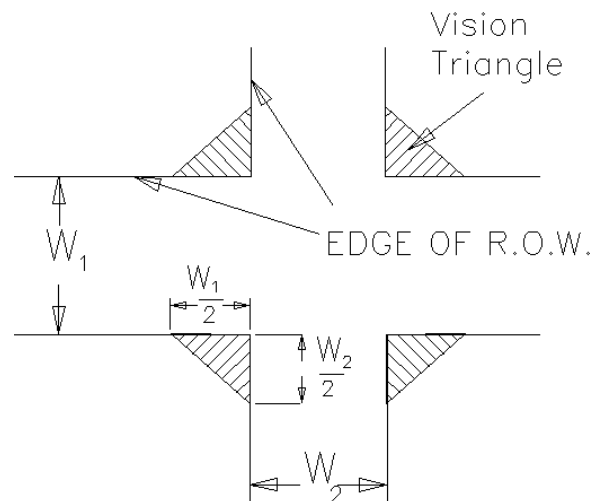
All roadway improvements including pavement, curbs, gutters and drainage systems shall be constructed in accordance with The American Association Of State Highway Transportation Officials (AASHTO) 1990 Edition (or as updated) "Policy on Geometric Design of Highways and Streets" and in particular Chapter 5 - Local Roads and Streets unless amended by specific standards within these regulations. Unless otherwise specified, assume a minimum 20 MPH design speed.

- A. In addition to the above AASHTO standards, all streets and roads shall meet the design standards stated in Section 17.18.
- B. All private roads within a proposed subdivision shall be designed by a licensed professional engineer and upon completion of construction shall be certified by a licensed professional engineer that they are in compliance with these regulations.
- C. Residential driveways shall not have direct access to arterial or collector streets or highways. No lot shall have direct vehicle access to an arterial or major highway, where any reasonable alternative is available.
- D. Local streets shall be designed so as to discourage through traffic. Collector streets shall be designed to afford easy access to arterial or other collector streets or for street continuation to adjoining areas.
- E. When a subdivision abuts or contains a railroad right-of-way or a controlled access highway, a street approximately parallel to and on each side of such right-of-way at a distance suitable for an appropriate use of the intervening land shall be provided. Such distances shall also be determined with regards to the requirements of approach grades and future grade separations.
- F. Dead-end streets are prohibited except with an approved turn-around. Where future street extension is proposed, a temporary cul-de-sac or similar turnaround of adequate size shall be provided.
- G. Half streets are prohibited.

H. A clear vision triangle shall be established and maintained on all lots at the intersection of two streets, a street and an alley, or a street and an at-grade railroad crossing in the following manner;

1. For subdivisions existing prior to December 31, 2005, the triangle area is defined as the triangular area at the intersection of two roadways or a roadway and railroad track created by extending the curb lines (where there are no curb lines - the edge of the travel surface is used) back from the point of intersection a distance of 40 feet, then drawing a line across both ends to close the triangle.

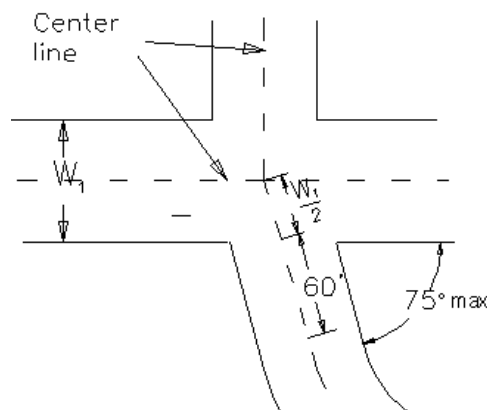
2. For subdivisions platted after December 31, 2005, the right-of-way at a street intersection shall include the area of the clear vision triangle at each corner. The triangle legs that meet at the corner shall be a length equal to one half the width of the right-of-way adjacent to that leg.



3. The triangular area shall be maintained on the corners of all public and private property within the intersection of roadways or of a roadway and railroad. The clear vision area shall contain no trees, shrubs, or other plantings; fences, walls, signs or other temporary or permanent sight obstructions of any nature exceeding 30 inches in height above the existing centerline elevation of the adjacent roadway, except that trees exceeding 30 inches in height may be permitted if all branches and foliage be removed to a height of nine feet above the existing centerline of the adjacent roadway.

I. Street intersections shall meet the following requirements:

1. Streets shall intersect at 90° angles, except where topography precludes and in no case shall the angle of intersection be less than 75°. The alignment shall continue along the center line of each leg of the intersection for a minimum distance of one half the adjoining right-of-way width plus sixty feet.



2. Two streets meeting a third street from opposite sides shall meet the same

point, or their centerlines shall be offset at least 125 feet for local road offset and 300 feet for arterial or collector offset.

3. No more than two streets may intersect at one point.

4. Intersections of local streets with major arterials shall be kept to a minimum.

5. Hilltop intersections are prohibited, except where no alternatives exist. The distance between a hilltop and an intersection shall be determined by analysis of sighting distance, posted speed limit, stopping distance, sight obstruction at corners and other reasonably potential safety factors. The analysis method shall be a method common to current highway safety design approved by the City.

6. Maximum grade of road approach to any intersection shall not exceed three percent for the last 60 feet the approach terminating at the edge of the adjacent traveled way.

7. Names of new streets aligned with existing streets shall be the same as those of existing streets. Proposed street names shall not duplicate or cause confusion with existing street names. All streets shall be named.

8. Street or road signs and traffic control devices of the size, shape and height as approved by Flathead County shall be placed at all intersections by the developer.

9. Traffic control devices shall be consistent with the latest edition of "Manual of Uniform Control Devices" available from the Montana Department of Transportation.

10. Location of collector and arterial streets shall reasonably comply with the appropriate street or highway plan adopted by the City Council.

J. Road and Street Improvements:

1. All roadway improvements including pavement, curbs, gutters, sidewalks and drainage systems shall be constructed in accordance with the specifications and standards prescribed in these Regulations.

2. Where access to the subdivision will be by an easement across privately owned property, the subdivider must provide evidence that the necessary easement has been acquired and that the easement encompasses the nature and intensity of the use which will result from development of the subdivision.

3. All roads or streets within a subdivision, shall be open to public use unless otherwise specifically authorized by the City Council in consultation with the County Commissioners. All such roads or streets within a subdivision not accepted by the County Commissioners for maintenance shall be maintained by the property owners within the subdivision. Flathead County accepts no responsibility for development or maintenance of such roads. To insure a proper maintenance mechanism is in place, an approved road users agreement or a property owners association shall be formed which will require each property owner to bear their pro-rata share for road maintenance within the subdivision and for any integral access roads lying outside of the subdivision.

4. Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening, or soil erosion



- protection and are subject to approval by the City Council. Both conditions are subject to meeting the Defensible Space standards.
5. Street light installations may be required by the City Council on all streets within the subdivision.
- K. Street Paving Requirements:
1. Definitions:
    - a. "Vehicle Trips" means for one Residential dwelling unit - 10 vehicle trips/day; for land uses other than residential, approved estimating methods shall be used. The most obvious travel route due to convenience or obvious destination will be used for determining traffic flows/counts.
    - b. "Paving" include asphalt and concrete. For a local minor access serving three lots or less, it may include asphalt surface treatment also known as armor coat or double or triple chip seal.
    - c. "Primary access road" means a road extending from the subdivision proper to the nearest public road or highway.
    - d. "Remnants of asphalt paving" mean segments which extend less than 100 feet and do not serve logical areas or connect specific points with existing asphalt.
  2. Roads Within Subdivisions:
    - a. If the subdivision abuts a paved road, the subdivision roads shall be paved, starting at the paved road, for at least 80 linear feet for each lot of the subdivision.
    - b. Whenever traffic volumes exceed 50 vehicle trips per day on a segment of road, paving is required from that point to the entrance of the subdivision.
    - c. Notwithstanding, when a subdivision is located within any Air Pollution Control District established by the Flathead City-County Health Department and the Board of County Commissioners, all roads shall be paved.
  3. Primary Access Roads:
    - a. If the subdivision accesses onto a paved public road the access road shall be paved, starting at the paved road, for a distance of at least 80 feet for each lot of the subdivision, where the access is the primary access for the lot.
    - b. If the subdivision accesses onto a public road that is not paved: No paving required if vehicle trips from the proposed subdivision plus existing traffic is less than 200 vehicle trips/day.
    - c. If subdivision traffic plus existing access road traffic equals or exceeds 200 vehicle trips per day the subdivider may either:
      - i. Pave the public road a distance of at least 80 feet for each lot of the subdivision, where the access is the primary access for the lot; or
      - ii. pay to the County the equivalent labor and paving costs (determined by engineer and approved by the County) to be used on said road system at a future date in conjunction with a larger project.

<b>17.18 TABLE 1</b>		
ROAD DESIGN STANDARDS FOR LOCAL SUBDIVISION STREETS		
For Streets:	Width	
Minimum Right of Way	60 feet <sup>1</sup>	
Minimum Travel Surface:		
Internal Subdivision	20 feet <sup>2</sup>	
Primary Access Road	24 feet <sup>3</sup>	
For Cul-de-sac turnaround:		
Travel surface radius	50 feet	
Minimum outside R/W radius	55 feet	
Maximum road length <sup>3</sup> (in feet)	4 or less units	1200
	10 or less units	1000
	more than 10 units	750
	High hazard fire area	600
Maximum road length without turn-around at end.		150 ft

Table 1 Notes:

1. Terrain and design constraints may dictate greater right-of-way. All road disturbances must be accommodated within the right-of-way.

2. No parking allowed. Where parking required on one side, 28 feet minimum roadway width; where parking required on both sides, 36 feet minimum roadway width.

3. Travel surface may be reduced to 20 feet where access road serves a maximum of 3 lots/tracts and 22 feet where access road serves a maximum of 4 - 10 lots/tracts. In such cases, as future lot/tract development occurs along said primary access road, a condition of plat approval for any future subdivision reviewed under these regulations will be to widen the travel surface to accommodate the increased lot/tract development.

Note: Where density exceeds 4 units/net acre, parking is required on one side of street unless overflow/visitor parking demands are met elsewhere.

4. In addition to the end cul-de-sac turnaround an additional cul-de-sac shall be provided, generally at the midpoint, for roads/streets with a length greater than 750 feet. Access roads that end in a cul-de-sac may be greater than the maximum in Table 1 for roads not in a high hazard fire areas and having approval of the local fire authority of jurisdiction, if additional cul-de-sac turn-around are provided at intervals of not more than 500 ft.

Note: Length of cul-de-sac shall be measured from the edge of the right-of-way of the intersecting street to the furthest edge of the right-of-way of the furthest turn around.

<b>17.18 TABLE 2</b>	
MAXIMUM ROAD GRADE STANDARDS	
Maximum Grade, no restrictions	6%
Maximum Grade Arterial	7%
Maximum Grade Collector	8%
Local Road	

1 foot of entry grade and 1 foot of exit grade at 8% or less for each lineal foot of roadway that exceeds 8%. Each lineal foot = 1 equivalent foot. <sup>1</sup>	8.1 - 9.0%
2 feet of entry grade and 2 feet of exit grade at 8% or less grade for each lineal foot of roadway that exceeds 9%. Each lineal foot = 2 equivalent feet. <sup>1</sup>	9.1 - 10.0%
Requires local fire district approval.	10%

Table 2 Notes:

<sup>1</sup> No portion of road may exceed 8% grade for a distance in excess of a total of 600 equivalent feet, for example:

A maximum 600 linear feet of 8.1 - 9% road, or 300 linear feet of 9.1 - 10% road or a combination not to exceed 600 equivalent feet.

Note: Maximum centerline radius shall be greater than 150 feet on any roadway in excess of 8%.

### **17.18.110 Sidewalks**

Sidewalks or pedestrian pathways may be required by the City Council.

- A. Regardless of street classification, sidewalks or pathways are strongly encouraged in the following:
  1. Commercial subdivisions.
  2. Residential developments, duplex or greater density.
  3. Any part of a subdivision abutting or within 100 yards of a school, park or other public facility or amenity.
- B. The minimum width of the sidewalk or developed pathway shall be:
  1. Five feet if a boulevard separates the sidewalk/path and the street.
  2. Six feet if the sidewalk/path abuts the street.

### **17.18.140 Drainage Facilities**

- A. All drainage system and facilities required for any surface runoff affecting the subdivision or exterior access road system shall be designed by a licensed professional engineer and shall meet the minimum standards of the Montana Department of Environmental Quality and all regulations adopted pursuant thereto, and are subject to approval by the City Council.
- B. Drainage plans shall be designed so there is no net increase in surface water runoff from a site after development than what naturally occurred before development.
- C. The Subdivider shall provide suitable drainage facilities for any surface runoff affecting the subdivision. These facilities shall be located in street rights-of-way or in perpetual easements of appropriate width and are subject to approval by the City Council.
- D. Streets/roads shall be designed to ensure proper drainage.
- E. Curbs and gutters or swales may be required as determined by the City Council according to the character of the area, density of the development and nature of

adjoining properties. Curbs and gutters of adjoining properties shall be extended according to specifications of local and state authorities.

- F. Culverts or bridges of adequate size shall be provided and installed by the Subdivider where drainage channels intersect any street right-of-way or easement. All culverts shall extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and a culvert's capacity shall be determined by a licensed professional engineer. This shall include arrangements for driveway culverts.
- G. Each culvert or drainage facility shall be large enough to accommodate potential runoff from up-stream drainage areas.
- H. Drainage systems shall not discharge into any sanitary sewer facility.
- I. If the runoff is to discharge into a stream or lake, it shall meet the Flathead Conservation District Standards and/or the Flathead County Lake and Lakeshore Protection Regulations and comply with Montana Department of Environmental Quality standards.
- J. All areas disturbed during development of the subdivision shall be revegetated in accordance with a plan approved the Flathead County Weed Board.

#### **17.18.170 Water Supply System**

All water supply systems shall meet the minimum standards of Flathead County, the Flathead City-County Health Department, and Montana Department of Environmental Quality.

- A. The source of water supply shall be subject to approval by the City Council, which may also require that any proposed system provide adequate and accessible water for fire protection.
- B. Where the subdivision is within the service area of a public water supply system, and within 500 feet of reasonable available supply piping, the subdivider shall install complete water system facilities in accordance with the requirements of the most adjacent provider that will accept connection, the Montana Department of Environmental Quality and Flathead County. The subdivision shall be connected to the system.
- C. Where the subdivision is within the service area of a public water supply system, subdivision density is greater than one lot for each one net acre, and within 1000 feet of supply piping, then any proposed water system must be designed to be compatible with and designed to the same standards as the public water system so as to allow for the future extension of and connection to said public water system.
- D. Where a proposed subdivision is outside of the immediate service area of a public water supply system, density is greater than one lot for each one net acre, the gross area is equal to or greater than ten acres and within a 1000 feet of the service area, then any proposed water system must be designed to be compatible with and designed to the same standards as the public water system so as to allow for the future extension of and connection to said public water system.

#### **17.18.180 Sewage Treatment Systems**

- A. All sewage treatment systems shall meet the minimum standards of Flathead County, the Flathead City-County Health Department, and the Montana Department of Environmental Quality.

- B. For those lots which range in size from 20 acres to 160 acres in size and Health Department approval (on-site sewer and water facilities) is not sought at this time, a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for individual sewer or water facilities or for building site placement.
- C. Where the subdivision is within the service area of a public or community sewer system, and within 500 feet of reasonable available collection piping, the subdivider shall install complete sanitary sewer system facilities in accordance most adjacent provider that will accept connection and the Montana Department of Environmental Quality. The subdivision shall be connected to the system.
- D. Where the subdivision is within the service area of a public sewer system, subdivision density is greater than one lot for each one net acre, and within 1000 feet of collection piping, then any proposed sewer system must be designed to be compatible with and designed to the same standards as the public sewer system so as to allow for the future extension of and connection to said public sewer system.  
Where a proposed subdivision is outside the immediate service area of a public sewer system, density is greater than one lot for each one net acre, the gross area is equal to or greater than ten acres and within a 1000 feet of the service area, then the subdivider shall install sewer lines designed to serve the entire subdivision in anticipation of the impending extension of a public sewage disposal system.

#### **17.18.230 Fire Protection**

- A. All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.
- B. Subdivisions with a public water system that are within the five year service area of a city or within one mile from the corporate limits of a city, if no such service area has been established, shall be designed in accordance with the adopted standards of that city and the distribution system shall be designed for fire flow capabilities as required by that city.
- C. In subdivisions containing more than 5 lots, fire protection requirements as deemed necessary by the local fire district or local fire authority shall be incorporated into the subdivision. Such measures may include but are not limited to the provision of adequate on-site water supply/storage. Typically when on-site storage is required, at a minimum a tanker recharge facility or its equivalent would be required with a capacity based on the ratio of 2500 gallons per unit/lot. Said facility would be located near a street intersection or cul-de-sac within easy access. Such facility would be maintained entirely and kept in a constant state of readiness by the local subdivision.
- D. A note on the final plat shall be included which states: "All house numbers will be visible from the road, either at the driveway entrance or on the house".
- E. The City Council may impose additional fire protection requirements which it may deem necessary based on the consideration of size, location, density, and nature of the subdivision.

#### **17.18.240 High Fire Hazard Areas - Special Standards**

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

moderate or high wildfire hazard as determined by the U.S. Forest Service or the Montana Department of State Lands, the following standards shall apply:

- A. Secondary access requirements as provided for in section 17.18.8(D) of these regulations.
- B. Road right-of-way shall be cleared of slash as described in Appendix G.
- C. Building sites shall be prohibited on any slope that exceeds 30% when located in areas where the general slope characteristic exceeds 30% and 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).
- D. Open space, park land and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.
- E. A water supply of sufficient volume for effective fire control shall be provided in accordance to the following standards:
  - 1. A minimum of 500 gallons per minute for lots one acre or larger.
  - 2. A minimum of 750 gallons per minute for higher densities.
  - 3. Where no central water system exists, the local fire chief may recommend other solutions including but not limited to the provision of tanker recharge facilities and the sprinkling of individual buildings.
- F. The following statements shall be placed on the Final Plat:
  - 4. Only Class A and Class B fire-rated roofing materials are allowed.
  - 5. Defensible Space Standards shall be incorporated around all primary structures.

#### **17.18.250 Mail Boxes/Facilities**

- A. A common mail delivery site shall be provided with the design and location to be approved by the local post master of the U.S. Postal Service. The roadside face of such facility shall be offset from the edge of the traveled roadway a minimum of eight feet and a minimum a pull off area for at least one vehicle shall be provided.
- B. Where a common mail box facility will prove to be impractical individual mail boxes shall be allowed as follows:
  - 1. Mail boxes are to be located on the right hand side of the roadway in the direction of the delivery route. The bottom of the box shall be 40" above the roadway surface.
  - 2. When located at an intersecting road, it shall be placed a minimum of 100 feet beyond the center of the intersecting road in the direction of the delivery route. This distance shall increase to 200 feet when the average daily traffic of a road exceeds 400 vehicle trips per day.
  - 3. Where a mailbox is located at a driveway entrance, it shall be placed on the far side of the driveway in the direction of the delivery route.

### **Chapter 17.20 MANUFACTURED HOME PARKS AND CAMPGROUNDS**

#### **17.20.010 Definition of Subdivision Created By Rent or Lease**

A "subdivision created by rent or lease," such as manufactured home parks or recreational vehicle campgrounds, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership.

### **17.20.020 Exemption from Surveying and Filing Requirements**

Manufactured home parks and recreational vehicle campgrounds are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the city council before portions thereof may be rented or leased. Approval shall be based upon the criteria and standards included in this title.

### **17.20.030 Procedures**

- A. Manufactured home parks and recreational vehicle campgrounds comprised of six or more spaces, units or lots, shall comply with and shall be processed in accordance to the procedures for a major subdivision.
- B. Manufactured home parks and recreational vehicle campgrounds comprised of five or less lots, spaces or units shall comply with the processing requirements a minor subdivision.
- C. Before any portion of such a subdivision may be rented or leased, the Subdivider shall have installed all required improvements. In case of a phased development, unit spaces in each phase shall be rented or leased only after all improvements pertaining to that phase are completed. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the Planning Office for review and approval by the city council. The city council may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.
- D. In lieu of filing a final plat, the Subdivider shall submit to the Planning Office four copies of a plat conforming to the requirements for preliminary plat for a major subdivision. The plan shall show the lot layout and the typical location of the manufactured home, recreational vehicle, or other unit on the lot. The layout plan shall also show all existing and proposed buildings and structures, streets, parking and recreational area. The plan shall be reviewed to assure that it conforms to the approved preliminary plat and the conditions of approval of the preliminary plat. The approved plan shall be maintained in the Planning Office and in the office of the city clerk.
- E. Recreational vehicle parks and/or manufactured home parks are required to be licensed by the Montana Department of Environmental Quality.

### **17.20.040 General Standards for Subdivision Created By Rent or Lease**

- A. Subdivisions created by rent or lease shall comply with the following provisions of Chapter 17.16 of this title, Design Standards, unless otherwise noted in this chapter:
  - 1. Natural environment;
  - 2. Land unsuitable for subdivision;
  - 3. Planning considerations;
  - 4. Floodplain provisions;
  - 5. Grading and drainage;
  - 6. Water supply system;
  - 7. Sewage treatment systems;
  - 8. Solid waste;

9. Utilities;
10. Easements;
11. Park land dedication; and
12. Fire protection.

B. The city council may require provision of:

1. Storage facilities on the lot or in compounds located within a reasonable distance;
2. A central area storage or parking for boats, trailers or other recreational vehicles;
3. Landscaping to serve as a buffer between the development and adjacent properties;
4. Fencing;
5. An off-street area for mail delivery;
6. Sidewalks;
7. Curbs and gutters.

#### **17.20.050 Park Land Dedication**

The city council may waive park land dedication and cash donation requirements if the Subdivider agrees to develop at least one-ninth of the area of the development as park or playground.

#### **17.20.060 Additional Fire Protection**

The development shall be equipped at all times with fire control equipment in good working order of such type, size and number, and so located within the development as prescribed by the fire department having jurisdiction in the area.

#### **17.20.070 Streets**

- A. Manufactured home parks and campgrounds with ten or more spaces may be required to have at least two access points into the subdivision in order to avoid traffic congestion and allow for sufficient emergency vehicle areas.
- B. No parking shall be permitted on the entrance street for a distance of one hundred fifty feet from the point of entrance.
- C. Streets within the subdivision shall be private unless otherwise required by the city council.
- D. Rights-of-way in excess of the roadway width shall not be required for private streets.
- E. Streets shall be adapted to the topography and site conditions and shall have suitable alignment and gradient for traffic safety and drainage.
- F. The pavement width of the streets shall be as follows:
  1. Twenty-four feet, if no on-street parking is provided;
  2. Thirty-two feet, if parking is provided on one side of the street;
  3. Thirty-six feet, if parking is proposed on both sides of the street.

#### **17.20.080 Manufactured Home Park-Standards**

Manufactured home park standards shall be as set forth in Sections 17.20.090 through 17.20.220 of this chapter.



### **17.20.090 Lot Requirements**

All lots or manufactured home spaces in a manufactured home park shall meet the following requirements:

- A. Manufactured home lots shall be arranged to permit the safe and practical placement and removal of manufactured homes.
- B. For single-wide manufactured homes, the minimum lot width shall not be less than fifty feet and the minimum lot area shall not be less than five thousand square feet. For double-wide manufactured homes, the minimum lot width shall not be less than sixty feet and the minimum lot area shall be six thousand square feet.

### **17.20.100 Minimum Standards**

- A. For manufactured home parks consisting of six or more manufactured homes, the outer perimeters of the manufactured home lot shall be located at least ten feet from a public street or highway right-of-way and at least five feet from the other outer boundaries of the park.
- B. These buffer areas shall be screened with natural vegetation to separate the manufactured home park from adjacent uses. The preliminary plat shall include site plans which show locations and specifications for planting trees, shrubs, and groundcover in the buffer area as well as throughout the park.
- C. All manufactured homes shall be located at least twenty-five feet from the lot line nearest a public street or highway right-of-way and at least fifteen feet from the other lot lines.
- D. All buildings, structures and manufactured homes shall be located at least fifteen feet from the street providing access to it.

### **17.20.110 Lot Coverage**

- A. A manufactured home stand shall not occupy more than one-third of the lot area. The total area occupied by a manufactured home and its roofed accessory buildings and structures shall not exceed two-thirds of the area of the lot.
- B. Accessory uses and the parking area primarily related to their operations shall not occupy more than five percent of the gross area of the park.

### **17.20.120 Distance Between Homes**

No manufactured home or its attached structures, such as awnings or carports, shall be located within twenty feet of any other manufactured home or its attached structures.

### **17.20.130 Accessory Structures**

- A. A storage shed at least eight feet by twelve feet shall be provided on each lot by the developer.
- B. Detached structures, such as a storage shed or carport, shall be located at least one-half foot from any manufactured home or its attached structures.

#### **17.20.140 Required Parking Spaces**

A minimum of two parking spaces shall be provided for each manufactured home lot. There will be at least one carport of a minimum size of nine feet by eighteen feet, on each manufactured home lot.

#### **17.20.150 Marking Of Lots**

The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the approved plans.

#### **17.20.160 Skirting**

Each manufactured home shall be skirted within sixty days after said manufactured home is moved upon a lot within the manufactured home park. Skirting shall be of a fire-resistant material complementary to that of which the manufactured home exterior is constructed and shall be attached to the manufactured home.

#### **17.20.170 Stands**

- A. Individual manufactured home stands fourteen feet wide and seventy feet long shall be provided for single-wide manufactured homes. These stands shall be constructed of at least six inches of gravel over a stabilized sub-base.
- B. Individual manufactured home stands twenty-four feet by sixty-six feet shall be provided for double-wide manufactured homes. These stands shall be constructed of strips of concrete at least eighteen inches wide with rebar. The concrete strips shall be six feet apart on center.

#### **17.20.180 Electrical System**

All electrical lines serving the subdivision shall be buried underground and shall be designed and constructed in accordance with the most recent edition of the National Electrical Code.

#### **17.20.190 Oil Heating**

Where oil heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three-hundred gallon capacity. Said storage facility shall extend no higher than six feet above ground level and shall be located and screened so that it will blend with its surroundings.

#### **17.20.200 Gas System**

All gas systems serving the subdivision shall be designed and constructed in accordance with the most recent edition of the National Fuel Gas Code and the Standard for the Storage and Handling of Liquefied Petroleum Gases.

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

#### **17.20.210 Ownership Responsibilities**

The developer shall submit a set of park rules with the preliminary plat and shall provide information concerning those retail services intended specifically for the convenience and service of the residents of the manufactured home park. These shall be designed and located in such a manner to discourage use by nonresidents of the manufactured home park.

#### **17.20.220 Signs**

- A. No sign intended to be read from any public right-of-way adjoining the manufactured home park shall be permitted except for the following:
  - 1. No more than one identification sign, not exceeding twelve square feet in area, for each principal entrance.
  - 2. No more than one sign, not exceeding four square feet in area, advertising property for sale, lease, or rent, or indicating "Vacancy" or "No Vacancy" may be erected at each principal entrance.
- B. No source of illumination for any such signs shall be directly visible from adjoining streets or residential property, and no such signs shall be erected within five feet of any exterior property line.

#### **17.20.230 Recreational Vehicle Park-Standards**

The provisions of this chapter shall apply to recreational vehicle campgrounds, except as set out in Sections 17.20.240 through 17.20.350 of this chapter.

#### **17.20.240 Roadway Width**

All roads shall be paved and the following standards shall govern the roadway width:

- A. A minimum of twelve-foot roadway width shall be provided for one-way streets or roads within the campground, provided such street:
  - 1. Does not exceed five hundred feet in length;
  - 2. Has no on-street parking; and
  - 3. Serves twenty-five or less recreational vehicle spaces.
- B. Otherwise the standards prescribed in subsections (F)(1), (2) and (3) of Section 17.20.070 of this chapter shall apply.

#### **17.20.250 Space Required**

The lots or recreational vehicle spaces shall meet the following standards:

- A. Minimum lot (space) width, twenty-five feet;
- B. Minimum lot (space) area, one thousand five hundred square feet.

#### **17.20.260 Parking Pad**

Each recreational vehicle space shall consist of a stabilized vehicular parking pad capable of preventing soil erosion and of reducing dust.

#### **17.20.270 Distance Between Vehicles**

The distance between the recreational vehicles shall not be less than fifteen feet.

#### **17.20.280 Parking Spaces**

Each recreational vehicle space shall provide for two off-street parking spaces.

#### **17.20.290 Documents To Be Submitted**

- A. In addition to the requirements for submittal meeting the subdivision requirements, a copy of the campground rules shall be submitted.
- B. A floor plan of the service building shall be provided. Provision of service buildings and other service facilities shall meet the requirements of Section 16.10.717 of Administrative Rules of Montana, Title 16, Chapter 10, Subchapter 7.

#### **17.20.300 Water Supply**

- A. An adequate and potable supply of water must be provided in each recreational vehicle park. Where a public water supply of satisfactory quantity and pressure is available, and the owner agrees to provide service, connection must be made thereto and its supply used exclusively. When a satisfactory existing public water supply is not available, a private or public water supply system may be developed and used as approved by the Montana Department of Environmental Quality.
- B. A common watering station is required in each recreational vehicle park, except those in which each recreational vehicle space is provided with an individual water service connection. A watering station shall consist of at least a water hydrant and the necessary appurtenances and must be protected against the hazards of backflow, back siphonage and hose contamination. Watering stations must be located so as to eliminate the possible use of the hose for sewage holding tank flushing.

#### **17.20.310 Sewage System**

- A. An adequate and safe sewage system must be provided in each recreational vehicle park for conveying, treating, and disposing of all sewage. Where a public sewage treatment and disposal system of adequate capacity is available, and the owner agrees to provide service, connection must be made thereto and its services used exclusively. When a public sewage system is not available, a private or public system may be developed and used as approved by the Montana Department of Environmental Quality. Such system must be designed and constructed in accordance with ARM

16.16.302, 16.16.304, or 16.16.305, whichever is appropriate. Where a local board of health has adopted a regulation governing individual sewage treatment and disposal systems, the more stringent requirement will apply.

- B. A sanitary station is required in each recreational vehicle park which provides recreational vehicle space for self-contained recreational vehicles, except the following:
  - 1. Where each recreational vehicle space is provided with an individual sewer riser;
  - 2. Where a sanitary station is available for public use on a full-time basis within a reasonable distance from the recreational vehicle campground;
  - 3. Where installation of a sanitary station is not feasible due to lack of electricity, water under pressure, or other considerations; and where the campground is designed for use only by tent campers and use by recreational vehicles is not expected.
- C. A sanitary station must be provided in the ratio of one for every one hundred recreational vehicle spaces lacking individual sewer risers or fraction thereof.
- D. A sanitary station shall consist of at least a four-inch sewer riser pipe connected to the recreational vehicle park sewage system surrounded at the inlet end by a concrete apron at least four feet square sloped to the drain and provided with a suitable self-closing hinged cover and a water outlet with approved anti-back siphoning devices connected to the recreational vehicle parks water supply system to permit periodic flushing of the immediate adjacent area. Signs must be placed at such locations stating the water is unsafe for drinking.

#### **17.20.320 Storage and Disposal of Solid Waste**

- A. All solid waste must be stored in galvanized fly-tight, watertight, rodent-proof containers and in other suitable containers with secured lids which must be located not more than one hundred fifty feet from any recreational vehicle space or tent site. Containers must be provided in sufficient number and capacity to properly store all solid waste between collections.
- B. A solid waste collection stand must be provided for each solid waste container. A container stand must be designed so as to minimize spillage, container deterioration, and facilitate cleaning.
- C. All solid waste containing garbage must be collected at least weekly. Where suitable collection service is not available from municipal or private agencies, the owner or operator of the recreational vehicle campground or recreational vehicle park shall provide this service. All solid waste must be collected and transported in a covered vehicle or covered containers to a solid waste disposal facility licensed by the Montana Department of Environmental Quality.

#### **17.20.330 Signing**

Each tent site and recreational vehicle site must be clearly marked with an identification number or other symbol.

#### **17.20.340 Tent Sites**

- A. Tent sites shall meet the following standards:
  - 1. Minimum lot (space) width, twenty-five feet;

2. Minimum lot (space) area, one thousand square feet.
- B. Each tent site shall have one off-street parking space. The limits of each tent site shall be clearly marked in the ground by permanent flush stakes, markers or other suitable means. In addition, the approximate location of the tent shall be shown and shall be located to provide at least fifteen feet separation between tents.

### **17.20.350 Typical Design Examples**

Typical design examples for recreational vehicle campgrounds are shown in Appendix G of this title.

## **Chapter 17.28 MONUMENTATION**

### **17.28.010 Terms Defined**

The terms "monument" and "permanent monument," as used in this title, shall mean any structure of masonry, metal or other permanent material placed in the ground, which is exclusively "identifiable" as a monument to a survey point, expressly placed for surveying reference.

### **17.28.020 Specifications**

All permanent control monuments set to control or mark the boundaries of any division shall be of not less than one-half-inch diameter by twenty-four inches in length with a cap of not less than one-and-one-quarter-inch diameter marked in a permanent manner with the name and/or registration number of the registered land surveyor in charge of the survey. A cap of the dimensions set forth in this section may be set firmly in concrete.

### **17.28.030 Confirmation Of Location**

Prior to the filing of any subdivision plat or certificate of survey for record, the land surveyor shall confirm the location of sufficient monuments to reasonably assure the perpetuation or reestablishment of any corner or boundary of retracement of the survey. The surveyor shall clearly identify on the face of the plat or certificate of survey, all monuments used in the survey, and the descriptions shall be sufficient to identify the monuments without reference to another record of survey.

### **17.28.040 Setting-Exception**

All monuments must be set prior to the filing of a plat or certificate of survey except those monuments which will be disturbed by the installation of improvements. Such monuments may be set subsequent to filing if the surveyor certifies that they will be set before a specified date.

### **17.28.050 Certificate To Show Adjacent Monuments**

The plat or certificate shall clearly show the relationship of all adjacent monuments of record and the relationship of the monuments of record to monuments set after filing.

### **17.28.060 Location Specifications**

Monuments not less than three-eighths-inch in diameter and eighteen inches in length and marked with the name and/or registration number of the registered land surveyor in charge of the survey, shall be set at the following locations:

- A. At each corner and angle point of all lots, blocks or parcels of land created;
- B. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line;
- C. At every point of curve, point of tangency, point of reversed curve, or point of compounded curve on each right-of-way line established.

### **17.28.070 Reference Monument**

When the placement of a required monument at its proper location is impractical, the surveyor may set a reference monument near that point. Such a reference monument has the same status as other monuments of record if its location is properly shown. Existing monument, if used, shall be confirmed by the land surveyor and considered a monument of record when properly shown and described on the certificate or plat filed.

### **17.28.080 Use Of Previously Established Monument**

If the land surveyor uses any previously established monument, he must confirm the location of the monument. If properly confirmed and shown and described on the filed certificate or plat, such a monument shall be considered a monument of record.

## **Chapter 17.32 SUBDIVISION IMPROVEMENTS GUARANTEE**

### **17.32.010 Completion Required Prior To Final Plat Approval**

All public improvements required under this title and the conditions imposed by the city council at the time of approval of the preliminary plat shall be completed prior to the approval of the final plat. However, the city council, at its discretion, may allow a Subdivider to defer completion of required improvements. The following procedures and requirements shall apply, unless the completion of improvements is deferred.

### **17.32.020 Improvement Standards**

The city council shall specify the improvements that shall be completed after the final plat is approved. The city council shall specify that the improvements must be constructed to standards included in this title and the other standards the city council may adopt. Those improvements may include any improvements associated with meeting the conditions required by the city council in the approved preliminary plat.

### **17.32.024 Warranty of Improvements**

The subdivider shall provide a warranty for construction of improvements completed under the Subdivision Improvement Agreement in accordance with 17.14.016.

### **17.32.030 Time Limits**

- A. All public improvements shall be completed within the time schedule approved by the city council and stated in the subdivision improvement agreement between the Subdivider and the city council.
- B. Where no specific time schedule is included in the subdivision improvement agreement, all public improvements shall be completed within eighteen months from the date of approval of the final plat by the city council.

### **17.32.040 Review of Projected Costs**

The city council shall direct the Subdivider to have plans, specifications and to project the costs of completing the improvements to be prepared by a registered professional engineer. The projected improvements cost shall be one hundred twenty-five percent of the current costs for completing the improvements. The city council, at its discretion, may require the submitted plans, specifications and projected costs be reviewed by another professional engineer acceptable to both parties. The costs for such review shall be borne by the Subdivider.

### **17.32.050 Improvement Agreement**

The Subdivider shall enter into an improvement agreement with the city council. The improvement agreement shall include:

- A. A commitment to complete the improvements within the specified time;
- B. The projected costs of the improvements as approved by the city council;
- C. A guarantee acceptable to the city council and in a value equal to 125% of the approved projected costs of the improvements; and
- D. A warranty against defects in the improvements for a period of one year from the date of completion and the city councils acceptance.

### **17.32.060 Improvement Guarantee**

The Subdivider shall provide a guarantee that the improvements will be satisfactorily completed. The guarantee shall have a value equal to the projected costs of completing the improvements, as stated in Section 17.32.040 of this chapter. The guarantee shall specify procedures for the city council to obtain funds, should the Subdivider fail to satisfactorily complete the improvements. The types of guarantees acceptable to the city council are described in Section 17.32.100 of this chapter. The method of guarantee shall be subject to approval of the city council.

### **17.32.070 Inspection and Certification**

- A. Upon completion of required improvements, the Subdivider shall file with the city council a statement certifying that:
  - 1. All required improvements are complete;
  - 2. These improvements are in compliance with the minimum standards specified by the city council for their construction;



3. The Subdivider knows of no defects in these improvements;
  4. These improvements are free and clear of any encumbrance or liens;
  5. All applicable fees and surcharges have been paid.
- B. The Subdivider shall also file with the city council copies of final construction plans, road profiles, proposed grades and specifications for improvements.
  - C. The Subdivider will provide for inspection of all required public improvements by a registered professional engineer before final plat approval when installation is a condition of approval or before the city council releases the Subdivider from the subdivisions improvements agreement.
  - D. Upon completion of the inspection, the inspecting engineer shall file with the city council a statement either certifying that the improvements have been completed in the required manner or listing the defect in those improvements.
  - E. Should the Subdivider fail to meet the requirements of this section, the city council may provide for such inspection and the cost shall be borne by the Subdivider.

#### **17.32.080 Reduction and Release of Guarantee**

- A. Only after the inspecting engineer certifies that improvements are complete and free from defect, and after receipt of other statements detailed in Section 17.32.070 of this chapter, the city shall release the Subdivider from the subdivision improvement agreement.
- B. The city council may, upon application by the Subdivider, release a portion of the collateral corresponding to the value of the installed improvements.

#### **17.32.090 Failure to Satisfactorily Complete Improvements**

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

#### **17.32.100 Acceptable Forms**

The Subdivider shall provide one or more of the following financial guarantees set out in Sections 17.32.110 through 17.32.170 of this chapter as approved and accepted by the city council. The financial guarantee shall equal the amount of the projected cost of installing all required improvements as described in Section 17.32.040 of this chapter. The city council shall reduce security requirements commensurate with the completion of improvements.

#### **17.32.110 Acceptable Forms-Escrow Account**

- A. The Subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the city council or in escrow with a bank. The use of collateral other

than cash, and the selection of the bank where the funds are to be deposited must be approved by the city council.

- B. Where an escrow account is to be used, the Subdivider shall give the city council an agreement with the bank guaranteeing the following:
  - 1. That the funds in the escrow account are to be held in trust until released by the city council and may not be used or pledged by the Subdivider as security for any other obligation during that period;
  - 2. That should the Subdivider fail to complete the required improvements; the bank shall immediately make the funds in escrow available to the city council for completing these improvements.

#### **17.32.120 Acceptable Forms-Letters of Credit**

Subject to the city councils approval, the Subdivider shall provide the city council with a letter of credit from a bank or other reputable institution or individual certifying the following:

- A. That the creditor guarantees funds in an amount, as approved by the city council, equal to the cost of completing all required improvements;
- B. That if the Subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the city council 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 city council.

#### **17.32.130 Acceptable Forms-Property Escrow**

- A. The Subdivider may offer as a guarantee, land or other property, including corporate stocks or bonds. The value of any real property to be used, accounting for the possibility of a decline in its value during the guarantee period, shall be established by a licensed real estate appraiser at the Subdivider's expense. The city council may reject the use of property as a collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.
- B. When the property is offered as an improvement guarantee, the Subdivider shall:
  - 1. Make an agreement with the escrow agent instructing the agent to release the property to the city council in case of default. The agreement shall be placed on file with the county clerk and recorder.
  - 2. Provide the city council with a title policy affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow;
  - 3. Execute and file with the city council an agreement stating that the property to be placed in escrow is an improvement guarantee and that it will not be used for any other purpose, or pledged as security for any other matter until it is released by the city council.

### **17.32.140 Acceptable Forms-Sequential Development**

The city council may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.

Where a subdivision is to be developed in phase portions, the city council may, at its discretion, waive the use of a guarantee of the initial portion, provided that the portion contains no more than twenty-five lots, or fifty percent of the total number of lots in the proposed subdivision, whichever is less. The city council may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the city council. 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.

### **17.32.150 Acceptable Forms-Special Improvements District**

- A. The city council may enter into an agreement with the Subdivider, and the owners of the property proposed to be subdivided if other than the Subdivider, that the installation of required improvements will be financed through a special improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented or leased, and no contract for the sale of lots executed before the improvement district has been created.
- B. The Subdivider, or other owners of the property involved, must also petition the city council to create an improvement district, which constitutes a waiver by the Subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

### **17.32.160 Acceptable Forms-Surety Performance Bond**

The bond shall be executed by a surety company authorized to do business in the state and acceptable as a surety to the city council and countersigned by a Montana agent. The bond shall be payable to the city. The bond shall be in effect until the completed improvements are accepted by the city council.

### **17.32.170 Acceptable Forms-City Council Discretion**

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

## **Chapter 17.36 ADMINISTRATION**

### **17.36.010 Variance**

The provisions for variances shall be as set forth in Sections 17.36.020 through 17.36.050

of this chapter.

#### **17.36.020 Variance-Hardship Finding**

- A. Where the city council finds that extraordinary hardships or practical difficulties may result from strict compliance with this title, and/or the purpose of this title may be served to a greater extent by an alternative proposal, it may approve variances from this title. Such variances shall not have the effect of nullifying the intent and purpose of this title, and the city council shall not approve variances unless it makes findings based upon the evidence in each specific case that:
  - 1. The granting of such variance(s) will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties;
  - 2. The conditions on which the request for a variance(s) is based are unique to the property on which the variance is sought and are not applicable generally to other property;
  - 3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this title is enforced;
  - 4. The variance(s) will not cause a substantial increase in public costs; and
  - 5. The variance(s) will not, in any manner, vary the provisions of any adopted zoning regulations, or the Growth Policy (formerly Master Plan).
- B. An innovative energy-saving proposal which does not circumvent the purpose of this title may be reason for granting of the variance by the city council. The proposal shall include documentation of the energy savings.

#### **17.36.030 Variance-Procedure**

The Subdivider shall include with the submission of the preliminary plat a written statement describing the requested variance and the facts of hardship upon which the request is based. The planning board and the city council shall consider each requested variance after a public hearing on the preliminary plat.

#### **17.36.040 Variance – First Minor Subdivision**

A first minor subdivision is not subject to the public hearing requirement of 17.36.030.

#### **17.36.040 Variance-Conditions**

In granting variances, the city council may require such conditions as will, in its judgment, secure substantially the objectives of this title.

#### **17.36.050 Variance-Statement of Facts**

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

### **17.36.060 Fee Schedule**

In order to cover costs of reviewing plans, advertising, holding public hearings, other expenses incidental to the approval of a subdivision, the Subdivider shall pay a nonrefundable fee at the time of application. The fee schedule will be established by the City Council from time to time by resolution.

### **17.36.070 Amendment Procedure**

Before the city council amends this title, it shall hold a public hearing and shall give public notice of their intent to amend this title and of the public hearing by publication of notice of the time and place of the hearing in a newspaper of general circulation in the city not less than fifteen days nor more than thirty days prior to the date of the hearing.

### **17.36.080 Appeals**

A person who has filed with the governing body an application for a subdivision under these regulations may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body, within 30 days from the date of the written decision or order, or a regulation adopted pursuant to Title 76, MCA, that is arbitrary and capricious.

A party who is aggrieved\* by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat may 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 this Section:

- A. the Subdivider;
- B. a landowner with a property 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. the City of Columbia Falls if the subdivision is within one (1) mile of its limits.

\*For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

**State law reference**---Similar provisions, MCA § 76-3-325.

### **17.36.090 Enforcement Action**

The final plat shall 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 illegal transfers or offers of any manner are made, the city council shall commence to enjoin further sales, transfers and compel compliance with all provisions of the Montana Subdivision and Platting Act and this title. The cost of such action shall be imposed against the party not prevailing.

## APPENDIX A: CONTENTS OF PRELIMINARY PLAT

### I. CONTENTS OF THE PRELIMINARY PLAT

The preliminary plat may be comprised of one (1) or more sheets. Each sheet shall be either 18" x 24" or 24" x 36" in size and shall be drawn to a scale not less than 200 feet to an inch. The following information shall be shown on the face of the preliminary plat:

- A. Name and location of the subdivision, scale and north point;
- B. Location of all section corners or subdivision corners pertinent to the subdivision boundary;
- C. Exterior boundaries of the tract to be subdivided including bearings and distances sufficient to locate the exact area proposed for subdivision;
- D. All lots and blocks designated by numbers, approximate dimensions scaled to the nearest foot, and the area of each lot estimated to the nearest 0.1 acre;
- E. Ground contours for the tract in accordance to the following requirements:

Where the Average Slope of the Entire Site Is	Contour Intervals for the Entire Plat Shall Be
Under 10%	Two (2) feet
10% -- 15%	Five (5) feet
Over 15%	Ten (10) feet

If a uniform contour interval is not practical, the contour interval may be changed for steep areas, if such a change is clearly identifiable through shading or other appropriate graphic technique;

- F. All existing and adjoining streets and alleys, avenues, roads and highway, and width of the right-of-way with existing and proposed street names and access points from the nearest public roads;
- G. Any existing and proposed utilities, utility easements and right-of-way easements located or proposed to be located on or adjacent to the tract, including description of their width and purpose;
- H. Location, boundaries, dimensions and areas of any parks or areas dedicated for common or public use;
- I. Location and size of existing buildings, structures and improvements, if to be retained;
- J. Designated one hundred year (100-year) floodway and/or floodplain area, if any;
- K. Location and size of all natural and environmental features on the site including rivers, streams, springs, ponds, and lakes.
- L. For each lot show:
  - 1. A typical building pad (measuring a minimum 40 foot square) on land suitable for subdivision. If the pad is wholly or partially within an area considered unsuitable for subdivision and the concern is slopes then show these areas a two (2) foot contour interval.
  - 2. A 10 foot wide private drive if the developed slope will equal or exceed 10% at any point. Show these areas at two (2) foot contour interval.

3. Any building pad which exceeds 25% in cross slope shall be required to receive a favorable report and comply with the recommendations of a geotechnical soils analysis conducted by a licensed engineer prior to final plat approval.
4. Any lot failing to comply with standards 1 and 2 is considered unsuitable for a building site.

## **II. SUPPLEMENTS TO THE PRELIMINARY PLAT**

### **A. VICINITY MAP(S):**

One or more vicinity map(s) showing (features must be clearly identified and readable):

1. Ingress and egress to the subdivision from the adjoining or nearest public roads;
2. Any rivers, streams or creeks adjoining or in the vicinity of the proposed subdivision;
3. All tracts, lots or land parcels adjoining the proposed subdivision together with the name and address of the owner of each tract, lot or land parcel verified by the County Clerk and Recorder or a title company. Where the subdivision abuts a public right-of-way, or water course less than 150 feet in width, the properties across such right-of-way or water course shall be considered as adjacent.
4. Names of any adjoining platted subdivisions and/or numbers of adjoining Certificates of Survey on record in the Office of the Clerk and Recorder.
5. Location of any buildings, railroads, power lines, towers, roads, active or permitted sand or gravel extraction areas and other land uses.
6. Any existing or proposed zoning.

### **B. COVENANTS**

Any proposed covenants and restrictions to be included in Deed or Contract for Sale. If common property and/or facilities within the subdivision is to be maintained by an association of the property owners, the subdivider shall submit a draft of covenants and restrictions which will govern the association. These covenants and restrictions shall, at a minimum, provide that:

1. The property owners association will be formed prior to sale of any lots within the subdivision;
2. Membership is mandatory for all property owners in the subdivision;
3. The association is responsible for any liability insurance, payment of taxes on common property and maintenance of common use areas and facilities;
4. Any amendment to the covenants shall be done only with the approval of the city council.

### **C. ENVIRONMENTAL ASSESSMENT:**

An environmental assessment report shall accompany the preliminary plat, unless exempted. The requirement for submittal of the "environmental assessment" shall be waived when the proposed subdivision is totally within an area covered by all of the following:

1. An adopted Growth Policy;
  2. Zoning regulations;
  3. A strategy for development, maintenance, and replacement of public infrastructure.
- The requirement for submittal of the "environmental assessment" shall be waived when the proposed subdivision is the first minor subdivision created from a tract of record; The Planning Board may exempt the subdivider from the completion of all or any portion

of the environment assessment in an area for which a Growth Policy has been adopted, and the proposed subdivision is in conformance with the Policy, or if the subdivision contains fewer than ten (10) parcels and less than 20 acres. When such an exemption is granted, the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of the statement shall accompany the preliminary plat of the subdivision when it is submitted for review.

Appendix "B" of these Regulations provides the format for the considerations and criteria to be address in the environmental assessment.

#### **D. PHASED PROJECTS:**

The applicant, as part of the preliminary plat approval, may propose to delineate on the preliminary plat two or more final plat filing phases and establish the schedules of the preliminary plat review and approval.

1. Each phase must be free-standing, that is, fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time.
2. A phasing plan must be submitted which includes:
  - a. A preliminary plat that clearly numbers and shows each individual phase,
  - b. A time frame for the development of each phase,
  - c. A street and utility extension plan for each phase. Said plan is premised on the understanding that each phase is intended to be free standing on its own merits should additional phases not occur.
    - (1)As such, certain streets and utility extensions may be required to be extended beyond a particular phase for safety and service purposes.
    - (2)Temporary dead end streets are not allowed. Where a street temporarily dead ends, a temporary cul-de-sac may be required. If said street exceeds cul-de-sac standards for length or is critical to the traffic flow of the area, it may be required to be extended beyond the immediate phase.

### **III. REVIEW OF NEW WATER SUPPLY OR WASTEWATER FACILITIES**

Montana Code Annotated (MCA) 76-3-622 requires the subdivider to provide specific information if the subdivision application proposes a new water supply or wastewater facility unless the subdivision meets the exception listed in part III-B below.

#### **A. REQUIRED SUBMITTAL FOR NEW FACILITIES**

The subdivider shall submit to the governing body the information listed in this section for proposed subdivisions that will include new water supply or wastewater facilities.

The information must include:

1. a vicinity map or plan that shows:
  - a. the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
    - (1)flood plains;
    - (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 (1)(g); and
  - (7)the representative drainfield site used for the soil profile description as required under subsection (1)(d); and
- b. the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;
- 2. a description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including 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;
- 3. a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the department of environmental quality pursuant to MCA § 76-4-104;
- 4. evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:
  - a. a soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;
  - b. demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and
  - c. in cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);
- 5. for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:
  - a. obtained from well logs or testing of onsite or nearby wells;
  - b. obtained from information contained in published hydrogeological reports; or
  - c. as otherwise specified by rules adopted by the department of environmental quality pursuant to MCA § 76-4-104;
- 6. evidence of sufficient water quality in accordance with rules adopted by the department of environmental quality pursuant to MCA § 76-4-104;
- 7. a preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to MCA § 75-5-301 and MCA § 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required, the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under MCA Title 76, chapter 4.
- 8. If the water and wastewater treatment systems are shared, multi user, or public, a statement of whether the systems will be public utilities as defined in 69-3-101, MCA and subject to the jurisdiction of the public service commission or exempt

from public service commission jurisdiction and if exempt, an explanation for the exemption.

#### B. EXEMPTION FROM REQUIRED SUBMITTAL FOR NEW FACILITIES

In accordance with MCA 76-3-622 (2); a subdivider whose land division is excluded from review under MCA § 76-4-125(2) is not required to submit the information required in Appendix A. III A above.

MCA § 76-4-125(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

- (a) the exclusions cited in MCA§ 76-3-201 and 76-3-204;
- (b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;
- ( c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;
- (d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

- (e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:
- (i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or
- (ii) the remainder is 1 acre or larger and has an individual sewage system that was constructed prior to April 29, 1993, and, if required when installed, was approved pursuant to local regulations or this chapter.

76-3-201. Exemption for certain divisions of land -- fees for examination of division. (1) Unless the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter may not apply to any division of land that:

(a) 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 this state pursuant to the law of eminent domain, Title 70, chapter 30;

(b) subject to subsection (3), 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) creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;

(d) creates cemetery lots;

(e) is created by the reservation of a life estate;

(f) is created by lease or rental for farming and agricultural purposes;

(g) is in a location over which the state does not have jurisdiction; or

(h) is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter.

(2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division.

(3) An exemption under subsection (1)(b) applies:

(a) to a division of land of any size;

(b) if the land that is divided is not conveyed 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. A transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection (3)(b) subjects the division of land to the requirements of this chapter.

(c) to a parcel that is created to provide security as provided in subsection (1)(b). The remainder of the tract of land is subject to the provisions of this chapter if applicable.

(4) The governing body may examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination.

76-3-204. Exemption for conveyances of one or more parts of a structure or improvement. 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, as that term is defined in this chapter, and is not subject to the requirements of this chapter.

## **APPENDIX B: ENVIRONMENTAL ASSESSMENT**

### **GENERAL INSTRUCTIONS**

This Environmental Assessment format shall be used by the applicant as a guide in compiling a thorough description of the potential impacts for the proposed subdivision. Each question pertinent to the proposal must be addressed in full (both maps and text); those questions not applicable shall be so stated. Incomplete Environmental Assessments will not be accepted.

The sources of information for each section of the Assessment shall be identified. All Environmental Assessments shall contain the signature, date of signature and mailing address of the owner of the property and the person, or persons, preparing the report.

#### **I. GEOLOGY**

A. Locate on a copy of the preliminary plat any known hazards affecting the development which could result in property damage or personal injury due to:

1. Falls, slides or slumps - soil, rock, mud, snow.
2. Any rock outcropping.

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

#### **II. SURFACE WATER**

Locate on a copy of the preliminary plat:

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. Any areas subject to flood hazard, or if available, 100-year floodplain maps (using best available information).

#### **III. VEGETATION**

A. Locate on a copy of the preliminary plat the major vegetation types within the subdivision (e.g., marsh, grassland, shrub and forest).

B. Describe the amount of vegetation that is to be removed, or cleaned, from the site, and state the reasons for such removal.

C. Describe any proposed measures to be taken to protect vegetative cover.

#### **IV. WILDLIFE**

A. What major species of fish and wildlife, if any, use the area to be affected by the proposed subdivision?

B. Locate on a copy of the preliminary plat any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare and endangered species and wetlands.

C. Describe any proposed measures to protect wildlife habitat or to minimize habitat degradation.

#### **V. AGRICULTURE AND TIMBER PRODUCTION**

A. State the acreage, type and agricultural classifications of soils on the site.

B. State the history of production of this site by crop type and yield.

C. State the historical and current agricultural uses which occur adjacent to the site.

D. Explain any steps which will be taken to avoid or limit development conflicts with adjacent agricultural uses.

E. If the site is timbered, state any timber management recommendations which may have been suggested or implemented by the U.S.D.A. Division of Forestry in the area of this proposal.

#### **VI. HISTORICAL, ARCHAEOLOGICAL OR CULTURAL FEATURES**

A. Locate on a copy of the preliminary plat any known or possible historic, archaeological or cultural sites which exist on or near the site.

B. Describe any known or possible sites delineated on the preliminary plat.

C. Describe any measures that will be taken to protect such sites or properties.

#### **VII. SEWAGE TREATMENT**

A. Where individual sewage treatment systems are proposed for each parcel:

1. Indicate the distance to the nearest public or community sewage treatment system.

2. Provide as attachments:

a. Two (2) copies of the plat which show the proposed suitable location on each lot for a subsurface treatment system and a 100% replacement area for the subsurface treatment system. Show the location of neighboring wells and subsurface treatment systems and the distances to each.

b. The results of percolation tests performed in representative areas for drainfields in accordance with the most recent Department of Environmental Quality Bulletin. Each percolation test shall be keyed by a number on a copy of the plat with the information and results provided in the report. The number of preliminary percolation tests required shall be one-fourth (1/4) of the total number of proposed lots and these tests shall be performed in the different soil types, or evenly spaced throughout the subdivision in the absence of soil variability.

c. A detailed soils description for the area shall be obtained from test holes at least seven (7) feet in depth. The number of test holes will depend upon the variability of the soils. The U.S. Department of Agriculture's "Soils Classification System" shall be used in the descriptions. Information on the internal and surface drainage characteristics shall be included. Each test hole shall be keyed by a number on a copy of the plat with the information provided for in the report.

d. A description of the following physical conditions:

(1) Depth to groundwater at time of year when water table is nearest the surface and how this information was obtained.

(2) Minimum depth to bedrock or other impervious material, and how this information was obtained.

B. For a proposed public or community sewage treatment system:

1. Estimate the average number of gallons of sewage generated per day by the subdivision when fully developed.

2. Where 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 systems capacity to handle additional use and its distance from the development.

c. Provide evidence that permission to connect has been granted.

3. Where a new system is proposed:

a. Attach a copy of the plat showing the location of all collection lines and the location and identification of the basic components of the treatment system.

b. If subsurface treatment of the effluent is proposed, give the results of the preliminary analysis and percolation tests in the area of the treatment site.

c. Provide a description of the following physical conditions:

(1) Depth to groundwater at time of year when water table is nearest the surface and how this information was obtained.

(2) Minimum depth to bedrock or other impervious material, and how this information was obtained.

d. Indicate who will bear the costs of installation and who will own, operate and maintain the system. Also, indicate the anticipated date of completion.

#### **VIII. WATER SUPPLY**

A. Where an individual water supply system is proposed for each parcel:

1. If individually drilled wells are to be used, provide evidence as to adequate quantity and quality of the water supply.

2. If any other method of individual water supply is to be used:

a. Explain why the alternate form of water supply is proposed instead of drilled wells.

b. Identify the source of water supply and provide evidence that it is of sufficient quantity and quality to serve the development.

3. Attach two (2) copies of the plat showing the proposed location of each spring, well, cistern, or other water source and indicate the distance to existing or proposed sewage treatment systems.

A. Where a public or community water system is proposed:

1. Estimate the number of gallons per day required by the development (including irrigation, if applicable).

2. Where 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 systems capacity to handle additional use and its distance from the development.

c. Provide evidence that permission to connect has been granted.

3. Where a new system is to be used:

a. Provide evidence that the water supply is adequate in quantity, quality and dependability.

b. Indicate who will bear the costs of installation, when it will be completed and who will own, operate and maintain the system.

c. Attach a copy of the plat showing the proposed location of the water source and all distribution lines.

#### **IX. SOLID WASTE**

A. Describe the proposed method of collecting and disposing of solid waste from the development.

B. If central collection areas are proposed within the subdivision, show their location on a copy of the preliminary plat.

C. If use of an existing collection system or disposal facility is proposed, indicate the name and location of the facility.

#### **X. DRAINAGE**

A. Streets and Roads:

1. Describe any proposed measures for disposing of storm run-off from streets and roads.

2. Indicate the type of road surface proposed.

3. Describe any proposed facilities for stream or drainage crossing (i.e., culverts, bridges).

B. Other areas:

1. Describe how surface run-off will be drained or channeled from lots or common areas.
2. Indicate if storm run-off will be drained or channeled from lots or common areas.
3. Describe any proposed sedimentation and erosion controls to be utilized both during, and after, construction.
4. Attach a copy of the plat showing how drainage on lots, road and other areas will be handled (include sizes and dimensions of ditches, culverts, etc.)

#### **XI. ROADS**

A. Estimate how much daily traffic the development, when fully developed, will generate on existing or proposed roads providing access to the development.

1. Discuss the capability of existing and proposed roads to safely accommodate this increased traffic (e.g., conditions of the road, surface and right-of-way widths, current traffic flows, etc.).
2. Describe any increased maintenance problems and costs that will be caused by this increase in volume.

B. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadway.

C. Describe the soil characteristics, on site, as they relate to road and building construction and measures to be taken to control erosion of ditches, banks and cuts as a result of proposed construction.

D. Explain why access was not provided by means of a road within the subdivision if access to any of the individual lots is directly from City, County, State or Federal roads or highways.

E. 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?

F. Identify the owners of any private property over which access to the subdivision will be provided.

#### **XII. EMERGENCY SERVICES**

A. Describe the emergency services available to the residents of the proposed subdivision including the number of personnel and number of vehicles and/or type of facilities for:

1. Fire Protection:
  - a. Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended?
  - b. In absence of a fire district, what fire protection procedures are planned?
  - c. Indicate the type, size and location of any proposed recharge facilities.
  - d. If fire hydrants are proposed, indicate water pressure capabilities and the locations of hydrants.
2. Police Protection.
3. Ambulance Service.
4. Medical Services.

B. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?

1. If not, what additional expense would be necessary to make these services adequate?
2. At whose expense would the necessary improvements be made?

#### **XIII. SCHOOLS**

A. Describe the educational facilities which would serve the subdivision (school facilities, school personnel, bus routes and capabilities, etc.).

B. Estimate the number of school children that will be added by the proposed subdivision, and how they will affect existing facilities.

#### **XIV. ECONOMIC BENEFITS**

A. Provide the present assessment classifications and range of the total assessed valuation of all land and structures.

B. Provide the anticipated assessment classification and range of the total assessed valuation of all structures (at 25% and 90% occupancy - also give estimated year of said occupancy).

C. Provide anticipated revenue increases, per unit, from water, sewer and solid waste fees.

#### **XV. LAND USE**

A. Describe the existing historical use of the site.

B. Describe any comprehensive plan recommendations and other land use regulations on and adjacent to the site. If zoning is proposed explain why this project fits within the proposed zone district prescriptions. If annexation is proposed explain why this is desired.

C. Describe the present uses of lands adjacent to or near the proposed development. Describe how the subdivision will affect access to any adjoining land and/or what measures are proposed to provide access.

D. Describe any health or safety hazards on or near the subdivision (mining activity, high voltage lines, gas lines, agricultural and farm activities, etc.) Any such conditions should be accurately described and their origin and location identified.

E. Describe any on-site uses creating a nuisance (unpleasant odor, unusual noises, dust, smoke, etc.). Any such conditions should be accurately described and their origin and location identified.

#### **XVI. PARKS AND RECREATION FACILITIES**

A. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

B. List other parks and recreation facilities or sites in the area and their approximate distance from the site.

C. If cash-in-lieu of park land is proposed, state the purchase price per acre or current market value (values stated must be no more than 12 months old).

#### **XVII. UTILITIES**

A. Indicate the utility companies involved in providing electrical power, natural gas, or telephone service. To what extent will these utilities be placed underground?

B. Has the preliminary plat been submitted to affected utilities for review?

C. Estimate the completion date of each utility installation.



## **APPENDIX C: CONTENTS OF FINAL PLAT**

### **Submittals:**

- A. Completed final plat application form (available at the Planning Office);
- B. Application review fee prescribed by the City Council;
- C. Two Mylar originals, two paper copies, same size as the original, one 11X17 inch paper reproducible copy of the final plat;
- D. copies of the attachments in a reproducible size.

### **I. CONTENTS OF THE FINAL PLAT**

The final plat submitted for approval shall conform to the preliminary plat previously reviewed and approved by the city council and shall incorporate all conditions imposed by the city council at the time of approving or conditionally approving the preliminary plat.

A final plat may not be approved by the city council nor filed by the County Clerk and Recorder unless it complies with the following requirements:

- A. Final plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches and shall include a 1-1/2 inch margin on the binding side;
- B. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
- C. The final plat submitted for approval shall show or contain, on its face or on separate sheets, referenced on the plat:
  - 1. A title block indicating the quarter sections, section, township, range, principal meridian and county of the subdivision. The title plat shall contain the words "plat" and "subdivision";
  - 2. Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and tied thereto;
  - 3. North point;
  - 4. Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing);
  - 5. All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto;
  - 6. Witness monuments, basis for bearing, bearings and length of lines;
  - 7. The bearings, distance and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given;
  - 8. Data on all curves sufficient to enable the re-establishment of the curves on the ground. This data shall include:
    - a. Radius of curve;
    - b. Arc length;
    - c. Notation of non-tangent curves.
  - 9. Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute;
  - 10. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary;

11. All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot (gross and net) calculated to 1000th of an acre and the total acreage of all lots (excepted parcels marked "Not included in this Subdivision" or "Not included in this Plat" as appropriate), and the boundary completely indicated by bearings and distances.
12. All easements, streets, alleys, avenues, roads and highways; their widths, bearings, the width and purpose of all rights-of-way and the names of all streets, roads, and highways;
13. The location, dimensions and areas of all parks, common areas and all other grounds dedicated for public or common use. Where cash has been accepted in lieu of land dedications, it shall be so stated on the final plat and the amount of cash donated stated thereon;
14. Gross and net acreage of the subdivision;
15. A legal description of the perimeter boundary of the tract surveyed;
16. All monuments to be of record must be adequately described and clearly identified on the plat and conform to the requirements of 17.28. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during re-tracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown;
17. The signature and seal of the registered land surveyor responsible for the survey. The affixing of his/her seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, M.C.A.), and the regulations adopted pursuant thereto;
18. Memorandum of oaths administered pursuant to Section 76-3-405 M.C.A., has been filed with the County Clerk and Recorder;
19. House numbers (addresses) shall be assigned and shall be so indicated on each lot.

## **II. CERTIFICATIONS ON FINAL PLAT**

The following certifications shall appear on the face of the final plat:

Certification by the subdivider dedicating streets, parks or playground, or other public improvements, or stating cash donations in lieu of dedication. If the plat is outside the City Limits of the City of Columbia Falls, all roads shall be designated as public access easements and shall be shown and described on the plat as maintained by the subdivision owner; unless, the Flathead County Commissioners provide written authorization that the road are owned and maintained by the County.

A. Certification by the subdivider allowing usage of the easements for the purpose designated on the plat;

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

- B. Certification by the licensed land surveyor who prepared the final plat and related documents;
- C. Certification of examining land surveyor;
- D. Certification by the city council expressly accepting any dedicated land and improvements or certification by the Flathead County Commissioners accepting land or improvements dedicated to Flathead County;
- E. Certification by the city attorney;
- F. Certification by the city council that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat for relocation of common boundary lines between a single lot within a platted subdivision and lands outside the subdivision.

### **III. ATTACHMENTS ACCOMPANYING FINAL PLAT**

The following original documents shall be submitted (signed and notarized where appropriate) when applicable, to the city as part of the final plat application process. As required by the Flathead County Clerk and Recorder, some of original documents must accompany the approved final plat when filed with the County Clerk and Recorder:

- A. Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land (must not be over 90 days old at time of final plat application acceptance).
- B. 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 identified in the title report.
- C. Copies of any covenants or deed restrictions relating to public improvements.
- D. Certification by the Montana Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities.
- E. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.
- F. Copies of articles of incorporation and by-laws for any property owners association.
- G. Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.
- H. Copy of the state highway permit when a new street or road access will intersect with a state highway and a copy of the Flathead County access permit when a new street or road access will intersect with a County Road.
- I. A certification from the county treasurer's office stating that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.
- J. A warranty signed by the subdivider for improvements required and completed to meet the conditions of the preliminary plat.

**State law reference**--Abstract of title required for review process, MCA § 76-3-612.

## APPENDIX D: SAMPLE FORMS AND CERTIFICATIONS

### Certificate of Dedication - Final Plat:

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

\_\_\_\_\_  
\_\_\_\_\_

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

The above described tract of land is to be known and designated as \_\_\_\_\_  
(Name of Subdivision), and the lands included in all streets, avenues and alleys shown on said plat are hereby granted and donated to the use of the public forever.

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

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

### Certificate of Surveyor - Final Plat:

State of Montana

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

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

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

(Seal)

\_\_\_\_\_  
(Signature of Surveyor)

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

\_\_\_\_\_  
(Address)

### Certificate of Final Plat Approval - City:

The City of Columbia Falls, Montana, does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being

dedicated to such use, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock.

\_\_\_\_\_  
Signature of City Clerk

\_\_\_\_\_  
Signature of Mayor  
Seal of City

**Consent to Dedication by Encumbrances, If Any:**

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

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

\_\_\_\_\_  
(Acknowledged and notarized signatures of all encumbrances of record.)

**Certificate of Examining Land Surveyor Where Required - Final Plat:**

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

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

(Signature)

(Name of Surveyor)  
(Seal of Examining Land Surveyor)

\_\_\_\_\_  
Registration No.  
Flathead County

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

I, \_\_\_\_\_ (Clerk and Recorder), of Flathead County, Montana, do certify that the following order was made by the city council of Columbia Falls 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 council of Columbia Falls that land dedication for park purposes be waived and cash in lieu of park land in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) be accepted in accordance with the provisions of 76-3-606, M.C.A."

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

(Seal)

\_\_\_\_\_  
(Signature of Clerk)

**Certificate of Waiver of Park Land Dedication Which Creates Only One Additional Lot:**

I \_\_\_\_\_ (Name of Clerk and Recorder), Flathead County, Montana, do certify that the following order was made by the city council of Columbia Falls at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, and entered into the proceedings of said body to wit: "The park land dedication and cash in lieu of land requirements do not apply to this division of land as it creates only one (1) additional lot, in accordance with 76-3-606 M.C.A."

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

\_\_\_\_\_ (Name of Subdivider), referred to herein as the subdivider, hereby certifies that all of the parcels within \_\_\_\_\_ (Name of Subdivision) contain five acres or more and that the Subdivider will enter into a covenant to run with the land and revocable only by mutual consent of the owners of the parcels in question and the governing body of Columbia Falls that the parcels in the subdivision will never be subdivided into parcels of less than five (5) acres and that only single family dwelling and associated outbuildings will be constructed on any single lot or parcel within the boundaries of the subdivision. A copy of this covenant is attached hereto:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Notarized Signature of Subdivider)

**Declaration of Covenant:**

(To be shown on or filed with final plat where the five acre, single family dwelling exemption applies.)

THIS DECLARATION made on the date hereafter set forth, by \_\_\_\_\_ (Name of Subdivider).

**W I T N E S E T H**

THAT WHEREAS, Declarant is the owner of certain property known as \_\_\_\_\_ (Name of Subdivision) in Flathead County, State of Montana, which is more particularly described in attached Exhibit A.

NOW, THEREFORE, \_\_\_\_\_ (Name of Subdivider) hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following covenant which shall run with the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall bind each owner thereof. The covenant may be revoked for any or all parcels within the subdivision by mutual consent of the owners of the parcels in question and the governing body of Columbia Falls.

**TO WIT:**

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

The governing body of the City of Columbia Falls is deemed to be a party to and may enforce this covenant.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this \_\_\_\_\_ (date) day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

\_\_\_\_\_  
(Signature of Subdivider)

\_\_\_\_\_  
Acknowledgement and notarization of signature

**Certificate of Filing by Clerk and Recorder:**

State of Montana  
County of \_\_\_\_\_

File for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock.

\_\_\_\_\_  
(Signature of Clerk and Recorder)  
County Clerk and Recorder  
\_\_\_\_\_, Montana

**Certificate of County Treasurer:**

I hereby certify, pursuant to Section 76-3-611(1)(b), M.C.A., that no real property taxes and special assessments assessed and levied on the land described below and encompassed by the proposed \_\_\_\_\_ (Name of Subdivision) are delinquent:

\_\_\_\_\_  
\_\_\_\_\_  
(legal description of land)

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

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

**Warranty of Subdivision Improvement(s):**

(I) (We), the undersigned property owner(s), do hereby warrant that work performed in the construction of improvements required as a condition of approval of \_\_\_\_\_ (name of subdivision) conforms to the approved construction plan and standards and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Subdivider or any Contractor or Subcontractor or any lower-tier subcontractor or supplier at any tier.

This warranty shall continue for a period of two (2) years from the date of final acceptance of the work. If the governing authority takes possession of any part of the work before final acceptance, this warranty shall continue for a period of two (2) year from the date the authority takes possession; that date being \_\_\_\_\_(date of acceptance).

I (We) shall remedy at our expense any failure to conform, or any defect. In addition, I (We) shall remedy at our expense any damage to governing authorities' owned or controlled real or personal property, when that damage is the result of the following:  
Our failure to conform to the approved construction plans or construction standards; or  
Any defect of equipment, material, workmanship, or design furnished.



I (We) shall restore any work damaged in fulfilling the terms and conditions of this clause. Our warranty with respect to work repaired or replaced will run for two (2) years from the date of repair or replacement.

**I (We) have been informed that if I (we) fail to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the governing authority shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the our expense and has the right to pursue by any available means reimbursement of any and all expenses associated with the repair, including any legal fees and court costs**

## APPENDIX E: WARRANTY FOR IMPROVEMENTS

(I) (We), the undersigned property owner(s), do hereby warrant that work performed in the construction of improvements required as a condition of approval of

(name of subdivision) conforms to the approved construction plan and standards and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Subdivider or any Contractor or Subcontractor or any lower-tier subcontractor or supplier at any tier.

This warranty shall continue for a period of two (2) years from the date of final acceptance of the work. If the governing authority takes possession of any part of the work before final acceptance, this warranty shall continue for a period of two (2) year from the date the authority takes possession; that date being (date of acceptance).

I (We) shall remedy at our expense any failure to conform, or any defect. In addition, I (We) shall remedy at our expense any damage to governing authorities' owned or controlled real or personal property, when that damage is the result of the following: Our failure to conform to the approved construction plans or construction standards; or Any defect of equipment, material, workmanship, or design furnished.

I (We) shall restore any work damaged in fulfilling the terms and conditions of this clause. Our warranty with respect to work repaired or replaced will run for two (2) years from the date of repair or replacement.

I (We) have been informed that if I (we) fail to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the governing authority shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the our expense and has the right to pursue by any available means reimbursement of any and all expenses associated with the repair, including any legal fees and court costs.

\_\_\_\_\_  
(Name of Subdivision/Developer/Firm)

by

\_\_\_\_\_  
(Title)

STATE OF MONTANA  
COUNTY OF \_\_\_\_\_

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

## APPENDIX F: SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by and between the CITY OF COLUMBIA FALLS of Flathead County, Montana, Party of the First Part and hereinafter referred to as the CITY, and \_\_\_\_\_ (Name of Developer), a \_\_\_\_\_ (Individual, Company or Corporation) located at \_\_\_\_\_, (Street Address/P. O. Box) \_\_\_\_\_ (City, County, State, Zip) Party of the Second Part and hereinafter referred to as DEVELOPER.

### WITNESSETH:

THAT WHEREAS, the Developer is the owner and developer of a new subdivision known as \_\_\_\_\_ (Name of Subdivision) located at \_\_\_\_\_ (Location of Subdivision) and,

WHEREAS, the City has conditioned its approval of the final plat of \_\_\_\_\_ (Name of Subdivision) upon the conditions as set forth in the

Preliminary Plat of the Subdivision (attached as Exhibit A) being completed; and

WHEREAS, the Developer wishes to receive a final plat before all improvements are completed and the Developer wishes to bond for the completion of those improvements not yet complete; and

WHEREAS, the Columbia Falls Subdivision Regulations require that a subdivider shall provide a financial security of 125% of the estimated total cost of construction of said improvements as evidenced by an estimate prepared by a licensed public engineer included herewith as "Exhibit B"; and

WHEREAS, the estimated total cost of construction of said improvements is the sum of \$\_\_\_\_\_.

NOW THEREFORE, in consideration of the approval of the final plat of said Subdivision by the City, the Developer hereby agrees as follows:

1. The Developer shall deposit as collateral with the city a Letter of Credit, or other acceptable collateral as determined by the city council of Columbia Falls, in the amount of \$\_\_\_\_\_. Said Letter of Credit or other collateral shall have an expiration date of at least sixty (60) days following the date set for completion of the improvements, certifying the following:

a. That the creditor guarantees funds in the sum of \$\_\_\_\_\_ the estimated cost of completing the required improvements in \_\_\_\_\_ (Name of Subdivision)

b. That if the Developer fails to complete the specified improvements within the required period, the creditor will pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter;

2. That said required improvements shall be fully completed by \_\_\_\_\_, 19\_\_\_\_\_.

3. That upon completion of the required improvements, the Developer shall cause to be filed with the city a statement certifying that:

a. All required improvements are complete;

b. That the improvements are in compliance with the minimum standards specified by the city for their construction and that the Developer warrants said improvements against any and all defects for a period of two (2) years from the date of acceptance of the completion of those improvements by the City;

- c. That the Developer knows of no defects in those improvements;
- d. That these improvements are free and clear of any encumbrances or liens;
- e. That a schedule of actual construction costs has been filed with the City; and,
- f. All applicable fees and surcharges have been paid.

4. The Developer shall cause to be filed with the city copies of final plans, profiles, grades and specifications of said improvements, with the certification of the registered professional engineer responsible for their preparation that all required improvements have been installed in conformance with said specifications.

IT IS ALSO AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS, TO-WIT:

That the Developer shall provide for inspection of all required improvements by a registered professional engineer before the Developer shall be released from the Subdivision Improvement Agreement.

That if the city determines that any improvements are not constructed in compliance with the specifications, it shall furnish the Developer with a list of specific deficiencies and may withhold collateral sufficient to insure such compliance. If the city determines that the Developer will not construct any or all of the improvements in accordance with the specifications, or within the required time limits, it may withdraw the collateral and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. The unused portions of the collateral shall be returned to the Developer or the crediting institution, as is appropriate.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year herein before written.

\_\_\_\_\_  
(Name of Subdivision/Developer/Firm)

by

\_\_\_\_\_  
(Title)

STATE OF MONTANA  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this day and year first above written.

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

\_\_\_\_\_  
My Commission Expires \_\_\_\_\_

CITY OF COLUMBIA FALLS

ATTEST:

\_\_\_\_\_  
City Clerk

By:

\_\_\_\_\_  
City Manager

By:

\_\_\_\_\_  
Deputy

EXHIBIT A

Conditions of approval as fixed to the preliminary plat by the City Council of Columbia Falls.

EXHIBIT B

This agreement specifically includes the following improvements, their projected construction completion date and estimated construction costs.

Check Appropriate Construction Improvements Box	Construction Completion Date	Estimated Costs
Street Grading/Paving		
Street Base		
Sidewalks		
Curbs and Gutters		
Sanitary Sewers		
Mains		
Other (_____)		
On-Site Sewage Facilities		
Water Systems		
Mains		
Other (_____)		
On-Site Water Supply		

Water Storage Tanks		
Fire Hydrants		
Storm Sewer or Drainage Facilities		
Street Signs		
Street Lighting		
Street Monuments		
Survey Monument Boxes		
Landscaping		
Other (_____)		
Subtotal		
Fees		
Totals Costs		
Total Collateral (Totals Costs x 125%)		

Irrevocable Letter of Credit Example:

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

Dated: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Amount: \_\_\_\_\_

City of Columbia Falls  
130 6<sup>th</sup> St West  
Columbia Falls, MT 59912

We hereby establish in your favor an irrevocable letter of credit up to the aggregate amount of \$\_\_\_\_\_ at the request of \_\_\_\_\_ (Name of Subdivider).

If \_\_\_\_\_ (Name of Subdivider) fails to complete the specified improvements in the \_\_\_\_\_ (Name of Subdivision) within the time period set forth in the attached Improvements Agreement, we will pay on demand your draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements. All drafts must indicate the number and date of this letter of credit and be accompanied by a signed statement of an authorized official that the amount is drawn to install improvements not installed in conformance with the Improvements Agreement and specifying the default or defect in question.

All drafts must be presented prior to the expiration date stated above, and this letter of credit must accompany the final draft for payment.

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

\_\_\_\_\_  
(Name of Lending Institution)

\_\_\_\_\_  
(Signature and Title of Authorized Official)

## **APPENDIX G: STANDARDS FOR FLOOD HAZARD EVALUATION**

Where the subdivider is required by the governing body to provide data for use in defining the 100 year floodway of a stream subject to flooding, the following information shall be submitted to the Floodplain Management Section of the Water Resources Division, Montana Department of Natural Resources and Conservation.

- A. A copy of the plat showing contour intervals of no greater than five feet.
- B. The location and elevation of a temporary benchmark established with the subdivision and referenced to mean sea level with appropriate elevation adjustment.
- C. A minimum of four surveyed valley cross sections of the stream according to the following requirements:
  - 1. Cross sections shall include the stream channel and floodplain on both banks and shall be normal to direction of flow.
  - 2. At least one cross section shall be taken at a point on the stream from which it could be extended through the subdivision.
  - 3. Three cross sections shall be taken downstream from the subdivision, no more than 1,000 feet apart, but in no case may vertical drop between cross sections exceed 5.0 feet. The cross section farthest downstream should be located at a natural constriction or bridge crossing if possible. Cross sections shall be taken at any location between the subdivision and lowest cross section.
  - 4. Distances between cross sections are to be determined by stadia and these distances and locations of cross sections shall be shown on the location map.
  - 5. The overbank cross sections are to be extended to obtain a vertical rise of 15 feet above the water surface.
- D. If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map.
- E. Descriptions and sketches of all bridges within the reach, showing unobstructed waterway opening and elevations.
- F. Color photographs clearly depicting the vegetation of both overbanks and the material composition of the banks and channel bottom shall be submitted for each cross section.
- G. Cross sections plotted on cross section paper of ten divisions to the inch using any convenient, identified scale for vertical and horizontal distance. The water surface at the time of survey shall be plotted on each cross section.
- H. A profile sheet prepared on cross section paper at ten divisions to the inch showing the observed water surface profile, location of cross sections, subdivision boundaries, riverbank profile and thalweg (lowest point of the channel bottom).
  - 1. A location map, such as U.S. Geological Survey seven and one-half (7-1/2) minute quad or similar map, showing the proposed subdivision, the locations of the valley cross sections and any gauging stations.
  - 2. These requirements may vary, contact the Columbia Fall Floodplain administrator, Supervisor of the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation.



## **APPENDIX H: CONTENTS OF CLAIM FOR EXEMPTION FROM SUBDIVISION REGULATIONS**

### **Specific Exemptions from Review but Subject to Survey Requirements and Zoning Regulations**

Unless the method of disposition is adopted for the purpose of evading the City of Columbia Falls' Subdivision Regulations or the Montana Subdivision and Platting Act (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.

### **Procedures and Review of Subdivision Exemptions**

#### **Submittal**

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

### **Exemption As A Gift Or Sale To A Member Of The Immediate Family [76-3-207(1)(b), MCA]**

#### **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.

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.

#### **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.

#### **Rebuttable Presumptions**

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.

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.

### **Exemption To Provide Security For Construction Mortgages, Liens, Or Trust Indentures [76-3-201(1)(b), MCA]**

#### **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.

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

a statement of how many parcels within the original tract will be created by use of the exemption;  
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);  
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  
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.

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

- G. it will create more than one new building site;
- H. the financing is not for construction on the exempted parcel;
- I. 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;
- J. title to the exempted parcel will not be initially obtained by the lending institution if foreclosure occurs;
- K. 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;
- L. 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.

### **Exemption For Agricultural Purposes [76-3-207(1)(c), MCA]**

#### **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.

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.

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.

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

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.

#### **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:

- M. 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.
- N. 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.
- O. Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision.
- P. 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.

### **Relocation Of Common Boundary [76-3-207(1)(a), MCA]**

#### **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.

**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.

**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 stated reason for relocation.

## **APPENDIX I: PRESCRIPTIONS FOR A TRAFFIC STUDY**

The Traffic Impact Study should present an objective technical analysis in a straight forward and logical manner that leads the reviewer through the analytical process to the resulting conclusions and recommendations. Sufficient detail must be provided so the reviewer is able to follow the path and methodology of the study. All assumptions shall be documented, published sources referenced as necessary, and stamped by a licensed professional engineer. At a minimum the study should include all of the following:

- A. The study's purpose and goals;
- B. A description of the site and the study area;
- C. A description of the existing conditions in the area of the site (existing roadway geometrics, traffic counts, crash analysis, existing intersection Level of Service (LOS), existing roadway capacity analysis);
- D. The anticipated nearby land developments and transportation improvements when known;
- E. Analysis and discussion of trip generation, distribution, and modal splits. Modal split, is a traffic / transport term that describes the number of trips or (more common) percentage of travelers using a particular type of transportation;
- F. The traffic assignment resulting from the proposed subdivision;
- G. The projection and assignment of future traffic volumes;
- H. An assessment of the traffic impacts attributable to the development. If the level of service on the roadways and intersections is not impacted and maintains a minimum Level of Service "C " then no improvements are required;
- I. Recommendations for site access and transportation improvements.

## APPENDIX J: RECREATIONAL VEHICLE PARK TYPICAL LAYOUT

