

RAVALLI COUNTY SUBDIVISION REGULATIONS



For additional information, please contact the Ravalli County Planning Department,
215 South 4th Street, Suite F, Hamilton, Montana 59840

Phone: (406) 375-6530

Fax: (406) 375-6531

www.rc.mt.gov

planning@rc.mt.gov

Effective June 4th, 2012

TABLE OF CONTENTS

CHAPTER 1. GENERAL PROVISIONS	PAGE
1-1. SHORT TITLE _____	1
1-2. DEFINED TERMS _____	1
1-3. AUTHORITY _____	1
1-4. PURPOSE _____	1
1-5. JURISDICTIONAL AREAS _____	1
1-6. RELATIONSHIP TO OTHER REGULATIONS _____	2
1-7. AMENDMENT OF REGULATIONS _____	2
1-8. ENFORCEMENT _____	2
1-9. VIOLATION AND PENALTIES _____	3
1-10. APPEALS _____	3
1-11. MEANING OF WORDS AND PHRASES _____	4
1-12. RESPONSIBILITY FOR INTERPRETATION _____	4
1-13. INTERNAL CONFLICTS _____	4
1-14. APPLICABLE REGULATIONS _____	4
1-15. DELEGATION OF AUTHORITY _____	5
1-16. COMPUTATION OF TIME _____	5
1-17. FEES _____	5
1-18. SEVERABILITY _____	5
1-19. CONSTRUCTION TIMING _____	5
1-20. CONTRACT FOR DEED PERMITTED _____	5
1-21. PERMISSION TO ENTER _____	6

CHAPTER 2. ALL SUBDIVISIONS – PRELIMINARY APPLICATION & REVIEW PROCEDURES

2-1. PRE-APPLICATION _____ 7

2-2. PRELIMINARY PLAT APPLICATION SUBMITTAL _____ 7

2-3. PRELIMINARY PLAT APPLICATION REVIEW PROCEDURE _____ 8

2-4. WATER AND SANITATION – SPECIAL RULES _____ 11

2-5. EFFECT OF APPROVAL ON PRELIMINARY PLAT APPLICATION _____ 12

CHAPTER 3. MAJOR SUBDIVISION REVIEW PROCEDURES

3-1. PRELIMINARY PLAT APPLICATION SUBMITTAL _____ 13

3-2. EXCEPTIONS _____ 13

3-3. TIME PERIOD FOR APPROVAL, CONDITIONAL APPROVAL, OR DENIAL _____ 13

3-4. NOTIFICATION REQUIREMENTS _____ 14

3-5. STAFF REPORT _____ 15

3-6. PLANNING BOARD REVIEW - PUBLIC MEETING _____ 15

3-6. PLANNING BOARD REVIEW - CONSIDERATION OF PREREQUISITES, STANDARDS,
& EVIDENCE _____ 15

3-8. DOCUMENTATION OF PLANNING BOARD’S RECOMMENDATION _____ 17

3-9. BCC REVIEW – PUBLIC HEARING _____ 17

3-10. BCC REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS, & EVIDENCE ___ 17

3-11. BCC DECISION _____ 18

3-12. DOCUMENTATION OF BCC DECISION – PPD _____ 18

3-13. FINAL PLAT APPROVAL PERIOD _____ 19

3-14. PUBLIC HEARING – NEW INFORMATION _____ 19

3-15. SUBSEQUENT PUBLIC HEARING _____ 20

3-16. PHASING _____ 21

MAJOR SUBDIVISION PRELIMINARY PLAT FLOWCHART _____ 22

CHAPTER 4. MINOR SUBDIVISION REVIEW PROCEDURES

4-1. PRELIMINARY PLAT APPLICATION SUBMITTAL _____ 23

4-2. EXCEPTIONS _____ 23

4-3. TIME PERIOD FOR APPROVAL, CONDITIONAL APPROVAL, OR DENIAL _____ 23

4-4. NOTIFICATION REQUIREMENTS _____ 24

4-5. STAFF REPORT _____ 25

4-6. PLANNING BOARD REVIEW - PUBLIC MEETING _____ 25

4-7. PLANNING BOARD REVIEW - CONSIDERATION OF PREREQUISITES, STANDARDS,
& EVIDENCE _____ 25

4-8. DOCUMENTATION OF PLANNING BOARD’S RECOMMENDATION _____ 27

4-9. BCC REVIEW – PUBLIC HEARING _____ 27

4-10. BCC REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS, & EVIDENCE ___ 27

4-11. BCC DECISION _____ 28

4-12. DOCUMENTATION OF BCC DECISION – PPD _____ 28

4-13. FINAL PLAT APPROVAL PERIOD _____ 29

4-14. PHASING _____ 29

MINOR SUBDIVISION PRELIMINARY PLAT FLOWCHART _____ 31

CHAPTER 5. SUBDIVISIONS FOR LEASE OR RENT

5-1. PRELIMINARY PLAN APPLICATION SUBMITTAL AND REVIEW _____ 32

5-2. IMPROVEMENTS _____ 32

5-3. FINAL REVIEW _____ 32

5-4. ADDITIONAL STRUCTURE WITH SANITATION FACILITIES _____ 32

CHAPTER 6. CAMPGROUNDS, MOBILE HOME PARKS, AND RV PARKS

6-1. PRELIMINARY PLAT APPLICATION SUBMITTAL AND REVIEW _____ 34
6-2. IMPROVEMENTS _____ 34
6-3. FINAL REVIEW _____ 35

CHAPTER 7. REVOCATION OF AGRICULTURAL COVENANTS _____ 36

CHAPTER 8. CONDOMINIUMS AND TOWNHOMES _____ 37

CHAPTER 9. AMENDED APPLICATIONS

9-1. AMENDED APPLICATIONS – AFTER SUFFICIENCY, BEFORE BCC REVIEW _____ 38
9-2. AMENDED APPLICATIONS – DURING BCC REVIEW, BEFORE BCC DECISION _____ 39
9-3. AMENDED APPLICATIONS – AFTER BCC DECISION, BEFORE FINAL PLAT
APPROVAL _____ 40
9-4. MATERIAL AMENDMENT(S) _____ 41
9-5. APPEALS _____ 41

CHAPTER 10. FINAL PLAT APPLICATION AND REVIEW PROCEDURES

10-1. FINAL PLAT APPLICATION SUBMITTAL _____ 43
10-2. FINAL PLAT REVIEW BY PLANNING DEPARTMENT _____ 43
10-3. FINAL PLAT APPROVAL BY THE BCC _____ 44
10-4. SUBDIVISION IMPROVEMENTS AGREEMENT _____ 44
10-5. FINAL PLAT FILING _____ 44
10-6. AMENDING FILED PLATS _____ 45

CHAPTER 11. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

11-1. SUBDIVISION EVASION CRITERIA _____ 47
11-2. DIVISIONS OF LAND WHICH MAY BE ENTIRELY EXEMPT FROM THE REQUIREMENTS
OF THESE REGULATIONS AND THE MSPA _____ 47
11-3. DIVISIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW AND SURVEYING _____ 49

Table of Contents

11-4. DIVISIONS OR AGGREGATIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW
BUT SUBJECT TO SURVEY REQUIREMENTS AND ZONING _____ 50

11-5. PROCEDURES AND REVIEW OF SUBDIVISION EXEMPTIONS _____ 52

CHAPTER 12. DESIGN AND DEVELOPMENT STANDARDS

12-1. GENERAL PROVISIONS _____ 55

12-2. LOTS AND BLOCKS _____ 56

12-3. ROADWAYS _____ 59

12-4. GRADING, DRAINAGE AND STORMWATER MANAGEMENT _____ 65

12-5. HIGH FIRE HAZARD AREAS _____ 67

12-6. FLOODPLAIN _____ 71

12-7. WETLANDS _____ 72

12-8. IRRIGATION WATER RIGHTS AND FACILITIES _____ 73

12-9. SERVICE STANDARDS _____ 75

12-10. NOXIOUS WEED CONTROL _____ 78

12-11. STANDARDS FOR CAMPGROUNDS, MOBILE HOME AND RV PARKS _____ 78

CHAPTER 13. PARKLAND REQUIRMENTS

13-1. PURPOSE _____ 80

13-2. PARKLAND DEDICATION/DONATION REQUIREMENTS _____ 80

13-3. BASIS OF DECISION FOR TYPE OF DEDICATION _____ 80

13-4. USE OF CASH OR LAND DONATION _____ 81

13-5. WAIVING OF PARKLAND REQUIREMENT _____ 81

13-6. DETERMINATION OF FAIR MARKET VALUE _____ 82

13-7. INDEPENDENT APPRAISALS _____ 82

CHAPTER 14. VARIANCES

14-1. LIMITATIONS ON VARIANCE REQUESTS _____ 83
14-2. VARIANCE APPLICATION AND REVIEW REQUIREMENTS _____ 83
14-3. DURATION OF VARIANCE APPROVAL _____ 86

CHAPTER 15. DEFINITIONS _____ 87

APPENDIX A. PRELIMINARY PLAT APPLICATION REQUIREMENTS _____ 103

APPENDIX B. PRELIMINARY PLAT REQUIREMENTS _____ 108

APPENDIX C. FINAL PLAT APPLICATION REQUIREMENTS _____ 110

APPENDIX D. FINAL PLAT REQUIREMENTS _____ 117

APPENDIX E. ENVIRONMENTAL ASSESSMENT _____ 121

APPENDIX F. COMMUNITY IMPACT REPORT _____ 127

APPENDIX G. SUMMARY OF PROBABLE IMPACTS _____ 131

APPENDIX H. TRAFFIC IMPACT ANALYSIS _____ 138

APPENDIX I. SUBDIVISION IMPROVEMENTS AGREEMENT _____ 140

APPENDIX J. FLOODPLAIN ANALYSIS _____ 145

CHAPTER 1. GENERAL PROVISIONS

1-1. SHORT TITLE

These regulations may be cited as the “Ravalli County Subdivision Regulations” (RCSR), referred to herein as “these regulations”.

1-2. DEFINED TERMS

Words or phrases shown in **bold highlight** throughout these regulations are specifically defined within [Chapter 15](#) of these regulations.

1-3. AUTHORITY

These regulations are authorized by the Montana Subdivision and Platting Act (**MSPA**).

1-4. PURPOSE

These regulations are consistent with the **MSPA**, and reasonably provide for:

- 1) the orderly development of the jurisdictional areas;
- 2) the coordination of **roadways** within subdivided land with other **roadways**, both existing and planned;
- 3) the **dedication** of land for **roadways** and for public utility **easements**;
- 4) the improvement of **roadways**;
- 5) the provision of adequate open spaces for travel, light, air, and recreation;
- 6) the provision of adequate transportation, water, and drainage;
- 7) the regulation of sanitary facilities, subject to the provisions of MCA [76-3-511](#);
- 8) the avoidance or minimization of congestion;
- 9) the protection of the rights of property owners; and
- 10) the avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural **hazard**, including but not limited to fire and wildland fire, or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services.

1-5. JURISDICTIONAL AREAS

- A. Unincorporated Areas. When a proposed subdivision is situated entirely within an unincorporated area of Ravalli County, the **preliminary plat application** must be submitted to the **Planning Department** and approved by the Board of County Commissioners (“**BCC**”). If a proposed subdivision lies within one mile of a **third-class city** or town, within two miles of a **second-class city**, or within three miles of a **first-class city**, the County shall submit the **preliminary plat application** to the **governing body** of the city or town, or its designated agent, for review and comment. If a proposed subdivision is located within a rural school district, as described in [20-9-615, MCA](#), the

County shall provide a summary of the information contained in the **preliminary plat application** to school district trustees. [[76-3-601\(b\), MCA](#)]

- B. Incorporated Areas. If a proposed **subdivision** lies partly within an incorporated city or town, the **preliminary plat application** must be submitted to, and approved by, both the city or town and the county governing bodies. [[76-3-601\(c\), MCA](#)]
- C. Annexations. When a proposed **subdivision** is also proposed to be annexed to a municipality, the **BCC** and the **governing body** of the municipality shall coordinate the **subdivision** review and **annexation** procedures to minimize duplication of hearings, reports, and other requirements whenever possible. [[76-3-601\(d\), MCA](#)]

1-6. RELATIONSHIP TO OTHER REGULATIONS

If the requirements of these regulations conflict with any other local, **State**, or federal rule or regulation, including but not limited to zoning regulations, **floodplain** regulations, **building** codes, development codes, environmental health regulations, and fire codes, in general the most restrictive requirement of those that impose the highest standard shall control. Where there may be internal conflicts within these regulations, the provision requiring the higher level of stringency shall control. However, with respect to the **roadway** standards adopted in these regulations, any conflicts or inconsistencies shall be interpreted pursuant to the following hierarchy, with A having weight over B and B over C, etc.:

- A. Specific provisions of Montana Law, including the Montana Code Annotated and the Administrative Rules of Montana;
- B. The Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (2003 and updates);
- C. Specific provisions of these regulations;
- D. The **AASHTO** Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT≤400) (2001 and updates);
- E. The **AASHTO** Policy on Geometric Design of Highways and Streets (2001 and updates);
- F. The Montana Public Works Standard Specifications, 5th Edition (2003 and updates);
- G. The **AASHTO** Guide for design of pavement **structures** (1993 and updates).

1-7. AMENDMENT OF REGULATIONS

Before the **BCC** amends these regulations it will, at a minimum, hold a public hearing on the proposed amendment(s). Notice of the time, date and place of the public hearing shall be published in a newspaper of general circulation in the county not less than fifteen (15) calendar-days or more than thirty (30) calendar-days before the date of the hearing. [[76-3-503, MCA](#)]

1-8. ENFORCEMENT

- A. Administrative Enforcement. Prior to commencing any judicial enforcement, alleged **violations** of these regulations shall be investigated by the **Planning Department**. The **Planning Department** shall provide written notice to the individual(s) involved in the alleged **violations** by letter, and include within that letter a description of the alleged

violation. The **landowner**(s) must also be notified, if different from the individuals involved. If the **landowner** consents, the **Planning Department** may visit the property to determine whether a violation exists. If a **violation** is determined to exist, the **Planning Department** will provide written notice to the violator explaining the **violation** and setting forth the procedure to cure the **violation**. If the **violation** is not cured via this administrative procedure, the **Planning Department** will schedule a meeting with the **BCC** to determine whether the matter shall be referred to the Ravalli County Attorney's Office, who may commence judicial enforcement action as described below.

- B.** Judicial Enforcement. Except as provided in [76-3-303, MCA](#), and these regulations, every **final plat** must be filed for record with the **Clerk & Recorder** before title to the subdivided land can be sold or transferred in any manner. If transfers not in accordance with this chapter are made, the county attorney shall commence action to enjoin further sales or transfers, or to compel compliance with the provisions of the **MSPA** and these regulations. The cost of the action shall be imposed against the party not prevailing. [[76-3-301, MCA](#)]

1-9. VIOLATION AND PENALTIES

Any **person** who violates any of the provisions of the **MSPA** or these regulations may be guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in jail for not more than three months, or by both fine and imprisonment. Any violation, including each sale, lease, transfer, or offer of sale, lease, or transfer of each separate **parcel** of land in **violation** of any provision of the **MSPA** or these regulations shall be deemed a separate and distinct offense. [[76-3-105, MCA](#)]

1-10. APPEALS

- A.** A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.
- B.** A party identified in subsection (C) who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
- C.** The following parties may appeal under the provisions of subsection (B):
1. the subdivider;
 2. a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
 3. the county commissioners of the county where the subdivision is proposed; and

4. a **first-class** municipality, as described in [7-1-4111](#), if a subdivision is proposed within 3 miles of its limits;
5. a **second-class** municipality, as described in [7-1-4111](#), if a subdivision is proposed within 2 miles of its limits; and
6. a **third-class** municipality or a town, as described in [7-1-4111](#), if a subdivision is proposed within 1 mile of its limits.

1-11. MEANING OF WORDS AND PHRASES

Words and phrases not specifically defined in [Chapter 15](#) or elsewhere in these regulations shall have their usual and customary meaning in the context of land use planning.

1-12. RESPONSIBILITY FOR INTERPRETATION

- A. In the event that any question arises concerning any provision or the application of any provision of these regulations, the BCC in consultation with the **Planning Department**, shall be responsible for such interpretation and shall look to the overall intent of these regulations for guidance. The **Planning Department** shall provide such interpretation in writing to the **applicant** upon request and keep a permanent record of said interpretations.
- B. The responsibility for interpretation shall not be construed as overriding the authority of any commission, board, or official named in other parts of these regulations.

1-13. INTERNAL CONFLICTS

A more specific provision of these regulations shall be followed in lieu of a more general provision that may be more lenient than or in conflict with the more specific provision.

1-14. APPLICABLE REGULATIONS

- A. Review and approval, conditional approval, or denial of a proposed **subdivision** shall occur only under those regulations in effect at the time a **preliminary plat application** is deemed to contain sufficient information for public review as specified in [Chapter 2](#) of these regulations. [[76-3-604\(9\)\(a\)](#), [MCA](#)]
- B. If regulations change during the element or sufficiency review periods, the determination of whether the **application** contains the required elements and sufficient information, and the **subdivision** review, must be based on the new regulations. [[76-3-604\(9\)\(b\)](#), [MCA](#)]

1-15. DELEGATION OF AUTHORITY

Whenever a provision in these regulations requires an elected official, department supervisor, or some other employee to act or perform some duty, it is to be construed to authorize that individual to designate, delegate, and authorize qualified professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

1-16. COMPUTATION OF TIME

When a time period is specified in these regulations, the first day shall be the day after the event that triggers the time period to start. For example, if an action is to be taken within fifteen (15) working-days of the date of submittal, the time period starts the first working-day after the date of the submittal.

1-17. FEES

The **BCC** has adopted a schedule of review fees which applies to these regulations through a separate resolution. Review of any **application** received in accordance with these regulations shall not commence until all review fees are received. All fees are nonrefundable, with the exception of those **applications** which are withdrawn prior to **Planning Department** review. Refunds shall be issued at the discretion of the **Planning Department**, unless otherwise authorized by **State** law.

1-18. SEVERABILITY

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

1-19. CONSTRUCTION TIMING

Subdivision improvements, including grading, **roadway** building, installation of wastewater treatment systems, installation or alteration of irrigation facilities, vegetation removal, and construction of a home, is not prohibited on land proposed for **subdivision**, but is at the risk of the applicant and will not be considered by the BCC when rendering denial, approval or conditional approval of the **preliminary plat application**.

1-20. CONTRACT FOR DEED PERMITTED

Except as provided in [76-3-303, MCA](#), and noted below, every **final plat** must be filed for record with the **Clerk & Recorder** before title to the subdivided land can be sold or transferred in any manner. The **Clerk & Recorder** shall refuse to accept any plat for record that fails to have the approval in proper form unless the plat is located in an area over which the **State** does not have jurisdiction. [[76-3-301, MCA](#)]

After the **preliminary plat** of a **subdivision** has been approved or conditionally approved, the **applicant** may enter into contracts to sell **lots** in the proposed **subdivision** if all of the following conditions are met:

- 1) 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**;
- 2) 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 **applicant** until the **final plat** of the **subdivision** is filed with the **Clerk & Recorder**;
- 3) the contracts and the escrow agreement provide that if the **final plat** of the proposed **subdivision** is not filed with the **Clerk & Recorder** within two (2) years of the **preliminary plat** approval, the escrow agent shall immediately refund to each purchaser any payments the purchaser has made under the contract;
- 4) the **County** Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and
- 5) the contracts contain the following language conspicuously set out: "The real property that is the subject of this contract has not been finally platted, and until a **final plat** identifying the property has been filed with the **Clerk & Recorder**, title to the property may not be transferred in any manner." [\[76-3-303, MCA\]](#)

1-21. PERMISSION TO ENTER

The **BCC**, its designated agent(s), or **affected agencies** may investigate, examine, and evaluate the site of the proposed **subdivision** to verify information provided by the **applicant** and to subsequently monitor compliance with any imposed conditions if the **preliminary plat** is conditionally approved up to **final plat** approval, the close of a **subdivision improvements agreement**, or as may be specifically provided for in a **Preliminary Plat Decision** and noted in the required **covenants** and/or notifications document filed with the **final plat**. The submission of a **preliminary plat application** constitutes a grant of permission by the **applicant** for the **BCC**, its agents, and **affected agencies** to enter the subject property. This consent applies to members of the public if attending a noticed public meeting or hearing for a site visit, and at no other time.

CHAPTER 2. ALL SUBDIVISIONS – PRELIMINARY APPLICATION AND REVIEW PROCEDURES

All **subdivision applications** are required to comply with the provisions of this chapter.

2-1. PRE-APPLICATION [[76-3-504\(1\)\(q\), MCA](#)]

- A. Prior to submittal of a **preliminary plat application**, the **applicant** shall request a pre-**application** meeting with the **Planning Department**. The meeting shall occur no more than thirty (30) calendar-days from the date the **applicant** submits a completed Pre-Application Meeting Request Form to the **Planning Department**. This form is available at the **Planning Department** and online.
- B. Pre-application Meeting
1. **Identification of Regulations.** The **Planning Department** shall identify, for informational purposes only, the **State** laws and local regulations that may apply to the **subdivision** review process including, but not limited to, zoning regulations, environmental health regulations and **floodplain** regulations. **Identification of Affected Agencies.** The **Planning Department** shall provide the **applicant** with a list of **affected agencies** that may be contacted for comment on the **application** and the timeframes that the **affected agencies** are given to respond. If, during review of the **application**, additional **affected agencies** are contacted, the **Planning Department** shall notify the **applicant** of the contact and the timeframe for response. **Identification of Additional Information.** The **Planning Department** may identify additional information the **Planning Department** anticipates will be required for review of the **preliminary plat application**. This does not limit the ability of the **Planning Department** to request additional information related to one or more of the required elements at a later time.
 2. **Affected Agencies Participation.** When scheduling the pre-**application** meeting the **Planning Department**, in consultation with the **applicant**, may encourage the participation of other key **affected agencies** that have an interest in the particular **subdivision** proposal. Participation from **affected agencies** is not mandatory and participation or lack thereof does not limit the ability for **affected agencies** to provide additional input later in the review process.

2-2. PRELIMINARY PLAT APPLICATION SUBMITTAL [[76-3-504\(1\)\(c\), MCA](#)]

The **applicant** shall submit to the **Planning Department** a **preliminary plat application**, including the elements and detailed supporting information listed in Appendix A of these regulations, within six (6) months of the date of the pre-**application** meeting. If the **applicant** does not submit an **application** within this time, the **applicant** must request a new pre-

application meeting prior to submitting a **preliminary plat application**, and must pay an additional pre-**application** fee.

2-3. PRELIMINARY PLAT APPLICATION REVIEW PROCEDURE [\[76-3-504\(1\)\(c\), MCA\]](#)

A. Element Review

1. Agency Notification. The **Planning Department** shall prepare and send a summary of the **preliminary plat application** and a reduced copy of the **preliminary plat** to the **affected agencies** identified at the pre-**application** meeting to notify those agencies that a **preliminary plat application** has been submitted to the **Planning Department**. Notice shall be sent by regular mail to each of the **affected agencies**. The **Planning Department** shall forward all comments received from **affected agencies** to the **applicant**.
2. Initial Element Review. Within five (5) working-days of receipt of a **preliminary plat application**, submitted in accordance with the deadlines established in these regulations and receipt of the review fee, the **Planning Department** shall determine whether the **application** contains all of the elements required by Appendix A of these regulations and shall notify the **applicant** of the **Planning Department's** determination via a written Required Elements Letter. The element review does not include an evaluation of the sufficiency of the information that may be noted in the subsections following each element.
3. Missing Elements. If the **Planning Department** determines that elements are missing from the **application**, the **Planning Department** shall identify those elements in the Required Elements Letter and no further action shall be taken on the **application** by the **Planning Department** until the required elements have been submitted.
4. Subsequent Element Review(s). If the **applicant** resubmits an **application** in response to the **Planning Department's** Required Elements Letter, the **Planning Department** shall again have five (5) working-days to notify the **applicant** whether the **application** contains all of the elements required by Appendix A of these regulations. The **Planning Department's** subsequent review(s) will not begin until all identified missing elements are submitted.
5. Determination of Required Elements. Once the **Planning Department** notifies the applicant in writing that an **application** contains all of the required elements, sufficiency review shall commence.

B. Sufficiency Review

1. Initial Sufficiency Review. Within fifteen (15) working-days after the **Planning Department** notifies the **applicant** that the **application** contains all of the required elements, the **Planning Department** shall determine whether the

preliminary plat application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed **subdivision** under the **MSPA** and these regulations. The **Planning Department** shall notify the **applicant** of the **Planning Department's** determination via a written Sufficiency Letter. Sufficiency review shall include the review of the detailed information supporting the elements listed in Appendix A of these regulations and the **preliminary plat** requirements listed in Appendix B of these regulations.

2. Insufficient Information. If the **Planning Department** determines that information in the **application** is not sufficient to allow for review of the proposed **subdivision**, the **Planning Department** shall identify the insufficient information in its Sufficiency Letter. No further action shall be taken on the **application** by the **Planning Department** until the identified information has been submitted.
3. Subsequent Sufficiency Review(s). If the **applicant** resubmits the **application** in response to the **Planning Department's** Sufficiency Letter, the **Planning Department** shall again have fifteen (15) working-days to notify the **applicant** whether the **application** contains detailed, supporting information that is sufficient to allow for the review of the proposed **subdivision**. The **Planning Department's** subsequent review(s) will not begin until all identified missing information is submitted.
4. Number of Sufficiency Reviews. Subject to the review periods in [Section 2-3.C.](#), below, multiple sufficiency reviews may occur and shall continue until the **Planning Department** determines that the **application** contains detailed, supporting information that is sufficient to allow for public review of the proposed **subdivision**.
5. Determination of Sufficiency. Once the **application** is found to contain all the necessary detailed supporting information that renders the **subdivision** sufficient for review, the **Planning Department** shall notify the **applicant** in writing of this determination, at which time the **BCC** review period shall commence in accordance with [Section 3-1](#) or [4-1](#) of these regulations, as applicable.

C. Review Periods for Completion of Element and Sufficiency Review.

1. Two (2) to forty-nine (49) **lot subdivisions**. When an **applicant** proposes a **subdivision** of two (2) to forty-nine (49) **lots**, the **applicant** shall provide a sufficient **application** to the **Planning Department** within one (1) year from the date of **preliminary plat application** submittal, which includes the time necessary for the **Planning Department** to conduct initial and subsequent element and sufficiency review(s), as well as the time it takes for the **applicant** to respond to Required Elements and Sufficiency Letters.
2. Fifty (50) to ninety-nine (99) lot subdivisions. When an **applicant** proposes a **subdivision** of fifty (50) to ninety-nine (99) **lots**, the **applicant** shall provide a sufficient **application** to the **Planning Department** within eighteen (18) months

of the date of the **preliminary plat application** submittal, which includes the time necessary for the **Planning Department** to conduct initial and subsequent element and sufficiency review(s), as well as the time it takes for the **applicant** to respond to Required Elements and Sufficiency Letters.

3. One-hundred plus (100+) lot subdivisions. When an **applicant** proposes a **subdivision** of one-hundred plus (100+) **lots**, the **applicant** shall provide a sufficient **application** to the **Planning Department** within two (2) years of the date of the **preliminary plat application** submittal, which includes the time necessary for the **Planning Department** to conduct initial and subsequent element and sufficiency review(s), as well as the time it takes for the **applicant** to respond to Required Elements and Sufficiency Letters.
4. There is no limit to the number of element or sufficiency submittals allowed within the review periods set forth above.
5. If the **applicant** does not provide a response to the **Planning Department** that includes all information necessary for the **Planning Department** to deem the **subdivision** sufficient at least fifteen (15) working-days prior to the expiration of the review period, the **applicant** shall either:
 - a. Allow the review period to expire. If the review period expires, the **applicant** forfeits the **application** fees and will be required to begin the process with a pre-**application** meeting request and submit new fees, or
 - b. Submit an extension request. At least fifteen (15) working-days prior to the expiration of the review period, the **applicant** may submit a written extension request of the review period in writing to the **Planning Department**, including the appropriate extension request fee. Extension requests shall be considered as follows:
 - (1) Less than fifty (50) **lots**. The **Planning Department** will determine whether to grant extension requests for **subdivisions** containing less than fifty (50) **lots**, and shall provide its determination to the **applicant** in writing within fifteen (15) working-days of receipt of the request. The **Planning Department** may refer the extension request to the **BCC**, but in no event will the decision be rendered more than fifteen (15) working-days beyond receipt of the request.
 - (2) Fifty (50) **lots** or more. The **BCC** will determine whether to grant extension requests for **subdivisions** containing fifty (50) **lots** or more, and shall provide its determination to the **applicant** in writing within fifteen (15) working-days of the request.
 - (3) Extension Request Criteria. The County shall only grant an extension to the review period when the **applicant** demonstrates good faith efforts to complete the process. Good faith may be demonstrated through submission of correspondence with other

reviewing agencies, **engineering plans**, planning reports, and other related information.

- D. Additional Information – BCC. A determination that an **application** contains sufficient information for review under the **MSPA** and these regulations does not ensure that the proposed **subdivision** will be approved or conditionally approved by the **BCC** and does not limit the ability of the **Planning Department** or the **BCC** to request additional information during the review process.
- E. Additional Information – RCEH & MDEQ. A determination of sufficiency by the **Planning Department** does not limit **RCEH** or **MDEQ** from requiring additional water and sanitation information as part of their review.

2-4. WATER AND SANITATION - SPECIAL RULES

- A. Use of Information. The **BCC** may conditionally approve or deny a proposed **subdivision** as a result of water and sanitation information provided or public comment received on the water and sanitation information only if the conditional approval or denial is based on existing **subdivision**, zoning, **floodplain**, **RCEH**, or other regulations the **BCC** has the authority to enforce.
- B. Lots less than twenty (20) acres. For a proposed **subdivision** that will create one or more **lots** containing less than twenty (20) acres, the **applicant** shall obtain approval from **MDEQ** prior to **final plat** approval. This approval applies to the development of **lots** at the time of the approval and is no guarantee that a source of water or a location for a wastewater treatment system will be available when the **lots** are actually developed.
- C. Lots twenty (20) acres or more. For a proposed **subdivision** that will create one or more **lots** containing twenty (20) acres or more, prior to **final plat** approval the **applicant** shall demonstrate to the **reviewing authority** that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each **lot**. This demonstration is to evaluate the ability to develop **lots** at the platting stage and is no guarantee that a source of water or a location for a wastewater treatment system will be available when the **lots** are actually developed.
- D. Public Comments. The **BCC** shall collect public comments submitted regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the **applicant** within thirty (30) working-days after conditional approval or approval of the **preliminary plat application**.
- E. Forwarding Public Comments. The **applicant** shall, as part of the **applicant's application** for sanitation approval, forward the comments or the summary of comments provided by the **BCC** to the:
 - a. **Reviewing authority** for **subdivisions** that will create one or more **parcels** containing less than twenty (20) acres; and

- b. **RCEH** for proposed **subdivisions** that will create one or more **parcels** containing twenty (20) acres or more and less than one hundred sixty (160) acres.

2-5. EFFECT OF APPROVAL ON PRELIMINARY PLAT APPLICATION

- A. Except as provided in [Appendix I](#) and [Sections 3-16](#) and [4-14](#) of these regulations, after the **preliminary plat application** is approved or conditionally approved, the **BCC** and its subdivisions (departments) may not impose any additional conditions as a prerequisite to **final plat** approval unless the **preliminary plat** approval period expires, at which time a new **application** shall be required.

CHAPTER 3. MAJOR SUBDIVISION REVIEW PROCEDURES

This Chapter applies to **preliminary plat applications** for **major subdivisions**.

3-1. PRELIMINARY PLAT APPLICATION SUBMITTAL

Following a determination in accordance with [Section 2-3.B.5](#) that an **application** for a **major subdivision** contains sufficient information for review, the **applicant** shall submit to the **Planning Department** the required number of copies of the sufficient **preliminary plat application**, including all supporting documentation, requested by the **Planning Department**.

3-2. EXCEPTIONS

A. Pursuant to [76-3-616](#), **MCA**, the requirement for preparing an **EA** does not apply when:

1. The proposed **subdivision** is entirely inside or adjacent to an incorporated city or town where the **governing body** has adopted a **growth policy** that includes the provisions of [76-1-601\(4\)\(c\)](#), **MCA**; and
2. The proposed **subdivision** is entirely within an area subject to zoning adopted pursuant to [76-2-203](#) or [76-2-304](#), **MCA** that avoids, significantly reduces, or mitigates adverse impacts identified in a **growth policy** that includes the provisions of [76-1-601\(4\)\(c\)](#), **MCA**; 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 **subdivision**.

B. The **park dedication** requirement does not apply when exempted per the provisions of [76-3-621\(3\)](#), **MCA**. (See also [Chapter 13](#))

3-3. TIME PERIOD FOR APPROVAL, CONDITIONAL APPROVAL, OR DENIAL

A. Review Process. All **major subdivision preliminary plat applications** shall be reviewed by the **Planning Board** at a public meeting, and by the **BCC** at public hearing(s) held after the **Planning Board** meeting.

B. BCC Review Period. After an **application** has been deemed sufficient for **BCC** review, the **BCC** shall approve, conditionally approve, or deny the proposed **subdivision** in accordance with [Section 3-10](#) within the following review periods. For **subdivisions** containing less than fifty (50) **lots**, the **BCC** shall approve, conditionally approve, or deny the proposed subdivision within sixty (60) working-days after the **Planning Department** has notified the **applicant** that the application contains sufficient information. For **subdivisions** containing fifty (50) or more lots, the **BCC** shall approve, conditionally

approve, or deny the proposed **subdivision** within eighty (80) working-days after the **Planning Department** has notified the **applicant** that the application contains sufficient information, unless an extension or suspension is granted pursuant to subsection C, below, or a subsequent public hearing is required per [Section 3-15](#).

- C. Extension/Suspension Request. The **applicant** and the **Planning Department** may agree to extension(s) or suspension(s) of the review period, not to exceed a total of one (1) year. An extension/suspension request shall be submitted in writing to the **Planning Department** no later than ten (10) working-days prior to the expiration of the time period for approval, and the **Planning Department** shall notify the **applicant**, whether it agrees to the request, no later than five (5) working-days prior to the expiration of the time period for approval.
- D. Failure to Comply with Time Limits. If the **BCC** fails to reach a decision within the time limits specified under subsection B above, the **County** shall pay the **applicant** a financial penalty of \$50 per **lot** per month or a pro rata portion of a month, not to exceed the total amount of the review fee collected by the **Planning Department** for the **preliminary plat application**, until the **BCC** denies, approves, or conditionally approves the **subdivision**. This provision does not apply if the review period is extended or suspended pursuant to [subsection C](#), above.
- E. Public Agency and Utility Review. Review and comment by public agencies or utilities may not delay the **BCC's** action on the **preliminary plat application** beyond the sixty (60) or eighty (80) working-day review period.

3-4. NOTIFICATION REQUIREMENTS

- A. Legal Ad. The notice of the time, date, and location of both the **Planning Board** public meeting and **BCC** public hearing shall be published by the **Planning Department** in a newspaper of general circulation in the **County** at least two (2) calendar-days prior to the date of the **Planning Board** public meeting and not less than fifteen (15) calendar-days prior to the date of the **BCC** public hearing.
- B. Public Notice. Notice of the **Planning Board** public meeting and **BCC** public hearing shall be sent by certified mail to the **applicant**, each **adjacent landowner**, and each purchaser under contract for deed of property **adjoining** and within three-hundred (300) feet of the subject property. Notice of the **Planning Board** public meeting and **BCC** public hearing shall be sent at least five (5) calendar-days prior to the **Planning Board** public meeting, and at least fifteen (15) calendar-days prior to the date of the **BCC** public hearing. The notice shall be prepared and mailed by the **Planning Department**. The failure of any **adjacent landowner**, required by this section to receive notice that is properly sent shall, not invalidate or otherwise have any effect upon a public meeting or public hearing or action taken on the **application**.
- C. Notice on Subject Property. Notice shall be posted in at least one conspicuous place on the site of the proposed **subdivision** at least five (5) calendar-days prior to the **Planning Board** public meeting, and at least fifteen (15) calendar-days prior to the date of the **BCC** public hearing. The notice shall be prepared by the **Planning Department** and

posted by the **applicant**. The **applicant** shall sign an affidavit stating compliance with this provision. The destruction or removal of the posting required by this section shall not invalidate or otherwise have any effect upon a public hearing or action taken on the **application**.

- D. Agency Notice. The **Planning Department** shall prepare and send a summary of the **preliminary plat application** and the date, time, and location of the **Planning Board** public meeting and **BCC** public hearing at least five (5) calendar-days prior to the **Planning Board** public meeting and at least fifteen (15) calendar-days prior to the date of the **BCC** public hearing. Notice shall be sent by regular mail to each **affected agency**. Also refer to [Sections 2-1.B.2](#) and [3-3.E](#).
- E. Local Government Notice. When the **subdivision** lies within one (1) mile of a **city of the third class city**, within two (2) miles of a **city of the second class**, or within three (3) miles of a **city of the first class**, the **Planning Department** shall send one copy of the **application** to the **governing body** of that city for review and comment at least five (5) calendar-days prior to the **Planning Board** public meeting and at least fifteen (15) calendar-days prior to the date of the **BCC** public hearing. Also refer to [Section 1-4](#).

3-5. STAFF REPORT

- A. Draft. The **Planning Department** shall publish a draft staff report based on the requirements in [Section 3-7](#) prior to the **Planning Board** public meeting. The draft staff report shall be made available to the public and sent to the **applicant** no later than five (5) calendar-days prior to the **Planning Board** public meeting.
- B. Final. The **Planning Department** shall publish a final staff report based on the requirements in [Section 3-10](#), to include any reasonable modifications resulting from the **Planning Board** public meeting, prior to the **BCC** public hearing. The staff report shall be made available to the public and sent to the **applicant** and the **BCC** no later than ten (10) calendar-days prior to the **BCC** public hearing.

3-6. PLANNING BOARD REVIEW - PUBLIC MEETING

The **Planning Board** will review all **major subdivision preliminary plat applications** at a public meeting.

3-7. PLANNING BOARD REVIEW - CONSIDERATION OF PREREQUISITES, STANDARDS, & EVIDENCE

- A. Prerequisites to Approval. The **Planning Board** shall not recommend approval or conditional approval of a **preliminary plat application** unless it is established by credible evidence that the proposed **subdivision**:
1. Provides **easements** for the location and installation of any planned utilities;

2. Provides **legal access** and **physical access** to the **subdivision** and to each **lot** within the **subdivision** and the notation of that access is included on the **preliminary plat** and in any instrument transferring the **lot**;
 3. Assures that all required **improvements** will be installed before **final plat** approval, or that their installation after **final plat** approval will be guaranteed as provided by [Appendix I](#) of these regulations;
 4. Assures that the requirements of [76-3-504\(1\)\(j\)](#), **MCA**, regarding the disclosure and disposition of **water rights** as set forth in Chapter 13 have been considered and will be accomplished before the **final plat application** is submitted;
 5. Assures that the requirements of [76-3-504\(1\)\(k\)](#), **MCA**, regarding watercourse and irrigation **easements** as set forth in Chapter 13 have been considered and will be accomplished before the **final plat application** is submitted; and
 6. Provides for the appropriate **park dedication** or **cash-in-lieu of park dedication**, if applicable. (See [Chapter 13](#))
- B.** Consideration – Standards. In recommending to approve, conditionally approve, or deny a **preliminary plat application**, the **Planning Board** shall ensure the **preliminary plat application** complies with:
1. These regulations, including, but not limited to, the standards set forth in [Chapter 12](#);
 2. Any applicable zoning regulations;
 3. Existing **covenants** and/or deed restrictions;
 4. Other applicable regulations; and
 5. The **MSPA**, including but not limited to an evaluation of the impacts of the **subdivision** on the following criteria:
 - a. **Adjacent Agricultural Operations**,
 - b. **Agricultural Water User Facilities**,
 - c. **Local Services**,
 - d. **Natural Environment**,
 - e. **Wildlife**,
 - f. **Wildlife Habitat**, and
 - g. **Public Health and Safety**.
- C.** Consideration – Evidence. In making its recommendation to approve, conditionally approve, or deny a proposed **subdivision**, the **Planning Board** shall consider and weigh the following, as applicable:
1. The **preliminary plat application**;
 2. The **EA**; (See [Appendix E](#))
 3. The Community Impact Report; (See [Appendix F](#))
 4. The Summary of Probable Impacts; (See [Appendix G](#))
 5. The **applicant's** expressed preference for **mitigation**;
 6. Any officially adopted **growth policy**, which may be considered as one factor and shall not be the sole basis for any decision;
 7. Comments, credible evidence, and discussions at the public meeting(s);
 8. The **Planning Department's** draft staff report and recommendations; and

9. Any additional information authorized by law.

3-8. DOCUMENTATION OF PLANNING BOARD'S RECOMMENDATION

The **Planning Department** shall issue a written report detailing the **Planning Board's** findings of fact and conclusions of law utilized to support the **Planning Board's** recommendation to approve, conditionally approve, or deny the proposed **subdivision**. The written report shall include any minority opinions. The **Planning Department** shall make the written report available at least ten (10) calendar days prior to the **BCC** public hearing.

3-9. BCC REVIEW – PUBLIC HEARING

The **BCC** shall review all major **subdivision** applications at a public hearing within the applicable sixty (60) or eighty (80) working-day review period and at a date following the **Planning Board** public meeting.

3-10. BCC REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS, & EVIDENCE

- A. Prerequisites to Approval. The **BCC** shall not approve or conditionally approve a **preliminary plat application** unless it is established by credible evidence that the proposed **subdivision**:
 1. Provides **easements** for the location and installation of any planned utilities;
 2. Provides **legal access** and **physical access** to the **subdivision** and to each **lot** within the **subdivision** and the notation of that access is included on the **preliminary plat** and in any instrument transferring the **lot**;
 3. Assures that all required **improvements** will be installed before **final plat** approval, or that their installation after **final plat** approval will be guaranteed as provided by [Appendix I](#) of these regulations;
 4. Assures that the requirements of [76-3-504\(1\)\(j\)](#), **MCA**, regarding the disclosure and disposition of **water rights** as set forth in [Chapter 12](#) have been considered and will be accomplished before the **final plat application** is submitted;
 5. Assures that the requirements of [76-3-504\(1\)\(k\)](#) **MCA**, regarding watercourse and irrigation **easements** as set forth in [Chapter 12](#) have been considered and will be accomplished before the **final plat application** is submitted; and
 6. Provides for the appropriate **park dedication** or **cash-in-lieu of park dedication**, if applicable (See [Chapter 13](#)).
- B. Consideration – Standards. In approving, conditionally approving, or denying a **preliminary plat application**, the **BCC** shall ensure the **preliminary plat application** complies with:

1. These regulations, including, but not limited to, the standards set forth in [Chapter 12](#);
 2. Any applicable zoning regulations;
 3. Existing **covenants** and/or deed restrictions;
 4. Other applicable regulations; and
 5. The **MSPA**, including but not limited to an evaluation of the impacts of the **subdivision** on the following criteria:
 - a. **Adjacent Agricultural Operations,**
 - b. **Agricultural Water User Facilities,**
 - c. **Local Services,**
 - d. **Natural Environment,**
 - e. **Wildlife,**
 - f. **Wildlife Habitat,** and
 - g. **Public Health and Safety.**
- C. Consideration – Evidence. In making its decision to approve, conditionally approve, or deny a proposed **subdivision**, the **BCC** shall consider and weigh the following, as applicable:
1. The **preliminary plat application**;
 2. The **EA**; (See [Appendix E](#))
 3. The Community Impact Report; (See [Appendix F](#))
 4. The Summary of Probable Impacts; (See [Appendix G](#))
 5. The **applicant's** expressed preference for **mitigation**;
 6. Any officially adopted **growth policy**, which shall be considered as one factor and shall not be the sole basis for any decision;
 7. Comments, credible evidence, and discussions at the public hearing(s);
 8. The **Planning Department's** final staff report and recommendations;
 9. The **Planning Board's** comments and recommendations; and
 10. Any additional information authorized by law.

3-11. BCC DECISION

- A. After considering the requirements of [Section 3-10](#), above, the **BCC** shall either:
1. Approve the **subdivision**,
 2. Conditionally approve the **subdivision**,
 3. Deny the **subdivision**, or
 4. Postpone the decision on the **subdivision**, but not longer than the review timeline specified in [Section 3-3\(B\)](#) without the **applicant's** consent.

3-12. DOCUMENTATION OF BCC DECISION – PPD

- A. PPD. Following a decision to approve, conditionally approve, or deny the proposed **subdivision**, the **BCC** shall issue a written **PPD** and provide that decision to the

applicant within thirty (30) working-days of the **BCC** decision. This **PPD** shall also be made available to the public.

B. Contents. The **PPD** shall:

1. Include information regarding the **appeal** process for the denial or imposition of conditions;
2. Identify the regulations and statutes that were used in reaching the decision to deny or impose conditions and explain how they apply to the decision;
3. Provide the facts and conclusions that the **BCC** relied upon in making its decision to deny or impose conditions and reference documents, testimony, or other materials that form the basis of the decision;
4. Provide the conditions that apply to the **preliminary plat** approval and that must be satisfied before the **final plat** may be approved; and
5. Set forth the time limit for **final plat** approval, pursuant to [76-3-610, MCA](#), and [Section 3-13](#) of these regulations.

C. Withdrawal of Approval. The **BCC** may withdraw approval or conditional approval of a **preliminary plat** if it determines that information provided by the **applicant**, and upon which the approval or conditional approval was based, is inaccurate.

3-13. FINAL PLAT APPROVAL PERIOD

A. Approval Period. If the **BCC** approves or conditionally approves a **preliminary plat application**, that approval shall be in force for twenty-four (24) months from the date of the **PPD** unless a preliminary phasing plan and schedule has been approved as part of the **preliminary plat** approval (See [Section 3-16](#)).

B. Extension Request. The **BCC** may, at its discretion and at the written request of the **applicant**, extend its approval of the **PPD**. The written request from the **applicant** shall detail all the actions the **applicant** has taken to complete the requirements and meet the conditions of **preliminary plat** approval as listed in the **PPD**.

1. Submittal. The request for an extension of the **preliminary plat** approval period must be submitted to the **Planning Department** at least thirty (30) working-days prior to the expiration of the **PPD**. The **Planning Department** will evaluate the request and provide a written recommendation to the **BCC**.
2. Review. The **BCC** shall evaluate the **Planning Department**'s recommendations and the request for extension to determine whether the **applicant** has started the **subdivision**, and has been working in good faith to complete the **subdivision**. After their review, the **BCC** may approve or deny the request for extension.

3-14. PUBLIC HEARING – NEW INFORMATION

A. Postponed Decision. When the **BCC** postpones making a decision on a **preliminary plat application** as provided for in [Section 3-10](#) of these regulations, and additional

information regarding the **subdivision** is submitted, the **BCC** shall determine whether the additional information constitutes either:

1. Information or analysis of information that was presented at a public hearing on the **subdivision** that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment, in which case the **BCC** may proceed in making their decision to approve, conditionally approve, or deny the proposed **subdivision**; or
 2. New information that has never been submitted as evidence or considered at a public hearing on the **subdivision**, in which case the **BCC** shall proceed as set forth in subsection B, below.
- B.** New Information – Determination of Relevancy and Credibility. If the **BCC** determines that public comments or documents constitute new information as described in [3-14\(A\)\(2\)](#), the **BCC** shall determine whether the new information is relevant and credible pursuant to [subsections 1](#) and [2](#) below.
1. Relevant. New information is considered relevant if it may have an impact on the findings and conclusions that the **BCC** will rely upon in making its decision on the proposed **subdivision**.
 2. Credible. New information is considered credible if it is based on one or more of the following:
 - a. Physical facts or evidence;
 - b. Evidence provided by a **person** with professional competency in the subject matter;
 - c. Scientific data, supported by documentation; or
 - d. Personal observations supported by photographs or one of the above items.
- C.** Not Relevant or Credible. If the **BCC** determines the new information is either irrelevant or not credible, then the **BCC** may approve, conditionally approve, or deny the proposed **subdivision** without basing its decision on the new information.
- D.** Relevant and Credible. If the **BCC** determines the new information is relevant and credible, then the **BCC** shall schedule a subsequent public hearing for consideration of the new information pursuant to [Section 3-15](#), below.

3-15. SUBSEQUENT PUBLIC HEARING

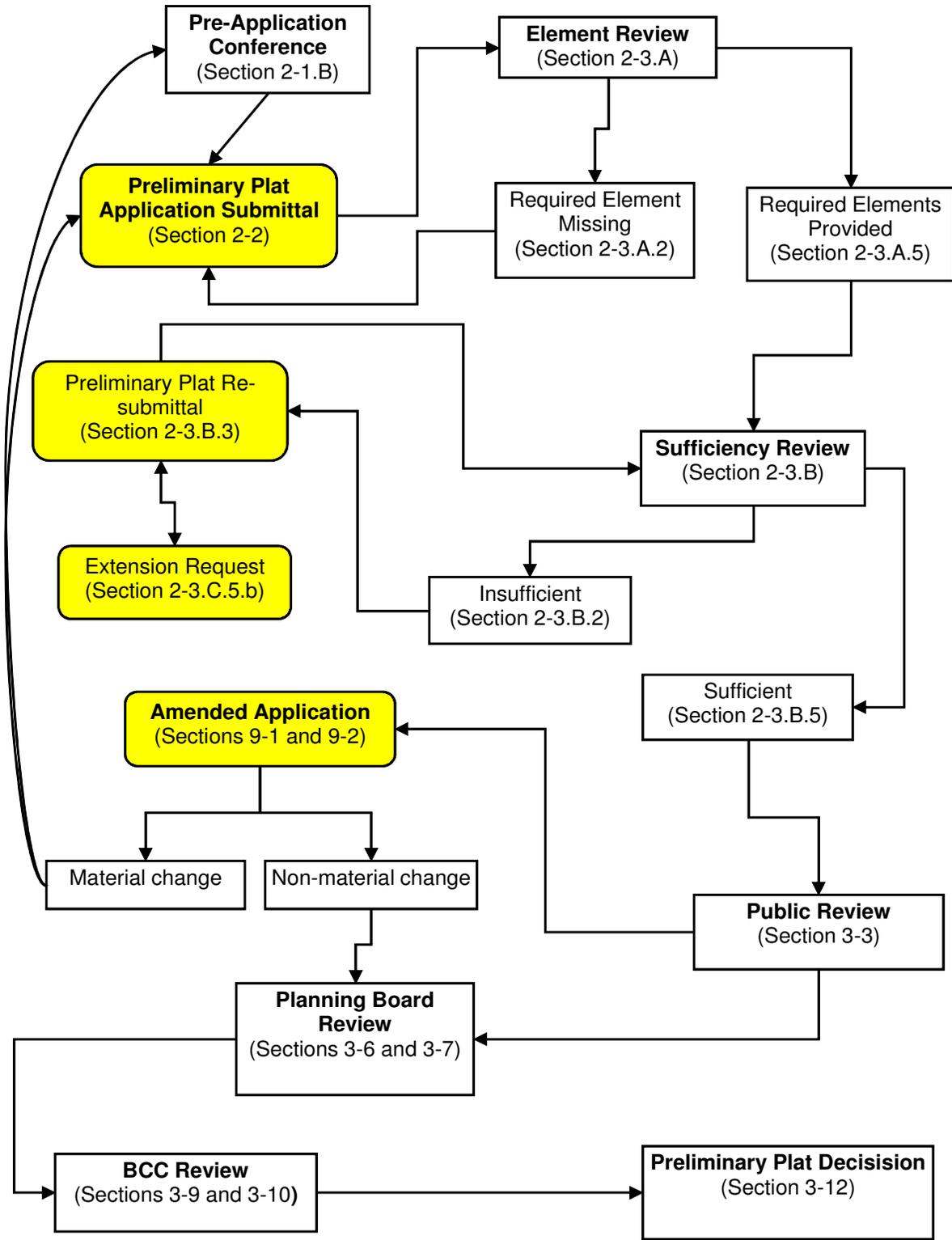
- A.** Applicability. If a subsequent public hearing is held pursuant to [Section 3-14.D](#), it must be publicly noticed and held within forty-five (45) calendar days of the **BCC**'s determination to schedule a subsequent hearing. Only the new information or analysis of new information that may have an impact on the findings and conclusions that the **BCC** will rely upon in making its decision will be considered at the subsequent public hearing.

- B. Notice. Notification of the subsequent public hearing regarding the new information shall be subject to [Section 3-4](#).
- C. Review Period Suspension. If a subsequent public hearing is held, the sixty (60) or eighty (80) working-day review period is suspended as of the date of the **BCC**'s decision to schedule a subsequent public hearing. After the subsequent public hearing, the sixty (60) or eighty (80) working-day review period resumes.
- D. Limitation on New Information. The **BCC** may not consider any information regarding the **preliminary plat application** that is presented after the subsequent public hearing when making its decision to approve, conditionally approve, or deny the proposed **subdivision**.

3-16. PHASING

- A. The **applicant**, as part of the **preliminary plat application**, may propose to delineate on the **preliminary plat** two or more **final plat** filing phases and a proposed schedule for the phased **final plat application** review. **Final plats** of **major subdivisions** approved for phased development shall be filed sequentially in accordance with the **preliminary plat** approval. By submitting a phasing plan and schedule, the **applicant** consents to allow the **BCC** to impose additional conditions as a prerequisite to **final plat** approval of any phase of the **subdivision**. Any additional conditions that are imposed shall address **public health and safety** issues that exist at the time each phase is brought before the **BCC** for **final plat** review. The **BCC** shall review the **final plat** of each phase at a public meeting before the approval period for each phase expires.
 - 1. Approval Period. Phases shall be filed with the Clerk & Recorder in accordance with the accepted phasing schedule.
 - 2. Phasing Extension. See [Section 3-13.B](#). An approved extension may extend the approval period(s) for all subsequent phases.
 - 3. Functionality. Each phase must be fully capable of functioning with all the required **improvements** in place in the event future phases are not completed as specified in the **PPD**.
 - 4. Expiration. In the event that a **final plat** of a phase is not filed within the required approval period, the **final plat** for that phase and any subsequent phases will expire. If the **applicant** wishes to file the remaining phases, they shall be required to start the process at the pre-application stage, including new fees.
 - 5. Binding. A phasing plan and schedule shall be binding, unless specific changes are requested in writing and approved by the **BCC**, pursuant to the procedures in [Section 10-3](#).

Major Subdivision Preliminary Plat Flowchart



* Shaded and rounded boxes are the responsibility of the applicant

CHAPTER 4. MINOR SUBDIVISION REVIEW PROCEDURES

This chapter applies to **minor subdivisions**.

4-1. PRELIMINARY PLAT APPLICATION SUBMITTAL

Following a determination in accordance with [Section 2-3.B.5](#) that an **application** for a **minor subdivision** contains sufficient information for review, the **applicant** shall submit to the **Planning Department** the required number of copies of the sufficient **preliminary plat application**, including all supporting documentation, requested by the **Planning Department**.

4-2. EXCEPTIONS

A. The following do not apply to **minor subdivisions**:

1. Preparation of an **EA**;
2. **Park dedication**;
3. Public hearing requirements; and
4. Review of the **preliminary plat application** for the impact on the primary **subdivision** review criteria, if the **subdivision** is proposed in a jurisdictional area that has adopted zoning regulations that address impacts on the primary review criteria specified in [76-3-608\(3\)](#), **MCA**.

4-3. TIME PERIOD FOR APPROVAL, CONDITIONAL APPROVAL, OR DENIAL

- A. Review Process. All **minor subdivisions** shall be heard by the **BCC** at a public meeting. At the discretion of the **Planning Department**, or at the request of the **applicant** or **BCC**, certain **minor subdivision preliminary plat applications** may be reviewed by the **Planning Board** at a public meeting prior to being heard by the **BCC** under [Section 4-6](#).
- B. Review Period. After an **application** has been deemed sufficient for review, the **BCC** shall approve, conditionally approve, or deny the proposed **minor subdivision** in accordance with [Section 4-9](#) of these regulations, within thirty-five (35) working-days of a determination by the **Planning Department** that the **application** contains required elements and sufficient information for review, unless an extension or suspension is granted per subsection C, below.
- C. Extension/Suspension Request. The **applicant** and the **Planning Department** may agree to extension(s) or suspension(s) of the review period, not to exceed a total of one (1) year. An extension/suspension request shall be submitted in writing to the **Planning Department** no later than ten (10) working-days prior to the expiration of the time period for approval, and the **Planning Department** shall notify the **applicant** whether it agrees

to the request no later than five (5) working-days prior to the expiration of the time period for approval.

- D. Failure to Comply with Time Limits. If the **BCC** fails to reach a decision within the time limits specified under [subsection B](#) above, the County shall pay the **applicant** a financial penalty of \$50 per **lot** per month or a pro rata portion of a month, not to exceed the total amount of the review fee collected by the **Planning Department** for the **preliminary plat application**, until the **BCC** approves, conditionally approves, or denies the **subdivision**. This provision does not apply if the review period is extended or suspended pursuant to [subsection C](#), above.
- E. Public Agency and Utility Review. Review and comment by public agencies or utilities may not delay the **BCC**'s action on the **preliminary plat application** beyond the thirty-five (35) working-day review period.

4-4. NOTIFICATION REQUIREMENTS

- A. BCC Agenda. Notice is not required to be published in a newspaper of general circulation in the **County** for **minor subdivisions**. However, notice of the **BCC** public meeting (and **Planning Board** public meeting, if applicable) shall be noticed on the published agenda of the **BCC** a minimum of forty-eight (48) hours prior to the public meeting.
- B. Public Notice. Notice of the **Planning Board** public meeting, if applicable, and the **BCC** public meeting shall be sent by regular mail to the **applicant**, each **adjacent landowner**, and each purchaser under contract for deed of property **adjoining** and within three-hundred (300) feet of the subject property. Notice of the **Planning Board** public meeting, if applicable, shall be sent at least five (5) calendar-days prior to the date of the **Planning Board** public meeting. Notice of the **BCC** public meeting shall be sent at least fifteen (15) calendar-days prior to the date of the **BCC** public meeting. The notice shall be prepared and mailed by the **Planning Department**. The failure of any **adjacent landowner**, required by this section to receive notice that is properly sent, shall not invalidate or otherwise have any effect upon a public meeting or action taken on the **application**.
- C. Notice on Subject Property. Notice shall be posted in at least one conspicuous place on the site of the proposed **subdivision** at least five (5) calendar-days prior to the date of the **Planning Board** public meeting, if applicable, and at least fifteen (15) calendar-days prior to the date of the **BCC** public meeting. The notice shall be prepared by the **Planning Department** and posted by the **applicant**. The **applicant** shall sign an affidavit stating compliance with this provision. The destruction or removal of the posting required by this section shall not invalidate or otherwise have any effect upon any public meeting or action taken on the **application**.
- D. Agency Notice. The **Planning Department** shall prepare and send a summary of the **preliminary plat application** and the date, time, and location of the **Planning Board** public meeting, if applicable, and the **BCC** public meeting at least five (5) calendar-days

prior to the **Planning Board** public meeting and at least fifteen (15) calendar-days prior to the date of the **BCC** public meeting. The notice shall be sent by regular mail to each **affected agency**. Also refer to [Sections 2-1.B.2](#) and [4-3.E](#).

- E. Local Government Notice. When the **subdivision** lies within one (1) mile of a **city of the third class city**, within two (2) miles of a **city of the second class**, or within three (3) miles of a **city of the first class**, the **Planning Department** shall send one copy of the **application** to the **governing body** of that city for review and comment at least five (5) calendar-days prior to the date of the **Planning Board** public meeting, if applicable, and at least fifteen (15) calendar-days prior to the date of the **BCC** public meeting. Also refer to [Section 1-5](#).

4-5. STAFF REPORT

- A. Draft. If the **subdivision** is to be reviewed by the **Planning Board**, the **Planning Department** shall publish a draft staff report based on the requirements in [Section 4-7](#). The staff report shall be made available to the public, sent to the **applicant** and the **applicant's** agent no later than five (5) calendar-days prior to the **Planning Board** public meeting.
- B. Final. The **Planning Department** shall publish a final staff report based on the requirements in [Section 4-10](#), to include any modifications resulting from the **Planning Board** public meeting, if applicable, prior to the **BCC** public meeting. The staff report shall be made available to the public and sent to the **applicant** and the **BCC** no later than five (5) calendar-days prior to the **BCC** public meeting.
- C. Planning Board Optional. If the **preliminary plat application** is not taken to the **Planning Board**, the **Planning Department** shall produce a final staff report based on the requirements in [Section 4-10](#).

4-6. PLANNING BOARD REVIEW – PUBLIC MEETING

- A. If the **Planning Board** holds a public meeting on a proposed **minor subdivision**, that meeting shall be scheduled at least ten (10) calendar-days prior to the date of the **BCC** meeting.

4-7. PLANNING BOARD REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS, AND EVIDENCE

When the **Planning Board** reviews a **minor subdivision**, the following process shall be utilized:

- A. Prerequisites to Approval. The **Planning Board** shall not recommend approval or conditional approval of a **preliminary plat application** and **preliminary plat** unless it is established by credible evidence that the proposed **subdivision**:

1. Provides **easements** for the location and installation of any planned utilities;
 2. Provides **legal access** and **physical access** to the **subdivision** and to each **lot** within the **subdivision** and the notation of that access is included on the **preliminary plat** and in any instrument transferring the **lot**;
 3. Assures that all required **improvements** will be installed before **final plat** approval, or that their installation after **final plat** approval will be guaranteed as provided by Appendix I of these regulations;
 4. Assures that the requirements of [76-3-504\(1\)\(j\)](#), **MCA**, regarding the disclosure and disposition of **water rights** as set forth in Chapter 13 have been considered and will be accomplished before the **final plat application** is submitted; and
 5. Assures that the requirements of [76-3-504\(1\)\(k\)](#), **MCA**, regarding watercourse and irrigation **easements** as set forth in Chapter 13 have been considered and will be accomplished before the **final plat application** is submitted.
- B.** Consideration – Standards. In recommending to approve, conditionally approve, or deny a **preliminary plat application** and **preliminary plat**, the **Planning Board** shall ensure the **preliminary plat application** complies with:
1. These regulations, including, but not limited to, the standards set forth in [Chapter 12](#);
 2. Any applicable zoning regulations;
 3. Existing **covenants** and/or deed restrictions;
 4. Other applicable regulations; and
 5. The **MSPA**, including but not limited to an evaluation of the impacts of the **subdivision** on the following criteria:
 - a. **Adjacent Agricultural Operations**,
 - b. **Agricultural Water User Facilities**,
 - c. **Local Services**,
 - d. **Natural Environment**,
 - e. **Wildlife**,
 - f. **Wildlife Habitat**, and
 - g. **Public Health and Safety**.
- C.** Consideration – Evidence. In making its recommendation to approve, conditionally approve, or deny a proposed **subdivision**, the **Planning Board** shall consider and weigh the following, as applicable:
1. The **preliminary plat application** and **preliminary plat**;
 2. The Summary of Probable Impacts;
 3. **Applicant's** expressed preference for **mitigation**;
 4. Any officially adopted **growth policy**, which shall be considered as one factor and shall not be the sole basis for any decision;
 5. Comments, credible evidence, and discussions at the public meeting(s);
 6. **Planning Department's** draft staff report and recommendations; and
 7. Any additional information authorized by law.

4-8. DOCUMENTATION OF PLANNING BOARD'S RECOMMENDATION

- A. When the **Planning Board** reviews a **minor subdivision**, the **Planning Department** shall document the process as follows:
1. The **Planning Department** shall issue a written report detailing the **Planning Board's** findings of fact and conclusions of law utilized to support the **Planning Board's** recommendation to approve, conditionally approve, or deny the proposed **subdivision**. The written report shall include any minority opinions. The **Planning Department** shall make the written report available at least five (5) working days prior to the **BCC** public hearing.

4-9. BOARD OF COUNTY COMMISSIONERS REVIEW – PUBLIC MEETING

The **BCC** shall review all **minor subdivision** proposals in a public meeting. The **BCC** shall hold a public meeting within the thirty five (35) working-day period and at a date following the **Planning Board** public meeting, if applicable.

4-10. BCC REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS, AND EVIDENCE

- A. Prerequisites to Approval. The **BCC** shall not approve or conditionally approve a **preliminary plat application** and **preliminary plat** unless it is established by credible evidence that the proposed **subdivision**:
1. Provides **easements** for the location and installation of any planned utilities;
 2. Provides **legal access** and **physical access** to the **subdivision** and to each **lot** within the **subdivision** and the notation of that access is included on the **preliminary plat** and in any instrument transferring the **lot**;
 3. Assures that all required **improvements** will be installed before **final plat** approval, or that their installation after **final plat** approval will be guaranteed as provided by [Appendix I](#) of these regulations;
 4. Assures that the requirements of [76-3-504\(1\)\(j\)](#), **MCA**, regarding the disclosure and disposition of **water rights** as set forth in [Chapter 12](#) have been considered and will be accomplished before the **final plat application** is submitted; and
 5. Assures that the requirements of [76-3-504\(1\)\(k\)](#), **MCA**, regarding watercourse and irrigation **easements** as set forth in [Chapter 12](#) have been considered and will be accomplished before the **final plat application** is submitted.
- B. Consideration – Standards. In approving, conditionally approving, or denying a **preliminary plat application** and **preliminary plat**, the **BCC** shall ensure the **preliminary plat application** complies with:

1. These regulations, including but not limited to, the standards set forth in [Chapter 12](#);
 2. Any applicable zoning regulations;
 3. Existing **covenants** and/or deed restrictions;
 4. Other applicable regulations; and
 5. The **MSPA**, including but not limited to an evaluation of the impacts of the **subdivision** on the following criteria:
 - a. **Adjacent Agricultural Operations,**
 - b. **Agricultural Water User Facilities,**
 - c. **Local Services,**
 - d. **Natural Environment,**
 - e. **Wildlife,**
 - f. **Wildlife Habitat,** and
 - g. **Public Health and Safety.**
- C. Consideration – Evidence. In making its decision to approve, conditionally approve, or deny a proposed **subdivision**, the **BCC** shall consider and weigh the following, as applicable:
1. The **preliminary plat application**;
 2. The summary of probable impacts;
 3. The **applicant**'s expressed preference for **mitigation**;
 4. Any officially adopted **growth policy**, which shall be considered as one factor and shall not be the sole basis for any decision;
 5. Comments, credible evidence, and discussions at the public hearing(s);
 6. The **Planning Department**'s final staff report and recommendations;
 7. **Planning Board**'s comments and recommendations; and
 8. Any additional information authorized by law.

4-11. BCC DECISION

- A. After considering the requirements of [Section 4-10](#), above, the **BCC** shall either:
1. Approve the **subdivision**,
 2. Conditionally approve the **subdivision**,
 3. Deny the **subdivision**, or
 4. Postpone the decision on the **subdivision**, but not longer than the review timeline specified in [Section 4-3\(B\)](#) without the **applicant**'s consent.

4-12. DOCUMENTATION OF BCC DECISION – PPD

- A. PPD. Following a decision to approve, conditionally approve, or deny the proposed **subdivision**, the **BCC** shall issue a written **PPD** and provide that **PPD** to the **applicant** within thirty (30) working-days of the **BCC** decision. This **PPD** shall also be made available to the public.

B. Contents. The **PPD** shall:

1. Include information regarding the **appeal** process for the denial or imposition of conditions;
2. Identify the regulations and statutes that were used in reaching the decision to deny or impose conditions and explain how they apply to the decision;
3. Provide the facts and conclusions that the **BCC** relied upon in making its decision to deny or impose conditions and reference documents, testimony, or other materials that form the basis of the decision;
4. Provide the conditions that apply to the **preliminary plat** approval and that must be satisfied before the **final plat** may be approved; and
5. Set forth the time limit for **final plat** approval, pursuant to [76-3-610, MCA](#), and [Section 4-13](#) of these regulations.

C. Withdrawal of Approval. The **BCC** may withdraw approval or conditional approval of a **preliminary plat** if it determines that information provided by the **applicant**, and upon which the approval or conditional approval was based, is inaccurate.

4-13. FINAL PLAT APPROVAL PERIOD

A. Approval Period. If the **BCC** approves or conditionally approves a **preliminary plat**, that approval shall be in force for twenty-four (24) months from the date of the **PPD**.

B. Extension Request. The **BCC** may, at its discretion and at the written request of the **applicant**, extend its approval of the **PPD**. The written request from the **applicant** shall detail all the actions the **applicant** has taken to complete the requirements and meet the conditions of **preliminary plat** approval as listed in the **PPD**.

1. Submittal. The request for an extension of the **preliminary plat** approval period must be submitted to the **Planning Department** at least thirty (30) working-days prior to the expiration of the **PPD**. The **Planning Department** will evaluate the request and provide a written recommendation to the **BCC**.
2. Review. The **BCC** shall evaluate the **Planning Department's** recommendation and the request for extension to determine whether the **applicant** has been working in good faith to complete the project. After review, the **BCC** may approve or deny the request for extension.

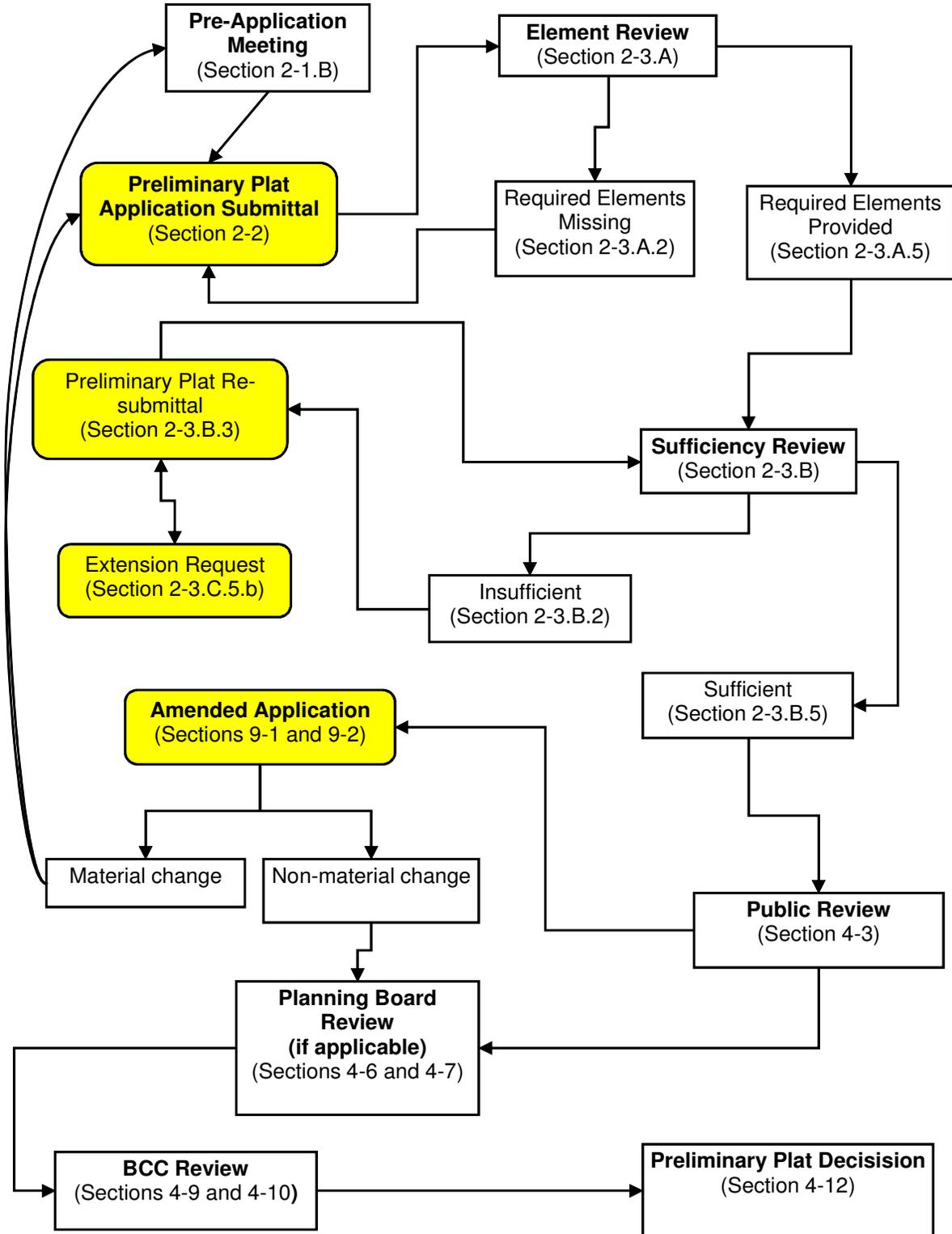
4-14. PHASING

A. The **applicant**, as part of the **preliminary plat application**, may propose to delineate on the **preliminary plat** two or more **final plat** filing phases and a proposed schedule for the phased **final plat application** review. **Final plats** of **minor subdivisions** approved for phased development shall be filed sequentially in accordance with the **preliminary plat** approval. By submitting a phasing plan and schedule, the **applicant** consents to allow the **BCC** to impose additional conditions as a prerequisite to **final plat** approval of any phase of the **subdivision**. Any additional conditions that are imposed shall address

public health and safety issues that exist at the time each phase is brought before the **BCC** for **final plat** review. The **BCC** shall review the **final plat** of each phase at a public meeting before the approval period for each phase expires.

1. Approval Period. Phases shall be filed with the Clerk & Recorder in accordance with the accepted phasing schedule.
2. Phasing Extension. See [Section 4-13.B](#). An approved extension may extend the approval period(s) for all subsequent phases.
3. Functionality. Each phase must be fully capable of functioning with all the required **improvements** in place in the event future phases are not completed as specified in the **PPD**.
4. Expiration. In the event that a **final plat** of a phase is not filed within the required approval period, the **final plat** for that phase and any subsequent phases will expire. If the **applicant** wishes to file the remaining phases, they shall be required to start the process at the pre-application stage, including new fees.
5. Binding. A phasing plan and schedule shall be binding, unless specific changes are requested in writing and approved by the **BCC**, pursuant to the procedures in [Section 10-3](#).

Minor Subdivision Preliminary Plat Flowchart



* Shaded and rounded boxes are the responsibility of the applicant

CHAPTER 5. SUBDIVISIONS FOR LEASE OR RENT

Subdivisions for lease or rent may propose construction of multiple **units** on a single **parcel**, the addition of **unit(s)** on a **parcel** with a pre-existing **unit**, or construction of multiple **units** on **lot(s)** within a proposed **subdivision**.

5-1. PRELIMINARY PLAN APPLICATION SUBMITTAL AND REVIEW

- A. Exemption. **Subdivisions for lease or rent** are exempt from the surveying and filing requirements of the **MSPA** but must still be submitted for review and approved by the **BCC** before any portion may be rented, leased or otherwise conveyed. [76-3-208, MCA]
- B. Application. The **applicant** shall submit a signed and completed **preliminary plat application** in accordance with [Chapter 2](#) of these regulations. This application must contain a plan of the proposed development which conforms to the requirements for **preliminary plats**, except as specifically noted in [Appendix B](#). The plan must also conform to all applicable design standards in [Chapter 12](#) of these regulations.
- C. Review. The review procedure for a **subdivision for lease or rent** will depend on the total number of **lots** and **units** within the proposed **subdivision**. Proposals containing six or more **lots** and **units** must be reviewed under [Chapter 3](#) of these regulations. Proposals containing five or fewer **lots** and **units** must be reviewed under [Chapter 4](#) of these regulations.

5-2. IMPROVEMENTS

All **improvements** shall be installed and permitted as required before any portion of the **subdivision for lease or rent** is occupied. All **improvements** shall be inspected by the **Planning Department** before occupancy in order to ensure conformance with the approved construction plans and specifications.

5-3. FINAL REVIEW

The **applicant** shall submit a **final plat** to the **Planning Department** containing the final plan for the development and complying with the requirements of **final plats** in [Chapter 10](#). The **final plat** will be reviewed to ensure that it conforms to the approved **preliminary plat**. The approved **final plat** shall be recorded with the Clerk & Recorder.

5-4. ADDITIONAL STRUCTURE(S)

- A.** Applicability. Additional **structure(s)** will not be considered a **subdivision for lease or rent** so long as said structure(s) is (are) not sold, rented, leased, or otherwise conveyed separately from the primary structure or land upon which the primary structure is situated without full subdivision review.
- B.** Application. **Applicants** shall submit to the **Planning Department** a completed and signed Additional Structure Application, available from the Planning Department. Prior to constructing an additional structure, the applicant shall file, with the Clerk & Recorder, an Additional Structure(s) Covenant.
- C.** An approval for additional structures does not negate the applicant's obligation to otherwise comply with all other regulations.

CHAPTER 6. CAMPGROUNDS, MOBILE HOME PARKS, AND RV PARKS

6-1. PRELIMINARY PLAT APPLICATION SUBMITTAL AND REVIEW

- A. Applicability. **Campgrounds, mobile home parks, and RV parks** are **subdivisions** which must be submitted for review and approved by the **BCC** before any portion of the **subdivision** may be rented, leased, or sold or alteration of the land to enable rent, lease, or sale of any portion occurs.
- B. Submittal. The **applicant** shall submit a completed and signed **preliminary plat application** in accordance with [Chapter 2](#) of these regulations containing a plan of the proposed development and conforming to the requirements for **preliminary plats** (Appendix B) and the applicable design standards in [Chapter 12](#) of these regulations.
- C. Review. The procedure used to review **mobile home parks, RV parks, and campgrounds** will depend on the total number of spaces and **units** within the proposed **subdivision**. Proposals containing six or more total spaces and **units** must be reviewed pursuant to [Chapter 3](#) of these regulations. Proposals containing five or fewer total spaces and **units** must be reviewed pursuant to [Chapter 4](#) of these regulations.
- D. MDPHHS License. If a **subdivision** that will provide multiple spaces for **RVs or mobile homes** is also a “trailer court,” “work camp,” “youth camp,” or “**campground**” as those terms are defined in [50-52-101, MCA](#), the **BCC** will not grant **final plat** approval of the **subdivision** until the **applicant** obtains a license from the **MDPHHS** under [Title 50, Chapter 52, Part 2, MCA](#).
- E. MDEQ Approval. In addition to meeting the requirements of these regulations, placement of two or more **mobile home spaces, RV spaces, or campsites on a parcel** constitutes a **mobile home park, RV Park, or campground** under **MDEQ** regulations and requires compliance with all **MDEQ** requirements relative to such proposals, including providing approved on-site water supply and/or on-site solid waste disposal under [Title 76, Chapter 4, MCA](#).

6-2. IMPROVEMENTS

The **applicant** shall install all required **improvements** before renting, leasing, selling or otherwise occupying any portion of the **subdivision**. All required **improvements** shall be inspected by the **Planning Department** before final plat approval in order to ensure conformance with the approved construction plans and specifications.

6-3. FINAL REVIEW

The **applicant** shall submit a **final plat** to the **Planning Department** containing the final plan for the development and complying with the requirements of **final plats** in Appendix D. The **final plat** will be reviewed to ensure that it conforms to the approved **preliminary plat**. The approved **final plat** shall be recorded with the **Clerk & Recorder**.

CHAPTER 7. REVOCATION OF AGRICULTURAL COVENANTS

- A. Procedure. If a **landowner** wants to remove an **agricultural covenant** on a **parcel** that was created through a **subdivision** exemption as allowed by [76-3-207\(1\)\(c\)](#), [MCA](#), or a prior similar statute, the **landowner** shall comply with [Chapters 2, 4, 12](#), and [15](#) of these regulations as they pertain to **first minor subdivisions** prior to filing a written **agricultural covenant** revocation with a **certificate of survey**, upon which the revocation is recited.
- B. Exception. Compliance with [Chapters 2, 4, 12](#), and [15](#) of these regulations is not required when the revocation of **agricultural covenant** is accompanied by an aggregation of a **lot(s)**. Aggregations will be processed and reviewed in accordance with the exemption criteria described in [Chapter 11](#) of these regulations.
1. Approval. Upon receiving **BCC** approval to aggregate **lots**, the **Planning Department** shall schedule a public meeting with the **BCC**. At the public meeting, the **BCC** shall revoke the **agricultural covenant** by affixing their signatures to the Revocation of **Agricultural Covenant** document, a copy of which may be obtained from the **Planning Department**.
 2. Filing. The **applicant** shall file the **certificate of survey** showing the aggregation of the **lots** and the approved Revocation of **Agricultural Covenant** document with the **Clerk & Recorder**.

CHAPTER 8. CONDOMINIUMS AND TOWNHOMES

- A.** Review Procedure. Unless determined by the Planning Department to be exempt from subdivision review under [76-3-203, MCA](#), all proposed **condominiums** and townhomes are **subdivisions** which shall be reviewed as follows:
- 1.** If no **division of land** will occur, the **subdivision** must be reviewed under the procedures for **subdivisions for lease or rent** contained in these regulations.
 - 2.** If a **division of land** will occur, the **subdivision** must be reviewed under the procedures for **major** or **minor subdivisions** contained in these regulations, depending upon the number of proposed units.
- B.** Standards. **Condominiums** and townhomes must comply with all applicable design and development standards contained in [Chapter 12](#) of these regulations.
- C.** Unit Ownership Act. **Condominiums** and townhomes must comply with all provisions of Montana's Unit Ownership Act, [Title 70, Chapter 23, MCA](#).

CHAPTER 9. AMENDED APPLICATIONS

9-1. AMENDED APPLICATIONS – AFTER SUFFICIENCY, BEFORE BCC REVIEW

- A. Application Amendment(s). If the **applicant** amends the **preliminary plat application** after the **Planning Department** makes a determination of sufficiency pursuant to [Section 2-3.B.5](#), but before the **BCC** public meeting or hearing, the **applicant** shall submit the amended **preliminary plat application** to the **Planning Department** for review.
- B. Review Period. Within fifteen (15) working days of receiving the amended **preliminary plat application**, the **Planning Department** shall determine whether the amendment(s) to the **preliminary plat application** are non-material or material as described in Section 9-4 below. The applicable thirty-five (35), sixty (60), or eighty (80) working day review period is automatically suspended while the **Planning Department** makes this determination.
- C. Non-Material Determination. If the **Planning Department** determines that the amendment(s) are non-material, the applicable thirty-five (35), sixty (60), or eighty (80) working day review period resumes once the **BCC** holds the appropriate public meeting or hearing. The review period shall remain suspended between the **Planning Department's** determination and the **BCC** meeting or hearing.
- D. Material Determination. If the **Planning Department** determines that the amendment(s) are material, depending on the scope of the amendment(s), the **Planning Department** shall notify the **applicant** that proceeding with the proposed amendments will either:
1. Require the **applicant** to return to either element or sufficiency review, as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay fifty percent (50%) of the required review fee; or
 2. Require the **applicant** to start the subdivision review process over at the pre-**application** meeting as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay new review fees in whole.
- E. Retraction of Amendment(s). If the **Planning Department** determines that the amendment(s) are material, the **applicant** shall have the opportunity to retract the amendment(s) and proceed with the **preliminary plat application** originally deemed sufficient by the **Planning Department**.
1. Notice of Intent. The **applicant** shall notify the **Planning Department** in writing of the intent to retract the material amendments and continue with the original **preliminary plat application** within ten (10) working days from the date of the **Planning Department's** determination.

2. Review Period. If the material amendments are retracted, the applicable thirty-five (35), sixty (60), or eighty (80) working day review period resumes once the **BCC** holds the appropriate public meeting or hearing. The review period shall remain suspended between the **Planning Department's** determination and the **BCC** meeting or hearing.
3. Failure to Provide Notice of Intent. If the **applicant** fails to notify the **Planning Department** in writing of the intent to retract the material amendments and continue with the original **preliminary plat application** within ten (10) working days from the date of the **Planning Department's** determination that the amendment(s) constitute a material change, [subsection D](#) above shall apply.

9-2. AMENDED APPLICATIONS – DURING BCC REVIEW, BEFORE BCC DECISION

- A. Application Amendment(s). If the **applicant** amends the **preliminary plat application** during or after the **BCC** meeting or hearing, as applicable, but before the decision to approve, conditionally approve, or deny the **preliminary plat application** is rendered, the **applicant** shall submit the amended **preliminary plat application** to the **Planning Department** for review.
- B. Review Period. Within fifteen (15) working days of receiving the amended **preliminary plat application**, the **Planning Department** shall determine whether the amendment(s) to the **preliminary plat application** are non-material or material pursuant to Section 9-4 below. The applicable thirty-five (35), sixty (60), or eighty (80) working day review period is suspended while the **Planning Department** makes this determination.
- C. Non-Material Determination. If the **Planning Department** determines that the amendment(s) are non-material, the applicable thirty-five (35), sixty (60), or eighty (80) working-day review period resumes once the **BCC** holds the appropriate public meeting or hearing. The review period shall remain suspended between the **Planning Department's** determination and the **BCC** meeting or hearing.
- D. Material Determination. If the **Planning Department** determines that the amendment(s) are material, depending on the scope of the amendment(s), the **Planning Department** shall notify the **applicant** that proceeding with the proposed amendments will either:
 1. Require the **applicant** to return to either element or sufficiency review as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay fifty percent (50%) of the required review fee; or
 2. Require the **applicant** to start the subdivision review process over at the pre-**application** meeting as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay new review fees in whole.
- E. Retraction of Amendment(s). If the **Planning Department** determines that the amendment(s) are material, the **applicant** shall have the opportunity to retract the

amendment(s) and proceed with the **preliminary plat application** originally deemed sufficient by the **Planning Department**.

1. Notice of Intent. The **applicant** shall notify the **Planning Department** in writing of the intent to retract the material amendments and continue with the original **preliminary plat application** within ten (10) working days from the date of the **Planning Department's** determination.
2. Review Period. The applicable thirty-five (35), sixty (60), or eighty (80) working-day review period resumes once the **BCC** holds the appropriate public meeting or hearing. The review period shall remain suspended between the **Planning Department's** determination and the **BCC** meeting or hearing.
3. Failure to Provide Notice of Intent. If the **applicant** fails to notify the **Planning Department** in writing of the intent to retract the material amendments and continue with the original **preliminary plat application** within ten (10) working days from the date of the **Planning Department's** determination that the amendment(s) constitute a material change, subsection D above shall apply.

9-3. AMENDED APPLICATIONS - AFTER BCC DECISION, BEFORE FINAL PLAT APPROVAL

- A. Application Amendment(s). If the **applicant** proposes to change the **preliminary plat application** following the decision of the **BCC** to approve, conditionally approve, or deny the **preliminary plat application** but before the **final plat application** approval, the **applicant** shall submit the amendment(s) to the **Planning Department** for review.
- B. Review Period. Within fifteen (15) working days of receiving the amendment(s), the **Planning Department** shall determine whether the amendment(s) to the **preliminary plat application** are non-material or material pursuant to Section 9-4, below.
- C. Non-material Determination. If the **Planning Department** determines that the amendment(s) are non-material, the **Planning Department** shall ensure that the amendment(s) are incorporated into the **final plat application** that is forwarded to the **BCC** for approval.
- D. Material Determination. If the **Planning Department** determines that the amendment(s) are material, depending on the scope of the amendment(s), the **Planning Department** shall notify the **applicant** that proceeding with the proposed amendments will either:
 1. Reject the amendment(s) and require the **applicant** to submit the **final plat application** in accordance with the **PPD**; or
 2. Require the **applicant** to return to element or sufficiency review as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay fifty percent (50%) of the required review fee; or

3. Require the **applicant** to start the **subdivision** review process over at the pre-**application** meeting as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay new review fees in whole.

9-4. MATERIAL AMENDMENT(S)

- A. The following amendment(s), although not an exhaustive list, may be considered material:
1. Configuration or number of **lots**;
 2. **Roadway** layout;
 3. Water and/or wastewater treatment system proposals;
 4. Configuration of **parkland** or open spaces;
 5. **Easement** provisions;
 6. Designated access; or
 7. Change to conditions of approval.

9-5. APPEALS

- A. Appeal Submittal. An **applicant** whose **preliminary plat application** has been deemed materially changed by the **Planning Department** may **appeal** the **Planning Department's** determination to the **BCC** by submitting a written notice within ten (10) working days of the date of the **Planning Department's** determination. The **BCC** shall consider whether the proposed amendments are material at a public meeting. The **applicant** may request a public meeting before the **BCC**, and may submit additional information prior to the **BCC** meeting or hearing.
- B. Review Period. If a decision to approve, conditionally approve, or deny the **subdivision** has not yet been rendered by the **BCC**, the applicable thirty- five (35), sixty (60), or eighty (80) working day review period will continue to be suspended until the **BCC** renders a decision on the **appeal**. A decision on the **appeal** will be made within thirty (30) working days of receipt of the written notice from the **applicant**, unless a public hearing is requested.
- C. Non-Material Determination. If the **BCC** determines that the amendment(s) are non-material, the **BCC** shall either:
1. Schedule the appropriate public meeting or hearing to continue with review of the amended **application**. The applicable thirty-five (35), sixty (60), or eighty (80) working day review period remains suspended until the **BCC** holds the public meeting or hearing; or
 2. Ensure that the amendment(s) are incorporated into the **final plat application** prior to **BCC** approval.

- D.** Material Determination. If the **BCC** affirms the **Planning Department**'s determination that the amendment(s) are material, the **BCC** shall notify the **applicant** that proceeding with the proposed amendments will require the **applicant** to either:
1. Submit the **final plat application** in accordance with the **PPD**; or
 2. Require the **applicant** to return to element or sufficiency review as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay fifty percent (50%) of the required review fee; or
 3. Require the **applicant** to start the **subdivision** review process over at the pre-**application** meeting as detailed in [Chapter 2](#) of these regulations, and require the **applicant** to pay new review fees in whole.
- E.** Review Period Suspension. By appealing the decision of the **Planning Department**, the **applicant** agrees to a suspension of the applicable thirty-five (35), sixty (60), or eighty (80) working day review period during consideration of the appeal.

CHAPTER 10. FINAL PLAT APPLICATION AND REVIEW PROCEDURES

All **subdivisions** shall comply with the provisions in this chapter.

10-1. FINAL PLAT APPLICATION SUBMITTAL

- A. Conformance with PPD. The **final plat** submitted for approval shall conform to the **preliminary plat** approved by the **BCC** and must incorporate all required modifications and comply with all conditions imposed at the time of **preliminary plat** approval as memorialized in the **PPD**.
- B. Conformance with **ARM**. The **final plat** and accompanying documents shall comply with the Montana Uniform Standards for Final **Subdivision** Plats set forth in [24.183.1107, ARM](#).
- C. Phased Development. **Final plats** of **subdivisions** approved for phased development under [Section 3-16](#) and [4-14](#) of these regulations shall be filed sequentially in accordance with the approval or in accordance with a revised phasing plan approved by the **BCC**.
- D. Submittal. The **final plat application** shall be submitted to the **Planning Department** at least thirty (30) working days prior to the expiration of **preliminary plat** approval. All documents shall be originals. The **application** shall include all applicable items listed in [Appendix C](#).

10-2. FINAL PLAT REVIEW BY PLANNING DEPARTMENT

- A. Review. The **Planning Department** shall review the **final plat application** to ascertain that all conditions and requirements for **final plat** approval have been met. The **Planning Department** will not commence review on a **final plat application** until a completed application, fee, and the **final plat** have been received. **Final plat applications** will be scheduled for **BCC** review only after the **Planning Department** determines all conditions and requirements have been satisfied.
- B. Amended Final Plat. If the **Planning Department** determines that the **final plat** differs from the approved or conditionally approved **preliminary plat**, the **applicant** shall be required to fix the **plat** to comply with the terms of the **PPD** or submit an amended application pursuant to [Section 9-3](#).
- C. Additional Review. The **BCC** may require that **final plats** be reviewed for errors and omissions in calculation or drafting by an examining land **surveyor** before recording with the Clerk & Recorder. When the survey data shown on the **plat** meets the conditions, the examining land **surveyor** shall certify the compliance in a printed or stamped signed certificate on the **plat**. The certificate must be signed by the **surveyor**.

10-3. FINAL PLAT APPROVAL BY THE BCC

- A. Procedure. The **BCC** shall examine every **final plat** at a public meeting and shall approve it only if it conforms to the conditions of approval set forth in the **PPD** and the terms of the **MSPA**, these regulations and the County treasurer has certified that all real property taxes and special assessments on the land to be subdivided have been paid.
- B. Approval. If the **final plat** is approved, the **BCC** shall certify its approval on the face of the **final plat**. When applicable, a certificate of the **BCC** expressly accepting any dedicated land, **easements**, or **improvements** will be filed with the **final plat**.
- C. Denial. If the **final plat** is denied, the **BCC** shall write a letter stating the reason for denial and forward a copy to the **applicant** with the **final plat** within ten (10) working days of the denial. The **applicant** may then make any necessary corrections and resubmit the **final plat** for approval.
- D. Withdraw of Approval. The **BCC** may withdraw approval of a **final plat** if it determines that material information submitted by the **applicant** is inaccurate.
- E. Time Period. The **final plat** must be approved by the **BCC** prior to the expiration of the **preliminary plat** approval period specified in [Sections 3-13](#) or [4-13](#) of these regulations, as applicable.

10-4. SUBDIVISION IMPROVEMENTS AGREEMENT

As a condition of **final plat** approval for a **subdivision** or for a **subdivision** phase, the **applicant** must have installed all required **improvements** or have entered into a Subdivision Improvements Agreement approved by the **BCC** pursuant to Appendix I of these regulations. No placement or construction of **dwelling units** on the **lots** may occur until **improvements** related to **public health and safety** have been installed and final engineering plans and **roadway** certifications have been submitted.

10-5. FINAL PLAT FILING

After the **final plat** is approved, the **final plat** may not be altered in any manner except as provided in [Section 9-6](#). The **Clerk & Recorder** may not accept any **plat** for filing that does not bear the **BCC's** approval in proper form of the plat or any alterations. The **Clerk & Recorder** may file an approved **plat** only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, contained in [24.183.1107, ARM](#). Prior to filing the **final plat**, the **landowner** shall pay all real property taxes and special assessments that have been assessed and levied on the land. Filing fees will be assessed by the **Clerk & Recorder** prior to filing the **final plat** and associated documents.

10-6. AMENDING FILED PLATS

A. Errors and Corrections

1. From time to time, errors may be discovered on the face of a recorded **plat**. It is the intent of the **County** to establish reasonable standards and procedures to correct such errors. Errors may include but are not limited to:
 - a. Typographical and spelling errors or transpositions;
 - b. Incorrect seals;
 - c. Incorrect dates;
 - d. **Monuments** incorrectly noted, drawn, or missing;
 - e. Incorrect or missing interior bearing(s) and/or dimensions(s) on the drawing;
 - f. Missing or incorrectly displayed arrows or symbols;
 - g. **Roadway** name changes;
 - h. Title of **plat** already in use;
 - i. Additions to or deletions from the legal description of dedicatory language that are not typographical in nature;
 - j. Incorrect certificates or signatures;
 - k. Missing certificates, seals, or signature blocks; and
 - l. Other items of a similar nature as determined by the **Planning Department**.
2. Review. Errors shall be reviewed and appropriate corrections determined by the **Planning Department**. The **Planning Department**'s decision may be appealed to the **BCC**. An Affidavit of Correction must be prepared and signed by a **surveyor** on forms approved by the **Planning Department** and must be recorded with the **Clerk & Recorder**.
3. Fees. When an error must be corrected on a filed **plat**, the **applicant** shall pay all related costs, including filing fees.

B. Material Modifications. A material modification is any modification to a filed **plat** that is not considered an error and does not constitute a **subdivision**.

1. Application Form. If the **Planning Department** determines that a modification to a filed **final plat** is a material modification, the individual(s) petitioning to amend the filed **final plat** shall submit an Amended Application Form to the **Planning Department** (see **Planning Department**'s administrative materials for application). An application for a material modification shall include all documentation as specified in the application, including a description of the modification and the reasons for the request.
2. Review Procedure. The **BCC** shall consider a request for a material modification in a properly noticed public meeting. The **BCC** may not approve a modification that will place a **lot** in non-conformance with the standards contained in these regulations. A material modification cannot place a **lot** in nonconformance with

local zoning regulations, where applicable, unless the required procedures for a zoning **variance** are completed and the **variance** approved. The **BCC** shall not approve a material modification without the written consent of the owners and lien holders of all **lots** which will be modified by the proposed amendment.

3. Notification. Notice of the **BCC** public meeting shall be sent by regular mail to the **applicant**, each **landowner adjoining** the subject property and all properties within three-hundred (300) feet of the subject property, and each purchaser under contract for deed of property at least five (5) days prior to the **BCC** public meeting. The failure of any **person** required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public meeting or action taken on the application.
4. Fees. The **landowner's** petitioning for material modification of a filed **plat** shall pay fees in accordance with Ravalli County's adopted fee schedule.
5. Consent to Plat. A consent to **plat** form signed by all parties with an interest in the property shall be filed with any material modification.
6. Documentation of Decision. If the **BCC** approve the material modification request, the **Planning Department** shall provide the **applicant** with written documentation of the **BCC's** findings, including any conditions that may be included in the approval. The information contained in this document shall form the basis of the **BCC's** decision and shall present the **applicant** with the procedures and conditions that must be met in order to file the amended application.
7. Filing Procedure. Prior to filing the amended application, the **applicant** shall provide to the **Planning Department** for review all required information as may be included in the **BCC's** written decision. If the **Planning Department** determines that information in the final amended application submittal is missing or inaccurate, the **Planning Department** shall notify the **applicant** in writing of the deficiency and no further action shall be taken on the amended application by the **Planning Department** until the deficiencies are corrected. When the **Planning Department** determines the requirements of the amended application approval are met, the **Planning Department** shall forward the information to the Clerk and Recorder's Office to be filed.
8. Plat. The final amended **plat** submitted for approval must comply with the requirements for **final plats** under the Uniform Standards for Filing **Final Plats**.

CHAPTER 11. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

The **MSPA** provides that certain **divisions of land** are exempt from local **subdivision** review and approval, unless the use of the exemption is an attempt to evade the **MSPA**. The exemptions are found in [Title 76, Chapter 3, Part 2, MCA](#).

11-1 SUBDIVISION EVASION CRITERIA

- A. The **BCC** and the **Planning Department**, when determining whether an exemption described in [Sections 11-2, 11-3, or 11-4](#), below, is claimed for the purpose of evading the **MSPA**, shall consider all of the surrounding circumstances, including the following:
1. The proposed configuration of the tracts if the proposed exempt transaction is completed;
 2. Any pattern of exempt transactions that will result in the equivalent of a **subdivision** without local government review; and
 3. The **subdivision** evasion criteria for specific exemptions, as outlined in the following sections of this chapter. The **subdivision** evasion criteria determines, when a rebuttable presumption exists, that the proposed use of an exemption, as allowable by **State** law, is being used to evade these regulations and the **MSPA**.

11-2 DIVISIONS OF LAND WHICH MAY BE ENTIRELY EXEMPT FROM THE REQUIREMENTS OF THESE REGULATIONS AND THE MSPA

The requirements of these regulations and the **MSPA** do not apply to the following **divisions of land** unless, after examination by the **Planning Department**, it is determined that the method of disposition is adopted for the purpose of evading these regulations or the **MSPA**. [Subsections A, D and H](#) within this chapter require a **certificate of survey** to be filed with the **Clerk & Recorder**. **Certificates of survey** shall be filed in accordance with [ARM 24.183.1104](#), Uniform Standards for Certificates of Survey. Administrative review fees shall only be assessed for subsections [B](#) and [H](#).

- A. Court Ordered Splits. A **division of land** created by order of any court of record in this **State** or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in the **State** pursuant to the law of eminent domain, [Title 70, Chapter 30, MCA](#). Before a court of record orders a **division of land**, the court shall notify the **BCC** of the pending division and allow the **BCC**, through its **Planning Department**, to present written comment on the **subdivision**. [[76-3-201](#)(1)(a) and (2), **MCA**]

- B. Mortgage Security.** A **division of land** created to provide security for mortgages, liens, or trust indentures for the purpose of construction, **improvements** to the land being divided, or refinancing purposes. [\[76-3-201\(1\)\(b\) and \(3\), MCA\]](#)
1. This exemption applies to a **division of land** of any size 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 the land was divided, to any party other than those identified in this subsection subjects the **division of land** to the requirements of the **MSPA** and these regulations and requires **subdivision review**. Note: No **parcel** is created unless and until foreclosure occurs. This exemption applies to a **parcel** that is created to provide security as provided in this Section B. The **remainder** of the tract of land is subject to the provisions of the **MSPA** if applicable.
 2. Subdivision Evasion Criteria
- The use of this exemption is presumed to have been adopted for the purpose of evading these regulations and the **MSPA** if:
- a. It will create more than one new **building** site;
 - b. 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;
 - c. Title to the exempted interest will not be initially obtained by the lending institution if foreclosure occurs;
 - d. There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract;
 - e. The **division of land** is created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.
- C. Mineral Lots.** A **division of land** that creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property. [\[76-3-201\(1\)\(c\), MCA\]](#)
- D. Cemetery Lots.** A **division of land** that creates cemetery **lots**. [\[76-3-201\(1\)\(d\), MCA\]](#)
- E. Life Estate.** A **division of land** that is created by the reservation of a life estate. [\[76-3-201\(1\)\(e\), MCA\]](#)
- F. Agricultural Lots.** A **division of land** that is created by lease or rental for farming and agricultural purposes. [\[76-3-201\(1\)\(f\), MCA\]](#)
- G. Non-State Exemption.** A **division of land** that is in a location over which the **State** does not have jurisdiction. [\[76-3-201\(1\)\(g\), MCA\]](#)

- H. Utility Site. A **division of land** that 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 the **MSPA** and these regulations and requires **subdivision** review and **MDEQ** sanitation review. [[76-3-201\(1\)\(h\), MCA](#)]

11-3 DIVISIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW AND SURVEYING

- A. Condominiums and Townhomes. **Condominiums** and townhomes are generally subject to review as **subdivisions**. Condominiums are exempt from review if constructed on land subdivided in compliance with these regulations and the **MSPA** or on **lots** within incorporated cities and towns if:
1. the approval of the original **subdivision** of land expressly contemplated the construction of the **condominiums** or townhomes and [76-3-621, MCA](#), is complied with; or
 2. the **condominium** or townhome proposal is in conformance with applicable zoning regulations, when zoning regulations are in effect. [[76-3-203, MCA](#)]
- B. Subdivisions for Lease or Rent. **Subdivisions for lease or rent** are exempt from the surveying and filing requirements of the **MSPA** and these regulations, but must be submitted for review and approved by the **BCC** as a **subdivision** in accordance with [Chapter 5](#) of these regulations before portions may be rented or leased, unless the following circumstances apply:
1. When the land upon which an **improvement** is situated has been subdivided in compliance with the **MSPA**, the sale, rent, lease or other conveyance of one or more parts of a **building, structure**, or other **improvement** situated on one or more **parcels** of land is not a **division of land** and is not subject to the **MSPA** or these regulations [[76-3-202, MCA](#)]; or
 2. The sale, rent, lease, or other conveyance of one or more parts of a **building, structure** or other **improvement**, whether existing or proposed, is not a **division of land** and is not subject to the requirements of the **MSPA** or these regulations. [[76-3-204, MCA](#)]
- C. Airport Division. A **division of land** created by lease or rental of contiguous airport-related land owned by a city, county, the **State**, or a municipal or regional airport authority is not subject to the **MSPA** or these regulations, if the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air-carrier-related activities. [[76-3-205\(1\), MCA](#)]
- D. State Division. A division of **State**-owned land is not subject to the **MSPA** or these regulations unless the division creates a second or subsequent **parcel** from a single tract for sale, rent, or lease for residential purposes after July 1, 1974. [[76-3-205\(2\), MCA](#)]

- E. Pre-1974 Conveyance. The MSPA or these regulations are not applicable to a **division of land** in a deed, contract, lease, or other conveyance, which was executed prior to July 1, 1974. [[76-3-206, MCA](#)]
- F. Highway Parcel. Instruments of transfer of land which is acquired for **State** highways may refer by **parcel** and project number to **State** highway plans which have been recorded in compliance with [60-2-209, MCA](#), and are exempted from the surveying and platting requirements of the **MSPA** and these regulations. If such **parcels** are not shown on highway plans of record, instruments of transfer of such **parcels** shall be accompanied by and refer to appropriate certificates of survey and **plats** when presented for recording. [[76-3-209, MCA](#)] A survey or **plat** for the recordation of an instrument transferring title to a **remainder** that was created when the **State** obtained property for a highway **right-of-way** is not required. [44 MT AG Op 25 (1992)]

11-4 DIVISIONS OR AGGREGATIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW BUT SUBJECT TO SURVEY REQUIREMENTS AND ZONING REGULATIONS

Unless the method of disposition is adopted for the purpose of evading these regulations or the **MSPA**, the following **divisions of land** or aggregations of land are not **subdivisions** under these regulations and the **MSPA**, but are subject to the surveying requirements of [76-3-401, MCA](#), and any applicable zoning regulations adopted under [Title 76, Chapter 2, MCA](#). A division or aggregation of land may not be made under this section unless the County Treasurer has certified that all real property taxes and special assessments on the land to be divided or aggregated have been paid. The **Clerk & Recorder** shall notify the **Planning Department** if a division or aggregation of land described in this section or [76-3-207\(1\), MCA](#), is submitted to the **Clerk & Recorder** prior to the survey being submitted to the **Planning Department** for evasion review.

- A. Boundary Line Relocation (Outside a Platted Subdivision).
1. Statement of Intent. The intended purpose of this exemption is to allow a relocation or elimination of a common boundary line between **adjoining** properties outside of a **platted subdivision**.
 2. Subdivision Evasion Criteria. The use of this exemption is presumed to have been adopted for the purpose of evading these regulations and the **MSPA** if:
 - a. The proposed relocation creates a **parcel** of less than 160 acres which, prior to the relocation included more than 160 acres;
 - b. The proposed relocation creates a new buildable tract from one previously encumbered by an agricultural covenant or other restriction;
 - c. The proposed relocation would cause significant impacts to the criteria listed in [Sections 3-10.B.5](#) and [4-10.B.5](#) that would likely lead to imposition of significant conditions of approval, or denial, of an equivalent **preliminary plat application**.

- B. Boundary Line Relocation (Involving a Platted Subdivision).**
- 1. Statement of Intent**
 - a.** The **MSPA** allows certain revisions to **platted subdivisions**, which include relocation of common boundaries and the aggregation of **lots** for five (5) or fewer **lots** within a **platted subdivision** or the relocation of a common boundary between a single **lot** in a **platted subdivision** and **adjoining** land outside a **platted subdivision** (but a restriction or requirement on either continues to apply), without review.
 - b.** If a change is made to a **platted subdivision** which rearranges six or more **lots** the procedure outlined in Section 10-6 shall be adhered to.
 - 2. Subdivision Evasion Criteria.** The use of this exemption is presumed to have been adopted for the purpose of evading these regulations and the **MSPA** if:
 - a.** The resulting **lots** are inconsistent with the approved **subdivision**, the use of the exemption will be presumed to have been adopted for the purpose of evading the **MSPA**;
 - b.** The resulting **lots** do not comply with existing zoning, **covenants**, and/or deed restrictions, the use of the exemption will be presumed to have been adopted for the purpose of evading the **MSPA**;
 - c.** Additional **lots** would be created;
 - d.** The proposed relocation creates a new buildable tract from one previously encumbered by an agricultural covenant or other restriction;
 - e.** The proposed relocation would cause significant impacts to the criteria listed in Sections [3-10.B.5](#) or [4-10.B.5](#) of these regulations that would likely lead to imposition of significant conditions of approval, or denial, of an equivalent **preliminary plat application**.
- C. Family Transfer.**
- 1. Statement of Intent.** The intent of this exemption is to allow a **landowner** to convey one **parcel** outside of a **platted subdivision** to each member of his or her **immediate family** without local **subdivision** review. A single **parcel** may be conveyed to each member of the **immediate family** under this exemption in each county where the **landowner** owns property. To use this exemption, both the **landowner** and **immediate family member** must be living natural persons and not non-corporal legal entities such as corporation, partnerships, and trusts.
 - 2. Subdivision Evasion Criteria.** The use of this exemption is presumed to have been adopted for the purpose of evading these regulations and the **MSPA** if:
 - a.** The use of the family gift or sale exemption is proposed to gift a portion of a tract from a previously created family transfer back to the original grantor.
 - b.** The use of the family transfer exemption would cause significant impacts to the criteria listed in Sections [3-9.B.5](#) or [4-9.B.5](#) of these regulations that would likely lead to imposition of significant conditions of approval, or denial, of an equivalent **preliminary plat application**.
- D. Agricultural Exemption.**
- 1. Statement of Intent.** This exemption is intended to allow a **landowner** to create a **parcel** for gift, sale, or agreement to buy and sell, outside a **platted subdivision**, without **subdivision** review if the **parcel** will be used solely for **agriculture**

purposes. Any change in use of the land for anything other than **agriculture** purposes subjects the **parcel** to the review provided for in Chapter 7 of these regulations.

2. Subdivision Evasion Criteria. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purpose of evading these regulations and the **MSPA**:
 - a. The parties to the transaction must enter into a **covenant** running with the land and revocable only by mutual consent of the **BCC** and the **landowner** that the divided land will be used exclusively for **agriculture** purposes. The **covenant** must be signed by the **landowner**, the buyer, and the members of the **BCC**.
 - b. The **landowner** must demonstrate that the planned use of the exempted **parcel** is for **agriculture** purposes and that no non-agricultural buildings will be or have been constructed on the property.

11-5 PROCEDURES AND REVIEW OF SUBDIVISION EXEMPTIONS

- A. Submittal. Any **person** seeking exemption from the requirements of the **MSPA**, shall submit to the **Planning Department** a completed **Subdivision Exemption Application** (SEA) including all required supplements and applicable fees.
- B. Review Process.
 1. Review. The **Planning Department** shall review each exemption proposal against the general evasion criteria set forth in [Section 11-1](#) of these regulations and against any applicable **subdivision** evasion criteria as may be set forth in [Sections 11-2](#), [11-3](#), or [11-4](#) of these regulations. The **applicant** and the public shall be permitted to comment on the proposal and rebut any presumptions that the use of the exemption evades the **MSPA** or these regulations.
 2. Written Decision. The **Planning Department** shall mail a decision letter to the **applicant** setting forth the **applicant's** eligibility to use the exemption. If the exemption is denied, the notification shall indicate the reasons for the denial and that the **applicant** may appeal the decision during a public hearing with the **BCC**.
 3. Approval Period. An approval of a **subdivision** exemption is valid for a period of one (1) year. Upon the written request of the **applicant**, the **Planning Department** may grant a one (1) year extension to the approval period if the request is submitted thirty (30) calendar-days prior to the expiration of the original approval period.
- C. Filing Process
 1. Recording Requirements. To record the exemption, the **applicant** is required to submit the following documents, as appropriate, to the **Clerk & Recorder**:
 - a. The original of the approval letter;
 - b. The appropriate recording fees;

- c. The survey (one paper copy, two mylar copies) with the appropriate certification of exemption on the face of the survey;
 - d. The original Certificate of **Subdivision** Approval from the **MDEQ** and/or provide a letter of approval from the **RCEH** for the exemption(s) from **MDEQ** review quoted on the survey;
 - e. For a court order, a copy of the order and any evidence of Planning Department review per [Section 11-2.A](#) above (if available);
 - f. For a family transfer, a deed(s) that transfers the **parcel(s)** to the appropriate family member(s);
 - g. For an agricultural exemption, a **covenant** that runs with the land that restricts the property to **agriculture** use and that is revocable only by mutual consent of the **BCC** and the **landowner**;
 - h. For an exemption for mortgage security, the mortgage, lien, or trust indenture which states that the interest is being created only to secure a construction mortgage, lien, or trust indenture; and
 - i. For a boundary line relocation, a quit claim or warranty deed or recordable agreement from **adjoining landowners** for the entire newly described **parcel(s)** or that portion of the tract(s) that is being affected.
2. Clerk & Recorder Review. The **Clerk & Recorder** shall review the documents submitted and determine whether the submittal is complete or incomplete. If the **application** is incomplete, the **Clerk & Recorder** shall notify the **applicant** of any deficiencies. The **Clerk & Recorder** shall take no further action to process the **application** until the deficiencies are remedied.
 3. Taxes Paid. For those surveys that constitute a **division of land**, the **County** Treasurer shall certify that all real property taxes and special assessments on the land have been paid.
 4. Filing. The **Clerk & Recorder** shall file the survey, upon payment of recording fees, if it conforms to these regulations and the **MSPA**.
- D. Appeals**
1. Applicability. Any **person** whose proposed use of an exemption has been denied by the **Planning Department** because the proposed **division of land** has been deemed an attempt to evade the **MSPA** or these regulations may **appeal** the **Planning Department**'s decision to the **BCC**.
 2. Notice. The notice of the time, date and location of the hearing shall be published by the **Planning Department** in a newspaper of general circulation in the county not less than fifteen (15) calendar-days prior to the date of the hearing.

3. Submittal. Written **appeal** requests shall be submitted to the **Planning Department** along with an appropriate fee to cover the cost of legal notification for the BCC hearing. The written request may outline additional evidence to show that the use of the exemption in question was not intended to evade the **MSPA** or these regulations.
4. Approval of Appeal. If the **BCC** concludes that the **applicant** has rebutted the presumption that the exemption is being adopted to evade the **MSPA** or these regulations, it may authorize the use of the exemption in writing, which shall serve as the approval letter required to be submitted in Section [11-5-c-1-a](#), above.
5. Denial of Appeal. If the **BCC** determines that the proposed use of an exemption was for the purpose of evading the **MSPA** or these regulations, the **landowner** proposing to use the exemption may submit a **preliminary plat application** for the proposed **subdivision**.

CHAPTER 12. DESIGN AND DEVELOPMENT STANDARDS

12-1. GENERAL PROVISIONS

A. Introduction

All **subdivisions** shall comply with the provisions of this Chapter, except where granted a **variance**, pursuant to [Chapter 14](#) of these regulations. Certain types of **subdivisions** may have additional or alternative development standards set forth in these regulations.

B. Applicability

The following shall comply with this Chapter:

1. **minor subdivisions;**
2. **major subdivisions;**
3. **subdivisions for lease or rent;**
4. **condominiums and townhomes;**
5. **campgrounds, mobile home parks** and **RV parks;** and
6. **agricultural covenant** revocations.

C. Lands that may Require Mitigation for Subdivision

1. Pursuant to [76-3-504\(1\)\(e\)](#), [MCA](#), these regulations provide for the identification of areas that, because of natural or human-caused **hazards**, are unsuitable for **subdivision** development unless the hazards can be eliminated, mitigated or overcome by approved construction techniques. Examples of natural or human-caused **hazards**, whether located on the proposed **subdivision** or in close proximity to the proposed **subdivisions**, that could render property unsuitable for **subdivision** or may need mitigation include, but are not limited to, the following:
 - a. Earthquake fault zones;
 - b. Steep **slopes** and/or areas prone to rockfalls, **landslides**, or **avalanches**;
 - c. Radon/radiation;
 - d. Mine tailings, contaminated soils, toxic waste, etc;
 - e. **Floodplains**;
 - f. High water table, as defined by the Sanitation in Subdivision Act;
 - g. Polluted or non-potable water supplies;
 - h. High voltage power lines;
 - i. Air or vehicular traffic **hazards**;
 - j. High fire hazard (NOTE: A subdivision may not be denied solely based on the fact that it is located within an area designated as the Wildland Urban Interface (WUI)).

2. **Subdivisions** shall be designed to avoid potentially significant adverse impacts. If avoidance of an adverse impact(s) is not possible, then **mitigation** that reasonably minimizes the adverse impact(s) must be approved by the **BCC**.

D. Subdivision Name

1. Names of New **Subdivisions**. When a **parcel**, not within an existing **subdivision** is subdivided, the **applicant** shall select a name for the **subdivision** that does not duplicate or too closely approximate in spelling or in sound the name of any other **subdivision** within Ravalli County. A list of **subdivision** names that have been used is available in the Clerk & Recorder's Office.
2. Names of **Subdivisions** on Resubdivided **Lots**. When a **lot(s)** within an existing **subdivision** is further subdivided, the name of the **subdivision** shall remain the same as the parent **subdivision** and the **lots** shall be renumbered with a suffix or prefix as appropriate. (For example, when **Lot 9** of Westridge **Subdivision** is resubdivided into additional **lots**, then the **lots** would be designated as **Lot 9-A**, **9-B**, and so on of Westridge **Subdivision**.) The Clerk & Recorder may waive this requirement for a **major subdivision**, if renaming the **subdivision** would cause less confusion.

12-2. LOTS AND BLOCKS

A. Lot Types. **Lot** types may include the following (see Figure 12-1):

1. Buildable Lot: A **lot** upon which **structures** are intended to be placed, and upon which sanitary facilities may be constructed.
2. Corner Lot: A **lot** located at the intersection of two or more **roadways**, having at least two adjacent **lot lines** that **abut** for their full length upon **roadways**. A **lot abutting** a curved **roadway(s)** shall be considered a corner lot if straight lines drawn from the foremost point of the **lot** meet at an interior angle of less than 135 degrees.
3. Flag Lot: A **lot** with access provided by a relatively narrow corridor from the **roadway** to the bulk of the **lot**.
4. Interior Lot: A **lot** that **abuts** one (1) **roadway**.
5. Through Lot: A **lot** whose front and rear lines both **abut** on **roadways**.

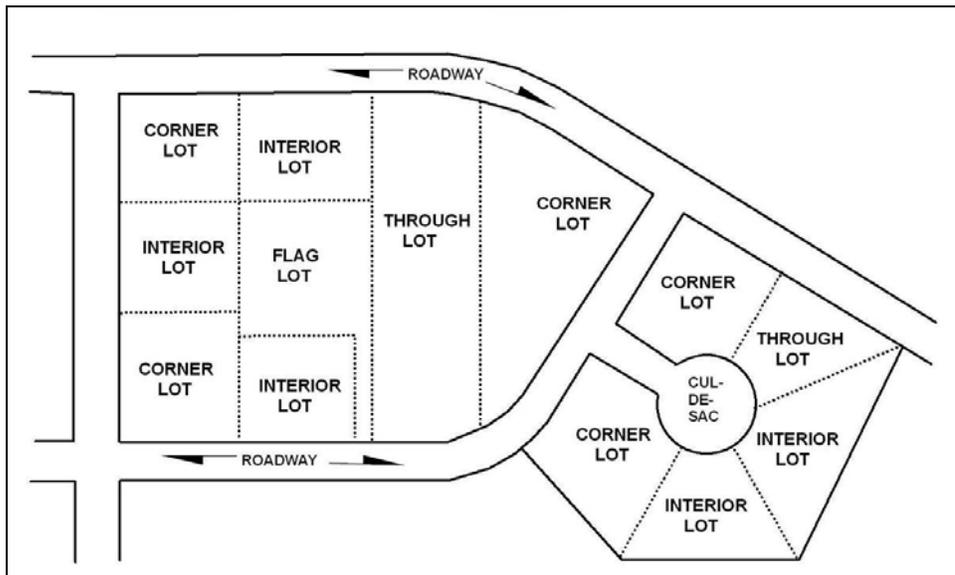


Figure 12-1

B. Lot Lines.

1. Front Lot Line: A **lot line** described for each of the following types of **lots**:
 - on an interior lot, the **lot line abutting a roadway**
 - on a corner lot, the shorter **lot line abutting a roadway**
 - on a through lot, the **lot line abutting the roadway** providing **primary access** to the **lot**
 - on a flag lot, the interior **lot line** most parallel to and nearest the **roadway** from which access is obtained.
2. Rear Lot Line: A **lot line** that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line.
3. Side Lot Line: A **lot line** that is not a front or rear lot line.

C. Lot measurements.

Gross Lot Area: The total area of a **lot**.

Lot Depth: The average horizontal distance between the front and rear **lot lines**.

Lot Frontage: The side of a **lot abutting a roadway**; typically, the front **lot line**.

Lot Width: The average horizontal distance between the side **lot lines**.

Net Lot Area: The gross lot area minus **roadway** and other **easements**.

D. Lot Standards.

1. No **lot** shall be divided by a municipal or county boundary.
2. No **lot** shall be divided by a **roadway easement**.
3. Each **lot** shall have **legal access** and **physical access** to a **roadway**.
4. Corner **lots** shall have **driveway** access to the same **roadway** that provides access to interior **lots**, and must be designed to provide acceptable sight distance for safe vehicular movement.
5. The minimum allowable stem width on **flag lots** shall be thirty (30) feet. The stem shall not exceed fourteen-hundred (1,400) feet in length.
6. **Slopes** more than twenty-five percent (25%) are unsuitable for **building** sites and shall be designated a **no-build** on the face of the **final plat**, unless plans, stamped by a professional engineer, showing site design and building layout are provided.
7. Land within twenty-five (25) feet of a high pressure gas line that is eight (8) inches or greater in diameter, shall be designated a **no-build zone** on the face of the **final plat**.
8. **Lots** other than buildable **lots** are allowed, provided the permitted use is designated on the face of the **final plat** and a deed restriction is recorded with the **Clerk & Recorder**.
9. When all or a portion of a proposed **subdivision** is subject to existing **covenants**, deed restrictions, or any other restrictions filed in the records of the **Clerk & Recorder**, **lots** shall conform to those restrictions.
10. Relative to sanitation requirements, **lot** sizes shall conform to **MDEQ** standards.
11. **Primary access** to a **lot** shall not be provided via a United States Forest Service-operated **roadway**.
12. When a **subdivision abuts** more than one (1) **roadway**, **legal access** and **physical access** shall be provided on the **roadway** as determined by the RCRBD or MDT. The determination shall be determined by the functional classification of the roads and the RCRBD or MDT access policies.
13. When a **subdivision** with more than two (2) **lots** fronts on a **roadway** classified as a minor collector or higher, all **lots** within the **subdivision** shall access off of a **roadway** internal to the **subdivision**, except **common driveways** as provided in [Section 12-3.E](#) below.

14. All **lots** shall be designated sequentially by letter and/or number which shall not be repeated unless located in separately lettered and/or numbered **blocks**.

E. Block Standards.

1. All **blocks** shall be designated by letter and/or number.

12-3. ROADWAYS

A. Roadway types include:

1. Alley: A **roadway** that provides a secondary means of access to the rear of the **lots**. A narrower **easement** width is typically permissible for an alley, as compared to other **roadways**.
2. Cul-de-sac: A **roadway** having only one outlet for vehicular traffic and terminating in a vehicle turnaround area.
3. Frontage Road: A local or collector **roadway**, usually parallel and adjacent to an arterial or major collector, that provides access to abutting properties and controls traffic access to arterials or collectors.
4. Private Road: A **roadway** that is maintained by a private entity(s) at its expense.
5. Public Road: A **roadway** that the general public may use. A public road may or may not be adopted or maintained by a public entity.
6. Stub: A **roadway** having only one outlet for vehicular traffic which is intended to be extended or continued to serve future **subdivisions** on adjacent lands.

B. General Roadway Standards

1. Easement Designation. All **roadway easements** in new **subdivisions** shall be designated as public, and shall be shown and described as such on the **preliminary and final plats**.
2. Easement Width. The **easements** for all newly constructed internal **subdivision roadways** shall be of sufficient width to accommodate **roadway** construction as determined by the **RCRBD** through the design review process.
3. Paving. Internal **roadways** for all **subdivisions** shall be constructed to the appropriate standard for **paved roadways**, as defined by **RCRBD** policy. See [Section 12-3.C.2](#), below.
4. Shoulder Width. The minimum shoulder width on all newly constructed **roadways** shall be two (2) feet on each side of the **roadway**.

5. Maximum grade. The maximum grade (profile) for all newly constructed roads shall be ten-percent (10%), except that the maximum grade may be up to sixteen-percent (16%) provided that (1) the **applicant** provides a letter from the jurisdictional fire district, on fire district letterhead, approving the design and grade for fire district purposes; and (2) the **Planning Department** and **RCRBD** approve the design. The maximum grade may not exceed sixteen-percent (16%).
6. Cul-de-sac. Cul-de-sac length may not exceed fourteen-hundred (1,400) feet unless turnouts are incorporated into the design at intervals of at least fourteen-hundred (1400) feet and (1) the **applicant** provides a letter from the jurisdictional fire district, on fire district letterhead, approving the cul-de-sac design for fire district purposes; and (2) the **Planning Department** and **RCRBD** approve the design.
7. Roadway Maintenance. All **roadways** within a **subdivision** shall be maintained by the property owners residing in the **subdivision** through a Road Maintenance Agreement.
8. Traffic Control Devices. **Roadway** name signs shall be installed at all **roadway intersections**, and traffic control devices, including signs and pavement markings, shall be placed where warranted, consistent with the most recent version of the Manual on Uniform Traffic Control Devices and **RCRBD** policy.
9. Roadway Names. Proposed **roadway** names shall be consistent with the policy of the Ravalli County GIS Department.

C. Roadway Design, Construction, and Improvement Standards

1. All **roadways** shall be constructed in accordance with the specifications, standards and policies adopted by the **RCRBD**.
2. All construction drawings and plans, specifications and associated engineering reports for all **roadways** shall be submitted to the **RCRBD** for review and approval prior to actual construction of any **roadway**.
3. Construction plans for all new or reconstructed **roadways** related to the **subdivision** shall be designed by an **engineer** and be consistent with the adopted policies and standards of the **RCRBD**.
4. The **final plat application** shall include a set of "record drawings" of all **roadway improvements** constructed as part of the **subdivision**, which must be signed and dated by an appropriately bonded and insured **engineer**, as determined by the **RCRBD**.

D. Design, Functional Classification and Construction Specifications

1. Functional Classification. All **roadways** are functionally classified through the standards adopted by the **RCRBD**. Each functional classification has specific design criteria distinguishing itself from other classifications, as identified in the most recent version of the American Association of State Highway and Transportation Officials (**AASHTO**) Guidelines for Geometric Design of Very Low-Volume Local Roadways and the most recent version of the **AASHTO** Policy on Geometric Design of Highways and Streets.
2. Design Guidance. In order to implement these regulations, the following publications and their subsequent revisions shall apply:
 - a. Specific provisions of current Montana law, including the Montana Code Annotated and the Administrative Rules of Montana;
 - b. The current version of the Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (MUTCD);
 - c. Specific Provisions of these Ravalli County Subdivision Regulations (RCSR);
 - d. The most recent version of the **AASHTO** Guidelines for Geometric Design of Very Low-Volume Local Roadways;
 - e. The most recent version of the **AASHTO** Policy on Geometric Design of Highways and Streets;
 - f. The most recent version of the Institute of Traffic Engineers (ITE) Trip Generation Manual, published by ITE;
 - g. The most recent version of the **AASHTO** Guide for Design of Pavement Structures; and
 - h. The most recent version of the **AASHTO** Roadside Design Guide;
 - i. The most recent versions of the policies and procedures as adopted by the **RCRBD**;
 - j. The most recent version of the ITE Transportation Impact Analyses for Site Development.
3. In the event of a conflict with any of the specifications, the **RCRBD** shall specify in writing, which of the specifications shall apply.

E. Common Driveways

1. When allowed. A **common driveway** may be provided in lieu of an internal **roadway** under the following conditions:
 - a. Each **common driveway** provides access to no more than two (2) **lots**; and
 - b. The **applicant** has provided evidence that the **RCRBD** or **MDT** has issued approach and encroachment permits in accordance with their respective policies for the **common driveway(s)** proposed;
2. Easement. The developer shall provide an **easement** for the location of the **common driveway** that measures thirty (30) feet by thirty (30) feet at a minimum, which shall be located on the common boundary between the two **lots**. The **common driveway easement** must **abut** an **easement** that provides both **legal and physical access** to the **lots**. The developer shall, before filing the **final plat**, install a **common driveway** within the **common driveway easement**.
3. Construction. The construction of the **common driveway** shall be consistent with the **RCRBD** or **MDT** policies.
4. Common Driveway Maintenance. All **common driveways** shall be maintained by the property owners residing in the **subdivision** through a Common Driveway or Road Maintenance Agreement.

F. Parking Lot Standards

1. All preliminary construction drawings and plans, specifications and associated engineering reports for all **parking lots** shall be submitted to the **RCRBD** and the Planning Department for review and approval.
2. **Parking lots** that provide **legal and physical access** to two (2) or more **lots** within a proposed **subdivision** may be considered in lieu of an internal **roadway** provided that the proposal delineates the through traffic route from the parking area. Where a common parking area/access **roadway** is proposed, the cross section and profile shall be consistent with the County's adopted **roadway** design guidance (See [Section 12-3.C.2](#)).
3. All **parking lots** shall be fully encumbered with an access **easement**.

G. Roadway Standards – Off-Site Improvements

1. County-Operated Roadways (Gravel or Paved).
 - a. Subdivisions containing fewer than fifty (50) lots. When a **subdivision** containing fewer than fifty (50) **lots abuts** a **County-Operated Roadway**, the **applicant** shall complete one of the following:

- (1) Alternative 1: **Pro-Rata Share**. The **applicant** shall contribute to the **County** an amount equal to the **pro-rata share** of the **improvements** necessary to construct said **roadway(s)** to adopted Ravalli County standards over the length of the **subdivisions primary access route(s)**.
 - (2) Alternative 2: Traffic Impact Analysis. The **applicant** shall prepare and submit for review and approval a Traffic Impact Analysis consistent with the County's adopted standards in [Appendix H](#).
- b. Subdivisions containing fifty (50) or more lots. When a **subdivision** containing fifty (50) or more **lots abuts** a **County-Operated roadway**, the **applicant** shall prepare and submit for review and approval a Traffic Impact Analysis consistent with the County's adopted standards in [Appendix H](#).
2. Non-County-Operated Roadways (Gravel or Paved). When a **subdivision** of any number of **lots abuts** a non-County-Operated **roadway**, the **applicant** shall prepare and submit for review and approval a Traffic Impact Analysis consistent with the County's adopted standards in [Appendix H](#).
 3. A current list of **County-Operated roadways** is available at the **Planning Department**.

H. Non-Motorized Facilities

At a minimum, a system of **non-motorized facilities**, including **easements** sufficient to accommodate their placement, shall be required per the following standards:

1. In addition to meeting the requirements in [subsections 2](#) or [3](#), below, if applicable, **non-motorized facilities** shall be required along the length of one side of the internal **subdivision roadway** when the internal **roadway** of a proposed **subdivision** intersects an existing **roadway** that contains existing **non-motorized facilities**.
 - a. The **non-motorized facility** constructed within the proposed subdivision shall be a width of five (5) feet and shall be constructed consistent with the materials and surfacing of the existing **non-motorized facility**
2. According to Table 12-1, below, **non-motorized facilities** shall be required for **subdivisions** with internal **roadways**.

Average lot size*	Number of lots	Non-Motorized facility Type	Surface treatment & Width	Placement on one or both sides of roadway	Additional easement
Under 7,500 square feet	Five and under	Varies**	Asphalt pavement or concrete to a minimum five (5) feet travel surface	One	10' feet along side of internal roadway that does not have the NMF
	Six or more	Sidewalk			
7,500 square feet to 20,000 square feet.	Five and under	Varies**		One	10' feet along side of internal roadway that does not have the NMF
	Six or more				

*Average lot size is calculated by dividing the number of proposed units per acre by the size of the lot upon which the units will be located. Parks, open space and common areas are not used to determine average size.

**Type of NMF may include any of the following: grade-separated pathways, sidewalk, widened road widths with striping, or other reasonable alternative discussed and settled upon by the applicant and Planning Department prior to a determination of sufficiency.

3. **Subdivisions** with an average **lot** size of over 20,000 square feet shall provide for adequate **easement** width along the length of all internal **roadways** to accommodate the potential future placement of **non-motorized facilities**.
4. **Condominiums** and other **subdivisions** for lease or rent will be required to meet the standards in [sections 12-3.H.1, 2, or 3](#), above, based on the density resulting from the number of **units** proposed relative to the size of the **parent parcel**.
5. When a proposed **subdivision** fronts on a **county-operated roadway**, the **BCC** may require additional **easement** along the frontage to accommodate potential future placement of **non-motorized facilities**.
6. **Non-motorized facilities** internal to proposed **subdivisions** shall be extended to connect with **adjoining** developments when **non-motorized facilities** in the **adjoining** development may be accessed from the proposed **subdivision**.
7. Any bridges proposed for **non-motorized facilities** shall be submitted for approval by the **RCRBD**.
8. The requirement for **non-motorized facilities** may be waived by the **Planning Department** when **topography** or other physical conditions would make it

impractical to provide **non-motorized facilities** or as determined by the **Planning Department** in consultation with the **applicant**.

I. Miscellaneous Improvements

1. The following **off-site** and **on-site improvements** or **pro-rata share** of completing the **improvements** shall be provided when necessary to ensure traffic efficiency and traffic safety, including pedestrian safety, as determined by the **Planning Department** or **RCRBD**.
 - a. Acceleration, deceleration, and turning lanes,
 - b. School bus turn-out or turn-around lanes,
 - c. Frontage **roadways**,
 - d. Traffic control lights, and
 - e. Other traffic or **roadway improvements** as determined to be appropriate by the **Planning Department** or **RCRBD**.

12-4. GRADING, DRAINAGE AND STORMWATER MANAGEMENT

- A. Generally. The **applicant** shall provide suitable sites for drainage and **stormwater** management systems, including **retention and detention structures**, designed to manage all surface water arising from, or passing through, the proposed **subdivision**. All surface runoff, in addition to that normally present before the **subdivision**, shall be retained **on-site** or released from the site in a manner which will not increase the peak runoff normally present before **subdivision**.
- B. Design. **Subdivisions** shall be designed to retain or detain **stormwater** generated on the subject property. Grading and **stormwater** drainage plans shall be submitted with the **preliminary plat application** in conformance with [Appendices A & C](#). Final grading, drainage and **stormwater** management plans shall be submitted with the **final plat application**. For those **subdivisions** requiring **MDEQ** approval of the drainage and **stormwater** management plans, the final plans must be approved by **MDEQ** prior to approval of the **final plat application**.
- C. Certification of Improvements. All **stormwater** management systems and drainage facilities shall be designed and certified by an **engineer** and approved by the **RCRBD**.
- D. Minimum Standards. All **stormwater** management systems and drainage facilities must be approved by the **RCRBD**. **Subdivisions** containing **lots** less than 20 acres in size must also be reviewed and approved by **MDEQ** under [Title 76, Chapter 4, MCA](#).
- E. Discharge. **Stormwater** management systems and drainage facilities shall not discharge into sanitary sewer facilities, nor into irrigation facilities without the written permission of the appropriate **irrigation district**. Surface water from the **subdivision** may not be discharged into County **roadway easements**.

- F. Easements. **Stormwater** management systems and drainage facilities shall be located within **subdivision roadway easements**, or in drainage **easements** of appropriate capacity as identified through the review of the **stormwater** management plans.
- G. Installation of Stormwater Management Systems and Drainage Facilities. Facilities for the collection and treatment of **stormwater** runoff shall be installed prior to or concurrent with any other infrastructure **improvements** and shall be designed to divert surface water away from cut and fill **slopes**. All **stormwater** management facilities shall be protected from erosion or silt deposition during construction of both public and private **improvements**.
- H. [MDEQ Circular 8](#). For all **subdivisions** that involve **roadway** construction or major ground disturbance, as defined by the standards of [MDEQ Circular 8](#). (most recent edition), an analysis of **stormwater** conditions shall be made by an **engineer**. The analysis shall include the following:
1. Locations of intermittent **streams** or drainage courses that are within the proposed **subdivision** boundaries, and a determination of their water surface elevation for a 25-year storm occurrence;
 2. Delineations of **drainage areas** outside the **subdivision** that flow through the **subdivision**, and estimates of peak flows generated within these **drainage areas**;
 3. Volumes of water contributed to the **drainage area** by the **subdivision**, pre- and post-development, based on a 10-year storm event. For flows that originate outside the **subdivision**, provision for passing these flows through the **subdivision** without **flooding** home sites or drainfields (at a recurrence interval of 100 years), and without overtopping **roadways** (at a recurrence interval of 10 years);
 4. For flows that originate within the **subdivision**, provisions for detaining or retaining these flows so that the peak flow (from the 2-year, 1-hour event) that leaves the **subdivision** after development does not exceed the peak flow before development; and
 5. Descriptions and calculations of the proposed storm drainage plan for a 10-year frequency 1 hour storm **on-site** and calculations and **mitigation** of a 100-year frequency 1-hour storm. Grading, Drainage and **Stormwater** Management Plans are not required for **subdivisions** when an exemption outlined in subsection J below applies.
- I. Maintenance of Stormwater Management Systems and Drainage Facilities. The **applicant** shall submit for approval a plan of operations for the maintenance of **stormwater** management systems and drainage facilities within a **subdivision**.
- J. Exemptions from Utilizing [MDEQ Circular 8](#). To qualify for this exemption, two copies of the evidence that the **subdivision** meets the exemption criteria in [ARM 17.36.310](#) must

be submitted with the **stormwater** management and drainage plans. **Stormwater** management and drainage plans that qualify for an exemption from [MDEQ Circular 8](#) shall be prepared by an **engineer** and shall be submitted to the **RCRBD** for approval. In addition to providing evidence that the **subdivision** meets the exemption criteria, the exempted **stormwater** management and drainage plans shall demonstrate how any surface water arising from or passing through the **subdivision** will be addressed. Two copies of the exempted **stormwater** management and drainage plans shall be submitted that include the following information:

1. A narrative description of how **stormwater** and drainage will be managed;
2. Ground elevation contours sufficient to accurately and reasonably reflect **slope**, aspect and drainage features;
3. Cross-section and profile of existing and proposed **roadways**;
4. Locations and specifications for existing and proposed culverts and bridges;
5. Locations and specifications for any other existing and proposed **stormwater** management and drainage system **improvements**;
6. Locations of proposed and existing **stormwater** management and drainage **easements**; and
7. Other information as may be requested by the **Planning Department** or **RCRBD**.

12-5. HIGH FIRE HAZARD AREAS

- A. Applicability. The following design standards apply to all proposed **subdivisions** located entirely or partially within a **high fire hazard area**. In addition to the standards in this section, **subdivisions** within **high fire hazard areas** shall be subject to all other applicable standards within these regulations.
1. High Fire Hazard Area Determination. Planning Staff will determine whether a proposed **subdivision** is located within a **high fire hazard area**. The determination will be based on whether the property is heavily forested or there is contiguous heavy tree cover leading from the property to the nearest Forest Service boundary. When such a determination is made, the design standards in this section apply to the **subdivision** unless the **applicant** challenges the determination.

B. Challenges. If property proposed for **subdivision** is found to be within an area identified as a **high fire hazard area**, the **applicant** may challenge the designation. All challenges must be completed before a **subdivision** is deemed sufficient. A challenge request shall meet the following:

1. **Submittal.** It is a written narrative, addressed and sent to the **Planning Department**, clearly stating the reasons the **applicant** believes the property to be out of the **high fire hazard** area, and
2. **Preparation.** The challenge contains supporting information and evidence prepared by a **person** qualified with applied experience and education in wildland fire behavior, fire suppression operations, and fuels management.
3. **Decision.** The **Planning Department** shall determine whether the property will remain classified as **high fire hazard**, or whether the **applicant** will be relieved of meeting the standards of this section and shall issue the determination in writing.

C. Appeals to Challenges

1. If the **Planning Department** determines that the property proposed for **subdivision** remains within the **high fire hazard** area, the **applicant** may **appeal** the decision to the **BCC**. All **appeals** must be completed before a **subdivision** is deemed sufficient. The **applicant** shall be responsible for paying the appropriate **appeals** fee, as established on the **Planning Department's** currently adopted fee schedule. An **appeals** request shall be a written narrative, addressed and sent to the **Planning Department**, clearly stating that an **appeal** to a **high fire hazard** area challenge is requested.
2. The **Planning Department** will schedule a meeting before the **BCC** where the **appeal** will be heard. At the conclusion of the meeting, the **BCC** shall determine whether the property shall be required to comply with the standards of this section, or whether the **applicant** will be relieved of meeting the standards of this section. The **BCC** decision is binding.

D. High Fire Hazard Area Management Plan

The **applicant** shall provide a **high fire hazard** area management plan, completed by a professional forester or someone with accredited knowledge in fire suppression and fuels reduction, for all **lots** and **roadways** within the **subdivision**, including any proposed open space or **fuel breaks**. Reference [Appendices A & C](#).

E. Access and Roadways**1. Access**

- a.** On-site. Each **lot** within a **major subdivision** shall have **legal and physical access** onto an internal **subdivision roadway** that provides for a minimum of two (2) routes out of the **subdivision** and onto a **roadway** or **roadways** meeting the criteria set forth in part b, below.
- b.** Off-site. Each **subdivision** shall have **legal access** to a **roadway** or **roadways** that provides at least two (2) routes away from the **subdivision** and out of the **high fire hazard** area.

2. Subdivisions that cannot provide a minimum of two (2) routes out and away from the **subdivision** are discouraged. However they may be allowed if developers can mitigate the risks by using a combination of the following measures, and only when approved by the **Planning Department**, in consultation with the jurisdictional fire department, prior to the **subdivision** being deemed sufficient:

- a.** adequate **defensible space** requirements;
- b.** **fuel breaks**;
- c.** turnouts, pull-outs, and/or turnarounds large enough for Type I fire engines;
- d.** increased flows of fire protection water supply;
- e.** increased **roadway** width; and
- f.** safety zones as approved by the local fire district.

3. Roadway and Driveway Standards

- a.** Internal **subdivision roadways** shall be constructed to the standards in [Section 12-3](#) of these regulations.
- b.** **Driveways** shall be constructed to the standards of the jurisdictional rural fire district.

4. Roadway Fuel Reduction. Vegetation located within the **easement** of all internal **subdivision roadways** shall meet or exceed the vegetation management requirements shown in Figure 12-2.

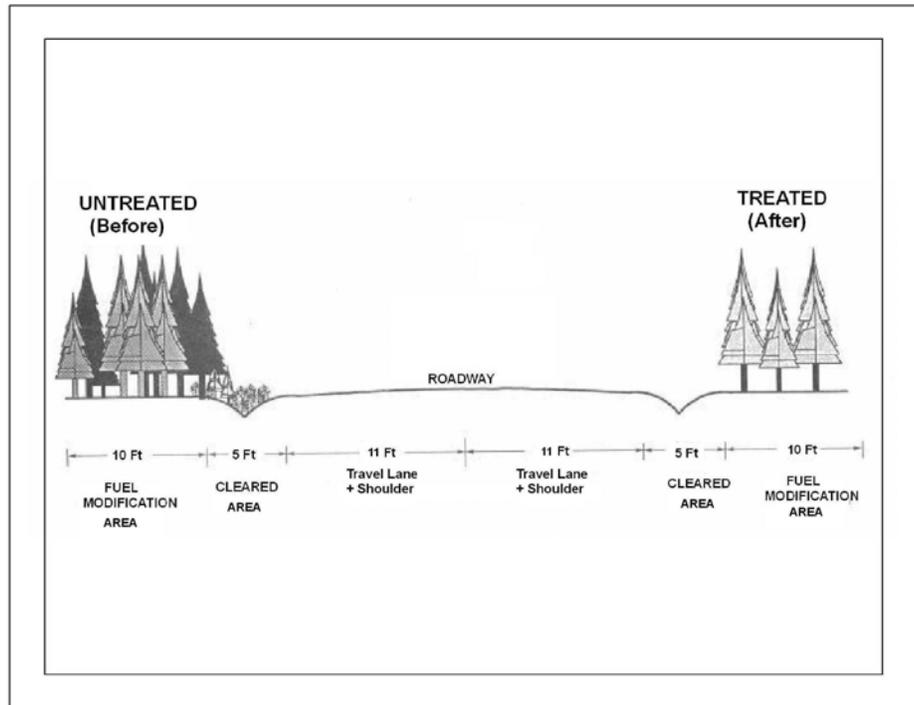


Figure 12-2. Roadside fuel reduction requirements

Within the “cleared area” maintain all live surface fuel at twelve (12) inches or less and remove all dead vegetation, logs, snags, etc

Within the “fuel modification area” thinning to ten (10) feet between crowns and pruning to fifteen (15) feet or 1/3 live crown height (whichever is less) should be completed.

5. Bridges and Culverts.

- a.** At a minimum, bridges and culverts shall be designed to accommodate the fire apparatus of the local fire district and constructed using accepted engineering practices as identified in [Section 12-3.C](#) of these regulations. Bridges shall be constructed to accommodate the heaviest legal load allowed and to accommodate Type I engines, water tenders, and dozers.
- b.** Load limits shall be posted on all bridges.
- c.** Vegetation shall be cleared to a minimum of five feet from around all bridges. Bridges shall be constructed of noncombustible material.

6. Signage. All **roadways** within a new **subdivision** shall be identified with approved non-combustible, reflective street signs that meet the applicable standards of the **RCRBD**. All signage shall be affixed to a non-combustible supporting **structure**.

12-6. FLOODPLAIN

- A.** Overview. Land located within the **floodplain** of a **100-year flood** event as defined by [Title 76, Chapter 5, MCA](#), or other land determined by the **BCC** to be subject to **flooding** may not be subdivided for **building** or residential purposes or other uses that may increase or aggravate **flood hazards** to life, health, or property, or that may be prohibited by **State** or local **floodplain** regulations
- B.** If any portion of a **subdivision** is located less than one-thousand (1,000) horizontal feet and less than ten (10) vertical feet of a perennial **stream** where no official **floodplain** delineation has been done, the **applicant** shall calculate the **drainage area**. The **drainage area** shall be calculated from the farthest downstream point of the **stream** that is intersected by a one-thousand (1,000) foot radius as measured from the perimeter of the **subdivision**. See figure 12-5.
1. If the **drainage area** is determined to be fifteen (15) square miles or greater, the **applicant** shall be required to complete a **floodplain** analysis, as described in [Appendix J](#), which calculates the **100-year floodplain** boundaries, unless granted a waiver pursuant to [subsection C](#). below.
 2. If the **drainage area** is less than fifteen (15) square miles and the **subdivision** is located less than one-hundred (100) horizontal feet and less than ten (10) vertical feet of the **stream**, the **applicant** shall be required to complete a **floodplain** analysis, as described in [Appendix J](#), that calculates the **100-year floodplain** boundaries, unless granted a waiver pursuant to [subsection C](#). below.
 - a. Alternatively, a two-hundred (200) foot **no-build** zone shall be designated on the face of the **preliminary and final plats**. The **no-build** zone shall be centered on the creek. This alternative shall only apply to [12-6.B.2](#) above.
 3. The **applicant** shall provide to the **Planning Department** a scaled exhibit with the **preliminary plat application** depicting the **drainage area** and detailing the methodology used to calculate the **drainage area**.
- C.** Waiver. The Floodplain Manager may waive the **floodplain** analysis if it can be clearly demonstrated that a significant topographic feature clearly defines the probable extent of the **floodplain** or there is an existing **floodplain** analysis on file that clearly shows the location of the **floodplain**.
- D.** All mapped and modeled **100-year floodplains** shall be shown on the face of the **preliminary and final plats**. Building restrictions may be required within identified **100-year floodplains** and will be included as encumbrances on the **final plat**.

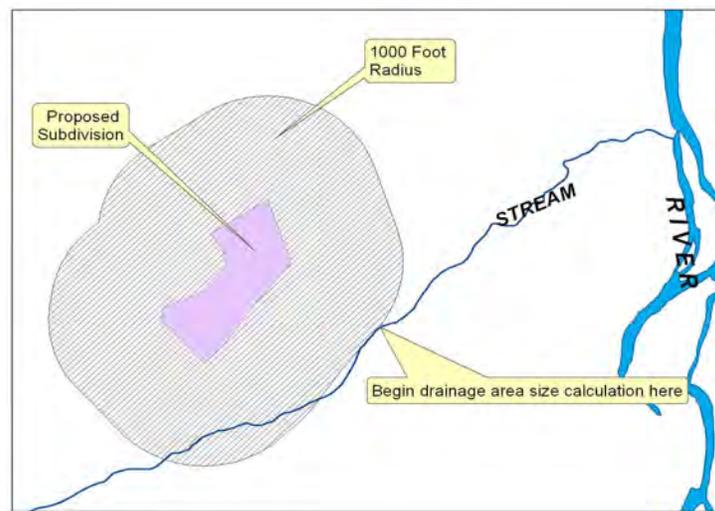


Figure 12-3. Example **drainage area** schematic.

12-7. WETLANDS

- A.** Applicability. When **wetlands** are located on a property proposed for **subdivision**, the **applicant** shall provide notice to the **Planning Department** of the intent to either preserve the **wetlands** in their entirety or whether the **wetlands** will be dredged, excavated or filled in whole or in part.
- B.** Full Modification. When the **wetland(s)** as identified in subsection A above, are proposed to be fully dredged, excavated or filled, all applicable permits from authorizing agencies shall be provided to the **Planning Department** prior to **final plat** approval.
- C.** Preservation. When an **applicant** proposes to preserve **wetlands** in their entirety, the **applicant** shall complete one of the following alternatives:
1. Alternative 1: Wetland Delineation. In order to determine the **wetland** boundary(s), a **wetland** delineation shall be prepared in accordance with the 1987 Army Corps of Engineers Wetland Delineation Manual. The delineation shall be prepared by a **person** with professional competency in **wetland** identification and delineation.
 2. Alternative 2: Building Envelope. The **applicant** may propose **building envelopes** for **lots** within the proposed **subdivision**. The **building envelopes** shall be placed on each **lot** on which **wetlands** are present and the area within the envelope shall clearly contain no **wetlands** and **wetland** vegetation. The rest of each **lot** shall be designated as **no-build/alteration zone**.
- D.** Partial Modification. When **wetlands** are proposed to be partially dredged, excavated or filled, the **applicant** shall provide to the **Planning Department** all applicable permits and correspondence from authorizing agencies prior to performing any dredging, excavating

or filling, and shall clearly identify what portions of the **wetlands** are proposed to be dredged, excavated or filled. For any portions of the **wetland(s)** not proposed to be dredged, excavated or filled, the **applicant** shall protect the unaltered portion(s) by using one of the alternatives as described in [subsection C](#), above.

- E. Wetland No-Build/Alteration Zone. A twenty-five (25) foot **no-build/alteration zone**, measured horizontally from the identified **wetland** boundary(s), as per the **wetland** delineation offered in [subsection C.1](#), above, or **building envelope(s)** as offered in [subsection C.2](#), above, shall be shown on the **preliminary and final plat**. The **no-build/alteration zone** will be measured from the **wetland** boundary, whether the **wetlands** are preserved in their entirety, as provided for in [subsection C](#), above, or modified, as provided for in [subsection D](#), above.

12-8. IRRIGATION WATER RIGHTS AND FACILITIES

A. Irrigation Water Rights [\[76-3-504\(j\), MCA\]](#)

1. Disposition of Water Rights. When **water rights** are appurtenant to the land on which a **subdivision** is proposed, and the **subdivision** will create **parcels** with **lot** sizes averaging less than 5 acres, the **applicant** 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; or
 - 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.

B. Irrigation Easements [\[76-3-504\(k\), MCA\]](#)

1. Placement. When **water rights** are appurtenant to the land on which a **subdivision** is proposed, the **applicant** shall establish **easements** in the **subdivision** that:
 - a. Are in locations of appropriate topographic characteristics;
 - b. Are of sufficient width to allow the physical placement and unobstructed maintenance of open ditches or 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**;
- c. Are a sufficient distance from the centerline of the **irrigation ditch** to allow for construction, repair, maintenance, and inspection of the **irrigation ditch**; and
 - d. Prohibit the placement of **structures** or the planting of vegetation other than grass within the **irrigation ditch easement** without the written permission of the ditch owner.
2. Exceptions. The **applicant** need not establish irrigation **easements** as provided above if:
- a. The average **lot** size is one (1) acre or less and the **applicant** provides for disclosure, in a manner acceptable to the **BCC**, 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
 - b. 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 **applicant** 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.
3. Easement. The **applicant** shall, unless otherwise provided for under separate written agreement or filed **easement**, 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.

C. Irrigation Delivery System

When **water rights** or shares are to be transferred to one (1) or more of the **lots** within a **subdivision**, an irrigation delivery system must be designed and installed. The design of the irrigation system shall be provided to the **Planning Department** with the **preliminary plat application** submittal, and shall be prepared by a **person** with a working knowledge of irrigation system design and practices.

12-9. SERVICE STANDARDS

A. Utility Service

1. Generally. Service connections for all utilities such as electrical power, gas and telephone lines shall be installed and located on each **lot** or located within an **adjoining public utility easement**.
2. Utility Location. Utility locations shall be approved prior to **final plat** by the appropriate utility company and the County. These facilities are subject to all applicable laws, rules and regulations of the appropriate regulatory agencies and utility companies.
3. Requirements for Utilities. All utilities such as electrical power lines, gas lines, telephone lines, television lines and other utility lines shall be installed in accordance with the requirements of the appropriate utility provider. Underground utilities, if placed in a **roadway easement**, must be located outside of the **roadway** surface structure.
4. Width. The **applicant** shall show **public utility easements** in the **subdivision**, including necessary descriptions and dimensions, on the **final plat** in their true and correct location. The **public utility easements** must be of sufficient width to accommodate the physical placement and unobstructed maintenance of **public utility** facilities for the provision of **public utility** services within the **subdivision**, as specified by the utility company.

B. Water Supply Systems

1. All water supply systems (including both individual wells and public systems) shall meet applicable regulations and design standards of the **MDEQ** and **MDPHHS**, and comply with existing **water rights** and **water rights** regulations administered through the Department of Natural Resources and Conservation (DNRC). The proposed method of supplying domestic water to each **lot** in the **subdivision** must comply with the applicable Administrative Rules of Montana (**ARM**). Unless defined elsewhere in these regulations, the terms used in this section will have the meanings assigned to them in the **ARM**.
2. The water supply system shall be evaluated by the **BCC**.
3. Where the **subdivision** is within the service area of a public water supply system, and the **applicant** is proposing to provide connections to the system, the **applicant** shall submit plans and specifications for the proposed water system to the owner of the water supply involved and **MDEQ**, and shall obtain their approval in writing prior to undertaking any construction to install such facilities.

4. All pump tests for groundwater wells must comply with all applicable requirements and standards set by **MDEQ**.
5. Prior to **final plat** approval by the **BCC**, **subdivisions** containing one or more **lots** of less than twenty (20) acres in size must receive approval from the **MDEQ** and any other authorized reviewing agencies in accordance with the regulations adopted by the **MDEQ** under Section [76-4-104, MCA](#) of the Sanitation in Subdivisions Act.
6. Prior to **final plat** approval by the **BCC**, **subdivisions** containing one or more **lots** from twenty (20) to one-hundred and sixty (160) acres in size must meet applicable local and **state** standards for water supply systems as provided in [76-3-604](#) and [76-3-622, MCA](#). This demonstration to the **BCC** is to evaluate the ability to develop **lots** at the platting stage and is not a guarantee that a source of water will be available when the **lots** are developed.
7. For a **subdivision** that includes new water supply systems, the **applicant** shall provide as part of the **preliminary plat application** all applicable information required under [76-3-622, MCA](#).
8. A **subdivision** that is proposed to be served by a public water supply system must demonstrate a sufficient water supply prior to **final plat** approval.

C. Wastewater Treatment Systems

1. All sewage wastewater treatment systems shall meet the regulations and design standards of the **MDEQ**, **RCEH**, **MDPHHS** and any other applicable regulations including the Administrative Rules of Montana. Unless defined elsewhere in these regulations, the terms used in this section will have the meanings assigned to them in [ARM 17.36.101](#).
2. Where the **subdivision** is within the service area of a public wastewater treatment system, and the **applicant** is proposing to provide connections to the system, the **applicant** shall submit plans and specifications for the proposed wastewater treatment facilities to the owner involved and the **MDEQ**. The **applicant** shall obtain their approval prior to undertaking any construction to install such facilities.
3. Prior to **final plat** approval by the **BCC**, **subdivisions** containing one or more **lots** of less than twenty (20) acres in size must receive approval from the **MDEQ** and any other authorized reviewing agencies in accordance with the regulations adopted by the **MDEQ** under Section [76-4-104, MCA](#) of the Sanitation in Subdivisions Act. This approval applies to the development of the **lots** at the time of the approval and is no guarantee that the location for a septic system will be available when the **lots** are actually developed.

4. Prior to **final plat** approval by the **BCC**, **subdivisions** containing one or more **lots** from twenty (20) to one-hundred and sixty (160) acres in size must meet applicable local standards for wastewater systems as provided in [76-3-604](#) and [76-3-622, MCA](#). This demonstration to the **BCC** is to evaluate the ability to develop **lots** at the platting stage and is not a guarantee that a source of water will be available when the **lots** are developed.
5. For a **subdivision** that includes new wastewater treatment systems, the **applicant** shall provide as part of the **preliminary plat application** all applicable information required under [76-3-622, MCA](#).

D. Solid Waste Disposal

1. The **applicant** shall assure that provisions for collection and disposal of solid waste meet the regulations of the **MDEQ**. The proposed method of storing and disposing of solid waste generated within the **subdivision** must comply with the standards set forth in [ARM 37.111.217](#).
2. Before the **BCC** will approve the **final plat** of a **subdivision** containing one or more **lots** of less than twenty (20) acres in size, the **subdivision** must be approved by the **MDEQ** or other authorized **reviewing authority** under the Sanitation in Subdivisions Act.
3. For **subdivisions** that will create one or more **parcels** containing twenty (20) to one-hundred and sixty (160) acres, the proposed method of storing and disposing of solid waste generated within the **subdivision** must comply with the regulations of the **RCEH**.

E. Mail Service

1. Authority to approve mailboxes rests with the U.S. Postal Service, and through its local post offices. The **applicant** shall be required to install mail service facilities in accordance with local and federal Postal Service policy.

F. Fire Protection

1. All **subdivisions** must be planned, designed, constructed, and maintained so as to reduce the risk of fire and to permit the effective and efficient suppression of fire in order to protect **persons** and property.
2. Each **lot** shall be located within an existing Fire District. Alternatively, the **applicant** may provide evidence that a reasonable equivalent exists.
3. To ensure a reasonable level of fire protection, a water supply capable of providing the minimum required water flow for fire protection shall be provided in accordance with the standards of the jurisdictional fire district. The **applicant** may provide evidence that the jurisdictional fire district has approved alternative **mitigation** measures that ensure a reasonable level of fire protection provided

that (1) the **applicant** provides a letter from the jurisdictional fire district, on fire district letterhead, approving the alternative for fire district purposes; and (2) the **Planning Department** approves the design.

4. In addition to meeting the standards of this section, some **subdivisions** may also be required to meet the **high fire hazard** area design standards in [Section 12-5](#) of these regulations.

12-10. NOXIOUS WEED CONTROL

A. General Requirements

In order to comply with the Montana County Weed Control Act, [Title 7, Chapter 22, Part 21, MCA](#), all proposed **subdivisions** in Ravalli County must enter into a Ground Disturbance and **Noxious Weed** Management Plan with the Ravalli County Weed District. The **applicant** shall provide evidence that this plan has been submitted to, evaluated, and certified by the Weed District prior to the **Planning Department** deeming the **preliminary plat application** sufficient.

12-11. STANDARDS FOR CAMPGROUNDS, MOBILE HOME AND RECREATIONAL VEHICLE PARKS

A. Overview

Campgrounds, **Mobile home parks** and **Recreational Vehicle (RV) parks** created by rent, lease, or other conveyance shall comply with the provisions in this section. They shall also comply with all applicable rules and regulations of the **MDEQ** and **MDPHHS**. These provisions also supplement applicable procedural standards covered in [Chapter 6](#) of these regulations.

B. General Requirements

1. Licensure. **Campgrounds, Mobile Home and RV parks** are required to be licensed by the **MDPHHS** and validated by the **RCEH** prior to **final plan** approval.
2. Mail Delivery. Authority to approve mailboxes rests with the U.S. Postal Service, and through its local post offices. The **applicant** shall be required to install mail service facilities in accordance with local and federal Postal Service policy. **Campgrounds** are exempt from this provision.
3. Storage. An enclosed storage facility may be required within a **mobile home or RV park**. In addition, an open area for storage or parking of boats, trailers, or other **recreational vehicles** belonging to residents of the **mobile home park** may be required. **Campgrounds** are exempt from this provision.

4. Street Lighting. Street lighting may be required as appropriate.
 - a. Street lighting shall be required for all newly created **mobile home parks** with a common interior **roadway**.
 - b. Lighting is required for the solid waste disposal area.

C. Mobile Home and RV Spaces

1. Location. Spaces shall be arranged to permit the safe and practical placement and removal of **mobile homes** and **RVs**.
2. Size. The limits of each space shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of space limits on the ground must be approximately the same as shown on the **preliminary plan**. Precise engineering of space limits is not required either on the plans or on the ground.
3. Setbacks for Mobile Homes. **Mobile homes**, including attached **structures**, such as awnings or carports, shall be located at least twenty-five (25) feet from any public **roadway easement**, fifteen (15) feet from other boundary lines of the park, ten (10) feet from the **roadway** that directly serves it, and ten (10) feet from any other **mobile home** or its attached **structures**.
4. Setbacks for Detached Structures. Detached **structures**, such as storage sheds shall be located at least twenty-five (25) feet from any public **roadway easement**, fifteen (15) feet from other boundary lines of the park, ten (10) feet from the **roadway** that directly serves it, and ten (10) feet from any other **mobile home** or its attached **structures**.

D. Roadway and Parking Requirements

1. **Roadways** shall be designed in accordance with Section 12-3 of these regulations.
2. In addition to the space requirements set forth in [12-11. C](#), above, a minimum of two (2) off-street parking spaces shall be provided for each **mobile home space**. A minimum of one (1) off-street parking space shall be provided for each **campsite** or **RV** space.
3. One (1) guest parking space for each ten (10) **mobile home spaces** shall be provided. Group parking may be provided.

CHAPTER 13. PARKLAND REQUIREMENTS

13-1. PURPOSE

The purpose of this Chapter is to define **parkland** standards, state the permissible uses for **park dedications** or **cash-in-lieu of park dedication** and provide the procedures for the administration of the **parkland** requirements.

13-2. PARKLAND DEDICATION/DONATION REQUIREMENTS

- A. Land Area Requirement. Except as provided in Sections B and C below, an **applicant** shall dedicate to the **County** a cash or land donation equal to:
1. 11% of the area of the land proposed to be subdivided into **parcels** of one-half acre or smaller;
 2. 7.5% of the area of the land proposed to be subdivided into **parcels** larger than one-half acre and not larger than one (1) acre;
 3. 5% of the area of land proposed to be subdivided into **parcels** larger than one (1) acre and not larger than three (3) acres; and
 4. 2.5% of the area of land proposed to be subdivided into **parcels** larger than three (3) acres and not larger than five (5) acres.
- B. Exceptions. A **park dedication** is not required for:
1. land proposed for **subdivision** into **parcels** larger than five (5) acres; or
 2. **subdivision** into **parcels** that are all non-residential; or
 3. a **subdivision** in which **parcels** are not created, except when that **subdivision** provides permanent multiple spaces for **campgrounds**, **RVs**, **mobile homes**, **condominiums** or townhouses; or
 4. minor subdivision proposals.

13-3. BASIS OF DECISION FOR TYPE OF DEDICATION

The **BCC**, in consultation with the **applicant**, the **Planning Board**, and the **Park Board**, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the **applicant**, may determine whether the **park dedication** must be a land donation, cash donation, or a combination of both. In determining whether land or cash is suitable, proximity to existing parks, including schools and other public or private recreational facilities shall be considered by the **Park Board**. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation. [[76-3-621\(4\)](#), MCA]

13-4. USE OF CASH OR LAND DONATION

- A. The **BCC** shall use the **cash-in-lieu of park dedication** or **park dedication** for development, acquisition, or maintenance of parks to serve the **subdivision**. The use of dedicated cash or location of dedicated parkland, recreational area, open space, or conservation easement must reasonably serve the **subdivision** and must be in accordance with the Ravalli County Master Park and Recreation Plan. The **BCC** may not use more than fifty percent (50%) of the dedicated cash for park maintenance.
- B. Land dedicated for park or playground purposes shall be useable for recreation and/or conservation purposes, serve residents of the entire **subdivision**, be of appropriate shape and size, and shall have reasonable access.

13-5. WAIVING OF PARKLAND REQUIREMENT

- A. The **BCC** shall waive the **park dedication** requirement if:
1. The **subdivision** provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the **persons** who will ultimately reside in the development; and the area of land and any **improvements** set aside for park and recreational purposes equals or exceeds the area of the **park dedication** required under [Section 13-2.A](#) above; or
 2. The **subdivision** provides long-term protection of critical **wildlife habitat**, cultural, natural, or **historical resources**, agricultural interests, or aesthetic values, and the area of land proposed to be subdivided, by virtue of providing long-term protection is reduced by an amount equal to or exceeding the area of the **park dedication** required under [Section 13-2.A](#) above; or
 3. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of [subsections 1](#) and [2](#) above, is reduced by an amount equal to or exceeding the area of the **park dedication** required under [Section 13-2.A](#) above; or
 4. The **applicant** dedicates land outside the **subdivision** to be set aside for park and recreational uses sufficient to meet the needs of the **persons** who will ultimately reside within the **subdivision**, and the area of the land equals or exceeds the area of the **park dedication** required under [Section 13-2.A](#) above; or
- B. The **BCC** may waive the **park dedication** requirement if:
1. The **applicant** dedicates land outside the **subdivision** that affords long-term protection of critical **wildlife habitat**, cultural, natural, or **historical resources**, **agricultural** interests, or aesthetic values, and the area of the land equals or

exceeds the area of the **park dedication** required under [Section 13-2.A](#) above;
or

2. The **applicant** dedicates land to, and accepted by, a school district to be used for school facilities or buildings, and the area of the land equals or exceeds the area of the **park dedication** required under [Section 13-2.A](#) above.

13-6. DETERMINATION OF FAIR MARKET VALUE

The **cash-in-lieu of park dedication** shall be equal to the fair market value of the amount of land that would have been statutorily required to be **dedicated**. For the purpose of these regulations, the fair market value is the value of the unsubdivided, unimproved land based upon Department of Revenue tax assessments.

13-7. INDEPENDENT APPRAISALS

The **BCC, applicant or Park Board** may request an additional appraisal by a **State** licensed general real estate appraiser or a real estate appraiser legally qualified to appraise unsubdivided, undeveloped land (as provided under [37-54-201 et seq., MCA](#)) and may determine fair market value according to either appraisal. The cost of the additional appraisal shall be the responsibility of the party making the request.

CHAPTER 14. VARIANCES

The purpose of this Chapter is to describe the procedures, requirements, and criteria for submitting, processing and reviewing **variance applications**. [[76-3-506](#), MCA]

14-1. LIMITATIONS ON VARIANCE REQUESTS

The **BCC** shall decide all **variance applications**. **Variance** requests shall be limited to the design and development standards in [Chapter 12](#) of these regulations. **Variances** from any other part of these regulations may not be requested. Design exceptions provided for in **AASHTO** publications shall not require **variances** and shall be processed in accordance with the County's adopted policies regarding design exception practices. Design exceptions shall not be allowed from standards within [Section 12-3.B](#) of these regulations.

14-2. VARIANCE APPLICATION AND REVIEW REQUIREMENTS

A. Initiation

A **variance application** shall only be submitted by the **landowner**, or by an authorized agent. The **variance application** may be submitted prior to or concurrent with the submittal of a **preliminary plat application**, and may be submitted prior to the **final plat** approval if the **subdivision** has been approved or conditionally approved.

B. **Variance Application** Procedure

1. Submittal of **Application**. The **applicant** shall submit to the **Planning Department** a completed **variance application** form including the elements and detailed supporting information listed in [Appendix A](#), as applicable. The submittal shall include the appropriate fee, in accordance with the **Planning Department's** adopted fee schedule.
2. Element Review. Element Review of a **Variance Application** shall be conducted in accordance with the timelines and procedures described in [Chapter 2](#) of these regulations.
3. Sufficiency Review. Sufficiency Review of a **Variance Application** shall be conducted in accordance with [Chapter 2](#) of these regulations.
4. Time Period for Completion of Element and Sufficiency Review. The time period for review of a **Variance Application** shall be based on the time period for review in accordance with [Chapter 2](#) of these regulations.

C. Variance Review Alternatives

1. Concurrent. **Variance Applications** submitted in conjunction with a **preliminary plat application** shall be reviewed in accordance with the review procedures outlined within the corresponding Chapter.
2. Stand Alone. **Variance Applications** submitted prior to a **preliminary plat application** submittal or following the issuance of a **Preliminary Plat Decision** shall be reviewed in accordance with the review procedures outlined within [Chapter 4](#) of these regulations, at a properly noticed public hearing before the **BCC**.

D. Variance Review Criteria

The **BCC**, may grant a **variance** only when strict compliance would result in **undue hardship** and when it is not essential to the public welfare. A **variance** will not be granted if it would have the effect of nullifying the intent and purpose of these regulations. The **BCC** may not approve a **variance** that would permit **structures** within a **100-year floodplain**.

1. To determine whether the **variance** proposal is not essential to the public welfare, the **applicant** shall provide sufficient evidence to support a positive finding on each of the below criteria. If the **BCC** does not find that the following criteria are met, or if the **applicant** has supplied insufficient information for a positive finding, the variance shall be denied.
 - a. The granting of the **variance** will not be substantially detrimental to the **public health, safety** or general welfare or injurious to other **adjoining** properties.
 - b. The **variance** will not cause a significant increase in direct or indirect public costs.
 - c. The alternative design is equally effective and the objectives of the **improvements** are satisfied.
 - d. The **variance** will not be contrary to any zoning regulations or the **Growth Policy**, if applicable.
2. If the review of each of the above criteria results in a positive finding, the **BCC** shall then determine whether strict compliance would result in an **undue hardship**. To determine whether the **variance** proposal would result in an **undue hardship**, the **BCC** shall weigh the following criteria, and determine whether to grant the variance. If the **BCC** does not find that strict compliance would result in an **undue hardship**, or if the applicant has not provided sufficient information for a positive finding, the variance shall be denied.

- a. The conditions on which the request for a **variance** is based are unique to the property on which the **variance** is sought or are not applicable generally to other property.
- b. Physical conditions, such as **topography** or **parcel** shape, prevent the **applicant** from meeting the strict letter of these regulations. These conditions shall not result from the past actions of current or previous **landowner(s)**.

E. Imposition of Conditions

The **BCC** may approve a variance with such conditions and restrictions upon the **parcel** as may be necessary to allow a positive **finding** to be made on any of the foregoing factors, or to minimize the injurious effect of the **variance**.

F. Documentation of BCC Decision

1. In rendering its decision to approve, conditionally approve, or deny the **variance application**, the **BCC** shall issue written findings of fact that evaluate the **variance** request relative to the **variance** review criteria in [subsection D](#), above.
2. When the **BCC** approves, denies, or conditionally approves the **variance**, it shall send the **applicant** a signed **variance** decision, with the appropriate signatures. The **variance** decision may accompany the Preliminary Plat Decision, as described in [Sections 3-12](#) and [4-12](#) of these regulations, when the decision on the **variance** is made concurrent with the decision on the **subdivision**. The **variance** decision shall:
 - a. Contain information regarding the **appeal** process for the denial or imposition of conditions;
 - b. Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - c. Provide the findings and conclusions that the BCC relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;
 - d. Describe any conditions that apply to the **variance** approval and that must be satisfied before the **final plat** may be approved; and
 - e. Set forth the time limit for approval, pursuant to [Section 14-3](#) below.

14-3. DURATION OF VARIANCE APPROVAL

An approved **variance** shall run with the land and shall expire thirty-six (36) months after the date of the approval unless an accompanying **preliminary plat application** has been submitted for review at which point the **variance** shall be tied to the **preliminary plat application**.

CHAPTER 15. DEFINITIONS

Whenever the words or phrases below appear in these regulations, they shall have the meaning given to in this section. Unless context requires otherwise, words used in the present tense include the future; the singular includes the plural and the plural the singular; the words “shall” and “must” are mandatory; and the word “may” is discretionary. The term “may not” is prohibitive. In addition to the definitions in this chapter, terms specific to a section of these regulations may be defined within that particular section. Words and phrases not specifically defined in these regulations shall have their usual and customary meaning in the context of land use planning. Words defined in this chapter are shown in **bold highlight** throughout these regulations.

#s

100-YEAR FLOOD: A **flood** magnitude that has a one percent (1%) chance of being equaled or exceeded in any given year, commonly referred to as a **base flood**.

100-YEAR FLOODPLAIN: The area of land that would be inundated by water of a **100-year flood**. The 100-year floodplain consists of a **floodway** and a **flood fringe**. (See FLOODPLAIN, Figure 16-1).

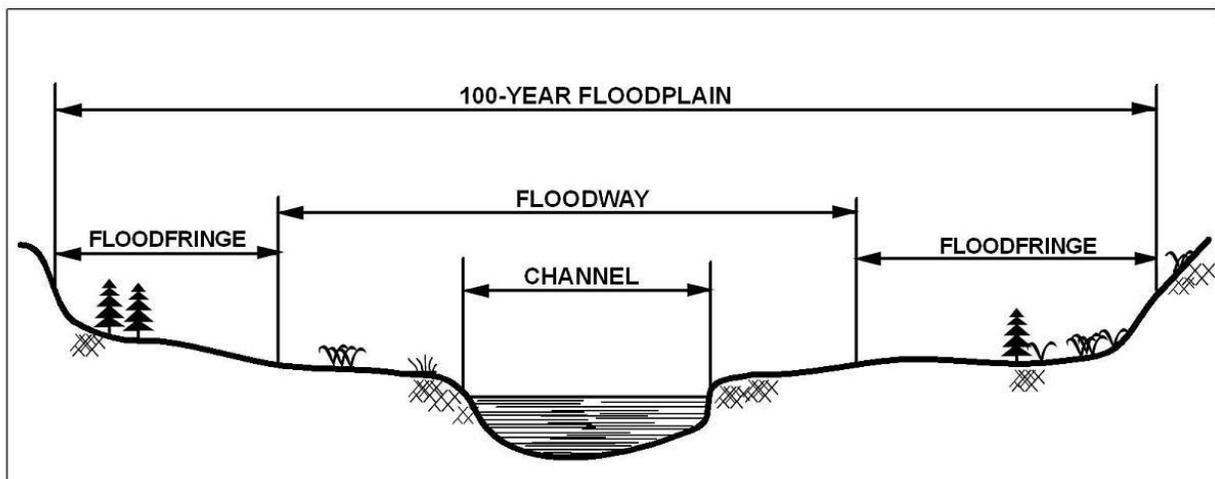


Figure 16-1
Floodplain Components

A

AASHTO: American Association of State Highway and Transportation Officials.

ABSTRACT OF TITLE: Same as TITLE REPORT.

ABUT: To physically touch or border upon; to share a common property line.

ACREAGE: See GROSS ACREAGE and NET ACREAGE.

ADJOIN: Same as ABUT.

ADJACENT LANDOWNER: The **landowner** of a **tract of record** within 300 feet from any point of the **subdivision**.

ADT (AVERAGE DAILY TRAFFIC): The average number of vehicles crossing a specific point on a **roadway** during a 24-hour period.

AFFECTED AGENCIES: Any agency identified by the **applicant**, **Planning Department**, **Planning Board** or **BCC** as having a potential interest in a **subdivision**. Affected agencies may include but are not limited to **state** and federal agencies, school and fire districts, **irrigation districts**, utility companies and any other agency potentially impacted by the **subdivision**.

AGGRIEVED PERSON: 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 a **subdivision** decision. [[76-3-625\(4\)](#), [MCA](#)]

AGRICULTURE: All aspects of farming, or ranching, including the cultivation or tilling of soil; dairying; the production, cultivation, growing, or harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals, or poultry; and any practices, including forestry or lumbering operations, preparation for market or delivery to storage, to market, or to carriers for transportation to market. [See [41-2-103\(1\)](#), [MCA](#)]

AGRICULTURAL COVENANT: A **covenant** running with the land which restricts that land to **agriculture** use.

AGRICULTURAL WATER USER FACILITIES: Facilities that provide water for **agriculture**. These facilities include but are not limited to ditches, head gates, pipes, and other water conveying facilities.

AIR POLLUTION: The presence of air pollutants in a quantity and for a duration that are or tend to be injurious, as defined by the Montana Department of Environmental Quality air quality standards, to human health or welfare, animal or plant life, or that would unreasonably interfere with the enjoyment of life or the conduct of business.

AMENDED PLAT: The final drawing of any changes to a recorded **subdivision** plat, or any **lots** within a recorded **subdivision**.

ANNEXATION: The process of adding land to the jurisdictional area of a governmental subdivision.

APPEAL: A process to review (1) a decision or determination, or (2) a failure to act as required.

APPLICANT: A **person** who causes land to be subdivided or who proposes a **division of land**. An applicant includes the **landowner** and the **landowner's** agent if the **landowner** provides the **Planning Department** written notification that the **landowner's** agent is authorized to act on the

landowner's behalf and to receive notices regarding the **subdivision**. [Same as definition of "subdivider" in [76-3-103\(14\), MCA](#)]

APPLICATION: Submittal to the **Planning Department** of completed and signed materials including applicable fee required to initiate review under these regulations. (See also FINAL PLAT APPLICATION and PRELIMINARY PLAT APPLICATION)

ARM: Administrative Rules of Montana.

AVALANCHE: A movement of a large mass of snow and other debris moving downslope under gravitational forces. (See also LANDSLIDE.)

B

BASE FLOOD: Same as 100-YEAR FLOOD.

BASE FLOOD ELEVATION: The vertical elevation above sea level in relation to North American Vertical Datum 1988, to which the waters of a **100-year flood** are expected to rise. The base flood elevation is the same as the **100-year flood** elevation.

BCC: The Ravalli County Board of County Commissioners. The BCC is the **governing body** required to adopt these regulations and review proposed **divisions of land** in the **County's** jurisdictional areas.

BLOCK: A group of **lots** entirely bounded by **roadways**.

BUILDING: A **structure** having a roof supported by walls, columns, or other supports intended for the shelter or enclosure of persons, animals, or property of any kind.

BUILDING ENVELOPE: A designated area of a **lot** depicted on the face of a plat, showing the location where a **building** or **structure** may be placed.

C

CAMPGROUND: A **parcel** of land available to and principally used by the public for camping, where persons can camp, secure tents or cabins, or park trailers and RVs for camping and sleeping purposes. [[50-52-101, MCA](#)]

CAMPSITE: That part of a **campground** that is designated for the placement of a cabin, tent, trailer or RV.

CASH-IN-LIEU OF PARK DEDICATION: A cash payment that is accepted under [76-3-621, MCA](#), in lieu of **park dedication**.

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

CERTIFICATE OF TITLE: Same as TITLE REPORT.

CITY OF THE FIRST CLASS: A municipality with a population of 10,000 or more. [[7-1-4111, MCA](#)]

CITY OF THE SECOND CLASS: A municipality with a population of less than 10,000 and more than 5,000. [[7-1-4111, MCA](#)]

CITY OF THE THIRD CLASS: A municipality with a population of less than 5,000 and more than 1,000. [[7-1-4111, MCA](#)]

CLERK & RECORDER: The Ravalli County Clerk and Recorder's Office.

COMMON AREA: Area in a **subdivision**, held in single or common ownership, that is not reserved for the exclusive use or benefit of one individual tenant or owner.

COMMON DEVELOPMENT PLAN: A plan submitted by two (2) or more **adjoining landowners** working together to develop **subdivision** proposals for concurrent review for the specific benefit of said properties and **landowners**.

COMMON DRIVEWAY: An access that provides **legal access** and **physical access** to two **adjoining lots**.

COMMUNITY AMENITY SUBDIVISION: An approach to subdividing land that concentrates the location of **lots** in a manner so as to preserve open space, environmentally sensitive features, or common areas for public use.

CONDITIONAL PUBLIC ACCESS EASEMENT: An **easement** that will come into existence and be dedicated to the public upon the occurrence of triggering events or conditions, such as when a future **roadway** or **non-motorized facility** from an **adjoining lot** or **subdivision** is constructed within the **easement** to provide interconnectivity between two **lots** or **subdivisions**.

CONDOMINIUM: Ownership of single **units** with common elements located on property submitted to the provisions of the Montana Unit Ownership Act, [[Title 70, Chapter 23, MCA](#)].

CONSERVATION EASEMENT: An **easement** or restriction, running with the land and assignable, whereby a **landowner** voluntarily relinquishes to the holder of such **easement** or restriction any or all rights to construct **improvements** upon the land or to substantially alter the natural character of the land or to permit the construction of **improvements** upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the **easement** or restriction. [[76-6-104, MCA](#)]

COUNTY: Ravalli County, Montana.

COUNTY ROADWAY: A **roadway** that has been legally adopted as a Ravalli County **roadway** in accordance with the laws applicable at the time of its adoption.

COUNTY-OPERATED ROADWAY: A **roadway** within the **County** that is maintained by the **County**. A list of County-operated roadways can be obtained from the **Planning Department**.

COVENANT: A limitation contained in a deed or other document that restricts or regulates the use of real property.

CURB: A concrete or other improved boundary marking the edge of a **roadway** or paved area.

D

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

DEFENSIBLE SPACE: An area around **buildings** and **structures** where measures are taken to reduce the chance of a fire spreading to or from the **building** or **structure**. Typical measures include landscaping, **fuels breaks**, tree thinning, and fuels management.

DETENTION STRUCTURE: A **structure** designed to collect and temporarily store **stormwater** with subsequent gradual release of **stormwater**. (Contrast with RETENTION STRUCTURE.)

DIVISION OF LAND: The segregation of one or more **parcels** of land from a larger **tract** held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or **subdivision plat** establishing the identity of the segregated **parcels** pursuant to the **MSPA**. The conveyance of a **tract of record** or an entire **parcel** of land that was created by a previous division of land is not a division of land. [\[76-3-103\(4\), MCA\]](#)

DRAINAGE AREA: A drainage area is the total surface area, upstream of a point on a **stream**, where the water from rain, snowmelt, or irrigation which is not absorbed into the ground flows over the ground surface, back into **streams**, to finally reach that point.

DRIVEWAY: An access that provides **legal access** and **physical access** to only one **lot**. (See also COMMON DRIVEWAY; contrast with ROADWAY)

DWELLING UNIT: A **building** in which a person or persons reside. (See also PRIMARY DWELLING UNIT)

E

EA (ENVIRONMENTAL ASSESSMENT): A written report that documents the environmental and community impacts and consequences of a proposed **subdivision**. [\[See 76-3-603, MCA\]](#)

EASEMENT: Authorization by a **landowner** for another to use, or restriction on the right of the **landowner** to use, a designated portion of the **landowner's** property for a specified purpose, including but not limited to **roadways**, irrigation facilities, **non-motorized facilities** and utilities. (See also CONDITIONAL PUBLIC ACCESS EASEMENT and CONSERVATION EASEMENT)

EMERGENCY SERVICES: Community services, including fire protection, law enforcement, ambulance, quick response, search and rescue, **flood** and disaster relief. Emergency services may be provided by local governments or private organizations.

ENGINEER: A **professional engineer** licensed in conformance with [Title 37, Chapter 67, MCA](#) to practice engineering in the State of Montana.

ENGINEERING PLANS: Plans prepared under the supervision of an **engineer** for elements including community water systems, community sewer systems, and **roadways**. Plans shall be of sufficient detail to depict required land **dedication**(s) and rights-of-way. Plans shall be sufficient to show that all **lots** can be served by the system proposed and shall be certified by the **engineer** to that effect.

F

FINAL PLAT: The final drawing of the **subdivision**, containing all **dedications**, elements, and requirements set forth in the **Preliminary Plat Decision**, these regulations, and the **MSPA**. The final plat is required to be recorded with the **Clerk & Recorder**. [\[76-3-611, MCA\]](#) (See Appendix D)

FINAL PLAT APPLICATION: Submittal to the **Planning Department** of all required materials, including the **final plat**, prior to approval by the **BCC** and recording with the **Clerk & Recorder**. (See Appendix C)

FLOOD or FLOODING: The water of any watercourse or drainage that is above the bank or outside the channel banks of such a watercourse or drainage, or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODFRINGE: The portion of the **floodplain** located outside the limits of the **floodway**. (See Figure 16-1).

FLOODPLAIN: Any area of land susceptible to being inundated by water from any source. (See also 100-YEAR FLOODPLAIN, FLOODFRINGE, and FLOODWAY)

FLOODWAY: The channel of a watercourse or drainage and the adjacent land areas that must be reserved in order to discharge the **base flood** without cumulatively increasing the water surface elevation more than a designated height. (See Figure 16-1).

FUEL BREAKS: A strip or block of land on which the vegetation, debris and detritus have been reduced and/or modified to control or diminish the risk of the spread of fire crossing the strip or block of land.

G

GOVERNING BODY: The governing authority of a county, city or town organized pursuant to law [\[76-3-103 \(7\), MCA\]](#). The governing body for Ravalli County is the **BCC**.

GRAVEL ROADWAY: A **roadway** that is not a **paved roadway**.

GROSS ACREAGE: The total area within a **parcel** of land.

GROWTH POLICY: A policy that may be adopted pursuant to [Title 76, Chapter 1, MCA](#), on or after October 1, 1999. In these regulations, unless context requires otherwise, the Growth Policy refers to the Ravalli County Growth Policy, if one has been adopted.

GUTTER: A shallow channel, usually set along a curb, for purposes of catching and carrying off water.

H

HAZARD: Any condition, either natural or man-made, that presents a danger to the public health, safety, or general welfare.

HIGH FIRE HAZARD AREA: Those areas that, due to fire history, vegetation type and density, fuel types and loadings, topography, aspect, and other physical characteristics, are more likely than not to experience a wildland fire event.

HISTORIC RESOURCES: Various sites and **structures**, as may be identified by the Montana State Historic Preservation Office, which provide a link to the past and may be considered important to preserve. Examples of historic resources include archeological sites, mining districts, old trails, roadways and bridges, irrigation ditches, original farmsteads, homes, schools, churches, and Forest Service guard stations.

HOMEOWNERS' ASSOCIATION: A private, nonprofit corporation of homeowners established according to State law for the purpose of owning, operating, or maintaining various common properties.

I

IMMEDIATE FAMILY: Living spouses, children by blood or adoption, and parents [[76-3-103\(8\), MCA](#)].

IMPROVEMENT: Any infra**structure** constructed to serve the residents of a **subdivision** or the general public. Improvements include parks, **roadways**, sidewalks, **curbs** and **gutters**, street lighting, utilities, and systems for water supply, wastewater (sewage) treatment, and disposal and stormwater drainage. (See also PRIVATE IMPROVEMENT and PUBLIC IMPROVEMENT)

IRRIGATION DISTRICT: A district established pursuant to [Title 85, Chapter 7, MCA](#).

IRRIGATION DITCH: A man-made **structure** designed to convey water for irrigation purposes.

L

LANDOWNER: All **persons** with a title interest in the property. For purposes of the exemptions listed in [76-3-207, MCA](#), when a **lot** of land is being conveyed under a contract-for-deed, **landowner** means the seller of the **lot** under the contract-for-deed ([24.183.1104 ARM](#)). For all other purposes of these regulations, **landowner** means both the seller and the purchaser under a contract for deed.

LANDSLIDE: A movement of a large mass of soil and/or rock moving downslope under gravitational forces. (See also AVALANCHE)

LEGAL ACCESS: Each **lot** in a **subdivision** must **abut** a public roadway, or the **applicant** must obtain adequate and appropriate **easements** across all necessary properties from a public **roadway** to each **lot** in the **subdivision**.

LEVEL OF SERVICE: A standard used to measure the quality or effectiveness of **local services**, such as law enforcement or fire protection, or the performance of a facility, such as a **roadway**.

LIVING SPACE: Space designed, intended and used for living, sleeping, eating, cooking, recreation or any combination thereof. Closets, bathrooms, laundry and utility spaces are not considered living space.

LOCAL SERVICES: Services or facilities provided to the public, including but not limited to water supply and sewage treatment facilities, **emergency services**, public health services, educational services, and transportation systems. Local services may be provided by local governments or private organizations.

LOT: An existing or proposed **tract of record**. For the purposes of reviewing **major/minor subdivisions** and calculating **pro rata share lots** shall also include **units** within a **subdivision for lease or rent** and **RV spaces**.

LOT LINE: A line dividing one **lot** from another **lot** or from a **roadway**.

M

MAJOR SUBDIVISION: a **subdivision** containing six (6) or more **lots**.

MCA: Montana Code Annotated.

MDEQ: Montana Department of Environmental Quality.

MDPHHS: Montana Department of Public Health and Human Services.

MDT: Montana Department of Transportation.

MINOR SUBDIVISION: a **subdivision** containing five (5) or fewer **lots**.

MITIGATION: Measures taken to reasonably minimize potentially significant adverse impacts of a **subdivision**.

MOBILE HOME: A detached residential **dwelling unit**, which may consist of one or more sections, fabricated at a factory and designed to be towed on its own chassis to a **building** site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, “trailer homes,” “house trailers,” and “manufactured homes” whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include “modular” or “factory-built buildings” that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.

MOBILE HOME SPACE: A designated portion of a **mobile home park** designed for the accommodation of one **mobile home** and accessory **buildings** or **structures** for the exclusive use of the occupants. (See also UNIT.)

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

MOBILE HOME PARK: A tract of land providing two (2) or more **mobile home spaces** that could be for lease or rent to the general public. [[50-52-101, MCA](#)]

MDEQ MINIMUM STANDARDS: Minimum standards promulgated by **MDEQ** pursuant to [Title 76, Chapter 4, Part 1, MCA](#).

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

MSPA: Montana Subdivision and Platting Act, [Title 76, Chapter 3, MCA](#).

N

NATURAL DRAINAGE: A natural watercourse, including adjacent riparian vegetation, that has the specific function of transmitting natural **stream** water or **stormwater** continuously or intermittently in a definite direction. Natural drainages include all intermittent and perennial **streams** identified on a USGS topographic map.

NATURAL ENVIRONMENT: The physical conditions that exist within a given area, including land, air, water, mineral, flora, fauna, sound, light, and objects of historic significance.

NATURAL HAZARD: Including but not limited to fire and wildland fire, or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services. [[76-3-501\(9\), MCA](#)]

NO-BUILD ZONE: An area in which no **building** or **structure** may be constructed or otherwise placed. **Roadways**, trails, and utility crossings may be permissible within a no-build zone. (Contrast with NO BUILD/ALTERATION ZONE)

NO-BUILD/ALTERATION ZONE: An area in which no **building** or **structure** may be constructed or otherwise placed and no **roadway** or utility crossing is permitted and the vegetation is retained in its natural condition, with the exception of necessary weed control and the removal of vegetation and thinning of trees as may be necessary to protect against wildfire and promote a healthy ecosystem. No fill is permitted to be placed within the no-build/alteration zone. Fences are permitted within a no-build/alteration zone. Certain specific development alterations may be permissible within the no-build/alteration zone as provided for in these regulations. (Contrast with NO BUILD ZONE)

NO-INGRESS/EGRESS ZONE: An area across which vehicular access is prohibited.

NON-MOTORIZED FACILITY: A route or access way providing for non-motorized uses including pedestrians, bicyclists, equestrians, and wheelchairs. Non-motorized facilities include **sidewalks**, walkways, widened and striped **roadways**, trails and bikeways.

NOXIOUS WEED: Any exotic plant species established or that may be introduced in the **State** that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated as a statewide noxious weed by rule of the Montana Department of Agriculture or as a district noxious weed by a district weed board. [[7-22-2101, MCA](#)]

O

OFF-SITE: Any area not located within the **division of land**.

ON-SITE: Located within the **division of land**.

ORDINARY HIGH-WATER MARK: The point found on **streams** which the presence and actions of waters are so common and usual as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, or other easily recognizable characteristics.

OVERALL DEVELOPMENT PLAN: The plan showing future development potential of areas not included in a **subdivision** proposal.

OWNER: Same as LANDOWNER.

P

PARCEL: An area of land, all parts of which are contiguous, in the possession of, owned by, or managed by the same **person**.

PARCEL, PARENT: The subject parcel of land that is proposed to be the site of a subdivision.

PARK BOARD: The Ravalli County Park Board created pursuant to [7-16-2301, MCA](#).

PARK DEDICATION: Land set aside by the **applicant** for **parkland**. [[76-3-621, MCA](#)] (See also CASH-IN-LIEU OF PARK DEDICATION)

PARKING LOT: An off-street area improved for the temporary, daily, or overnight parking of motor vehicles.

PARKLAND: An area specifically set aside for outdoor recreation, conservation of natural environment, **wildlife habitat**, etc.

PAVED ROADWAY: A **roadway** that is paved with an asphalt-concrete surface approved by the **RCRBD**.

PERSON: Any individual (living), corporation, limited liability company, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

PHYSICAL ACCESS: A **roadway** conforming to the design and development standards in applicable law and regulation, including any relevant **variance** requests, that provides unobstructed vehicular access year-round to the **subdivision**.

PLANNING BOARD: The Ravalli County Planning Board formed pursuant to [Title 76, Chapter 1, MCA](#).

PLANNING DEPARTMENT: The Ravalli County Planning Department. The Planning Department is the agency designated by the **BCC** to review **applications** for sufficiency in accordance with the **MSPA** and these regulations.

PLAT: A clear, scaled drawing and/or plan of a **division of land** containing the information required by Montana law and these regulations. (See also AMENDED PLAT, FINAL PLAT, and PRELIMINARY PLAT)

PLATTED SUBDIVISION: Plats of record created by approval of the local regulatory body in authority on the date of recording and in full compliance with then existing law.

PPD (PRELIMINARY PLAT DECISION): The written statement prepared by the **BCC** following any decision by the **BCC** to approve, conditionally approve, or deny a proposed **subdivision**. The PPD shall contain the information required by [76-3-620, MCA](#), and these regulations.

PRELIMINARY PLAT: A **plat** of a proposed **subdivision** that furnishes a basis for review as more specifically set forth in these regulations and the **MSPA**. (See [Appendix B](#))

PRELIMINARY PLAT APPLICATION: Submittal to the **Planning Department** of all required materials, including the **preliminary plat**, prior to **subdivision** review. (See [Appendix A](#))

PRIMARY ACCESS: Any access(es) into a **subdivision** that can be reasonably anticipated to provide vehicular access to one or more **lots** within the **subdivision**.

PRIMARY ACCESS ROUTE: All **roadways** along a particular route that must be traveled to enter **primary access(es)** to a **subdivision**, as measured from US Highway 93 or Eastside Highway, whichever is closer.

PRIMARY DWELLING UNIT: A **dwelling unit** that serves as the principal residence on a **lot**.

PRIVATE IMPROVEMENT: Private **improvements** are the same types of **improvements** as defined under **public improvements**, except the infra**structure** or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.

PROFESSIONAL ENGINEER: Same as ENGINEER.

PROFESSIONAL LAND SURVEYOR: Same as SURVEYOR.

PRO-RATA SHARE: The proportional share for **subdivision improvements** shall be calculated as follows:

$$\frac{\text{Projected ADT for Proposed Subdivision}}{\text{Projected ADT for Proposed Subdivision} + \text{Existing ADT}} \times \text{Cost Estimate}$$

The “Projected **ADT** for Proposed Subdivision” is calculated using **RCRBD** policies and the latest edition of the manual entitled “Trip Generation” published by the Institute of Transportation Engineers based on the number of proposed **lots** within the **subdivision** and the proposed usage of those **lots**, minus all existing **tracts of record**. The estimated traffic shall be zero trips for any residences/businesses on the **subdivision** property that have been in place prior to the enactment of the **MSPA** in 1973 as documented by the **applicant** through tax records, wastewater treatment system permits, or other credible evidence.

The “Existing **ADT**” is calculated using the current traffic measured on the **primary access route(s)** in question.

The “Cost Estimate” is calculated by the **RCRBD** and includes costs for **engineering** (planning, design, survey, inspection), construction, administration, and moving of utilities and **structures** if required.

ADT and Cost Estimate(s) shall be completed by the **RCRBD** or completed by an **engineer** and approved by the **RCRBD**.

PUBLIC HEALTH AND SAFETY: The 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.

PUBLIC IMPROVEMENT: Any infra**structure** or facility constructed to serve more than one **lot** in a **subdivision** that is dedicated to the public or otherwise acquired by a government entity for

public use. Public improvements may include parks, **roadways**, sidewalks, **curbs**, **gutters**, street lighting, utilities, systems for water supply, wastewater (sewage) treatment and disposal, drainage, or fire protection.

PUBLIC UTILITY: A utility as defined in [69-3-101, MCA](#), except that for the purposes of these regulations the term includes county or consolidated city and county water or sewer districts as provided for in [Title 7, chapter 13](#), parts 22 and 23. [\[76-3-103\(13\), MCA\]](#)

R

RCEH: The Ravalli County Environmental Health Department.

RCRBD: The Ravalli County Road and Bridge Department.

REMAINDER: That portion of an original **parcel** that is not itself intended for transfer, but that is left after other **parcels** are segregated for transfer. In reference to **subdivisions**, a remainder is considered a **lot** in a **subdivision** which must be reviewed with the **subdivision**. In reference to an exemption by a certificate of survey, the remainder is a separate parcel that must be surveyed.

RETENTION STRUCTURE: A **structure** designed to collect and prevent the release of a given volume of **stormwater** by complete **on-site** storage. (Contrast with DETENTION STRUCTURE.)

REVIEWING AUTHORITY: The authority (**MDEQ** or **RCEH**) certified to conduct review of sanitation in **subdivisions** under [Title 76, Chapter 4, MCA](#). [\[76-4-102\(12\), MCA\]](#)

ROADWAY: Portions of a highway, road, or street improved, designed, or ordinarily used for travel or parking of motor vehicles. **Roadway** shall include both the physical infrastructure and **easement** in which the infrastructure is situated. (See also COUNTY ROADWAY, COUNTY-OPERATED ROADWAY, GRAVEL ROADWAY and PAVED ROADWAY; (contrast with DRIVEWAY))

ROADWAY INTERSECTION: An at-grade connection of a **roadway** or **driveway** with another **roadway**.

ROADWAY MAINTENANCE AGREEMENT: A written instrument recorded with the Clerk & Recorder that defines how a private **roadway** is or will be maintained, and the rights and obligations of the parties to the agreement, in perpetuity or until such time as a governing body or agency with authority to do so accepts maintenance of the **roadway**.

RURAL IMPROVEMENT DISTRICT: An established area in the unincorporated area of the **County** that is created by the **BCC** pursuant to [Title 7, Chapter 12, Part 21, MCA](#) for the express purpose of levying a special tax to pay for **public improvements**/maintenance for the benefit of those within the district.

RV (RECREATIONAL VEHICLE): A vehicle primarily designed to provide temporary living quarters for recreational, camping, or travel use that is built on or attached to a self-propelled motor vehicle chassis, or to a chassis cab or van.

RV PARK: A **parcel** of land used for public camping where persons can rent a space to park or place **RVs**, camping trailers, pick-up campers, motor homes, travel trailers, or tents for temporary dwelling purposes.

RV SPACE: A designated portion of an **RV park** that is designed for the exclusive use of its occupants.

S

SIDEWALK: A strip or section of concrete located along **roadways**, within the **easement**, separated from the **roadway** by a **curb**, planting strip, or both, and designed for use by pedestrians. A sidewalk is a type of **non-motorized facility**.

SITE PLAN: A plan, prepared by an **engineer** and drawn to scale, showing topography, the layout of existing and proposed property lines, **easements**, **structures**, uses, utilities, **parking lots**, **roadways**, signs, buffers, landscaping, adjacent land uses, and other information as required.

SLOPE: The change in vertical measurement to the change in the horizontal measurement, usually expressed as a percentage.

SPECIAL IMPROVEMENT DISTRICT: Same as RURAL IMPROVEMENT DISTRICT.

SPECIES OF CONCERN: Plant or animal species or plant communities identified by the Montana Natural Heritage Program as rare, endemic, disjunct, threatened, or endangered throughout their range or in Montana, vulnerable to extirpation from Montana, or in need of further research.

STATE: The State of Montana.

STORMWATER: The flow and accumulation of water from a precipitation event.

STREAM: A natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground as shown on a USGS 24000K topographic map.

STRUCTURALLY CONNECTED: To be structurally connected requires a common foundation, common roof line, and common wall element. A common foundation means that the proposed foundation directly **adjoins** that of the original foundation using the same or similar foundation materials and construction techniques. A common roof line means that the proposed roof **adjoins** the original roof and provides all-weather protection for the space beneath. A common wall element means an enclosed space directly attaches the proposed **structure** with the existing **structure**. Breezeways, openings, or other thoroughfares in the wall element that cannot be closed to provide all-weather protection for the space inside are not structural connections. Operable windows may be allowed. The finished **structure** should be constructed

such that it allows for the comfortable passage of individuals to the original **structure**. It should appear to have been contemplated for construction with the original **structure**.

STRUCTURE: Any permanent or temporary object that is constructed, installed, or placed by man, which requires a location on a **parcel** of land. It includes **buildings** of all types, bridges, in-stream structures, storage tanks, walls, fences, swimming pools, towers, antennas, poles, pipelines, transmission lines, smokestacks, signs, and similar objects.

SUBDIVIDER: Same as APPLICANT.

SUBDIVISION: A **division of land** or land so divided which creates one or more **parcels** containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public **roadways**, in order that the title to or possession of the **parcels** may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a **condominium** or area, regardless of its size, that provides or will provide multiple spaces for **recreational vehicles** or **mobile homes** [76-3-103(15), [MCA](#)]. (See also COMMUNITY AMENITIES SUBDIVISION, FIRST MINOR SUBDIVISION, MAJOR SUBDIVISION, MINOR SUBDIVISION, SUBDIVISION FOR LEASE OR RENT, and SUBSEQUENT MINOR SUBDIVISION)

SUBDIVISION EVASION CRITERIA: Those criteria adopted by a local government that it uses to determine whether a proposed use of a **subdivision** exemption is being utilized for the purpose of evading the **MSPA**.

SUBDIVISION FOR LEASE OR RENT: Any **parcel** of land that is subdivided by leasing, renting, or otherwise conveying portions thereof, including but not limited to **campgrounds** and **recreational vehicle parks**. **Structurally connected** additions to existing **buildings** are not subdivisions for lease or rent.

SUBDIVISION GUARANTEE: Same as TITLE REPORT.

SURVEYOR: A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act [[Title 37, Chapter 67, MCA](#)] to practice surveying in the State of Montana.

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

T

TITLE REPORT : A report from a title company on the condition of title to the property proposed for **subdivision**, which identifies the **landowners** of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guaranty of the accuracy of the report from the title insurance agent or its underwriter.

TOPOGRAPHY: General term to include characteristics of the ground surface such as plains, hills, mountains, slopes, and other physiographic features.

TOWN: A municipal corporation having a population of less than 1,000 and more than 300. [[7-1-4111, MCA](#)]

TRACT OF RECORD: An individual **parcel** of land, irrespective of ownership, that can be identified by legal description, independent of any other **parcel** of land, using documents on file in the records of the county clerk & recorder's office [[76-3-103\(16\)\(a\), MCA](#)].

U

UNIT: A **building** or other space intended for occupancy or commercial use that may be sold, rented, leased, or otherwise conveyed to a **person**. A unit may or may not be in a single **building** or under a single roof. **Buildings** that are for the sole use by occupants of a **primary dwelling unit**, including garages and storage sheds, are not considered units for purposes of these regulations. Individual spaces within a mini-storage building are also not considered units.

V

VARIANCE: A grant of relief from the strict application of a rule or regulation that permits development in a manner otherwise prohibited.

VIOLATION: The failure to comply with applicable regulations.

W

WATER RIGHT: A right to use water that is protected under Montana law. [[Title 85, Chapter 2, MCA](#)]

WETLANDS: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WILDLIFE: Animals (vertebrate and invertebrate) that exist in their natural environment. These exclude domesticated or tamed species.

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

APPENDIX A. PRELIMINARY PLAT APPLICATION REQUIREMENTS

In accordance with [76-3-504\(a\)](#), MCA, the **applicant** shall submit to the **Planning Department** an application that includes the items outlined below. If the **applicant** believes an item is not applicable, the **applicant** shall provide an explanation as to why the item is not applicable.

The **preliminary plat application** shall be submitted in an organized format with a cover sheet, table of contents, and identification tabs for each section and shall be bound in a three ring binder, comb binder, or similar method that helps the reviewing agency find all relevant information.

The required materials in the **preliminary plat application** shall be ordered as follows:

1. Required review fee(s);
2. List of names and addresses of each **landowner** (including each purchaser under contract for deed) for land **adjoining** and within 300 feet of the subject property, as filed with the **Clerk and Recorder's** Office;
3. Completed and signed **Preliminary Plat Application** Form, available from the **Planning Department**, or on-line, including all required supplements;
4. Copies of all materials associated with previously approved **variances**;
5. Complete **variance** application(s), if **variance** request(s) are submitted with the **application**;
6. **Preliminary plat** (See [Appendix B](#) for requirements);
7. Reduced copy (8½" x 11", 8½" x 14", or 11" x 17") of **preliminary plat**;
8. Phasing plan and schedule, including:
 - a. A plat delineating each phase;
 - b. Timing and schedule for platting of each phase;
 - c. A required **improvements** plan showing which **improvements** will be completed with each phase, and how those **improvements** will be staged to allow for efficient connection to subsequent phases.

9. Vicinity map – 8 ½" x 11" or 11" x 17" – showing the following:
 - a. Boundaries of subject property,
 - b. Location and names of adjacent **roadways**,
 - c. US Highway 93 or Eastside Highway,
 - d. Approximate location of municipal boundaries,
 - e. Rivers, creeks, **streams**, **wetlands**, **natural drainages**
 - f. Private or public airport (including landing strips), if the **subdivision** is located near one, and
 - g. Shooting range, if the **subdivision** is located near one;
10. Aerial photo (2004 or later) of the property and the general area – 8 ½" x 11" or 11" x 17" – showing:
 - a. The date of the photo,
 - b. Scale,
 - c. Boundaries of the subject **parcel**,
 - d. Changes that have occurred since the photo was taken;
11. Plans for addressing additional provisions for **Mobile Home Parks**;
12. Plans for addressing additional provisions for **RV Parks**;
13. **Condominium** Checklist (available from **Planning Department**) or on-line;
14. Proposed **covenants**;
15. **Title Report** that includes existing **covenants**, deed restrictions, **easements**, and identifies the current **landowner(s)**;
16. Other existing **covenants**, deed restrictions, **easements** and other recorded restrictions not included in the **Title Report**;
17. **Environmental Assessment**, if applicable, completed to the requirements in [Appendix E](#);
18. Community Impact Report, if applicable, completed to the requirements in [Appendix F](#);

19. Summary of Probable Impacts, completed to the requirements in [Appendix G](#);
20. Soils map and related soils information regarding soil types on the property, suitability of those soil types for development or **agriculture**, using the information form the Natural Resources Conservation Service;
21. Letter from the Montana State Historic Preservation Office (SHPO) detailing evidence of known locations of any cultural or **historic resources**;
 - a. If the response letter from SHPO indicates that cultural and/or **historical resources** have a potential to be located on the subject property, the **applicant** shall perform an archeological resources inventory which shall be submitted with the **preliminary plat application**.
 - b. The inventory shall be prepared and completed by a qualified individual with a degree in archeology or very closely related field, and shall be prepared to comply with Class 3 of the Secretary of Interior standards;
22. The approved Ground Disturbance and **Noxious Weed** Management Plan for the control of **noxious weeds** and the revegetation of all soils disturbed within the **subdivision**, approved by the Ravalli County Weed District;
23. One copy of all materials submitted to **RCEH** for water and sanitation information required per [MCA 76-3-622](#);
24. Copy of the checklist (which shall be limited to information required by [MCA 76-3-622](#)) from **RCEH** stating the information is complete;
25. Concept plans for any public water or wastewater treatment systems showing the proposed location of all water and sewer lines, stub-outs, and associated facilities;
26. Documentation of existing **water rights** or water shares;
27. A Master Irrigation Plan shall be prepared and submitted along with the **preliminary plat application** for all **subdivisions** where an irrigation **water right** or share is proposed to be conveyed with one (1) or more of the **lots** within the **subdivision**;
28. List of names and addresses of all downstream irrigation users of any irrigation infrastructure proposed to be relocated or altered, when the irrigation infrastructure or **water rights** associated with the proposed **subdivision**, are not 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**;
29. Documentation from the appropriate irrigation company or district approving the relocation or alteration of irrigation infrastructure, and distribution of **water right** shares when the proposed **subdivision** 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**;

30. Statement of intent to sever all surface **water rights**, if the **applicant** does not intend to allocate irrigation water to the proposed **lots**;
31. Documentation showing that the **applicant** has applied for necessary permits, including all relevant reports supporting those permits where applicable, such as but not limited to those from Bitterroot Conservation District, US Army Corps of Engineers, and/or the Ravalli County Floodplain Program;
32. Documentation of **legal and physical access**. The requirement to provide evidence of physical access with a **preliminary plat application** shall take into account the current condition of the **roadway**, any proposed **improvements** that will be made prior to **final plat** approval (or after approval of a **subdivision improvement agreement**), and requirements for **variances** to meet the physical access requirements;
33. Preliminary approach and encroachment permits from **MDT** and/or the **RCRBD**, as appropriate, or clear evidence from **MDT** or the **RCRBD** that proposed approaches are approvable;
34. Traffic Impact Analysis, if required, completed to the standards and procedures set forth in [Appendix H](#), including a written statement of approval from the **RCRBD**;
35. Preliminary **pro-rata share** calculation for the proposed **subdivision**, completed or approved by the **RCRBD** within six (6) months of the date of the **preliminary plat application** submittal. The preliminary **pro-rata share** calculation may be utilized to determine the amount due at **final plat application** in accordance with the **Preliminary Plat Decision** unless the **applicant** elects to obtain an updated **pro-rata share** calculation prior to the submittal of the **final plat**. (See also other possible alternatives in Section 12-3).
36. Existing **roadway maintenance agreements**, if any, shall be prepared and submitted for all private **roadways** and **common driveways** that provide access to the **subdivision**;
37. Conceptual **roadway** design, grading and drainage, and **stormwater** management plans. In the event that the design of any of these **improvements** change after the **Planning Department** renders a determination of sufficiency on the **subdivision** application, and those changes are deemed material, the **applicant** will be required to complete the applicable amended application procedure as detailed in [Chapter 9](#) of these regulations;
 - a. At a minimum, the conceptual **roadway** design, grading and drainage, and **stormwater** management plans shall include the following:
 - (1) Location of all **improvements**;
 - (2) Relevant dimensions of all **improvements**;

- (3) Horizontal and vertical curvatures of all **roadways**;
 - (4) Location, width, ownership and purpose of **easements**; and
 - (5) Other reasonable information requested by the **RCRBD**.
- b. As an alternative, **applicants** may submit preliminary engineering plans to be reviewed in accordance with the **RCRBD** Subdivision Assessment Coordination Policy.
38. Evidence that the **roadway** plans and applicable fees have been submitted to the **RCRBD**;
 39. **Roadway** plans approval packet from the **RCRBD** that includes the correspondence between the consulting engineer and the **applicant**, [per 37.b](#) above, if applicable;
 40. **High Fire Hazard Area** Management Plan;
 41. Any additional relevant information identified by the **Planning Department** during the pre-application meeting or **application** process that is pertinent to the required elements or the review criteria in the **MSPA** and these regulations; and
 42. Any other documentation needed as evidence that the **subdivision** meets the design and development standards in [Chapter 12](#) of these regulations.

APPENDIX B. PRELIMINARY PLAT REQUIREMENTS

The following features are required to be shown on the face of the **preliminary plat**

1. Format

- a. Prepared by a land use planner, **engineer**, or **surveyor**, except for a **subdivision for lease or rent**
- b. Page size 24" x 36" or 18" x 24"
- c. Multiple pages numbered "1 of ___ pages"

2. Content

- a. **Subdivision** information, including title block or **subdivision** name, **applicant** and **landowner** (if different), preparation date, name of preparer
- b. Survey Information, including north arrow, graphic scale, legend, legal description of property, exterior property boundaries (bearings, lengths, curve data), and acreage of subject property. (Bearings and curve data not required for a **subdivision for lease or rent**)

3. Subdivision Development Information, including:

- a. **Lots** and **blocks** designated by number (dimensions and acreage). For **subdivisions for lease or rent**, show the existing and proposed **building** sites;
- c. **Easements**/rights of way (location, width, purpose, ownership).- **Easements** should include those for irrigation, utilities, **roadways**, **common driveways**, and any **conditional public access easements**. Identify **easements**/rights of way as existing or proposed;
- d. **Dedication** for public use (boundaries, area, purpose);
- e. **No-build/alteration zones**, identified as existing or proposed;
- f. **No-ingress/egress zones**, identified as existing or proposed; and
- g. Project phasing, if any.

4. Setting, including:

- h. Names of **subdivisions**/Certificates of Survey **adjoining** and within 300 feet of subject property;
- i. Property boundaries within 300 feet of subject property;
- j. Names of **adjacent landowners**;
- k. Adjacent land uses within 300 feet of subject property; and
- l. Municipal boundaries, if applicable.

5. Site Features, including:

- a. Ground contours (For **slopes** less than ten percent (10%), provide 2-foot intervals, and for slopes 10% or greater provide 10-foot intervals. Varying ground contour that are sufficient to show significant features of the property may

be accepted by the **Planning Department**. In some cases, ground contours may only be required for those areas of a proposed **subdivision** when the remaining areas of the **parcel** are identified as “no-build/alteration” zones. The USGS topographic map will suffice for contours on the preliminary plan for **subdivisions for lease or rent** that propose only one additional **unit**.);

- b. **Wetlands**;
- c. Woodlands and timbered areas;
- d. **Wildlife habitat**;
- e. Other environmentally sensitive features, which include areas with 15% or greater **slope**, **natural drainage** features, riparian areas, and prime farmland soils or soils of statewide importance.;
- f. Locations of soils rated as severe or very limited for residential **building** sites or **roadways**;
- g. Water resources on and within 300 feet of the subject property (creeks, rivers, ponds, etc.);
- h. **Floodplains**;
- i. Irrigation canals, ditches and pipelines within 300 feet of the subject property, including diversion point(s);
- j. High pressure gas lines within 100 feet of the subject property;
- k. Boundary of any dam inundation area (on the plat and location map, as appropriate) if the **subdivision** is within an inundation area; and
- l. Sites of historical significance on or near the **subdivision** (show on plat and location map as appropriate)

6. Existing Buildings and Improvements (for subdivision and within 300 feet), including:

- a. Utilities (including water, sewer, telephone, power, etc.) Provide information on location, type, size/capacity, buried/overhead, as applicable. For individual wells and septic systems, provide approximate locations within 100 feet of the subject property. Labeled as existing or proposed;
- b. **Roadways** (names, ownership, easement width, location.);
- c. Bridges that provide **physical access** to the **subdivision** (either on the plat or location map);
- d. **Driveways** and **roadway** access onto public and private **roadways**;
- e. **Buildings/structures** (footprint, use, etc.); and
- f. Traffic control signs (type, location).

7. Proposed Improvements and Construction Information, including:

- a. **Stormwater**/drainage system (location, specifications, easements, location);
- b. **Roadway** layout (**Roadway** details to be provided in the **roadway** plans);
- c. Proposed irrigation facilities, if applicable;
- d. Traffic control signs (type, location); and
- e. Locations of proposed utilities including sewer lines, cleanouts, maintenance **buildings**, water, telephone, power, etc.

APPENDIX C. FINAL PLAT APPLICATION REQUIREMENTS

The **applicant** shall submit to the **Planning Department** a **final plat application** that includes the items outlined below. If the **applicant** believes an item is not applicable, the **applicant** shall provide an explanation as to why the item is not applicable.

The required materials in the **final plat application** shall be ordered as follows:

1. The **final plat application** review fee;
2. A statement from the **subdivision surveyor** or **engineer** outlining how each **final plat** requirement or condition of approval has been satisfied;
3. One paper and two mylar copies of the **final plat**, completed in accordance with the Uniform Standards for Final Subdivisions Plats ([ARM 24.183.1107](#)). (One paper copy may be submitted for the first proofing.) **Final plats** must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1 1/2-inch margin on the binding side.
4. If more than one sheet must be used to adequately depict the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.
5. A **final plat** containing on its face or on separate sheets referred to on the plat the requirements outlined in [Appendix D](#). The **surveyor** may, at his or her discretion, provide additional information regarding the survey, and must show any additional information as required by the **BCC**;
6. The **PPD**;
7. Any **variance** decisions;
8. Copies of extensions of the **preliminary plat** approval period;
9. Consent to Plat form, including notarized signatures of all owners of interest, if the **applicant** is not the underlying title holder;
10. A **Title Report** dated no less than one (1) year prior to the date of **final plat application** submittal;
11. The **MDEQ** Certificate of Subdivision Approval or **RCEH** approval;
12. Copy of the General Discharge Permit for **Stormwater** Associated with Construction Activity from the **MDEQ**;

13. The approved Ground Disturbance and **Noxious Weed** Management Plan for the control of **noxious weeds** and the re-vegetation of all soils disturbed within the **subdivision**;
14. Final **roadway** name approval from the **County** GIS Department for all newly constructed **roadways**;
15. A copy of the Department of Revenue tax assessment or an appraisal report, per [Section 13-6 or 13-7](#), dated no less than six (6) months from the date of the submittal, for calculating the **cash-in-lieu of parkland dedication** and a receipt from the County Treasurer's Office for the payment of **cash-in-lieu of parkland applicants dedication**;
16. Finalized **roadway** and **driveway** approach and encroachment permits from the **RCRBD** and **MDT**, as appropriate;
17. Final **engineering plans** and specifications for all public water and sewer systems and any other **improvements** requiring **engineering plans**;
18. Final **roadway** plans, including:
 - a. Final **Roadway** plans approved by the **RCRBD** for all **roadways** to be constructed or reconstructed within or outside of the **subdivision** boundaries. **Roadway** plans shall be prepared by an **engineer**;
 - b. For each type of **roadway** proposed, typical cross sections for the full **easement** width;
 - c. **Roadway** grades;
 - d. **Roadway** profiles for all proposed **roadways** which have grades exceeding 7% or cuts and fills exceeding three feet;
 - e. Type and location of other infrastructure within the **roadway easement**, such as **non-motorized facilities**, walkways and **curbs/gutters**, if there are any;
 - f. Other information as appropriate and as necessary for the **RCRBD** to conduct and complete its review; and
 - g. Evidence that the **roadway** plans meet the **roadway** standards in these regulations;
19. Grading, drainage and **stormwater** management plans, prepared by an **engineer** in accordance with **MDEQ** Circular 8 as amended and the **ARM** for all **subdivisions** in which a **roadway** is to be constructed or reconstructed, including **subdivisions** with **lots** greater than 20 acres in size, shall be provided. The grading and **stormwater** plans shall be approved by all applicable reviewing agencies;

20. **Roadway maintenance agreement(s)** for all **roadways** and **common driveways**, which shall include the following requirements:
- a. A description of the **parcels** that are subject to the agreement;
 - b. The section of the **roadway** or location of the **common driveway** that is subject to the agreement;
 - c. The agreement is binding on any **person** having an interest in a **parcel** that is subject to the agreement;
 - d. Any **person** providing **public utilities** may use the utility **easements** for such purposes;
 - e. Decisions to undertake any **roadway** maintenance is the responsibility of the **landowners** and shall be based on a majority vote (over 50%) of the parties to the agreement;
 - f. Who is eligible to cast a vote (one vote per **parcel**);
 - g. How the maintenance costs will be assessed (equally or disproportionately) to the parties to the agreement;
 - h. The amount that will be assessed in the event that a party subdivides a **parcel** that is subject to the agreement;
 - i. In the event that an assessment becomes delinquent, the assessment and interest and the cost of collection shall become a continuing lien on the **lot**;
 - j. The agreement is perpetual and cannot be rescinded unless the **County** or **State** agrees to maintain the **roadway** described in the agreement;
 - k. When a **subdivision**, or **lots** within a **subdivision**, is proposed for non-residential purposes, the provision for maintaining all associated **parking lots** shall be included in this document;
 - l. **Roadway/common driveway** maintenance includes dust control, snow removal, maintenance of **stormwater** drainage facilities, ordinary maintenance and reconstruction if necessary. **Roadway** maintenance shall also include on-street parking enforcement provisions, in accordance with on-street parking provided for in the **roadway** design, because failure to enforce on-street parking may result in the inability of **emergency services** providers to provide service to **lots** along this **roadway(s)**;

- m. The agreement may be amended, except that it may not be amended to be less strict or less inclusive; and
 - n. Notary statement.
 - o. Recording of Agreement. **Roadway / maintenance agreement**(s) shall be filed with the **Clerk & Recorder** as a single document (prior to or concurrent with the filing of the **final plat**) and shall not include other provisions not related to **roadway** maintenance (e.g. land use restrictions, etc.), unless there is a provision in the document stating that the **roadway maintenance agreement** section in the **covenants** cannot be amended to be less strict or less inclusive.
- 21.** Utility availability certification(s);
- 22.** Completed, signed, and notarized Master Irrigation Plan, including to the following:
- a. The plan and all supporting documentation shall be prepared by a **person** with a working knowledge of irrigation water delivery systems,
 - b. The plan shall be drawn at the same scale as required for the **final plat**,
 - c. The plan shall be legible, showing all of the required information,
 - d. Where multiple sheets are used, a cover sheet with index shall be included and each sheet shall show the number of that sheet and the total number of sheets included,
 - e. The plan shall show the location of all existing and new diversion points, ditches, pipes, pumps, heads, and associated **easements**,
 - f. The plan shall provide a watering schedule that shows when each of the users can use water from the system,
 - g. The plan shall describe the means to share in the cost of operating and maintaining those elements of the delivery system held in common,
 - h. The plan shall describe the amount of water allocated to each of the **lots**,
 - i. Notary statement;
- 23.** Documentation from the appropriate irrigation company or district approving the relocation or alteration of irrigation infrastructure, and distribution of **water right** shares when the proposed **subdivision** 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**;
- 24.** Documentation indicating that the **water rights** have been severed from the property;

25. Protective **covenants** to be filed with the **final plat** that are signed and notarized;
26. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers;
27. Signed and notarized **homeowners' association** documents, including the following requirements:
 - a. Articles of Incorporation, which shall be filed with the Secretary of State's office
 - b. Bylaws
 - c. **Covenants**, and/or declarations, and
 - d. The **homeowners' association** documents shall include the following information:
 - (1) Mandatory membership for each **landowner**. Purchasers of property may also be required to sign a **waiver of right to protest** the formation of a maintenance district to maintain **improvements**;
 - (2) A description of the **common areas** (land and facilities) that the **landowners** will own in common;
 - (3) Perpetual reservation of the **common areas** when required under [76-3-621\(6\)\(a\), MCA](#);
 - (4) Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
 - (5) Placement of liens on the property of **lot** owners who are delinquent in the payment of association fees and assessments;
 - (6) Process for adjusting assessments to meet changing needs;
 - (7) Means of enforcing any **covenants**, and of receiving and processing complaints;
 - (8) Transition of control of the association from the **applicant** to the homeowners as **lots** are sold;
 - (9) Dissolution of the association or modification of the **covenants** and restrictions after obtaining **BCC** approval for the change; and
 - (10) Regular maintenance of **roadways**, parks, **buildings**, open space, drainage facilities, **common areas**, and other facilities controlled by the association.

- (11) Notary statement.
 - (12) Recording of Agreement. The **homeowners' association** documents shall be filed with the **Clerk & Recorder** as a single document.
28. Evidence that **defensible space building envelopes** have been provided;
29. **High fire hazard area** Management Plan, including the following:
- a. A map showing the areas that are to be cleared of dead, dying, or severely distressed vegetation;
 - b. A map of the areas that are to be thinned or treated for vegetative fuels management (thinning, fuel breaks, etc.), including **defensible space building envelopes**, **roadway** and **driveway** vegetation clearing;
 - c. **Defensible space building envelopes** shall have a minimum **defensible space** as described in subpart (1), below:
 - (1) From twenty (20) feet to one-hundred (100) feet from a **dwelling unit**, thin trees to ten (10) feet between crowns, prune limbs of all remaining trees to fifteen (15) feet or one-third the total live crown height (whichever is less), and remove all downed woody fuels.
 - d. **Driveway** vegetation clearing shall be completed and maintained as described in subpart (1), below:
 - (1) All live surface vegetation within five (5) feet of each side of individual **driveways** at twelve (12) inches or less and remove all dead vegetation, logs, snags, etc. **Driveways** shall be situated on each **lot** such that all required fuel reduction activities will occur solely on the **lot** on which the **driveway** is located
 - e. A narrative describing proposed vegetative management activities and timelines for when those activities are anticipated to be carried out and by whom;
 - f. Provisions for the ongoing maintenance of **defensible space** and vegetation clearance along **roadways** and **driveways**;

- g. Provisions for the testing and maintenance of water delivery systems to ensure those systems are in operative conditions at all times and are repaired or replaced when defective;
 - h. How the costs of vegetation management and/or water delivery system testing and maintenance will be assessed (equally or disproportionately) to the parties to the agreement;
 - i. The amount that will be assessed in the event that a party subdivides a **parcel** that is subject to the agreement;
 - j. In the event that an assessment becomes delinquent, the assessment and interest and the cost of collection shall become a continuing lien on the **lot**;
 - k. Notary statement.
 - l. Recording of Agreement. The **high fire hazard area** Management Plan shall be filed with the **Clerk & Recorder** as a single document and shall not include other provisions not related to **high fire hazard area** management.
- 30.** Evidence that **pro-rata share** has been paid;
- 31.** Evidence that **improvements** have been made in accordance with the conditions of approval and requirements of **final plat** approval and certified by the **applicant**, **engineer**, or contractor, as may be appropriate and required. An **engineer's** certification shall be required in any instance where engineered plans are required for the **improvement**. Alternatively, a **subdivision improvement agreement** and guaranty shall be required that complies with [Appendix I](#).

APPENDIX D. FINAL PLAT REQUIREMENTS

The following features are required to be shown on the face of the **final plat**

1. A title or title block indicating the quarter-section, section, township, range, principal meridian, county and, if applicable city or town, in which the **subdivision** is located. The title of the plat must contain the words "plat" and either "**subdivision**" or "addition";
2. The name of the **person(s)** who commissioned the survey and the name(s) of the **landowner(s)** of the **subdivision** if other than the **person(s)** commissioning the survey, the names of any **adjoining platted subdivisions**, and the numbers of any **adjoining** certificates of survey previously filed;
3. The dated, signed and notarized consent to the **subdivision** of the **landowner(s)** of the **subdivision**;
4. The dated signature and the seal of the **surveyor** responsible for the survey. The affixing of this seal constitutes a certification by the **surveyor** that the **final plat** has been prepared in conformance with the **MSPA** and these regulations;
5. A memorandum of any oaths administered under [76-3-405, MCA](#);
6. Certification by the **BCC** that the **final plat** is approved;
7. Space for the **Clerk & Recorder's** filing information in the lower right hand corner;
8. Certificate of public **dedication**, if any;
9. Certificate of **cash-in-lieu of park dedication** payment;
10. Other certifications as appropriate;
11. North arrow;
12. Scale bar (the scale must be sufficient to legibly represent the required information and data on the plat);
13. A narrative legal description of the **subdivision** as follows:
 - a. If the **parcel** being subdivided is either an aliquot part of a U.S. government section or a U.S. government **lot**, the information required by this subsection is the aliquot or government **lot** description of the **parcel**,
 - b. If the plat depicts the division of a **parcel** or **lot** that is shown on a filed **certificate of survey** or **amended plat**, the information required by this subsection is the number or name of the **certificate of survey** or **amended plat** and the number of the **parcel** or **lot** affected by the survey,

- c. If the **parcel** surveyed does not fall within (a) or (b), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the **subdivision**,
 - d. If the plat establishes the boundaries of a **subdivision** containing one or more interior **parcels**, the information required by this subsection is the legal description of the perimeter boundary of the **subdivision**;
14. The bearings, distances and curve data of all boundary lines. If the **subdivision** is bounded by an irregular shoreline or body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;
 15. The location of, and other information relating to all **monuments** found, set, reset, replaced or removed;
 16. If additional **monuments** are to be set after the plat is filed, the location of these **monuments** must be shown by a distinct symbol, and the plat must bear a certification by the **surveyor** as to the reason the **monuments** have not been set and the date by which they will be set;
 17. All **monuments** found during a retracement that influenced the position of any corner or boundary indicated on the plat must be clearly shown;
 18. The location of any section corners or corners of divisions of sections pertinent to the survey;
 19. Witness and reference **monuments** and basis of bearings;
 20. Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be so labeled, the plat must include the bearings of radial lines or chord length and bearing;
 21. Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;
 22. The location of any section corners or corners of divisions of sections the **surveyor** deems to be pertinent to the **subdivision**;
 23. The total acreage of the **subdivision**;
 24. All **lots** and **blocks** in the **subdivision**, designated by letter and/or number, the dimensions of each **lot** and **block**, the area of each **lot**, and the total acreage of all **lots**. (Excepted **parcels** must be marked "Not included in this **subdivision**" or "Not included

in this plat," as appropriate, and the bearings and lengths of these excepted boundaries must be shown.);

25. **Easements**/rights of ways (location, width, purpose, ownership), including any **conditional public access easement**(s);
26. The location, dimensions and areas of all parks, **common areas** and other grounds dedicated for public use;
27. **No-build/alteration zones** and **no-build zones**;
28. **No-ingress/egress zones**;
29. Water resources (rivers, ponds, etc.);
30. **Floodplains**;
31. Irrigation canals including diversion point(s), etc;
32. High-pressure gas lines;
33. The names and locations of all **roadways**; their widths (if ascertainable) from public records, bearings and area; and the width and purpose of all **roadway easements** that will be created by the filing of the plat;
34. The following certifications must appear on the face of or accompany the approved **final plat** when it is presented to the **Clerk & Recorder** for filing:
 - a. If applicable, the **landowner's** certificate of **dedication** of **roadways**, parks, playground **easements** or other **public improvements**,
 - b. If applicable, a certificate of the **BCC** expressly accepting any dedicated land, **easements** or **improvements**. An acceptance of a **dedication** is ineffective without this certification,
 - c. A certificate of a title abstractor showing the names of the **landowner**(s) of the **subdivision** and the names of any lien holders or claimants of record against the land,
 - d. The written consent of the **subdivision landowner**(s), if different than the **applicant**, and any lien holders or claimants of record against the land,
 - e. References to any **covenants** or deed restrictions relating to the **subdivision**,
 - f. If applicable, a certificate from **MDEQ** or **RCEH** stating that it has approved the plans and specifications for water supply and sanitary facilities,

- g. A certificate from the **applicant** indicating which required **improvements** have been installed and a copy of any **subdivision improvement agreement** securing the future construction of any additional **improvement(s)** to be installed,
- h. Unless otherwise provided by these regulations, copies of final plans, profiles, grades and specifications for **improvements**, including a complete grading and drainage plan, with the certification of an **engineer** that all required **improvements** which have been installed are in conformance with the attached plans,
- i. If requested, the certificate of a **surveyor** appointed by the **BCC** to review surveys and **plats** submitted for filing [\[76-3-611, MCA\]](#),
- j. If a **roadway** created by the **final plat** will intersect with a **State** highway, a copy of the **State** highway access or encroachment permit, and
- k. The certification of the **County** Treasurer that all real property taxes and special assessments levied on the land to be subdivided have been paid.

APPENDIX E. ENVIRONMENTAL ASSESSMENT

1. Overview. The Environmental Assessment (“EA”) allows the **Planning Department**, **BCC**, reviewing agencies, and the general public to evaluate a proposed **subdivision’s** impact on the **natural environment, wildlife**, adjacent properties, **local services** and the community. By completing the **EA**, a thorough description of potential impacts resulting from the creation of the **subdivision** and the range of potential **mitigations** will be identified.
2. Form and Preparation.
 - a. The **EA** shall identify all sources of information used and obtained to completely respond to each item, including the title or name of each source, publication information, author, and other relevant information.
 - b. **On-site** inspections may be made by the **Planning Department** regarding any particular item. The **BCC** may also request additional information or perform its own **on-site** inspection related to any of the items in the **EA**.
 - c. The **EA** must be completed by an individual or individuals with specific education and/or experience in the relevant subject matter.
 - d. The **EA** shall be presented in an organized format, clearly identifying all relevant sections by using tabs and appropriate cross-references. Information required by any other section of these regulations may be used to supplement information required to complete the **EA** so long as it is clear that the information is intended to be used for both requirements.
 - e. The **EA** shall clearly show the date the document was created, along with the date(s) any revisions are made.
3. General Requirements. The **applicant** of all **major subdivisions** shall provide an **EA** with the **preliminary plat application** which contains the following information:
 - a. Responses with supporting evidence to questions detailed in [Section 4](#), below.
 - b. A Community Impact Report (CIR) containing a statement of anticipated needs of the proposed **subdivision** for **local services** as detailed in [Appendix F](#). [[76-3-603\(1\)\(c\), MCA](#)]
 - c. A Summary of Probable Impacts of the **subdivision** based on the criteria described in [76-3-608, MCA](#); as detailed in [Appendix G](#).
 - d. Any additional relevant information pertinent to the required elements or the review criteria in the **MSPA** and these regulations.

4. Contents. The **applicant** shall provide a complete and detailed response to every item in this section. A response of “n/a” or similar is insufficient.

a. Surface Water

- (1) Locate on a plat overlay or sketch map all natural surface water features such as but not limited to **streams**, rivers, creeks, intermittent creeks and **streams**, lakes, ponds, marshes, **natural drainages** and wetlands located on the subject property and within three-hundred (300) feet of the subject property. Clearly label each feature and provide supplemental information on each including name, type of feature, and amount of water carried at peak flow. Indicate the amount of time water is present in each of the above-described features.
- (2) Locate on a plat overlay or sketch map all man-made water features, existing and proposed, such as but not limited to canals, ditches, aqueducts, reservoirs, drainage **swales** and **retention structures**, water pipelines, culverts, and irrigation systems. Clearly label each feature and provide supplemental information on each including name, type of feature, and amount of water carried at peak flow. Indicate the amount of time water is present in each of the above-described features.
- (3) Indicate all areas of the subject property subject to potential **flooding** from any of the above-described features (See also Appendix J).
- (4) Describe any existing or proposed **stream** bank alteration from any existing or proposed construction or modification of pond beds or **stream** channels. Provide information on location(s), extent, type, and purpose of alteration, and permits applied for.
- (5) Describe any surface water development designed to serve the **subdivision** that is to be constructed within or outside the **subdivision** boundaries, and describe any other uses of surface water for the **subdivision** proposal. Provide information that all appropriate regulatory bodies have been made aware of the proposed surface water development activities.
- (6) Describe the proximity of proposed construction, such as but not limited to **buildings**, sewer systems, and **roadways**, to the water features described above.
- (7) Describe all potential sources of pollution and potentially significant adverse impacts arising from those sources that may be generated by the proposed **subdivision** and affect the surface water features.
- (8) Describe any other potentially significant adverse impacts the proposed **subdivision** may have on the surface water features.

- (9) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).
- (10) Indicate which of the following water quality permits have been or will be applied for and describe the reasons why these permits are required. Provide copies of any approved permits, and copies of any permit applications.

<u>PERMIT</u>	<u>AGENCY</u>
310 Permit	Bitterroot Conservation District
SPA 124 Permit	Department of Fish, Wildlife and Parks
Floodplain Permit	Ravalli County Floodplain Manager
Section 404 Permit, Section 10 Permit	U.S. Army Corps of Engineers
318 Authorization	Department of Environmental Quality
Navigable Rivers Land Use License or Easement	Department of Natural Resources and Conservation

b. **Groundwater**

- (1) Using available information, provide the seasonal minimum and maximum depths to the water table, with dates when depths were determined.
- (2) Using available information, provide the location and depth of all known aquifers that may be affected by the **subdivision**.
- (3) Provide an analysis of the potential interaction between surface water features and groundwater, including discussion on the potentially significant adverse impacts coming from surface pollution and entering the groundwater.
- (4) Describe all potential sources of pollution and potentially significant adverse impacts arising from those sources that may be generated by the proposed **subdivision** and affect groundwater.

- (5) Describe the maximum amount of water proposed to be used for domestic and irrigation purposes that will be drawn from underground. Describe the likely effect of this anticipated draw on existing wells.
- (6) Describe any other potentially significant adverse impacts the proposed **subdivision** may have on groundwater.
- (7) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

c. Geology, Soils, Slope

- (1) Using available information, locate on a plat or overlay any known geologic conditions affecting the proposed **subdivision** that could result in property damage or personal injury due to any of the following: rock falls or slides; land, mud, or snow slides; shallow bedrock; unstable or expansive soil conditions including potential for onsite soils to be subject to liquefaction; **slopes** greater than 25%; and location and description of any known fault areas.
- (2) In considering the conditions described above, specifically address any potential issues that may be encountered when developing for **dwelling units** (including basements), other **buildings** and **structures**, **roadways**, water-supply lines and trenches, sewer-lines and trenches, septic tank and drainfield installations, and gas, electric, and telephone lines – both above ground and under.
- (3) Provide a map with tables and narrative data on the suitability of all soil types found on the property including the physical properties of each soil type, the limitation rating (slight, moderate, severe) for the proposed type(s) of development, and any special design methods planned to overcome the above limitations.
- (4) Describe the location, purpose, and amount of any proposed cut or fill.
- (5) Where cuts or fills are proposed, describe the plans to prevent erosion and promote revegetation, such as replacement of topsoil and grading.
- (6) Explain all potentially significant adverse impacts to the **subdivision** that may result from soil, topographic, and geologic conditions.
- (7) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

d. Vegetation

- (1) On a plat overlay or sketch map:
 - (a) Indicate the type and distribution of vegetation on and in close proximity to the **subdivision**.
 - (b) Identify the location of any special plant communities such as **stream** bank or shoreline vegetation; vegetation on steep and unstable **slopes**, and vegetation on soils susceptible to wind or water erosion.
- (2) Identify the location and type of any vegetative **species of concern** as identified by the Montana Natural Heritage Program.
- (3) Describe the location and type(s) of any **noxious weeds** found on the subject property. Describe all methods proposed to rid the site of **noxious weeds**, especially means to prevent weed growth on areas disturbed by construction. (See also [Section 12-10](#)).
- (4) Explain all potentially significant adverse impacts to vegetation that may result from the development of the **subdivision**.
- (5) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

e. Wildlife

- (1) Describe all species of **wildlife** that may commonly inhabit the area affected by the proposed **subdivision**.
- (2) Identify on an exhibit map all known **wildlife habitat** areas such as but not limited to big game winter range, big game migration routes, waterfowl nesting areas, habitat for **species of special concern**, and **wetlands**.
- (3) Identify the type of any animal **species of special concern** that may use the property as described in the sensitive species report. If any nesting sites are found, show their location on an exhibit map.
- (4) Describe all proposed measures to protect or enhance **wildlife** and **wildlife habitat** or to minimize degradation.

- (5) Explain all potentially significant adverse impacts to **wildlife** that may result from the development of the **subdivision**.
- (6) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

f. Air and Light

- (1) Describe all potential sources of **air pollution** resulting from this **subdivision** such as fugitive dust from **gravel roadways** and **driveways**, wood smoke, and other sources of particulate matter.
- (2) Address the expected visual impacts to night skies as a result of the creation of the **subdivision**.
- (3) Describe all potentially significant adverse impacts to identified sites as a result of the **subdivision** and provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

g. Historical Features

- (1) Describe and locate on a plat overlay or sketch map the location of any known or possible historic, paleontological, archaeological, or cultural sites, **structures**, or objects identified by the Montana State Historic Preservation Office that may be affected by the proposed **subdivision**.
- (2) Describe all potentially significant adverse impacts to identified sites as a result of the **subdivision** and provide a comprehensive list of alternative methods that may be used to mitigate the identified potential impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

APPENDIX F. COMMUNITY IMPACT REPORT

1. Overview. The Community Impact Report (“CIR”) allows the **Planning Department**, **BCC**, reviewing agencies, and the general public to evaluate a proposed **subdivision** based on the anticipated impacts of that **subdivision** on **local services**. The CIR describes how the **subdivision** would integrate into the larger community.
2. Form and Preparation.
 - a. The CIR shall identify all sources of information used and obtained to completely respond to each item.
 - b. **On-site** inspections may be made by the **Planning Department** regarding any particular item. The **BCC** may also request additional information or perform its own **on-site** inspection related to any of the items in the CIR.
 - c. The CIR must be completed by an individual or individuals with specific education and/or experience in the relevant subject matter.
 - d. The CIR shall be presented in an organized format, clearly identifying all relevant sections by using tabs and appropriate cross-references. Information required by any other section of these regulations may be used to supplement information required to complete the CIR so long as it is clear that the information is intended to be used for both requirements.
 - e. The CIR shall clearly show the date the document was created, along with the date(s) any revisions are made.
3. General Requirements. The **applicant** of all **major subdivisions** shall provide a completed CIR with the **preliminary plat application**. The CIR must provide responses to each of the following questions and include all appropriate reference materials.
 - a. Education and Busing, Emergency Services, & Utilities
 - (1) Describe the additional or expanded services above that may potentially be required to serve the **subdivision**.
 - (2) Describe how the **subdivision** allows existing services to provide service to the subdivision without significantly adversely impacting the level of service to current residents (e.g. provides installation of a central water system, or improves a **County-operated roadway**).
 - (3) Describe the **emergency services** available to the **subdivision**.
 - (4) Is the proposed **subdivision** in an existing fire district? If not, the **applicant** shall provide evidence that a reasonable fire protection alternative exists.

- (5) Describe the existing and planned provisions for access to the **subdivision** for **emergency services** providers.
 - (6) Indicate which utility companies are proposed to serve the **subdivision**.
 - (7) Indicate if there are any existing utility lines or easements for utility lines on the property (such as transmission lines, pipelines, etc.) and, if so, describe the impacts to those lines by the proposed **subdivision**. Describe to what extent any existing utility lines would be altered or relocated.
 - (8) Provide information indicating whether the anticipated increase in school enrollment can be accommodated by the present personnel, facilities, and existing school bus system. This should include any recommendations of school administrator(s) and plans for **mitigation** of potentially significant adverse impacts of the proposed **subdivision** on provision of educational services.
- b. Roadways and Maintenance
- (1) Estimate the cost and completion date of any new construction, reconstruction, and/or **roadway improvements**.
 - (2) Identify who will pay the cost(s) of maintenance and snow removal for **roadways** providing access to the **subdivision**.
- c. Water
- (1) Describe how water will be provided for household use; fire protection; and lawn, garden, and landscaping purposes.
 - (2) Identify how many gallons of water the proposed **subdivision** will likely require per day for the above purposes and whether the proposed water supply is sufficient to meet the needs of the final population of the **subdivision**. Describe any potential effects on the existing water systems or wells within the area.
 - (3) If a new public water system is to be installed, discuss the installation of the system and the administration and maintenance of the system at the beginning of **subdivision** development and when the **subdivision** is completed.
 - (4) If individual wells are proposed, discuss the adequacy of the groundwater supply for individual wells and how this adequacy was determined.
 - (5) If cisterns are to be used, discuss the provisions that will be made for supplying water, and the use(s) the decanted water is proposed to provide. Discuss the number of cisterns proposed, maximum storage

capacity, siting, delivery method, maintenance, operations, and administration.

d. Wastewater

- (1) Describe the proposed method of wastewater disposal and why it is sufficient to meet the final needs of the **subdivision**.
- (2) Identify the number of gallons of effluent per day that will be generated by the completed **subdivision**, whether the proposed method of wastewater disposal is sufficient to meet the needs of the **subdivision**, and whether it meets the standards of **MDEQ** and **RCEH**.
- (3) If a new public wastewater treatment system is proposed, discuss the installation of the system and the administration and maintenance of the system at the beginning of **subdivision** development and when the **subdivision** is completed.
- (4) If individual wastewater treatment systems are proposed, describe their location.

e. Solid Waste

- (1) Describe the proposed system of solid waste collection and disposal for the proposed **subdivision**.
- (2) Provide evidence that there is an existing solid waste collection and disposal system available that can provide service to the **subdivision**. If no existing collection and disposal system is available, describe the proposed method of collecting and disposing of solid waste.

f. Park and Recreation Facilities

- (1) Describe all park and recreation facilities to be provided within the **subdivision** and other facilities that may serve residents of the **subdivision**.
- (2) State how the required **park dedication** is being satisfied, if applicable.

g. Land Use

- (1) Where public lands **abut** or are near to the **subdivision**, describe the land management policies for those lands (e.g. grazing, logging, recreation) and whether access to the lands will be affected by the **subdivision**.
- (2) Discuss how the **subdivision** may affect adjacent land uses.

- (3) Describe any **on-site** or **off-site** land uses creating a potential nuisance, such as unpleasant odors, unusual noises, dust, or smoke. Any such conditions shall be accurately described, identifying their origin and location.

h. Taxation and Housing

- (1) List the number of acres in each Montana Department of Revenue land assessment classification for the subject property before it is divided.
- (2) Provide the annual property tax revenue generated by the unsubdivided subject property, and estimate the property tax revenue generated after reclassification as subdivided land.
- (3) If applicable, describe any existing taxes and existing or proposed special assessments which will be assessed to the **subdivision**.
- (4) If the **subdivision** is located near an incorporated city or town, describe any plans to annex.
- (5) Estimate the time period for full development and occupancy of the **subdivision**.

i. Complete the following table:

		Distance to each feature by roadway type (to nearest tenth of a mile).		
	Name and Location	Gravel	Paved	Total
Fire Protection				
Police Protection				
Hospital Facilities				
Ambulance Service				
Elementary School				
Middle School				
High School				
Closest Community				

APPENDIX G. SUMMARY OF PROBABLE IMPACTS

1. Overview. The Summary of Probable Impacts (“SOPI”) allows the **Planning Department**, **BCC**, reviewing agencies, and the general public to evaluate a proposed **subdivision** based on the anticipated impacts of that **subdivision** relative to the seven primary review criteria: **agriculture**, **agricultural water user facilities**, **local services**, **natural environment**, **wildlife**, **wildlife habitat**, and **public health and safety**.
2. Form and Preparation.
 - a. Identify all sources of information used and obtained to completely respond to each item.
 - b. **On-site** inspections may be made by the **Planning Department** regarding any particular item. The **BCC** may also request additional information or perform its own **on-site** inspection related to any of the items in the SOPI.
 - c. The SOPI must be completed by an individual or individuals with specific education and/or experience in the relevant subject matter.
 - d. The SOPI shall be presented in an organized format, clearly identifying all relevant sections by using tabs and appropriate cross-references. Information required by any other section of these regulations may be used to supplement information required to complete the SOPI so long as it is clear that the information is intended to be used for both requirements.
 - e. The SOPI shall clearly show the date the document was created, along with the dates any revisions were made.
3. General Requirements. The **applicant** of all **subdivisions** shall provide a completed SOPI with the submittal of the **preliminary plat application**. Provide responses to each of the following questions and provide all appropriate reference materials.
 - a. Agriculture
 - (1) Describe the number of acres of the subject property that are currently in **agriculture** or timber production and whether the property was under production during previous seasons.
 - (2) Describe in detail the type and nature of existing **agriculture** or timber activities occurring adjacent to the site in all directions, including across **roadways** and **natural drainages**.

- (3) Describe the nature of **agriculture** or timber activities that are anticipated to occur on the subject property after the **subdivision** is at full build-out.
- (4) Describe possible conflicts with nearby **agriculture** or timber operations (e.g. residential development causing problems for moving livestock, operating farm machinery, maintaining water supplies, controlling weeds or applying pesticides, agricultural operations suffering from vandalism, uncontrolled pets or damaged fences).
- (5) Describe possible nuisance problems that may arise from locating a **subdivision** near **agriculture** or timber lands.
- (6) Describe means for ongoing management of **noxious weeds**.
- (7) Describe the effects the **subdivision** may have on the value of nearby **agriculture** or timber lands.
- (8) Indicate the presence of any existing or proposed **conservation easements** on any portion of the property and adjacent properties.
- (9) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

b. Agricultural Water User Facilities

- (1) State the total amount of water allocated to the subject property, and further describe the quantities allocated for specific uses (e.g. domestic, stock, irrigation). Provide copies of all associated **water right** documentation.
- (2) Describe the locations, widths, and purposes of all existing and planned irrigation **easements**.
- (3) On a supplemental exhibit or the **preliminary plat**, show the location and purpose of all existing and planned **irrigation ditches**, canals, and pipelines.
- (4) Describe any plans to keep or sever existing water rights.
- (5) Describe the mechanism proposed to maintain any existing and planned **irrigation ditches**, canals, and pipelines.
- (6) Describe possible conflicts the **subdivision** would create with **agricultural water user facilities** (e.g. residential development causing

problems for operating and maintaining irrigation systems, continued ability of downstream water users to access existing water rights).

- (7) Describe possible nuisance problems that the subdivision may generate with regard to agricultural water user facilities (e.g. safety hazards to residents or water problems from irrigation ditches, head gates, siphons, sprinkler systems, wheel lines, or other agricultural water user facilities; potential for unintended uses such as recreation).
- (8) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the applicants preferred mitigation method(s).

c. Local Services

- (1) Indicate the proposed number of lots or units for each use:
 - _____ Residential, single family
 - _____ Residential, multiple family
 - _____ Condominium (number of units)
 - _____ Mobile Home Park
 - _____ RV Park
 - _____ Non-Residential
 - _____ Combination/Other (describe in detail on attached sheets)
- (2) Describe any Citizen-Initiated Zoning District or similar land use regulations covering the area proposed for subdivision.
- (3) If the subdivision is located near an incorporated city or town, describe any plans for annexation.
- (4) Is access to the subdivision proposed over either an existing private easement or over private land upon which a new easement will be required? Identify the owners of any private property or easement over which access to the subdivision will be provided, and identify all efforts undertaken to secure legal access and physical access to the easement(s).
- (5) Identify on the preliminary plat the locations of any needed utility easements.
- (6) Identify the utility companies involved in providing electrical power, natural gas, and telephone service. Indicate whether and where utility lines will be placed underground.
- (7) Using the latest U.S. Census data, describe how many elementary and high school-age students are likely to be added into the school system as a result of this subdivision.

- (8) Provide the name(s) of the school districts (elementary and secondary) that will serve the proposed **subdivision**, and state the **roadway** distance to each.
- (9) Describe the available educational facilities (i.e. buildings, structures, busses) that would serve the **subdivision**.
- (10) State whether the proposed **subdivision** is on an existing school bus route. If it is not on an existing route, describe the distance required to reach a pick-up/drop-off area on an existing school bus route.
- (11) Using the latest edition of the Institute of Traffic Engineers “Trip Generation” manual, estimate how much daily traffic the **subdivision**, when fully occupied, will generate on existing **roadways**.
- (12) Describe the proposed closing or alteration of any existing **roadways**.
- (13) When connections to existing **roadways** are planned or required, identify all access permits that are necessary from the appropriate authority (i.e. County or **State**).
- (14) Describe provisions considered for dust control on **gravel roadways**.
- (15) Describe the capability of existing and proposed **roadways** to safely accommodate the increased traffic.
- (16) Describe the functional classification and characteristics of all **roadways** proposed to be constructed or reconstructed with the **subdivision** proposal.
- (17) If connection to an existing public water system is proposed, identify and describe the system and provide evidence that permission to connect to the system has been granted.
- (18) If connection to an existing public wastewater treatment system is proposed, provide a description of the system and the approximate distance from the proposed **subdivision**. Describe the means by which **lots** within the proposed **subdivision** are planned to tie into the existing system. Provide written evidence from the appropriate public wastewater system owner granting permission to connect the proposed **subdivision** into the system.
- (19) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

d. Natural Environment

- (1) Describe and locate on a supplemental map known or possible historic, paleontological, archaeological or cultural sites, **structures**, or objects identified by the Montana State Historic Preservation Office that may be affected by the proposed **subdivision**.
- (2) Describe how the **subdivision** may affect surface and groundwater, soils, **slopes**, vegetation, historical or archaeological features within the **subdivision** or on adjacent lands. Describe plans to protect these sites.
- (3) Locate on a supplemental map or **preliminary plat** the location of the major vegetation types located on and within 300 feet of the subject property.
- (4) Identify areas containing **noxious weeds** and areas of ground disturbance that will be subject to **noxious weed** growth. Describe proposed means of weed control, especially to prevent weed growth on areas disturbed by construction.
- (5) Describe any **stream** banks that will be altered or rechanneled. Describe any surface water that may be potentially contaminated from wastewater treatment systems, run-off carrying sediment, or concentration of pesticides or fertilizers.
- (6) Describe how groundwater supplies may be potentially contaminated or depleted as a result of the **subdivision**.
- (7) Describe the cuts and fills required during construction of **roadways** or **building** sites on steep **slopes** or on unstable or erodible soils.
- (8) Describe the impacts that the proposed removal of vegetation may have on soil erosion, bank or shoreline stability.
- (9) Describe possible natural **hazards** the **subdivision** could be subject to (e.g. **flooding**, rock fall, **avalanche**, **landslide**, high winds, wildfire, or difficulties such as shallow bedrock, high water table, unstable or expansive soils, or excessive **slopes**)
- (10) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

e. Wildlife

- (1) As determined by Montana Fish, Wildlife and Parks, the Montana Natural Heritage Program, or other local or **State** biological agencies, describe

the **species of special concern** that may be significantly impacted by the proposed **subdivision**.

- (2) Detail **wildlife** species found, or signs of usage by **wildlife** of the subject property as a result of an **on-site** investigation.
- (3) As determined by Montana Fish, Wildlife and Parks, the Montana Natural Heritage Program, or other local or **State** biological agencies, describe any threatened or endangered species identified on or near the proposed **subdivision**.
- (4) Describe the provisions that will be made to ensure that **wildlife** is protected from pets and human activity.
- (5) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

f. Wildlife Habitat

- (1) Describe and show on a supplemental map the characteristics and location of all areas of the subject property that are classified as big-game winter range or important **wildlife habitat** as defined by Montana Fish, Wildlife, and Parks.
- (2) Describe the potential for the subject property, in its unsubdivided state, to provide habitat to all forms of **wildlife**, including but not limited to likely **wildlife** migration corridors, waterfowl nesting areas, and **wetlands**.
- (3) Describe the **wildlife habitat** areas near the proposed **subdivision** that may be impacted as a result of the **subdivision** at full build-out.
- (4) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

g. Public Health and Safety

- (1) Describe any health or safety **hazards** on or near the **subdivision**, such as but not limited to: natural **hazards**, lack of water, drainage problems, heavy traffic, dilapidated **structures**, high pressure gas lines, high voltage power lines, irrigation canals, airports, **floodplains**, railroads, **high fire hazard areas**, and adjacent industrial or mining uses.

- (2) Describe land uses adjacent to the **subdivision** and how the **subdivision** may affect those uses. Identify such uses as feedlots, processing plants, airports, or industrial sites that may be subject to complaints from residents of the **subdivision**.
- (3) Describe the **emergency services** available to the residents of the proposed **subdivision**, including type of facilities and **roadway** distance to those facilities. Specifically address law enforcement, fire department, ambulance services, and medical facilities.
- (4) Indicate whether the likely needs of the proposed **subdivision** for each of the **emergency services** described above will be met by existing personnel, vehicles, and facilities. Provide supporting documentation detailing how the response to this question was generated. If needs will not be met by existing services, describe the additional expenses necessary to make these services adequate and explain who would be responsible for paying for the necessary **improvements**.
- (5) Provide a comprehensive list of alternative methods that may be used to mitigate the identified potentially significant adverse impacts. Clearly identify the **applicant's** preferred **mitigation** method(s).

APPENDIX H. TRAFFIC IMPACT ANALYSIS

1. Overview. A Traffic Impact Analysis (TIA) is an engineering and traffic study that determines the potential traffic impact of a proposed **subdivision** on the local **roadway** network. A complete analysis includes an assessment of future traffic with and without the proposed **subdivision**, analyses of traffic impacts, assessment of existing structural design and capacity, and recommended **roadway improvements** that are necessary to accommodate the additional traffic generated by the **subdivision**.
2. Preparation. The report shall be prepared, signed, and stamped by an **engineer** with an expertise in transportation planning.
3. At a minimum, the study shall include all of the following:
 - a. A written narrative describing the purpose of the report, study objectives and goals;
 - b. An executive summary including a brief description of: the **subdivision** location and study area, description of the proposed development, principal findings, principal conclusions, and recommendations;
 - c. Description and analysis of proposed **on-site** development, including: proposed land use and intensity, location, **site plan**, zoning if applicable, and phasing and timing if applicable;
 - d. Analysis and assessment of existing study area conditions, including:
 - (1) Area of influence;
 - (2) Area of significant transportation impact;
 - (3) Existing nearby land uses and intensity of nearby development;
 - (4) Existing zoning, if applicable;
 - (5) Anticipated future development;
 - (6) Geometric design, alignment, and conditions;
 - (7) Traffic control devices;
 - (8) Crash analysis;
 - (9) Pavement or **roadway** surface conditions;
 - (10) **Roadway** structural design and capacity analysis; and
 - (11) Site accessibility, current and future, including: traffic volumes and conditions, nearest transit service, pedestrian and bicycle traffic facilities, existing relevant transportation system management programs, and other applicable information.
 - e. Traffic projections, including:
 - (1) Analysis of trip generation from the site, trip distribution, modal split and trip assignments;

- (2) Analysis of through traffic including the method of projection and estimated volumes; and
 - (3) Total traffic volumes.
- f. Transportation analysis, including:
- (1) Site access analysis;
 - (2) Capacity and **level of service** analysis for intersections and **roadways**;
 - (3) Transportation safety;
 - (4) Traffic signalization; and
 - (5) Site circulation and parking.
- g. Findings, assessment and identification of potentially significant adverse impacts relating to the items listed in subparts a-f;
- h. Recommendations for **mitigation** of the impacts identified in subpart g.
4. **Mitigation** recommendations described in 3(h) above must be reviewed by the **RCRBD**, and if approved by the **BCC** after public hearing must be constructed prior to **final plat** approval.

APPENDIX I. SUBDIVISION IMPROVEMENTS AGREEMENT

1. All **improvements** required under these regulations and by the **BCC** during the approval of a **subdivision** shall be completed prior to the approval of the **final plat**. However, the **BCC** shall at the **applicant's** option, allow the **applicant** to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the **BCC**, providing for and securing the construction and installation of the **improvements** within a period specified by the **BCC** and expressed in the bonds or other security. [[76-3-507, MCA](#)]
2. If the **applicant** chooses to propose bond or other reasonable security, the **applicant** must enter into a subdivision improvement agreement (SIA) according to the following procedure:
 - a. Improvement Standards. The **BCC** may require a percentage of **improvements** or specific types of **improvements** necessary to protect **public health and safety** be completed before allowing bonding or other reasonable security under an **SIA**. The identified **improvements** must be constructed to the standards included in these regulations. **Improvements** that may be subject to this requirement include **roadways**, bridges, culverts, **curbs**, **gutters**, **sidewalks**, **non-motorized facilities**, trails, drainage water systems, sewage systems, walkways, street lights, street signs, **roadway easement** clearings, solid waste facilities, park and recreational facilities, utilities, and other **improvements** as specified by the **BCC**.
 - b. SIA Requirements. A model SIA is available from the **Planning Department**. At a minimum, the SIA shall include:
 - (1) A commitment to complete the improvements within a specified time limit;
 - (2) The projected costs of the improvements;
 - (3) A bond or other reasonable security in a value equal to 125% of the approved projected improvements cost; and
 - (4) A warranty against defects in the improvements for a period of one year from the date of completion or **BCC** acceptance.
 - (5) The SIA must be approved by the **BCC** before it becomes effective.
 - c. Time Limits. The **applicant** shall detail the time necessary for the **improvements** to be completed. All **improvements** shall be completed within the time limit in the SIA approved by the **BCC** unless an Extension is granted as provided below.
 - d. Projected Costs. The **applicant** shall produce all plans, specifications, and estimated costs of completing the **improvements** included in the SIA as prepared by an **engineer**. To project the cost of the **improvements**, the **subdivider** shall submit three bids for the cost of the installation of the

improvements, and the highest bid shall prevail. Alternatively, in place of the three bids, the **BCC** may accept an **engineers** estimate of the **improvements**. The **BCC**, at its discretion, may require the submitted plans, specifications and project costs be reviewed by another **engineer** acceptable to both parties. The costs of such review shall be borne by the **applicant**.

- e. Improvement Security. The **applicant** shall provide a bond or other reasonable security guaranteeing that the **improvements** will be satisfactorily completed and are guaranteed for twelve (12) months after completion. The security shall have a value equal to 125% of the projected **improvement** costs, as stated in Section 4 above, as approved by the **BCC** and shall specify procedures for the **BCC** to obtain funds, should the **applicant** fail to satisfactorily complete the **improvements**. A higher percentage calculation may be required by the **BCC** depending on market conditions. The types of security acceptable are described below. The type of security shall be subject to approval of the **BCC**.
- f. Applicant Certification. Upon completion of required **improvements**, the **applicant** shall file with the **BCC** a statement certifying that:
 - (1) All required **improvements** are complete;
 - (2) These **improvements** are in compliance with the standards specified by the **BCC**;
 - (3) The **applicant** knows of no defects in these **improvements**;
 - (4) These **improvements** are free and clear of any encumbrances or liens; and
 - (5) All applicable fees and surcharges have been paid.
 - (6) The **applicant** shall also file with the County copies of final construction plans, **roadway** profiles, as-builts, grades and specifications for **improvements** as requested by **RCRBD**.
- g. Engineer Inspection.
 - (1) The **applicant** will provide for inspection of all required **public improvements** by an **engineer** before **final plat** approval when completion is required by the **BCC**, or before the **BCC** releases the bond or other reasonable security if the **BCC** has approved an SIA.
 - (2) Upon completion of the inspection, the inspecting **engineer** shall file with the **BCC** a statement either certifying that the **improvements** have been completed in the required manner or listing the defect in those **improvements**.

- (3) Should the **applicant** fail to meet the requirements of this section, the **BCC** may provide for such inspection and the cost shall be borne by the **applicant**.
- h. Reduction and Release of Security. Only after the inspecting **engineer** verifies that the **improvements** are complete and free from defect, and after receipt of the certifications detailed above, the **BCC** shall release the **applicant** from the SIA.
 - (1) The **BCC** may, upon request by the **applicant**, release a portion of the approved security corresponding to the value of the installed **improvements**.
 - (2) Upon certification of completion of all of the required **improvements**, the County shall retain ten (10) percent of the **improvement** security for a period of one year as a guarantee against defect.
- i. Failure to Satisfactorily Complete Improvements. If the **BCC** determines that any **improvements** are not constructed in compliance with the required standards, it shall furnish the **applicant** with a list of deficiencies and may withhold security sufficient to ensure proper completion. If the **BCC** determines that the **applicant** will not construct any or all **improvements** to required standards or within specified time limits, it may withdraw security and use these funds to construct the **improvements** and correct any deficiencies to meet required standards. Unused portions of these funds shall be returned to the **applicant** or crediting institution, minus any expenses incurred.
- j. Extensions. The **BCC** may, at its discretion and at the written request of the **applicant**, extend the time limits specified in the SIA to complete the **improvements**. The written request from the **applicant** shall include a comprehensive list detailing all the actions the **applicant** has taken to complete the **improvements** listed in the SIA. The decision to extend the time limits specified in the SIA shall occur after a public meeting of the **BCC**. The **BCC** may require that the initial security provided be adjusted based on current cost estimates.
- k. Acceptable Forms of **Improvement** Security. Subject to **BCC** approval, the **applicant** shall provide one or more of the following financial security guarantees in the amount of 125% of the projected improvement costs:
 - (1) Escrow Account.
 - (a) The **applicant** shall deposit cash, or collateral readily convertible to cash at face value, with the **BCC** or in escrow with a bank. The use of the collateral other than cash, and the selection of the bank where the funds are to be deposited must be approved by the **BCC**.

- (b) Where an escrow account is to be used, the **applicant** shall give the **BCC** an agreement with the bank guaranteeing the following:
 - (1) That the funds in the escrow account are to be held in the trust until released by the **BCC** and may not be used or pledged by the **applicant** as security for any other obligation during that period.
 - (2) That if the **applicant** fails to complete the specified **improvements** within the required period, the creditor will immediately pay to the **BCC** 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 escrow account.
- (2) Letter of Credit.
 - (a) Subject to the **BCC** approval, the **applicant** shall provide the **BCC** with a letter of credit from a bank or other reputable institution or individual certifying the following:
 - (1) That the creditor guarantees funds in the amount equal to that cost, as approved by the **BCC**, of completing all required **improvements**;
 - (2) That if the **applicant** fails to complete the specified **improvements** within the required period, the creditor will immediately pay to the **BCC** 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;
 - (3) That this letter of credit may not be withdrawn or reduced in any amount, until released by the **BCC** in writing.
- (3) Surety Performance Bond.
 - (a) The Bond shall be executed by a surety company authorized to do business in the **State** and acceptable as a surety to the **BCC** and countersigned by a Montana agent.
- (4) Other Acceptable Security.

The **BCC** at its discretion may accept any other reasonable security or an incremental payment or guarantee plan determined to be sufficient to ensure satisfactory completion of the **improvements**.

- l. Rural Improvement District. The **BCC** may enter into an agreement with the **applicant**, and the **landowners** of the proposed **subdivision** if other than the **applicant**, that the installation of required **improvements** will be financed through a special or rural improvement district created pursuant to [Title 7, Chapter 12, MCA](#). This agreement must provide that no **lots** within the **subdivision** will be sold, rented, leased, or otherwise conveyed, and no contract for the sale of the **lots** executed, before the **improvement** district has been created.
- n. The **applicant** or **landowners** of the **subdivision**, must also petition the **BCC** to create the special or rural improvement district, which constitutes a waiver by the **applicant** and **landowner**s of the right to protest or petition against the creation of the district under either [7-12-2109](#) or [7-12-4110, MCA](#). This waiver must be filed with the **Clerk & Recorder** and will run with the land.

APPENDIX J. FLOODPLAIN ANALYSIS

1. Preparation. The **floodplain** analysis shall be prepared by an **engineer** or **surveyor**.
2. Basis for Analysis. The **floodplain** analysis shall be based on one of the following methodologies:
 - a. Output from the computer model entitled HECRAS, or a later version as prepared by the U.S. Army Corps of Engineers, Hydrologic Engineering Center;
 - b. A different methodology approved by the **Planning Director** and the **County Floodplain** Manager.
3. The analysis shall also be based on cross-sections according to the following minimum requirements:
 - a. Cross sections shall be placed at representative locations throughout the **floodplain** reach of the **subdivision** and located in such a manner as to represent the flow reach between cross sections. Each flow reach shall represent the flow reach between cross sections. Each flow reach shall be as uniform in geometry and roughness as practical.
 - b. Cross sections are required at locations where changes occur in discharge, channel/**floodplain slope**, shape, or roughness where levees begin/end; and at control **structures** such as weirs.
 - c. At least three (3) cross sections shall be taken and used to describe bridges, culverts, constrictions, or where abrupt channel/**floodplain** changes occur.
 - d. One (1) cross section midway between the proposed **subdivision** boundary lines or at intervals of no more than five hundred (500) feet.
 - e. Additional cross sections may be required if any development associated with the proposed **subdivision** creates a backwater situation or a rise in **base flood elevations**.
4. Form and Content. Three copies of the **floodplain** analysis, along with a brief description of the project, study objectives and data shall be certified by an **engineer** or **surveyor**. The following information shall be submitted with the **floodplain** analysis, at a minimum:
 - a. Copy of the current FEMA FIRM map, with panel number noted, at the project location showing the location of the surveyed cross sections and the proposed **subdivision** (if applicable).

- b. A vicinity map (the latest version of the appropriate USGS 7.5 minute quadrangle or a similar scale aerial photograph) that clearly shows the following:
 - (1) The location of the **subdivision** and all of the cross-sections;
 - (2) Section, Township, and Range;
 - (3) The location and elevation of all culverts, bridges, levees, diversion dams, or any other type of hydraulic **structure** within the reach being analyzed;
 - (4) The location of the benchmark (with the NAVD 1988 datum) that was used in the survey; and
 - (5) The hydrologic **drainage area** of the **stream** being analyzed;
- c. A written narrative describing the vegetation along the banks and the material composition of the bed and banks, and any hydraulic **structures**. Color photographs shall be required when proposed hydraulic data is atypical.
- d. A written narrative describing all culverts and bridges (size, type, etc.), or any hydraulic **structure**, within the reach.
- e. A discussion of the discharge estimation method along with a detailed description of the methodology, data, and computations so that the analysis may be replicated. This shall include:
 - (1) A discussion of the model choice and methodology (i.e. normal depth, step backwater model type);
 - (2) A summary of available gauge sites if applicable and a discussion of discharge estimations;
 - (3) Copies of model input/output printed and provided on an electronic file deemed acceptable by the **Planning Department**;
 - (4) A discussion of the model parameters used including Manning's "n" values, starting water surface elevations and flow regimes;
 - (5) A discussion of any special concerns, bridges, levees, hydraulic **structures**, side channels, or ineffective flow areas that may be applicable to the project; and
 - (6) A discussion of model results, warnings, and assumed critical depths.
- f. Drawings of each cross-section that clearly shows the following:
 - (1) Elevation of the ground surface;
 - (2) Elevation of the water surface at the time of the survey;

- (3) Elevation of the **100-year floodplain**; and
 - (4) The apparent high-water mark.
- g. A copy of the plat with ground contours (at a sufficient interval to clearly delineate the **floodplain** boundaries) that clearly show the following:
- (1) The location of all cross-sections and elevation reference marks;
 - (2) The water course, property boundaries, proposed **lots**, **building** sites, and wastewater treatment systems;
 - (3) The location of all culverts, bridges, or any hydraulic **structures**;
 - (4) The location of the FEMA-mapped **100-year floodplain**, where applicable; and
 - (5) The location of the actual **100-year floodplain** boundary based upon the intersection of the **base flood elevation** and the natural grade.
- h. **Additional information** may be required if there is potential for adverse effect to **adjacent landowners** and/or the **base flood elevations** are changed.