



MONTANA LAND USE PLANNING ACT Compliant

PREPARED TO COMPLY WITH THE MONTANA LAND USE PLANNING ACT, TITLE Section 76, CHAPTER 25 OF THE MONTANA CODE ANNOTATED

CHAPTER 1 GENERAL PROVISIONS

11-1-1 TITLE

These regulations will be known and may be cited as “THE CITY OF BELGRADE SUBDIVISION REGULATIONS (“these regulations”).

11-1-2 AUTHORITY

Authorization for these regulations is contained in the Montana Land Use Planning Act (hereinafter referred to as 'the Act), Title Section 76, Chapter 25, Montana Code Annotated ("MCA")

11-1-3 EFFECTIVE DATE & APPLICABILITY

These regulations take effect upon being adopted by the governing body through an ordinance that substantially complies with Sections 7-5-103, MCA through Section 7-5-107, MCA.

11-1-4 PURPOSE

The purpose of these regulations are:

- A. To promote the health, safety, and welfare of the residents of the City through a system of comprehensive planning that balances private property rights and values, public services and infrastructure, the human environment, natural resources, recreation, and a diversified and sustainable economy.

- B. To encourage and support:
 - 1. sufficient housing units for the City's growing population that are attainable for citizens of all income levels;
 - 2. the provision of adequate public services and infrastructure in the most cost-effective manner possible, shared equitably among all residents, businesses, and industries;
 - 3. the natural environment, including wildlife and wildlife habitat, sufficient clean water, and healthy air quality;
 - 4. agricultural, forestry, and mining lands for the production of food, fiber, and minerals and their economic benefits;
 - 5. the City's economy and tax base through job creation, business development, and the revitalization of the city; and
 - 6. persons, property, infrastructure, and the economy against natural hazards, such as flooding, earthquake, wildfire, and drought.

11-1-5 FINDINGS

- A. The governing body of the City of Belgrade finds that these regulations substantially comply with the adopted land use plan and zoning regulations for the City of Belgrade, including whether these regulations;
1. Enable the development of projected needed housing types identified in the land use plan and zoning regulations;
 2. Reflect applicable strategies from the land use plan and zoning regulations to encourage the development of housing within the jurisdiction;
 3. Facilitate the adequate provision of public safety, emergency, utility, transportation, education, and any other local facilities or services for proposed development, as identified in the land use plan and zoning regulations;
 4. Reflect the standards that provide for existing, new, or expanding commercial, industrial, and institutional enterprises identified in the land use plan and zoning regulations for economic growth;
 5. Protect and maximize the potential use of natural resources within the area, as identified in the land use plan and zoning regulations;
 6. Contain standards that minimize or avoid impacts to the natural environment within the area, as identified in the land use plan and zoning regulations; and
 7. Contain standards that avoid or minimize dangers associated with natural hazards in the jurisdiction, as identified in the land use plan and zoning regulations.
- B. The governing body of the City of Belgrade finds any new or increased potential impacts to or from the local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessments conducted for the land use plan and zoning regulations were analyzed and that the public was provided with a reasonable opportunity to comment on and consider all potential impacts resulting from adoption of these regulations.
- C. The governing body of the City of Belgrade finds that all subdivisions hereafter determined to be and approved in substantial compliance with these regulations are in substantial compliance with the adopted land use plan and zoning regulations of the City of Belgrade.

11-1-6 JURISDICTION

- A. These regulations govern the subdivision of land within the jurisdictional limits of the City of Belgrade and lands proposed for annexation to the City.
- B. These regulations supplement all other regulations applicable to the subdivision of land within the City of Belgrade but are not intended to displace any other applicable laws, regulations, ordinances, or resolutions.

11-1-7 SEVERABILITY

Where any word, phrase, clause, sentence, paragraph, section or other part of these regulations is held invalid or unconstitutional by a court of competent jurisdiction, that specific portion is deemed to be severed from these regulations and such decision shall in no way affect, impair or nullify the remainder of these regulations as a whole or any other part thereof.

11-1-8 RESPONSIBILITY FOR INTERPRETATION

In the event that any question arises concerning any provision or the application of any provision of these regulations, the Planning Administrator, in consultation with the City of Belgrade Attorney's Office as may be necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations, the City's zoning regulations and map, the City's Land Use Plan and Map, and the Act for guidance. The Planning Administrator shall provide such interpretations in writing upon request. An owner may appeal for an administrative interpretation as set forth in Chapter 14.

11-1-8 CONFLICTS

Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules or regulations of federal, state, or the City, or wherever there is an internal conflict within this chapter, the most restrictive or most specific requirements, or those imposing the higher standards, govern except where specifically provided otherwise by law. The City maintains the authority to exercise its self-governing powers to the fullest extent under the authority of the city's Charter and otherwise allowed by law.

11-1-9 DEFINITIONS

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

100-YEAR FLOODPLAIN - The area of the flood of 100-year frequency; a flood magnitude expected to recur on the average of once every 100 years or a flood magnitude that has a 1% chance of occurring in any given year. (76-5-103, MCA)

AADT - ANNUAL AVERAGE DAILY TRAFFIC - The average daily volume of traffic estimated on a yearly basis based on one year (365 days) of data, including all traffic in both directions.

AASHTO - American Association of State Highway and Transportation Officials.

ADJACENT LAND BUFFER – screening, fencing, natural growth.

ADMINISTRATOR - Planning Administrator.

ADT - AVERAGE DAILY TRAFFIC - For purposes of these regulations the definition of ADT is the same as AADT. However, when AADT is not available based on 365 days of data, the calculations may be derived as follows:

The total volume of traffic during a given time period (in whole days greater than one day and less than one year) divided by the number of days in that time period. ADT volumes can be determined by continuous traffic counts or periodic counts. Where only periodic traffic counts are taken, ADT volume shall be established by applying correction factors such as for season or day of week, including all traffic in both directions.

AGENCY - An administrative division of government, such as the agency charged with enforcing state sanitation regulations.

Aggrieved Party - means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

AGGREGATE (VERB) - To join two or more parcels of land into a single parcel.

AGGREGATE (NOUN) - Coarse particulate material used in construction, including sand, gravel, crushed stone.

AGGREGATION (NOUN) - The result or condition of having two or more parcels of land joined into a single parcel.

AGRICULTURAL COVENANT - A covenant restricting use of the land to agricultural use only, as required by Section 76-3-207, MCA.

AGRICULTURAL WATER USER FACILITY - Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes as defined in **ACT** - Montana Code Annotated section 15-7-202.

AHJ - AUTHORITY HAVING JURISDICTION - Departments, code officials or other entities with a statutory authority or legal responsibility to inspect and enforce requirements

ALIQUOT PART - The standard parts of a U.S. government section, such as a half section, quarter section, or quarter-quarter section.

ALLEY - A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on another street or streets.

APPLICABLE ZONING - Zoning enacted under title Section 76, Chapter 3 of the Montana Code that could affect the uses or design of a subdivision, including provisions for setbacks, minimum lot sizes, etc.

APPLICANT - a person who seeks a land use permit or other approval of a development proposal.

APPROACH - The area where a street, streets or driveway intersects another street or highway. See also encroachment.

ARMS - Administrative Rules of Montana.

ARTIFICIAL OBSTRUCTION - Any obstruction that is not a natural obstruction and includes any dam, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill, or other analogous structure or matter in, along, across, or projecting into any flood plain or floodway that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property. (76-5-103, MCA)

AS-BUILT DRAWINGS - As-built drawings are the final set of drawings produced at the completion of a construction project. They include all the changes that have been made to the original construction drawings, including notes, modifications, and any other information pertinent to changes.

ASPHALT - A mixture of dark bituminous pitch with sand or gravel, used for surfacing streets.

ASPHALT PRIMER - Liquid asphalt of low viscosity that is applied to a nonbituminous surface such as gravel to prepare the surface for an asphalt course.

ASPHALT SEAL COAT - A thin asphalt surface treatment used to waterproof and improve the wearing surface texture of pavement.

AUTOMATIC SPRINKLER SYSTEM - Apparatus for automatically extinguishing fires in a building, consisting of a system of water pipes in or below the ceilings, with valves or sprinklers usually made to open automatically at a certain temperature.

BASE FLOOD ELEVATION (BFE) - The elevation of surface water resulting from a flood of 100-year frequency.

BASE FLOOD ELEVATION STUDY - A study conforming to the guidelines in DNRC's "Guidelines for Obtaining 100-year Flood Elevations in Approximate Zone A or unmapped areas."

BMP – Best Management Practices.

BLANKET EASEMENT - A blanket easement, also referred to as a floating Easement, is an easement where there is no fixed route, location, method, or limit to the right of way. Such easements are not limited to any specific part of the servient estate. For example, a right of way may cross a field, without any visible path, or allow egress through another building for fire safety purposes.

BLOCK - A group of lots, tracts, or parcels within well-defined and fixed boundaries, such as streets, highways, railroad rights-of-way, or watercourses, or a combination thereof.

BOLLARD - A short post used to divert traffic from an area or street.

BUILDING CODE - Set of standards established and enforced by local government for the structural safety of buildings.

BUILDING PERMIT - A permit required by jurisdictions with building codes for new construction, or adding on to pre-existing structures, and in some cases for major renovations. Generally, the new construction must be inspected during construction and after completion to ensure compliance with local building codes.

BUILDING REGULATIONS - Regulations for building construction including building code and zoning code.

BUILDING SITE - The area of a lot or parcel suitable for a building.

BUILT ENVIRONMENT - man-made or modified structures that provide people with living, working, and recreational spaces.

BYLAWS - The rules and regulations enacted by an association or a corporation to provide a framework for its operation and management. Property Owners Associations, for example, will need bylaws for their operation.

CAPITAL IMPROVEMENTS - The addition of a permanent structural improvement or the restoration of some aspect of a property that will either enhance the property's overall value or increase its useful life. All improvements required to be installed by the subdivider prior to final plat approval or secured with a financial guarantee are considered capital improvements. In addition, capital improvements may be installed by property owners through property owners' associations or via taxing districts (rural improvement districts or special improvement districts). Examples include subdivisions that elect to connect to public water or sewer systems years after final plate.

CAPITAL IMPROVEMENTS PLAN (CIP)- A plan adopted by local government that plans and budgets for local government public infrastructure such as water facilities, sewers, streets, parks, and buildings along with equipment like fire trucks, radios, police cars, telecommunications equipment, furniture, and computers. Capital projects also include low-income housing projects and the purchase of land. Capital Improvements Plans are typically for increments of five to ten years.

CASH-IN-Lieu DONATION - the amount equal to the fair market value of unsubdivided, unimproved land.

CBU - CLUSTER BOX UNIT - A centrally located installation with multiple compartments for the centralized delivery of mail to the residents of an entire neighborhood, eliminating the need for door-to-door or curbside delivery. "Clustered" type mailbox includes free-standing, pedestal-mounted cluster box unit (CBU), or other cluster mailboxes mounted in a wall, kiosk, or shelter.

CERTIFICATE OF SURVEY -A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations. (76-25-103, MCA)

CFR - CODE of Federal Regulations.

CLERK AND RECORDER - The person elected or appointed by the county commission to the position of county clerk and recorder. Responsibilities include the safekeeping of records related to landownership when filed in the clerk and recorder's office.

COMMERCIAL SPRINKLER SYSTEM - An automatic sprinkler system designed for commercial buildings or industrial settings.

COMMERCIAL Subdivision - A subdivision with lots for commercial-retail or other purposes related to business and commerce.

CONCRETE - A heavy, rough building material made from a mixture of broken stone or gravel, sand, cement, and water, which can be spread or poured into molds and that forms a stonelike mass on hardening.

CONDOMINIUM - Ownership of single units with common elements located on property and Platting Act meeting the requirements of Title 70, Chapter 23 "Unit Ownership Act," MCA. The term does not include a townhome or townhouse. (70-23-102, MCA)

CONDUIT (FOR UTILITIES) - A rigid tube or duct for carrying and protecting electrical wires or cables.

CONSTRUCTION PLANS - Plans for constructing capital improvements in a subdivision. Refer also to Engineering Plans.

COURT ORDER - An official proclamation by a judge or panel of judges of a court established under state or federal law. Such ruling requires or authorizes the carrying out of certain steps by one or more parties to a case. A court order must be signed by a judge; some jurisdictions may require it to be notarized.

COVENANTS - Covenants consist of restrictions or requirements placed on the land, typically to "run with the land" (called a covenant appurtenant), meaning that any future owners of the land must abide by the terms. Covenants are typically administered and enforced by a Property Owners' or Homeowners' Association.

CROSS ACCESS - A vehicle and/or pedestrian connection between abutting properties which permits the exchange of trips between the two adjacent sites without the need to use the street system.

CRUSHED BASE COURSE - Layer of material in an asphalt streetway that is located directly under the surface layer. For gravel streets, it is the layer above the sub-base.

CUL-DE-SAC - A street closed at one end with an area for vehicular turnaround.

CULVERT - A structure that allows water to flow under a street, railroad, trail, or similar obstruction.

DECLARATION OF UNIT OWNERSHIP (CONDOMINIUM) - The instrument that creates a condominium, including all requirements of 70-23-301, MCA.

DEDICATION - The deliberate appropriation of land by an owner for a 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. (76-25-103)

DEED RESTRICTIONS - Deed restrictions are private, contractual covenants which limit land use. Deed restrictions are placed on real property by affirmative action of the owner of the real property. Refer also to "Covenants."

DENSITY REQUIREMENTS - Requirements for numbers of people or residential units allowed per unit of land. Zoning is the typical method for establishing density requirements, which may be set as standards for minimum density (e.g., "at least two residential units per city lot" which promotes denser development and reduces sprawl) or maximum density (e.g., not more than two residential units per lot).

DEPARTMENT OF REVENUE - Montana Department of Revenue.

DEQ - Montana Department of Environmental Quality.

DEWATERING - Discharge or dewatering of groundwater and/or surface water from construction sites. This includes the pumping of water from excavation trenches for utilities, and in preparing roadbeds or building construction.

DIVISION OF LAND - The segregation of one or more parcels of land from a large tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract. Also includes the filing of a certificate of survey or subdivision plat that establishes separate parcels or lots. **(76-25-103.)**

DNRC - Montana Department of Natural Resources and Conservation.

DOMINANT ESTATE - Real property which has an easement or other use imposed upon it in favor of another property (called the "dominant estate"), such as right of way or use for access to an adjoining property or utility lines. The property giving usage is the servient estate, and the property holding usage of the easement is the dominant estate. <http://dictionary.law.com/Default.aspx?selected=1931>

DPHHS - Montana Department of Public Health and Human Services.

DRAINWAY - Any depression 2 feet or more below the surrounding land serving to give direction to a current of water less than 9 months of the year and having a bed and well-defined banks. (76-5-103, MCA)

DREDGED MATERIAL - Material that is excavated or dredged from waters of the United States as defined in the U.S. Clean Water Act.

DWELLING - a building designed for residential living purposes, including single-unit, two-unit, and multi-unit dwellings. **(76-25-103)**

DWELLING UNIT - A single unit providing complete, independent living facilities for one or more people, including permanent provisions for living, sleeping, eating, cooking and sanitation facilities for use solely by one family or one household.

DWELLING UNIT (CONDO) - A unit in a condominium for residential purposes of a single family or household.

EASEMENT - The right to use the real property of another for a specific purpose. The easement itself is a real property interest, but legal title to the underlying land is retained by the original owner for all other purposes. Typical easements are for access to another property, for utility or sewer lines both under and above ground, use of spring water, entry to make repairs on a fence, drive cattle across and other uses.

EMERGENCY ACCESS STREET - A streetway not meeting street standards intended primarily for evacuation of people within the subdivision.

EMINENT DOMAIN - Right to take private property for public use as described in 70-30-102, MCA, and including property for streets, public buildings, infrastructure such as water and sewer, and other uses. In the event, the party shall receive the current fair market value as described in 70-30-313, MCA.

ENCROACHMENT - A use that hinders or obstructs the use of the property or the easement. *Example: a neighbor's fence line blocks access to the rear of a property.*

ENCROACHMENT PERMIT - A permit required by the local jurisdiction or State of Montana for facilities within a street or highway right of way or easement – such as an encroachment permit for a pipeline crossing under a state highway. Approach permits for streets are synonymous with Encroachment permits.

ENGINEER (LICENSED PROFESSIONAL ENGINEER) - A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana. Synonymous with "licensed professional engineer," "professional engineer," or "registered engineer," or "licensed engineer" in these regulations.

ENGINEERING PLANS - Design and construction plans prepared by an engineer, prepared to comply with the requirements of these subdivision regulations.

EXAMINING LAND SURVEYOR - A registered land surveyor appointed by the governing body to review surveys and plats submitted for filing. (Section 76-25-103, MCA)

EXEMPTION REVIEW COMMITTEE - A committee established by these regulations or by the governing body to review divisions to determine whether the division must be reviewed as a subdivision.

FACTORY-BUILT HOUSING - A factory-assembled structure intended for residential use that:
(a) is equipped with the necessary service connections but not made to be readily movable as a unit or units;
(b) is designed to be used with a permanent foundation; and
(c) is not certified by the United States Department of Housing and Urban Development but meets the inspection requirements of Title 50, chapter 60, **(Section 76-25-103, MCA)**

ADJOINING LANDOWNER (ADJACENT PROPERTY OWNER) - The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a road, watercourse, or deeded right-of-way.

AGGRIEVED PARTY (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 the decision.

APPLICANT - A person who seeks a subdivision, permit, or other approval of a development proposal.

BASE FLOOD (100-YEAR FLOOD) - A flood having a one percent (1%) chance of being equaled or exceeded in any given year. A base flood is the same as a flood of 100-year frequency

BASE FLOOD ELEVATION: The elevation above sea level of the base flood in relation to North American vertical datum of 1988 unless another datum is otherwise specified in the flood insurance study.

BLOCK- A piece or tract of land entirely surrounded by public highways, roads, waterways, railways, rights of way, parks, etc., or a combination thereof. A group of lots, tracts, parcels within well-defined and fixed boundaries.

CASH-IN-LIEU DONATION - Cash-in-lieu donation is the amount equal to the fair market value of unsubdivided, unimproved land.

CENTRAL SEWAGE SYSTEM - A "public sewage system" as defined in Montana Code Annotated section 75-6-102 and ARM 16.16.101.

CENTRAL WATER SYSTEM - A "public water supply system" as defined in Montana Code Annotated section 75-6-102 and ARM 16.16.101.

CERTIFICATE OF SURVEY - A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary location.

CITY - City of Belgrade.

CITY ATTORNEY - City of Belgrade Attorney.

CITY ENGINEER - City of Belgrade Engineer.

CLERK AND RECORDER - Gallatin County Clerk and Recorder.

CONDITIONS - Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state of Montana to the City. Subdividers have the duty of complying with reasonable conditions for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economic development of the city and to the safety and general welfare of the future subdivision lot owners and of the community at large.

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

CONTIGUOUS TRACT - A parcel of land next to, abutting, adjacent to, adjoining or touching another individual parcel of land, including tracts which are separated by public rights of way.

COUNCIL - The city council of the city of Belgrade, Montana.

COVENANT: An agreement or restriction, in writing, of two (2) or more parties by which any of the parties pledge to the others that something is done or shall be done.

DATE OF SUBMISSION - The date at which the plat and all required supplementary information is received and certified as complete by the planning department.

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

DEVELOPMENT - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DIRECTOR OF PUBLIC WORKS - City of Belgrade director of public works.

DISTRICT COURT - Gallatin County district court.

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 these subdivision regulations and the Montana subdivision and platting act; provided, that where required by these regulations and the act, the land upon which an improvement is situated has been subdivided in compliance with the regulations and the act, the sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of these regulations and the act.

DNRC - Montana Department of Natural Resources and Conservation.

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

EASEMENT - A grant by a property owner to specific persons or to the public of a right to use land for a specific purpose or purposes, in which said property owner agrees not to build, create or construct any obstruction, building, engineering works or other structures over, under, or that would interfere with said use.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER) - A person licensed in conformance with the Montana professional engineers registration act (Montana Code Annotated sections 37-67-101 through 37-67-332) to practice engineering in the state of Montana (engineer).

ESTABLISH - To construct, place, insert or excavate.

Exemptions To Subdivision Review - divisions of land, if made in substantial compliance with zoning regulations adopted pursuant to MCA Title Section 76, chapter 25, part 3.

FEDERAL LAND - Lands owned by the U.S. government, such as national forest system lands.

FEMA - Federal Emergency Management Agency.

FHWA - Federal Highway Administration.

FIELD INSPECTION LOGS - A record maintained by the engineer of inspections conducted during development of capital improvements and grading to ensure that construction follows plans and specifications. Inspections shall be made in accordance with an inspection plan included with construction and grading plans. Critical inspection points shall at a minimum include those identified in the Montana Public Works Standards and Specifications. As applicable, the field inspection plan shall identify when inspection by other entities is required—such as the installation of a fire suppression water supply tank prior to covering with soil.

FILL - For purposes of waters of the U.S., “fill” is as defined in the Clean Waters Act. For all other purposes, fill is material from any source used to raise the level of the ground.

FINAL PLAT - The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder and containing all elements and in regulations adopted pursuant to Section 76-25-103, MCA.

FINDING OF FACT - A written conclusion or determination based on evidence from which a decision is based.

FIRE HYDRANT - A valved connection on a year-round water supply system having one or more outlets that is used to supply water for fire departments.

FIRE SPRINKLER SYSTEM - Same as Automatic Sprinkler System.

FIRE SUPPRESSION EQUIPMENT - For purposes of access, fire suppression equipment means the large equipment used by fire departments to fight fires, including fire trucks, pumper trucks, tanker trucks, ladder trucks, etc.

FIRE SUPPRESSION WATER SYSTEM - The infrastructure for supplying water for fire-fighting purposes on the subdivision. Fire suppression water systems include a water supply capable of providing the quantity and pressure needed to fight fires. Systems are either pressurized hydrants or non-pressurized dry hydrants.

FIRST CLASS CITY - An incorporated municipality having a population of 10,000 or more is a city of the first class. (7-1-4111, MCA)

FLOOD FRINGE - All parts of the 100-year floodplain that are outside the floodway.

FLOOD PLAIN - The area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency, except for sheetflood areas that receive less than 1 foot of water per occurrence and are considered "zone B" or a "shaded X zone" by the federal emergency management agency. (Section 76-5-103, MCA)

FLOODWAY - The channel of a watercourse or drainway and those portions of the flood plain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainway. (Section 76-5-103, MCA)

FOUR-UNIT DWELLING OR FOURPLEX - a building designed for four attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways. (Section 76-5-103, MCA)

FREEBOARD - Distance of clearance between the lowest point of the bridge superstructure and the design water surface elevation immediately upstream of the bridge. For a culvert, the measurement is made from the top of the interior of the culvert structure. The design water surface elevation is typically the 100-year flood event.

FRONT MINIMUM SETBACK - The minimum distance by which a building or structure must be separated from the front of the lot, or RV or mobile home space.

GEOGRID - Geosynthetic material used to reinforce soils and similar materials. Geogrids are commonly used to reinforce retaining walls, as well as subbases or subsoils below streets or structures.

GEOTECHNICAL ANALYSIS - Geotechnical investigates subsurface conditions and materials to; determine the relevant physical/mechanical and chemical properties of these materials; evaluate stability of natural slopes and man-made soil deposits; assess risks posed by site conditions; design earthworks and structure foundations; and monitor site conditions, earthwork, and foundation construction.

GEOTEXTILE - A strong synthetic fabric usually used in civil engineering construction projects (as highway or dam building) that stabilizes loose soil and prevents erosion. See also geotextile.

GOVERNING BODY - The Belgrade City Council.

GPM - Gallons per minute

GRADING - Grading is the work of ensuring a level base, or one with a specified slope for purposes of construction or slope stabilization.

GROUND WATER - Any water beneath the earth's surface.

GROWTH AREA - area subject to increased growth pressures, higher development densities, or other urban development influences identified by a jurisdiction in Section 76-25-213, MCA.

HARDSHIP – hardship results from conditions that are peculiar to the property, such as location, size, or topography.

HIGH GROUNDWATER - Groundwater that lies close to the surface of the earth; also referred to as “shallow surface water” or “high water table.”

HOA - HOMEOWNERS' ASSOCIATION - A private, nonprofit corporation of homeowners or property owners, established according to state law for the purpose of owning, operating, and maintaining various common properties. "Homeowners' association" means an association of all the owners of real property within a geographic area defined by physical boundaries that:

(a) is formally governed by a declaration of covenants, bylaws, or both;

(b) may be authorized to impose assessments that, if unpaid, may become a lien on a member's real property; and

(c) may enact or enforce rules concerning the operation of the community or subdivision.

HS-20 - A measurement of load capacity. An HS-20 loading is represented by a three-axle semitrailer combination weighing 72,000 pounds with 8,000 pounds on its steering axle and 32,000 pounds on its drive axle and 32,000 pounds on the semitrailer axle. The “20” in HS-20 stands for 20 tons (4 tons on the steering axle and 16 tons on the drive axle). The “S” stands for semitrailer combination which adds in the additional 16 tons for the third axle to give a total of 36 tons or 72,000 pounds.

IFC - International Fire Code

IMMEDIATE FAMILY MEMBER - A spouse, children by blood or adoption, and parents (Section 76-25-103, MCA)

INDUSTRIAL SUBDIVISION - A subdivision with lots for industrial uses

INDUSTRIAL USE - The manufacture, fabrication, processing or reduction of any article, substance, or commodity or any other treatment thereof in such a manner to change the form character or appearance thereof. It shall include trucking facilities, rail facilities, mining, warehousing, materials or equipment storage, and businesses serving primarily industry and similar enterprises.

INFRASTRUCTURE - The physical system, structure, or piece of equipment, such as a paved or graveled street, water supply pipe system, bridge, etc. that provide essential services such as transportation, utilities, energy, etc. (Refer to “Local Services). Infrastructure may include large equipment such as fire trucks, street graders, etc...

INFRASTRUCTURE PLAN - A plan for future infrastructure needs. Refer to Capital Improvements Plan for infrastructure plans adopted by government.

INSTRUMENT OF TRANSFER - A document transferring property ownership, including warranty deeds, quit claim deeds, deed of transfer, etc.

IRRIGATION DISTRICT - means a district established pursuant to Title 85, chapter 7. (Section 76-25-103, MCA)

JURISDICTION - The powers and authority to impose and enforce requirements within a certain geographic area or function. When used generally in these regulations, as "local jurisdiction," it is intended as the jurisdiction of the municipality's governing body. When used in relation to a state or federal agency, it means the powers of that agency related to a specific topic, such as the Montana DNRC authority regarding water rights. Also, see AHJ.

JURISDICTIONAL AREA - The area governed by the governing body of the municipality.

LAND SURVEYOR - A person licensed as a land surveyor under Title 37, Chapter 67, MCA.

LAND USE PERMIT - means an authorization to complete development in conformance with an application approved by the local government.

LAND USE PLAN - Means the land use plan and future land use map adopted in accordance with Title Section 76, Chapter 25, MCA.

LAND USE REGULATIONS - Means Zoning, Zoning Map, Subdivision, or Other Land Use Regulations Authorized by State Law. (Section 76-25-103, MCA)

LEGAL ACCESS - Access to a parcel of land via city streets, county streets, or state and federal highways. If the access to the subdivision is via private streets, the easement shall provide for the proposed subdivision and its uses. A copy of an existing plat or survey that established a private street is insufficient unless the easement language clarifies that the street is intended for future lots and additional uses. (Refer to Montana Supreme Court decisions on Blazer v. Wall, Broadwater Development v. Nelson, Schmid v. Pastor.)

LEGAL TRACT OF RECORD - An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office. (Section 76-25-103, MCA)

LICENSED FINANCIAL INSTITUTION - A bank chartered under chapter 1 of Title 32, MCA, a bank chartered under the National Banking Acts in Title 12 of the United States Code, a building and loan association chartered under chapter 2 of Title 32, MCA, a savings and loan association chartered under the Home Owners' Loan Act in Title 12 of the United States Code, a credit union chartered under chapter 3 of Title 32, MCA, or a credit union chartered under the Federal Credit Union Act in Title 12 of the United States Code. (32-6-103, MCA)

LICENSED LENDING INSTITUTION - Same as Licensed Financial Institution

LIEN - A legal claim that someone or something has on the property of another person until a debt has been paid back

LIFE ESTATE - An interest in land that lasts only for the life of the holder. Thus, the holder of a life estate cannot leave the land to anyone in their will because their interest in the land does not survive the person. The holder of a life estate has a full right to possess the land or transfer their interest during their lifetime, but must refrain from engaging in waste, activity which would prevent the next person in line from putting the property to full use.

LIGHT TRESPASS - Light falling where it is not wanted or needed. Spill light. Obtrusive light.

LOAD CAPACITY - The safe-load carrying capacity of a bridge or culvert.

LOAD LIMIT (BRIDGES) - Same as “load capacity”

LOCAL BOARD OF HEALTH - Title 50, Chapter 2 of Montana Code requires every first- or second-class city to have a local board of health. 50-2-116, MCA requires local boards of health to adopt regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by the Sanitation in Subdivisions Act.

LOCAL FIRE CODE - Fire codes adopted by municipalities or counties or for a fire service area. Authority for municipalities and counties to adopt local fire codes is found in Title 7, Chapter 33 of the MCA. Not all municipalities or counties have adopted local fire codes. In fact, only a handful of counties or areas within counties established as “Fire Service Areas” under provisions of Title 7, Chapter 33, have adopted fire codes. Refer also to state fire code.

LOCAL GOVERNING BODY OR GOVERNING BODY - means the elected body responsible for the administration of a local government.

LOCAL GOVERNMENT - means a county, consolidated city-county, or an incorporated municipality to which the provisions of this chapter apply as provided in [Section 76-25-105](#), MCA.

LOCAL PUBLIC HEALTH DEPARTMENT - The name often given to the entity that provides the services managed and directed by the local board of health. Refer to “local board of health”

LOCAL SANITARIAN - A sanitarian licensed under Title 37, Chapter 40 of the MCA employed by or providing services to the local board of health or local public health department.

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

LOT MEASUREMENTS -

Lot Area: The area of a lot determined exclusive of highway, alley, road, or other right of way.

Lot Depth: The average distance from the front lot line to the rear lot line.

Lot Frontage: The width of the front lot line.

Lot Width: The average distance between side lot lines.

LOT TYPES -

Corner Lot: A lot located at the intersection of two (2) roads.

Double Frontage Lot: A lot with both front, side, and rear lot lines abutting a road.

Interior Lot: A lot with frontage on only one road.

LOWEST FLOOR - the lowest floor of the lowest enclosed area (including a basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor provided that such enclosure is not built so as to render the structure in violation of requirements.

LOWEST FLOOR ELEVATION - The measured distance of a building's lowest floor above the design flood event. The subdivision regulation lowest floor elevation is a minimum of 2 feet above the 100-year flood elevation.

LOWEST HORIZONTAL CHORD (BRIDGE) - The component of the bridge used to establish the distance needed to pass flood flows. The subdivision regulations require the lowest horizontal chord of the bridge to be at least two (2) feet above the Base Flood elevation to help pass ice flows, the base flood discharge and any debris associated with the discharge. Refer to diagram at right.

MAINTENANCE DECLARATION - A declaration describing how infrastructure, facilities, and certain services will be provided after the subdivision is completed and lots transferred. Maintenance declarations are required for streets, vegetation management (e.g., maintenance of required WUI fuel breaks around the subdivision and vegetation clearance along streetways), storm drainage systems, etc.

MANUFACTURED HOME - A building meeting the definition established by the U.S. Department of Housing and Urban Development as follows: "A manufactured home (formerly known as a mobile home) is built to standards set Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis." Homes built prior to 1976, and Park Model Homes cannot qualify as a manufactured home even with modifications. "Manufactured housing" means a dwelling for a single household, built offsite in a factory that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in MCA [15-1-101](#).

MCA - Montana Code Annotated

MDEQ - Montana Department of Environmental Quality.

MINISTERIAL PERMIT - means a permit granted upon a determination that a proposed project complies with the applicable regulations and meets all established standards set forth in the applicable regulations. The determination must be based on objective standards, involving little or no personal judgment, and must be issued by the planning administrator (**Section 76-25-103**)

MITIGATION - The action(s) which minimizes the adverse impacts which would be created by a subdivision or development.

MONTANA LAND USE PLANNING ACT (THE ACT) - The state law requiring certain counties and municipalities to develop and adopt a land use plan, zoning, and subdivision regulations. Title Section 76, Chapter 25 of Montana Code.

MORTGAGE SECURITY - A reference to the exemption from subdivision review provided by Section 76-25-402, MCA for divisions of land "created to provide security for mortgages..."

MPWSS - Montana Public Works Standard Specifications as distributed by the Montana Contractors' Association

MUTCD -Manual on Uniform Traffic Control Devices.

MULTI-UNIT DWELLING - building designed for five or more attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways. (SECTION 76-25-103)

NATURAL DRAINAGE - Storm water or other surface runoff channels, depressions, etc. in the existing surface topography of the earth prior to changes made by unnatural causes.

NATURAL ENVIRONMENT - For the definition of “natural environment” in relation to requirements for the Environmental Assessment or Summary of Probable Impacts, refer to Appendix B

NFPA - National Fire Protection Association

NOXIOUS WEED - By definition of the Montana County Noxious Weed Act, means any exotic plant species established or that may be introduced into 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 department; or as a district noxious weed by a board, following public notice of intent and public hearing (MCA 7-22-2101).

OFF-SITE WATER SUPPLY - Water supply (for consumption or fire suppression) for a subdivision that is not located within the subdivision

OFF-STREET PARKING - Areas designated for parking that are not located within the street or street or on the street shoulders. Off-street parking consists of parking lots.

OFF-STREET SOLID WASTE COLLECTION AREA - An area designated for large bins for solid waste from the subdivision. Lot owners bring their individual trash to the collection areas, where it is routinely hauled to a licensed solid waste facility. In subdivisions, these areas must be established as easements or land held in common by a property owners’ association.

ON-SITE WATER SUPPLY - Water supply (for consumption or fire suppression) for a subdivision that is located within the subdivision’s perimeter boundary.

ON-STREET PARKING - An extension of the surface of a street or street designated for parking.

OPEN-SPACE - Land or water areas retained for use as active or passive recreation areas, resource protection, and use, and for agricultural, horticultural, and silvicultural use.

PARCEL - A term used to describe a tract of record that was not created as a lot in a subdivision.

PARK MODEL HOME - Recreation vehicles primarily designed and intended to provide temporary living quarters for recreation, camping, or seasonal use. They are built on a single chassis, mounted on wheels with a gross trailer area not exceeding 400 square feet when set up. Units may be expandable when they reach their destination utilizing slide-outs or tip-outs. For example, see <http://www.sunlakelivingsystems.com/models.html>

PARK TRAILERS - See Park Model Home

PAVED - For streets and streets, paved means that the surface of the street has been treated with a hard durable surface such as concrete or asphalt.

PAVEMENT MARKINGS - Markings on streets, paths, bikeways, etc. that separate lanes of travel, provide directional information, etc. Marking may be painted on the surface or objects (such as reflectors) embedded into the street or path surface.

PAYBACK AGREEMENT - When a subdivider agrees to install improvements with a greater capacity than required by the subdivision, a payback agreement may be developed and administered by the governing body to help the subdivider recover upfront costs. Under a payback agreement (also referred to as a “latecomers agreement”), the subdivider who pays some or all of the up-front costs in excess of what is required for the subdivision would be entitled to recover costs from the owners of properties beyond the subdivision who will benefit from the works in the future (latecomers). Where a subdivider has paid up-front costs, the local government would collect the payback from latecomers via an assessment, tax, or fee and remit to the subdivider a share of those monies, as determined by the terms of the payback agreement.

PERMANENT TURNAROUND - A street permanently closed at one end with an area for vehicular turnaround

Permitted use - means a use that may be approved by issuance of a ministerial permit. **(Section 76-25-103)**

PHYSICAL ACCESS - The ability to safely reach a lot in a subdivision with a passenger vehicle year-round. Physical access is provided by existing streets and bridges suitable for safe passenger vehicle travel based on average daily traffic from existing and projected demand from the subdivision. Physical access on new streets built for the subdivision means that the new streets meet the design standards of the subdivision regulations.

PLANNING ADMINISTRATOR - means the person designated by the local governing body to review, analyze, provide recommendations, or make final decisions on any or all zoning, subdivision, and other development applications as required in this chapter, or a person designated and supervised by the planning administrator to perform the duties. **(Section 76-25-103)**

PLANNING COMMISSION - Belgrade Planning Commission.

PLAT - A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications (Section 76-25-103, MCA):

A. Preliminary plat:

A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnishes a basis for review by the governing body.

B. Final plat:

The final drawing of the subdivision and dedication required to be prepared for filing for record with the County Clerk and Recorder and containing all elements and requirements set forth in these Regulations and the Montana Subdivision and Platting Act (Title Section 76, Chapter 3, M.C.A.). Land Use Planning Act.

C. Amended plat:

The final drawing of any change to a platted subdivision filed with the County Clerk and Recorder required to be prepared for filing for record with the County Clerk and Recorder and containing all elements and requirements set forth in these Regulations and the Montana Subdivision and Platting Act (Title Section 76, Chapter 3, M.C.A.).Land Use Planning Act

D. Vacation of plat:

A plat which has been voided under the provisions of Montana law

PLATTED SUBDIVISION - A subdivision platted according to the requirements of the Montana Subdivision and Platting Act and locally adopted subdivision regulations at the time it was created.

Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

"Public utility" has the meaning provided in **69-3-101**, except that for the purposes of this chapter, the term includes a county water or sewer district as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

PRESSURIZED HYDRANT - An arrangement of pipe permanently connected to a year-round water source with a pressurized water supply system that provides a ready means of water supply for firefighting purposes.

PRESSURIZED WATER SUPPLY SYSTEM - A pressurized water system is usually thought of as a municipal water system whereby fire hydrants are normally installed on water mains using a grid system. In other words, water would arrive at the hydrant from possibly two or more directions. Water in this type of system can be supplied using elevated tanks, pumps, gravity flow, or a combination of these systems. A pressurized system can also be established by installing a dry hydrant utilizing an above grade water source, such as a pond.

PRIMARY ACCESS - A main point of entry into a subdivision via a street.

PUBLIC SERVICES - Refer to "Local Services"

PUBLIC SEWAGE SYSTEM - A system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year. (75-6-102, MCA)

PUBLIC WATER SUPPLY SYSTEM - A system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year. (75-6-102, MCA)

PURCHASE AGREEMENTS - The agreement or contract for the purchase of a property, signed by the buyer and seller, containing the agreed-upon price and any other conditions. This may also be known as an agreement of sale, a purchase contract, or a sale contract.

QUIT CLAIM DEED - A deed releasing a person's interest in a property without stating the nature of the person's interest or rights, and with no warranties of ownership. While a quitclaim deed neither warrants nor professes that the grantor's claim is valid, it does prevent the grantor from later claiming they have an interest in the property.

REALTY TRANSFER CERTIFICATE - A form required by the Montana Department of Revenue when real estate is transferred to another owner.

REAR MINIMUM SETBACK - The minimum distance by which a building or structure must be separated from the rear of the lot, or RV or mobile home space.

REGISTERED ARCHITECT - A person licensed as an architect pursuant to Title 37, Chapter 65, MCA.

REGISTERED PROFESSIONAL ENGINEER - Refer to "Engineer"

REGISTERED PROFESSIONAL LAND SURVEYOR - Refer to "Land Surveyor"

REMAINING PORTION/PARCEL - The portion or parcel of land that remains from a tract of record when a division occurs. Remaining portions of less than 160 acres resulting from a subdivision must be created as lots within the subdivision. In some jurisdictions, a remaining portion of less than 160 acres in a subdivision may qualify as an exemption if this is clearly identified in the local subdivision regulations.

RESIDENTIAL SPRINKLER SYSTEM - An automatic sprinkler system designed for residential use.

RESIDENTIAL SUBDIVISION - A subdivision with lots proposed for residential use.

RETRACEMENT - A survey submitted for an existing tract of record, which may not have previously been surveyed, or for which corrections are being submitted.

RIGHT-OF-WAY - Property that is public owned or upon which a governmental entity has an express or implied property interest held for a public purpose. Examples of such public purpose include a street, sidewalks, drainage facilities, crosswalk, water main, sanitary or storm sewer, etc. The term "right-of-way" for subdivision platting purposes means that every right-of-way established and shown on a final plat is separate and distance from the lots or parcels adjoining the right-of-way and is not included within the dimensions or areas of such lots or parcels.

RISER - HYDRANT RISER - The riser on a fire suppression hydrant brings the connection for the hose to above ground (see figure to right).

ROAD TYPES - For the purposes of these regulations, road types are defined as follows (terms "street" and "road" may be used interchangeably):

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

Arterial: A road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing limited access to adjacent land.

Cul-De-Sac: A road having only one outlet for vehicular traffic and terminating in a turnaround area.

Dead End Roads: A road having only one outlet for vehicular traffic.

Frontage Access (Service Road): A local or minor collector road, usually parallel and adjacent to an arterial or major collector road, which provides access to abutting properties and control of traffic access to arterials or collectors.

Half Road: A portion of the width of a road, usually along the outside perimeter of a subdivision, where the remaining portion of the road must be located on adjacent property.

Loop: A local road which begins and ends on the same road, generally used for access to properties and controls traffic access to arterials or collectors.

Major Collector-A Road that carries more than three hundred (300) trips per day having the equally important functions of moving traffic and providing access to adjacent land, including the principal and secondary entrance roads of a residential development and roads for circulation within a development.

Minor Collector-A Road that carries more than one hundred (100) trips per day but less than three hundred (300) trips per day having the equally important functions of providing access to adjacent land and moving traffic, including roads for circulation within a development and entrance roads of a residential development.

Minor Roads-A Road that carries less than one hundred (100) trips per day having the primary function of serving abutting properties, and the secondary function of moving traffic, including direct access to abutting properties and roads for circulation within a development.

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

SANITATION APPROVAL - Approval by DEQ and/or local board of health for the aspects of subdivision for water, sewer, solid waste, and storm drainage.

SCOUR - Removal of sediment such as sand and rocks from around bridge abutments or culverts. Scour, caused by swiftly moving water, can scoop out scour holes, compromising the integrity of a structure.

SECOND CLASS CITY - An incorporated municipality with a population of less than 10,000 and more than 5,000 (7-1-4111, MCA)

SEPARATION FABRICS - Woven geotextiles placed between dissimilar materials, such as the aggregate and the subgrade to stabilize the soil, preserve the aggregate and reinforce the surrounding soil. They will also keep mud below the rock from "pumping" up and help keep cleanup to a minimum.

SERVIENT ESTATE - Real property which has an easement or other use imposed upon it in favor of another property (called the "dominant estate"), such as right of way or use for access to an adjoining property or utility lines. The property giving usage is the servient estate, and the property holding usage of the easement is the dominant estate. <http://dictionary.law.com/Default.aspx?selected=1931>

SETBACK - The minimum distance by which any building, structure or facility must be separated from a street easement, water body, or other identified physical or biological condition

SIDECASTING - Moving excavated material to the downslope side during street and landing construction.

Single-room occupancy development - means a development with dwelling units in which residents rent a private bedroom with a shared kitchen and bathroom facilities. (**Section 76-25-103**)

Single-unit dwelling - means a building designed for one dwelling unit that is detached from any other dwelling unit.

SLOPE RATIO - Relation of the horizontal projection of a surface to its rise. For example, 2' horizontal to 1' rise is shown as 2:1 or 2 to 1.

SOIL CARRYOUT - Soil or mud that is carried out from the construction site by wind, drainage, truck traffic, or other means onto other surfaces, such as paved street surface. The "carryout" can create unsafe conditions.

SOIL HORIZON - A soil horizon is a layer generally parallel to the soil surface, whose physical characteristics differ from the layers above and beneath. Each soil type usually has three or four horizons. Horizons are defined in most cases by obvious physical features, chiefly color, and texture.

SOIL TYPE - Types of soil as identified by the Natural Resources and Conservation Service (NRCS).

SOLID WASTE - As defined in the Sanitation in Subdivisions Act, putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply

treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials. (75-10-103, MCA)

SPECIAL IMPROVEMENT DISTRICT - A district formed under Title 7, Chapter 12, Part 41 that may assess property for improvements within the district. A city or town council may form a special improvements district for any number of improvements identified in the law, including streets, water supply, sewer, recreation, etc.

STATE FIRE CODE - The State of Montana has responsibility for enforcing state fire codes for public buildings throughout the state (Title 50, Chapter 3 of MCA, instituted with ARMS 23.12)

STREET PULL-OUT - an area along the edge of a street or street that provides a space for a vehicle to safely move out of a traffic lane in order to permit the passage of emergency or other types of vehicles.

STREET SHOULDER - A shoulder is a reserved area along the edge of the street. Generally, it is kept clear of motor vehicle traffic and functions as a safety feature for drivers to drift into the shoulder when being overtaken by passing vehicles, particularly on two-lane streets.

STREET STUB - A temporary portion of a street with a turn-around designed to convert to an extension of the street onto an adjacent subdivision or phase.

STREETS - Streets are defined in several types of functional classifications, based primarily on traffic counts and types of traffic. For purposes of these subdivision regulations, streets and streets are used interchangeably.

STREETSIDE DRAINAGE (STORMWATER) - A system to collect and convey stormwater away from streets. Streetside drainage may consist of swales or curb and gutter, and underground storm drainage pipes, above-ground retention, or detention facilities.

STORAGE AREAS - Areas designated for storage buildings.

STRUCTURE - A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, or below the surface of land or water.

SUB-BASE - One of the layers in street construction. Streets are built up in several layers, consisting of sub-grade, sub-base, base, and surface layer. The surface layer seals and prevents surface water from penetrating and weakening the base and sub-grade. The most common surface for rural streets is constructed from natural gravels. Bituminous and concrete surfaces provide more impermeable seals and are more resistant to the abrasive forces caused by the combined effects of weather and traffic. The street base (also referred to as the base course) is the main layer in terms of providing additional strength and load bearing capacity to the street. Commonly, this layer consists of crushed and graded materials or selected soils from natural sources which conform to certain characteristics known to improve the quality of the street. The sub-base is an additional strengthening layer with a similar purpose as the street base. As the street base takes care of the initial load dissipation, the sub-base will have less stringent quality requirements as compared to the street base. The sub-base may also act as a separating layer between the street base materials and the sub-grade. The natural soil on which the street is constructed is referred to as the sub-grade. The sub-grade consists of compacted or undisturbed soils, or it may be a street fill with soils imported from elsewhere along the street line. (Source: Chapter 9, "Building Rural Streets" by the International Labor Organization,)

SUB-GRADE - One of the layers in street construction. Refer to "Sub-Base".

SUBDIVIDER - A person who causes land to be subdivided or who proposes a subdivision of land. (Section 76-25-103, MCA)

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

SUBDIVISION IMPROVEMENTS AGREEMENT - A contractual agreement that may be required by the governing body to ensure the construction of improvements after final plat approval. The improvement agreement requires collateral to secure the construction of such improvements.

SUBDIVISION PLAT - Refer to "Plat"

SUBDIVISION REVIEW - The review of subdivisions for compliance with the subdivision regulations and the Montana Land Use Planning Act.

SUBSTANDARD STREET - A street that does not meet the design standards of these subdivision regulations

SUBSTANTIAL COMPLIANCE - Means with respect to the proposed development of a particular site, that all facets of the proposed development, when taken together, comply, not strictly and rigidly but substantially, with the densities and standards for development of the site as set forth in the jurisdiction's applicable adopted zoning regulations, zoning map, and subdivision regulations.

SUBSTANTIAL COMPLIANCE - means:

- (a) with respect to the amendment of an adopted land use plan, that all facets of the proposed amendments, when taken together, comply, not strictly and rigidly but substantially, with the densities, standards, and community intent for development of the community as set forth in the jurisdiction's adopted land use plan;
- (b) with respect to the adoption or amendment of a zoning map, zoning regulation, or subdivision regulation, that all facets of the proposed map, regulation, or amendment, when taken together, comply, not strictly and rigidly but substantially, with the densities, standards, and community intent for development of the site as set forth in the jurisdiction's applicable adopted land use plan; and
- (c) with respect to the proposed development of a particular site, that all facets of the proposed development, when taken together, comply, not strictly and rigidly but substantially, with the densities and standards for development of the site as set forth in the jurisdiction's applicable adopted zoning regulations, zoning map, and subdivision regulations.

SURFACE DISTURBANCE - Any actions taken to alter the existing vegetation or soil of a site, such as clearing, grading, filling, and excavating.

SURVEY - Refer to "Certificate of Survey".

SURVEYOR - Refer to "Land Surveyor".

TEMPORARY TURNAROUND - Refer to "Street Stub".

TITLE COMMITMENT - A commitment on the part of the insurer, once a title search has been conducted, to provide the proposed insured with a title insurance policy upon closing.

TITLE REPORT - A contractual arrangement entered into to indemnify loss or damage resulting from defects or problems relating to the ownership of real property, or from the enforcement of liens that exist against it.

TOWNHOME - As defined in Section 70-23-102, MCA: property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

TOWNHOUSE - Same as "Townhome".

TRACT OF RECORD - means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office. (Section 76-25-103, MCA)

THREE-UNIT DWELLING OR TRIPLEX - means a building designed for three attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways. (Section 76-25-103, MCA)

TOWNHOUSE - A building or structure that has two or more dwelling units erected in a row as a single building, and where the owner of each unit may exclusively own the land underneath the unit in addition to jointly owning the common areas in the development. Each townhouse unit shall have its own dedicated entrance and shall otherwise provide sufficient egress per the adopted Fire Code.

TRAFFIC IMPACT STUDY (TRAFFIC IMPACT ASSESSMENT) - A study that assesses the effects that a particular subdivision's traffic will have on the transportation network in the subdivision and streets leading to the subdivision. Such studies analyze existing conditions and provide projections of traffic increases from the subdivision, measured as annual average daily traffic. The TIA should identify any potential traffic operational problems or concerns and recommend appropriate actions to address such problems or concerns.

TRANSFER DOCUMENTS - Refer to "Instruments of Transfer".

TREASURER - Gallatin County Treasurer.

TRIBAL LANDS - Lands under the authority of tribal governments.

TWO-UNIT DWELLING OR DUPLEX - means a building designed for two attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway. (Section 76-25-103, MCA)

U.S. GOVERNMENT LOT - Irregular fractional sections in the rectangular Public Land Survey System that cannot be described as aliquot parts

U.S. GOVERNMENT SECTION - A parcel within the federal Public Land Survey System that equates to approximately one square mile. The Public Land Survey System typically divides land into 36-mile-square townships. Townships are subdivided into 36 one-mile-square sections. Sections can be further subdivided into quarter sections, quarter-quarter sections, or irregular government lots.

UNDIVIDED INTEREST - Title to real property held by two or more persons without specifying the interests of each party by percentage or description of a portion of the real estate. Such interests are typical between joint tenants, tenants in common, tenants by the entirety.

UNITED STATES WATERS - Essentially all surface waters such as all navigable waters and their tributaries, all interstate waters and their tributaries, all wetlands adjacent to these waters, and all

USEABLE PARKLAND - Parkland that is accessible by passenger vehicle, and which has land that is available for recreation at all times of the year. Parkland, which is often entirely inundated by a storm water retention or detention facility, for example, would not be considered useable parkland.

USGS - United States Geological Survey.

UTILITY - Refer to "Public Utility"

VARIANCE - Permission to depart from these regulations when it is determined that unique conditions on the property meet certain criteria.

VEGETATIVE BUFFER - vegetated areas around waterbodies, or as required to mitigate impacts between conflicting uses. Riparian areas is a subset of "vegetative buffers" and includes the green zones of native vegetation next to rivers, streams, and drainages. The word "riparian" is derived from Latin ripa, meaning riverbank.

WARRANTY DEED - A deed that guarantees a clear title to the buyer of real property.

WATER CONVEYANCE FACILITY - Pipes, ditches, canals flumes, or other mechanisms by which water is transported from one area to another. The term generally applies to water for surface use, including agriculture. The term does not include water supply systems intended for human consumption.

WATER TABLE - The level below which the ground is saturated with water.

WATERBODIES - Bodies of water including lakes, ponds, perennial or intermittent streams, creeks, rivers, or wetlands.

WATERCOURSE - Any depression 2 feet or more below the surrounding land serving to give direction to a current of water at least 9 months of the year and having a bed and well-defined banks. Upon order of the DNRC, the term also includes any particular depression that would not otherwise be within the definition of watercourse. (Section 76-5-103, MCA)

WEED DEPARTMENT - Gallatin County Weed Control Department.

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

ZONING CODE - Also referred to as Zoning Ordinance, divides a community into districts or zones, and regulates land use activity in each district, specifying the permitted uses of land and buildings, the intensity or density of such uses, and bulk (size) of buildings.

CHAPTER 2 REVIEW PROCESS FOR SUBDIVISIONS

All subdivisions must be reviewed according to the processes in this chapter.

11-2-1 CONCEPT MEETING (OPTIONAL)

An optional concept meeting may be requested by the subdivider with the City of Belgrade Planning Administrator. This step, ahead of the preapplication meeting, is not intended to be informal and an open forum for the subdivider to discuss general field questions regarding the subdivision review process and/or technical questions regarding the electronic submittal process. No material is required to schedule a concept meeting. Any discussions, analyses, or recommendations related to the proposed subdivision are considered advisory and do not bear on review decisions. Neither the Planning Administration nor the City of Belgrade is bound to items discussed in the concept meeting. Any discussion related to the proposed subdivision is considered informal and advisory and will not be considered unless introduced in the preapplication meeting

11-2-2 PREAPPLICATION MEETING

This step includes the preapplication meeting and a commitment from the subdivider to not make subdivision-related changes on the property until after the subdivision application has been submitted, reviewed, and a decision rendered by the Planning Administrator.

- A. Once a subdivider has decided to move forward with a subdivision application, they shall request a preapplication meeting prior to applying. The preapplication meeting is intended to provide an overview of state subdivision law, these local subdivision regulations, and other relevant local planning and code requirements that may apply to the subdivision application. It also provides an opportunity for the landowner to discuss the proposal with the Planning Administrator and others who may have permit or review authority, such as the City Public Works Department or equivalent. The preapplication meeting can alert the subdivider to potential issues and/or provide information that could affect design.
- B. A subdivider may request a preapplication meeting with the Planning Administrator by submitting a Preapplication Request on the City of Belgrade document portal. (Refer to Chapter 4 on Submittal Requirements) The meeting shall occur within 30 days from the date the administrator receives the Preapplication Request Form.
- C. The Planning Administrator shall notify the subdivider of the date and time of the meeting.
- D. The Planning Administrator may also notify and invite representatives of affected public utilities and review agencies at the local, state, and federal levels, including but not limited to the County Clerk and Recorder, City's Public Works Department, Fire Department, Law Enforcement, Emergency Services, etc. The role of these agencies is to provide comments relevant to their agency's review. They are encouraged to attend the preapplication meeting to better understand the proposal and to identify and discuss any concerns with the subdivider. They may also submit written comments prior to the preapplication meeting.
- E. The subdivider or their officially designated representative is required to be present at the preapplication meeting. At the preapplication meeting, the Planning Administrator shall:
 - 1. Identify the state laws, local regulations, and Land Use Plan provisions that may apply to the subdivision review process.
 - 2. Provide the subdivider with a comprehensive list of the information, documents, fees, and other materials that shall be required in order to submit an application for subdivision.
 - 3. Provide the subdivider with a list of the public utilities; local, state, and federal government agencies; other entities that may be contacted by the Planning Administrator for comment on the subdivision application; and identify the timeframes that such entities are given to respond; and
 - 4. Identify particular additional information the Planning Administrator anticipates will be required for review of the subdivision application. However, the identification of this information by the administrator at the preapplication stage does not in any way limit her/his ability to require additional or different information at a later time.
- F. Restrictions on Subdivision-Related Improvements:

In order to avoid any confusion about the condition of the property prior to subdivision review, this section prohibits subdivision-related improvements on the property prior to preliminary plat approval.

By requesting the preapplication meeting, the subdivider agrees to the following provisions restricting construction and changes to the property. These provisions are intended to allow for a complete evaluation of the proposed subdivision compared to the pre-subdivision condition.

G. Construction Timing

1. Once a request for a preapplication meeting has been submitted, the subdivider shall not engage in construction of subdivision-related improvements prior to approval of the preliminary plat application. Subdivision-related improvements include water, wastewater, stormwater, and solid waste facilities; subdivision-related utilities; and streets, streets, and any improvement requiring grading or earth moving. All historic, cultural, archaeological, and natural resources on the site shall remain unaltered. Riparian vegetation and wetlands may not be damaged or removed.

a. The following activities shall be allowed:

1. Work related to testing, analytical or monitoring activities that may be required by these regulations or are relevant to the processing of the subdivision application; or
2. Activities approved in advance and in writing by the Planning Administrator that qualify as actions that are not subdivision-related:

H. The City of Belgrade shall not be responsible if improvements or alterations must be eradicated, moved, repaired, or rebuilt due to a subdivider making property improvements prior to and/or not in accordance with conditions of preliminary approval subdivisions.

I. A violation of the restrictions in this section subjects the subdivider to the enforcement provisions and penalties in Chapter 15 Restoration of any resource alteration, as described above, may be required as a condition of subdivision approval.

11-2-3 PRELIMINARY PLAT APPLICATION SUBMITTAL

This section addresses some important procedural considerations for the subdivider as he/she prepares the subdivision application. Subdividers are advised to review this section carefully before submitting their application as the recommendations here can result in cost and time savings later.

If the subdivision does not comply with the design criteria in Chapter 6, the application will need to include a request for variance and documentation to support that request. Identifying and addressing these items with the initial application will facilitate review of the subdivision. In addition, the subdivider should be aware that by submitting the application, they are also granting permission for reviewers to enter and inspect the property.

A. Preparing the Application

Although the process is labeled “Preliminary,” it is in fact in the subdivider’s interest to be very thorough in preparing the application and to treat the application as if it were the final plat. Subdividers are advised to submit a complete application that clearly demonstrates that the subdivision meets all design standards in Chapter 6 (or includes a request for variance) and demonstrates compliance with the Land Use Plan and Zoning regulation along with other provisions of the subdivision regulations and with other permitting agency requirements.

B. General Information on Applications

The subdivider is responsible for submitting the preliminary plat application and ensuring that the subdivision conforms to the design standards in Chapter 6, contains all of the required information identified in Chapter 4 “Submittal Requirements” and applicable forms in the supplemental Administrative Materials, and meets review criteria in Chapter 3. The subdivider is advised to address in their application package comments and questions raised at the pre-application meeting.

The subdivider is also advised to carefully examine the application to ensure it is in substantial compliance with the Land Use Plan, zoning regulations, and these regulations.

C. Coordination with Agencies and Others

Coordinating and communicating with other entities prior to submitting the subdivision application is important because comments from these entities could be critical in the design of the subdivision and may affect the final outcome of the Planning Administrator’s decision.

Because affected utilities, agencies, and others with a substantial interest will be reviewing and commenting on the application, the landowner should provide applicable entities with a copy of the proposed preliminary plat and other materials as identified in Chapter 4 “Submittal Requirements” and include responses in the application. The subdivider is advised to contact these agencies early in the process and to consider their comments in the subdivision design prior to submitting the subdivision application package to the Planning Administrator. Applicable entities vary from subdivision to subdivision, but at a minimum always include the City Public Works Department. Talking with permitting agencies, and other interested parties before submitting the application will provide the subdivider with information that could affect design and/or conditions of approval and which may not otherwise be presented until late in the process. The Planning Administrator will have identified an initial list of relevant agencies at the preapplication meeting.

D. Considerations for Installing Improvements and for Phasing Subdivision Development

As part of the preliminary plat application, the subdivider should consider the cost of installing improvements within the subdivision and the requirement to make those improvements prior to final plat or secure them with a financial guarantee. Be aware that at final plat application the subdivider is required to install capital improvements before selling lots. Subdivider may propose alterations to the subdivision prior to final plat to reduce costs. Once the preliminary plat is approved, however, it is not possible to make major substantive changes to the subdivision. Therefore, the subdivider is advised to take into consideration the costs of installing capital improvements prior to submitting the preliminary plat application. If the subdivider chooses to develop the subdivision in phases spread development costs over time, the preliminary plat application should provide the required information for phased development. Refer to Chapter 3 for more information on capital improvements, financial guarantees, and requirements for developing a subdivision in incremental phases.

E. Variances

The subdivision application must include a request for variance if the proposed subdivision does not conform to the design standards in Chapter 6. The submittal requirements and approval criteria for variances are included in Chapter 4.

F. Submitting the Application

1. Submit to the Planning Administrator

Once the application is complete, the subdivider submits it to the Administrator in the form as identified in Chapter 4 "Submittal Requirements."

2. When a Subdivision Lies Partly within an Incorporated Municipality and Partly in the County

If the proposed subdivision lies partly within the City of Belgrade and partly within the unincorporated area of Gallatin County, the application and preliminary plat must be submitted to the Planning Administrator and to the Planning Administrator for the county. Both the city of Belgrade and Gallatin County governing bodies issue decisions on the application.

3. When a Subdivision is Entirely Located within the City of Belgrade or is Proposed to be Annexed:

If an entire existing parcel is either located within the city or is proposed to be annexed and then subdivided, the subdivider shall submit the proposal to the Planning Administrator who shall proceed with review for annexation and subdivision.

4. Permission to Enter

The Planning Administrator or affected agencies identified during the preapplication meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider, and to subsequently monitor compliance with any conditions if the preliminary plat is approved conditionally. The submission of a subdivision application constitutes a grant of permission to enter for this purpose.

11-2-4 PUBLIC AND AGENCY REVIEW

A. Public Comment

Once the application is submitted it is public information, but based upon the requirements of the Act, public comment shall not be taken on the application. If the Planning Administrator makes the determination that a subdivision application is in substantial compliance with the zoning and subdivision regulations and all impacts resulting from the proposed subdivision were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations, or any amendment thereto, the Planning Administrator shall issue a written decision on the preliminary plat, without any public comment. The public does have the right to under Section 76-23-503, MCA to appeal any decision of the Planning Administrator per the requirements of Chapter 1.

B. Review by Affected Public Utilities, Local, State, and Federal Governments and those with Substantial Interest.

1. Notice of Preapplication Meeting

The Planning Administrator invites public utilities, and local, state, and federal government agencies to the preapplication meeting. The Planning Administrator shall also notify these entities and others with substantial interest once the application is determined to contain all required elements.

C. Comments – Notice to Subdivider and to Planning Administrator

1. The Planning Administrator shall provide the subdivider with copies of comments received. The subdivider shall submit copies of other comments they receive, including those from agencies and utilities to the Administrator.
2. Rural School Districts If the proposed subdivision is situated within a rural school district, as described in Section 20-9-615, MCA, the Planning Administrator, shall provide the application and preliminary plat to the rural school district superintendent for distribution to the school district trustees. The application and preliminary plat are sent when the application is determined to contain all required elements.

11-2-5 COMPLETENESS REVIEW

The application is reviewed by the Planning Administrator to determine if it contains all of the information and materials necessary to complete the review as identified in Chapter 4 “Submittal Requirements.” If it does not contain all required information and materials, the subdivider is notified and the jurisdiction’s review is put on hold until the subdivider submits the required information and materials. Once all required information and materials have been determined to be included in the application, and written notice is provided to the subdivider, the subdivision application moves to the “Planning Administrator Review” step.

A. Completeness Review: Timeframe and Process

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

1. Within twenty (20) business days of receipt of a subdivision application and fees, the Planning Administrator shall determine whether the application contains all necessary information and materials as required in Chapter 4 “Submittal Requirements” and shall give written notice to the subdivider of the administrator’s determination. The first day of the twenty (20) business daytime period begins on the day after the written notice is sent to the subdivider. The written notice shall identify any missing information or materials.
2. The subdivider may correct the deficiencies and submit the required information and materials. The Planning Administrator may review subsequent submissions of the application only for information found to be deficient during the original review of the application.
3. This process shall be repeated until the subdivider applies containing all the materials required by Chapter 4, at which point the application moves forward to Planning Administrator review.

B. Applicable Regulations

If subdivision regulations change during completeness review, the determination of whether the subdivision contains complete information and materials must be based on the new regulations. The Planning Administrator’s decision to approve, deny, or approve the subdivision with conditions will be based on the regulations in effect at the time the subdivision application is determined to be complete.

C. Effect of Determining a Subdivision Application Contains All Required Information and Materials

Once the Planning Administrator has determined the subdivision application contains all necessary information and materials, the application moves to the Planning Administrator review stage. The Planning Administrator notices agencies, municipalities, rural school district, etc. as identified in 11-2-6 Planning Administrator Review.

D. Amendments to the Application During Completeness Review

If the subdivider alters the subdivision proposal during completeness review, the application shall be considered amended, even if the subdivider does not submit the changes as required by Chapter 4 “Submittal Requirements.” The twenty (20) business day deadline for completeness review is suspended. The Planning Administrator shall review and determine if the changes are substantially different from what was presented at the preapplication meeting and if the changes warrant a new preapplication meeting. If the Planning

Administrator determines another preapplication meeting is required, the Planning Administrator shall submit written notice to the subdivider and include the rationale for the decision.

- E. If the Planning Administrator determines another preapplication meeting is not required, the subdivider will be responsible for any increase in review fees resulting from an increase in number of lots or other factors related to review fees. The twenty (20) business day review resumes with the written notice to the subdivider that the application can proceed.

11-2-6 PLANNING ADMINISTRATOR REVIEW

A. Once the Planning Administrator determines that the application is complete, the Administrator shall make a decision to approve the subdivision, deny it, or approve it with conditions. In rendering a decision, the Planning Administrator considers whether the application with or without variances or deviations from adopted standards is in substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations. The Planning Administrator has fifteen (15) business days to issue a written decision.

B. Notice to Agencies, Municipalities, and School Districts

Once the application is determined to include all required information and materials, the Planning Administrator shall notify public utilities, applicable local, state, and federal agencies identified at the preapplication meeting and may notify others identified at the preapplication meeting with a substantial interest (including but not limited to any Property Owners' Association for the subject property, adjoining landowners, etc.).

Applicable agencies that have been contacted by the subdivider (as evidenced by materials included in the application) may not require notification from the Planning Administrator.

If the proposed subdivision is situated within a rural school district, as described in Section 20-9-615, MCA, the Planning Administrator, shall provide the application and preliminary plat to the rural school district superintendent for distribution to the school district trustees.

C. Amendments to the Application After Deemed Complete and Prior to Planning Administrator Decision

The following identifies the procedures to be followed if a subdivider changes any portion of the application after it is determined to be complete. Subdividers who present changes to their layout, plat, or other aspects of their application after it is determined complete should be aware that the changes may trigger additional review time and fees. The procedures below for amending applications are to ensure that the proposed subdivision application is not a "moving target" once the application is determined complete.

D. Amended Applications - Review

If the subdivider changes the subdivision application after the Planning Administrator makes a determination of completeness and prior to the Planning Administrator's decision, the subdivision shall be considered amended, even if the subdivider does not submit the changes as required by Chapter 4 "Submittal Requirements." Information that is submitted to respond to a question which does not change the application will not be required to be submitted as an amendment.

By making changes to a pending subdivision application, the subdivider consents to suspension of the applicable review periods. The applicable review period is suspended at the time the changes are presented.

E. Review to Consider if Changes are Material

1. The Planning Administrator shall determine if changes are considered "material" and if additional review is necessary. The criteria for determining "material" changes in an application are included in Chapter 3, "Subdivisions Review Criteria." Within five (5) business days of receiving the amended application, the Planning Administrator shall submit written notification to the subdivider indicating one of the following:

- a. Changes are not material and do not require any changes to the Planning Administrator's written decision;
 - b. Changes are material, require changes to the Planning Administrator's written decision, but may proceed with review as an amended application; or
 - c. Changes are material and of such significance that the review process should begin again, starting with a new preapplication meeting.
2. Changes to Planning Administrator's Review Timeline - If Changes are Not Material
- If changes are not material, the applicable time resumes the day after the Planning Administrator notifies the subdivider in writing of the determination.
3. Changes to Planning Administrator's Review Timeline - If Changes are Material
- a. If changes are material, the following time periods, see Section 11-2-7, will be added to the remaining suspended time limit. The suspended time limit begins the day after the subdivider provides notice to the Planning Administrator to proceed with amended review and submits the amended review fee.
 - b. If changes trigger new or additional questions regarding completeness of the information and materials, the subdivision application will revert to the completeness review stage. Once determined complete, the application timeline will be the full-time limit identified in this section.

11-2-7 PLANNING ADMINISTRATOR'S WRITTEN DECISION

This section discusses the written decision prepared by the Planning Administrator to assess whether the proposed subdivision is in substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations, or any amendment thereto. The written decision shall also include a recommendation for approval, approval with conditions, or denial.

A. Written Decision Contents

The Planning Administrator shall prepare a written decision evaluating the proposed subdivision and any requested variances for compliance with these regulations.

The written decision shall contain:

1. Recommendation for approval, conditional approval (see item B. "Conditions of Approval") including any conditions for mitigation measures, or denial of the subdivision application and preliminary plat;
2. Summary of the basis for the decision, including findings of fact which describe factual evidence and analysis of substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations;
3. A decision for approval or denial of any requested variances (based on review criteria for variances in Chapter 3) including any conditions of approval, and a summary of facts forming the basis of the decision.
4. The preliminary approval of the approval of the preliminary plate shall not be less than one calendar year or more than 5 calendar years, and any decision regarding extensions. (Refer to Chapter 3 for review criteria for determining time periods and extensions); and
5. Copies of agency comments received (not including those already in the subdivision application.

B. Conditions of Approval

A determination that the application meets design criteria in Chapter 6 or other review criteria may not be possible until after preliminary plat approval, in which case the decision by the Planning Administrator to approve a preliminary plat shall be made with conditions of approval. A list of standard and typical conditions of approval is included in the Supplemental Administrative Materials (Preliminary Plat Application).

C. Timeframe for Written Decision

The Planning Administrator shall issue the written decision within fifteen (15) days from the date the subdivision application was deemed complete.

11-2-8 PRELIMINARY PLAT APPROVAL

A. Preliminary Plat Approval Period

1. The preliminary plat shall be in effect for not less than one (1) year and not more than five (5) calendar years unless an extension of the original preliminary plat approval has been granted in writing.
2. The final plat must be approved and filed within the preliminary plat approval time frame. The subdivider shall submit the final plat application not less than thirty (30) working days prior to the preliminary plat approval deadline to allow time for review. The subdivider is advised to submit the final plat application as soon as possible to allow for review time and corrections as may be necessary.
3. The governing body may, at the request of the subdivider, extend the preliminary plat approval provided the subdivider has submitted the request per requirements of Chapter 4 "Submittal Requirements," the extension meets the criteria in Chapter 3, and the extension is granted prior to the termination of the original approval period. The governing body may issue more than one extension.
4. After the application and preliminary plat are approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval.

B. If the preliminary plat approval expires, a new application, and associated requirements and fees, shall be required.

C. Restrictions on Transferring Title

After the preliminary plat of a subdivision has been approved or conditionally approved but before final plat approval, the subdivider may enter into contracts to sell lots in the proposed subdivision if the conditions of Section 76-25-411, MCA have been met.

Except as provided in Section 76-25-411, MCA, every final subdivision plat must be filed for record with the Gallatin County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. In the case of a subdivision creating spaces for rent or lease for recreational camping vehicles or mobile homes, no rent or lease can occur until final subdivision approval is granted by the governing body.

If unlawful transfers, rents, or leases are made, the Belgrade City Attorney shall commence action to enjoin further sales, transfers or rent or leases and compel compliance with all provisions of the Act and these regulations.

11-2-9 FINAL PLAT APPLICATION

A. Final Plat Application Submittal and Review

1. The final plat application, including all supplementary documents, must be submitted to the Planning Administrator at least thirty (30) working days prior to the expiration of preliminary plat approval. The subdivider is advised to submit the final plat application as soon as possible to allow for review time and corrections as may be necessary.
2. Submittal requirements for final plat applications and criteria for approving final plats are described in Chapter 4.
3. Within ten (10) business days of receiving the final plat application, the planning administrator shall review the final plat and supplemental documents to ensure that all conditions and requirements for final plat approval have been met. The Planning Administrator will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee, and copies of the final plat have been received as identified in submittal requirements in Chapter 4. Final plat applications will not be considered complete by the Administrator until all conditions of preliminary approval have been satisfied.
4. If the application is not complete, the Planning Administrator will submit a written notice to the subdivider indicating the missing information.
5. If the application materials do not provide evidence of compliance with the conditions of approval, or if the materials indicate deviations from the approval, the Planning Administrator will submit written notice to the subdivider. The subdivider is required to correct the final plat materials in accordance with preliminary plat approval.
6. The Planning Administrator may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meet the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped signed certificate on the plat.
7. Once the Planning Administrator determines that the application is complete, the administrator shall prepare a report documenting that the final plat application materials conform to the criteria in Chapter 2.

B. Public Improvements, Capital Facilities, and Financial Guarantees

The requirements for public improvements, capital facilities, and financial guarantees are included in Chapter 6. These requirements will need to be met prior to final plat approval.

11-2-10 GOVERNING BODY DECISION

A. Governing Body Decision

Once the Planning Administrator determines the final plat application is complete, the governing body shall examine the final subdivision plat and shall approve the document if it conforms to the conditions of the preliminary plat approval and to the final plat approval criteria in Chapter 3 or deny the plat pursuant to section 11-2-10-A.2 below. The governing body shall complete its review within twenty (20) business days of the Planning Administrator's determination that the application is complete.

1. If the final plat is approved, the governing body shall certify its approval on the face of the final plat. When applicable, a certificate of the governing body's acceptance of any dedicated land, easements, or improvements shall be filed on the face of the final plat and/or on documents that accompany the final plat for recording.
2. If the final plat is denied for non-compliance with the conditional approval, the Act or these regulations, the governing body shall write a letter for the public record stating the reason(s) for denial and forward a copy to the subdivider. The governing body will return the final plat to the subdivider within ten (10) working days of the action. The subdivider may then make any necessary corrections to the plat or steps necessary to conform to the conditional approval and resubmit the final plat for approval. The re-submission of the final plat application must still be submitted and approved within the original preliminary plat approval period. The subdivider may request an extension of the original preliminary plat approval period per section 11-3-8.

B. Filing the Final Plat

After receiving approval, the final plat may not be altered in any manner prior to recording. The County Clerk and Recorder may not accept any plat for filing that does not bear the governing body's approval in proper form or a plat that has been altered after final plat approval. The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Final Subdivision Plats, contained in the Supplemental Administrative Materials.

C. Amending Final Plats

An amended plat is subject to the review procedures for subdivisions, unless the changes meet requirements of Section 76-25-412 MCA for corrections or the changes qualify as exemptions as identified in Chapter 11 "Divisions Exempted from Review as Subdivisions." The governing body may not approve an amended final plat without the written consent of the owners and lienholders of all lots that will be modified by the proposed amendment.

- D. The document to be filed shall be clearly labeled as an amended plat of the previously approved subdivision.

CHAPTER 3 SUBDIVISION REVIEW CRITERIA

11-3-1 PRELIMINARY PLAT REVIEW CRITERIA

A. Information to be Considered

The Planning Administrator's decision to approve, conditionally approve, or deny the proposed subdivision shall be based on review of the subdivision application, preliminary plat, and other additional information submitted or prepared in the review of the subdivision.

B. Review Criteria

The basis for the Planning Administrator's decision to approve, conditionally approve, or deny the proposed subdivision shall be whether the subdivision meets the requirements of the Act. The decision shall reflect the following criteria:

1. Substantial Compliance with The City of Belgrade Land Use Plan (Section 76-25-404(7), MCA)
2. Subdivisions should demonstrate conformance to the adopted land use plan.
3. Substantial Compliance with Local Zoning Regulations (Section 76-25-404(7), MCA)
4. All subdivisions must demonstrate they are designed to comply with applicable zoning.
5. Substantial Compliance with Local Subdivision Regulations (Section 76-25-404(7), MCA)

The review is based on the subdivision regulations in place at the time the application is determined to contain sufficient information for review. Subdivisions that do not comply with the following standards shall be denied, unless the requirement is made, a condition of approval or a variance is granted (Refer to section 11-3-1 F below for criteria for approving variances.):

1. Design Standards - Compliance with provisions of the design standards in Chapter 6 are required.
2. Subdivision Review Procedure
 - a. All subdivisions shall demonstrate compliance with the local subdivision review procedure, based on the subdivision regulations in place at the time the application is determined to contain sufficient information for review. The record shall demonstrate that the process and timelines in Chapter 2 were followed. The requirement for compliance with timelines after preliminary plat shall be a condition of approval.
3. Survey Requirements (Section 76-25-412, MCA)
 - a. The subdivision shall comply with survey requirements in Part 4 of the Act and with the ARMs for filing final plats. The survey cannot be verified until final plat and shall be a condition of approval.
4. Improvements (Section 76-25-413, MCA)
 - a. All required public or private improvements shall be installed before final plat approval. Other improvements that have been approved for installation after final plat approval shall be guaranteed as provided in Chapter 7.
5. Extending Capital Facilities (Section 76-25-413, MCA)

- a. The subdivider shall pay or guarantee payment for part or all the cost of extending capital facilities related to public health and safety, including but not limited to public streets, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision and be calculated using provisions of Chapter 7 of these regulations. Unless completed by the time of preliminary plat approval the requirements of extending capital facilities shall be a condition of approval.

11-3-2 FINAL PLAT REVIEW CRITERIA

A. Information to be Considered

The governing body's decision to approve or deny the final plat application shall be based on review of the conditions of approval for the preliminary plat; final plat application submitted by the subdivider, including the final plat and supplements; the Planning Administrator's written report, review of any legal agreements or contracts by the city attorney or legal staff, and other additional information submitted or prepared in the review of the final plat application.

B. Review Criteria

Final plats shall not be approved for filing unless the subdivision final plat application demonstrates compliance with the following criteria:

1. No Material Changes to the Preliminary Plat
2. There shall be no material changes to the preliminary plat and related materials except for the following circumstances:
 - a. When changes are specifically required by conditions of approval. Changes in site layout, design or to the plat for City Public Works, DEQ or other agency approval or other required permits do not constitute an exception unless the condition specifically authorizes the change.
 - b. If the subdivider and Planning Administrator determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, the condition may be reviewed by the governing body through a properly noticed public hearing in order to determine if the condition may be waived or amended.
 - c. Unless the change is one described in the two previous paragraphs, a final plat with a material change, as described in section 11-3-5, shall be denied until it is brought into compliance or has changes that are not material.
3. Completion of Conditions of Approval (Section 76-25-410(1)(a), MCA)
 - a. The subdivision shall comply with all conditions of approval.
4. Abstract of Title and Lienholders Consent (Section 76-3-612, MCA)
 - a. The subdivider shall submit with the final plat a certificate of title abstracter dated less than thirty (30) days prior to date of final plat submittal. The certificate shall show the names of owners of record and names of lienholders or claimants of record and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record.
5. Improvements Installed (Section 76-25-413, MCA)
 - a. All improvements required to be installed by final plat shall be completed and approved and/or certified as required by Chapter 7. Improvements that are not essential to public health and safety shall be secured with a Subdivision Improvements Agreement and financial guarantee as required by Chapter 7.

6. County Treasurer's Certification (Section 76-25-410(1)(c), MCA)
 - a. The final plat shall include the county treasurer's certification that all real property taxes and assessments have been paid.

7. Examining land surveyor approval (Section 76-25-410(2), MCA)
 - a. The governing body may require the final subdivision plat to be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the County Clerk and Recorder. No final plat that has been examined per this section shall be recorded unless the plat includes a certificate of compliance signed by the examining land surveyor.

11-3-3 CRITERIA FOR AMENDING SUBDIVISION APPLICATIONS

A. Applicability

If the subdivider changes an application after it has been submitted, it will trigger review as an amended application and additional process. Chapter 2 “Review Process for Subdivisions” identifies the process steps to be taken when changes are made, as follows:

1. Changes to the Application during Completeness Review - refer to section 11-2-6
2. Changes to the Application during Planning Administrator Review - refer to section 11-2-7
3. Changes to the Application After Planning Administrator Review and Prior to Governing Body Decision, refer to section 11-2-10
4. Changes after Preliminary Plat Approval - no material changes are allowed after preliminary plat approval, per Section 76-3-611, MCA.

B. Review Criteria for Material Change

If a subdivision application is determined to have a material change, the application may revert to an earlier stage in the process or back to the beginning of the process. The criteria for determining if a material change has been made to a subdivision application is whether the change:

1. Significantly alters the layout or design of the subdivision;
2. Requires a variance from design standards; or
3. Significantly affects other aspects of the subdivision in ways not previously identified or reviewed.

C. Examples of Material Change

The following are examples of potential material changes. These are examples only and not intended as an exhaustive list:

1. Configuration or Number of Lots: e.g., an increase in lots, the removal of legal and physical access to lots;
2. Street Layout: e.g., relocation street approaches, changes to proposed access routes;
3. Infrastructure Changes: e.g., changing the types or locations of water or sanitation systems;
4. Changes to park land or open spaces: e.g., relocation of parkland, reduction in dedicated acreage;
5. Easements: e.g., change in location, width, purpose; or
6. Access: e.g., changing the proposed access route(s) within and to the subdivision.

11-3-4 CRITERIA FOR CHANGES AN APPROVED PRELIMINARY PLAT

A. Changes to an Approved Preliminary Plat

Any changes to an approved preliminary plat that increases the number of lots or redesigns or rearranges six (6) or more lots must undergo consideration and approval of an amended plat following the requirements of these regulations found in Chapter 3.

11-3-5 CRITERIA FOR CHANGES AND AMENDMENTS TO FINAL PLATS

A. Changes to Approved Final Plat prior to Recording

No changes are allowed to an approved final plat prior to recording with the clerk and recorder.

B. Changes to Filed and Recorded Final Plats

Changes that alter any portion of the filed plat must be made by filing an amended plat showing all alterations.

C. Criteria for Requiring an Amendment to a Final Plat

The criteria for requiring an amendment to the final plan are as follows:

1. Survey corrections: Survey corrections shall be reviewed according to the survey requirements for Part 4 of the Act and do not require review as a subdivision.
2. Boundary Relocations and Aggregations involving Lots in a Platted Subdivision Boundary relocations and aggregations involving five or fewer lots within the subdivision shall be reviewed to determine if they qualify as exemptions per Section 76-25-402, MCA. Refer to Chapter 11 "Divisions of Land Exempt from Subdivision Review," regarding boundary relocations and aggregations involving lots in a platted subdivision.
3. All other changes to a Final Plat must be reviewed as an amended subdivision, following process and other requirements under the provisions of Chapters 2 of these subdivision regulations.

11-3-6 CRITERIA FOR APPROVING VARIANCES

A. Applicability

The Planning Administrator may grant variances from the requirements of Chapter 3, "Design and Improvement Standards" when, due to the characteristics of the land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare.

A variance shall not be granted if it would have the effect of nullifying the intent and purpose of these regulations. The planning administrator's decision on the variance is final, and no further action may be taken except as provided in Section 76-25-503.

B. Criteria for Approval

The criteria for approving variances are:

1. The variance is not detrimental to public health, safety, or general welfare;
2. The variance is due to conditions peculiar to property, such as physical surroundings, shape, or topographical conditions;
3. Strict application of the regulations to the property results in unnecessary hardship to the owner as compared to others subject to the same regulations and that is not self-imposed;
4. The variance may not cause a substantial increase in public costs; and
5. The variance may not place the property in nonconformance with any other regulations
6. Additional criteria may apply if the variance is associated with a floodplain or floodway pursuant to the requirements of Title Section 76, chapter 5, MCA.

C. Conditions

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

11-3-7 CRITERIA FOR DEVELOPING A SUBDIVISION IN PHASES

A. Subdivisions that are proposed to be completed in incremental phases shall be approved only if the following review criteria are met:

1. Phasing Plan and Map for All Phases

Facilities will be completed with each phase, and the timeline for the proposed phases.

2. Effect of Preliminary Plat Approval for Phased Subdivisions

An approved or conditionally approved phased preliminary plat must be in effect for twenty (20) calendar years.

3. Final Plat Approval to be Sequential

Final plat approval for each subsequent phase will be contingent upon the final plat approval for each prior phase, completion of all improvements in each preceding phase and acceptance of those improvements by the governing body.

B. For a period of five (5) years after approval of a phased preliminary plat, the subdivider may apply for final plat of any one or more phases following the process set forth in this section.

C. Review After Five (5) Year Time Period

After five (5) years have elapsed since approval of a phased preliminary plat, the Planning Administrator shall review each remaining phase to determine if a phase may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan, zoning or subdivision regulations, or review and approval of the phased preliminary plat. If the Planning Administrator identifies any new or significantly increased potential impacts not previously identified and considered, the Planning Administrator shall proceed as set forth in Section 76-25-408(8), MCA.

11-3-8 EXTENSIONS TO PRELIMINARY PLAT APPROVAL PERIODS

A. First Extension Request

At the conclusion of the original preliminary plat approval period, at the request of the subdivider, the Planning Administrator may extend the preliminary plat approval period one time by written agreement.

1. Information to be Considered – First Extension Request

In considering whether to grant the first extension, the Planning Administrator shall consider the reasons for the request as explained in the subdivider's written request for extension. The written request for extension must be received no later than thirty (30) days prior to the end of the preliminary plat approval period.

2. Criteria – First Extension Request

The Planning Administrator must determine whether the preliminary plat remains in substantial compliance with the zoning and subdivision regulations. If the preliminary plat is no longer in substantial compliance with the zoning or subdivision regulations, the extension may not be granted.

B. Subsequent Extension Requests

At the conclusion of the first extension of the preliminary plat approval period, at the request of the subdivider, the governing body may extend the preliminary plat approval period.

1. Information to be Considered – Subsequent Extension Request

In considering whether to grant an extension of the preliminary plat beyond the first extension, the governing body shall consider the reasons for the request as explained in the subdivider's written request for extension. The written request for extension must be received by the governing body no later than thirty (30) days prior to the end of the preliminary plat approval period (first extension).

2. Criteria – Subsequent Extension Request

The governing body must determine whether the preliminary plat remains in substantial compliance with the zoning and subdivision regulations. If the preliminary plat is no longer in substantial compliance with the zoning or subdivision regulations, the subsequent extension may not be granted.

CHAPTER 4 SUBMITTAL REQUIREMENTS

11-4-1 GENERAL FORMAT OF ALL SUBMITTALS

- A. All submittals should be delivered to the Planning Administrator and be made to the City of Belgrade. The Planning Administrator's contact information will be located on the City of Belgrade Planning Website.
- B. Format - Digital Submittals
 - 1. The City of Belgrade accepts all permit and license applications only online through the city website. Applicants can track their application status in real time, view associated fees, and manage their submissions in one place. Once an application is approved, important documents—such as licenses—are available for download directly from the portal.
 - 2. To aid subdividers, the City of Belgrade has developed tutorial documents to set up online access. Subdividers are encouraged to familiarize themselves with the platform before the Preliminary Play. To review the Online Portal User Guide for step-by-step instructions, and to complete the appropriate application
 - 3. All submittals shall be in electronic format (Microsoft Word or PDF) with one full-sized paper copy. If the subdivider is not able to create Microsoft Word or PDF documents, the subdivider shall contact the Planning Administrator to determine the number and dimensions of paper copies required.
- C. Additional Copies or Other Format

Additional paper copies or electronic documents submitted on online share files (Dropbox, etc.) or portable drives may be required in order to ensure that all reviewers have the documents in a format they can access and read.
- D. A subdivider may request a concept meeting with the Planning Administrator ahead of Preapplication submittal, see section 11-2-2 of these regulations. No material is required to schedule a concept meeting

11-4-2 PREAPPLICATION

A. The subdivider shall submit the following:

1. Review Fee (if applicable)
2. Completed Preapplication submitted to the Belgrade Planning Department.

11-4-3 PRELIMINARY PLAT APPLICATION

- A. The subdivider shall submit to the Planning Administrator an application package including all elements listed below:
1. Preliminary Plat Application Form - The form shall be signed by the property owner(s) and subdivider;
 2. Preliminary Plan;
 3. Review Fee;
 4. Tract of Record - The application shall specify and provide documentation of the legal existence of the tract(s) of record being divided;
 5. Agricultural Covenants - If the subject property was created with an agricultural covenant per Section 76-25-401(1)(o), MCA, the application shall contain a written request to revoke the covenant;
 6. Site Location Maps (Vicinity Map);
 7. Aerial Photo of Property to be Subdivided;
 8. Lot Layout - Show existing structures, proposed building sites, information required by DEQ, and riparian areas and ponds, lakes, and other waterbodies;
 9. Narrative Summary - One page narrative summary of the proposed subdivision;
 10. Plan for Phased Development - If the subdivider does not intend to install all improvements, including streets and electricity to each lot in the subdivision by final plat, then a plan to phase the subdivision is required to be submitted with the preliminary plat application. Refer to Chapter 12, "Subdivision Capital Improvements," for a complete listing of what is required to be installed prior to final plat application. Refer Chapter 4 for "Phased Subdivisions" for specific application requirements;
 11. Subdivision Guarantee - Copies of all filed documents referenced in the title report shall be submitted with the application;
 12. Existing and Proposed Easements - Shall be shown on the plat and identified as to purpose and with record references (e.g., bk/pg.) for existing easements;
 13. Legal and Physical Access - The subdivision plat shall include documentation of legal and physical access to the subdivision and each proposed lot;
 14. Land Use Plan Compliance – Information to demonstrate compliance with the land use plan;
 15. Zoning Compliance - Information to demonstrate compliance with zoning regulations;
 16. Request for Variance - A request for variance is required for any component of the subdivision that does not conform to the requirements of Chapter 6, "Subdivision Design and Improvement Standards."
 17. Proposed Mitigation - Description of any proposed mitigation for significant impacts;
 18. Agency Comment - A list of agencies contacted by subdivider and comments received;
 19. Adjoining Property Owners - Names and addresses of all adjoining property owners;

20. Site Suitability - Assessment of the site suitability for the proposed use, with assessment of soils, identification of natural and man-made hazards, including potential for flooding;
21. Proposed Street or Street Plans;
22. Traffic Impact Study;
23. Pedestrian and Bike Access;
24. Grading Plan - For any areas proposed for surface disturbance, including streets;
25. Storm-water Drainage Plan - For any areas proposed for streets, for facilities (including swales or detention areas) that will serve more than one lot, and as required by the local public health office and/or DEQ;
26. Water and Sanitation Plan;
27. Solid Waste Management Plan;
28. Irrigation Information for existing and proposed irrigation on or adjacent to the subdivision, including any proposal to remove water rights from the property;
29. Utilities - Description of existing and proposed utilities
30. Proposed Parkland - Proposal to meet parkland dedication requirement;
31. Fire Suppression Plan;
32. Vegetation Management Plan;
33. Mineral Rights - Status of existing mineral rights (as known) and proposed disposition of those rights; and
34. School Access - Existing and proposed access for children to/from school.
35. Draft Property Owners' Association Documents, including draft articles of incorporation, declaration and bylaws, and covenants.

B. Completeness Review

The list above constitutes the components required for "Completeness Review," refer to section 11-2-5 of these regulations. Response to each item is required; however, if the required item does not apply to the proposed subdivision, the application shall provide a statement of explanation and information or documentation to support the statement.

11-4-4 REQUEST FOR VARIANCE

A. Separate Request for Each Design Standard

The subdivider shall include in the Preliminary Plat Application a “Request for Variance” for each subdivision design standard that the proposed subdivision does not meet.

B. Contents

The “Request for Variance” shall include:

1. Request for Variance Application form;
2. Review fee;
3. Exact Citation of the Design Standard for the Variance Requested; and
4. Short summary of the Reason for the Variance Request.

The subdivider has the burden to prove the topographic conditions or other exceptional conditions of the property are counter to the strict application of these regulations and would result in an undue hardship upon the subdivider of the property.

C. Written Narrative and Documentation

Pursuant to the criteria found in Chapter 2 of these regulations, the subdivider shall present narrative and documentation to demonstrate the variance:

1. is not detrimental to public health, safety, or general welfare;
2. is due to conditions peculiar to the property, such as physical surroundings, shape, or topographical conditions;
3. In strict application of the regulations to the property results in an unnecessary hardship to the owner as compared to others subject to the same regulations and that is not self-imposed;
4. may not cause a substantial increase in public costs; and
5. may not place the property in nonconformance with any other regulations; and
6. Additional criteria may apply if the variance is associated with a floodplain or floodway pursuant to the requirements of Title Section 76, chapter 5, MCA.

D. Format and Number of Copies

The format and number of copies for amended applications shall be the same as for preliminary plat applications as noted in section 11-4-1 of these regulations.

11-4-5 PHASED DEVELOPMENT

A. Phased Development Application to be Submitted with Preliminary Plat Application

The subdivider shall include in the Preliminary Plat Application a “Request for Phased Development” if the subdivision is proposed to be completed in phases. Refer to Supplemental Administrative Materials for the Request for Phased development application.

B. Contents

The phasing plan application shall include:

1. Request for Phased Development - Completed Application Form;
2. Phased Plan Review Fee;
3. Plat Delineating Each Phase;
4. Number of Lots and Area (in acres) to be Included in Each Phase;
5. Public Facilities Improvement Plan - Plan and narrative identifying which improvements will be completed with each phase;
6. Independent Function of Each Phase - Document that each phase is fully capable of functioning with all the required improvements in place and meeting all Design Standards in Chapter 11 in the event the future phases are not completed or completed at a much later time; and
7. Projected Time Frame for Each Phase - Identify the projected timeframes for final plat filing of each phase. Refer to the limits on timelines for phased development in Chapter 2, “Review Process for Subdivisions Criteria.”

11-4-6 AMENDING APPLICATIONS

A. The request for amending an application shall include:

1. Request to Amend Application Form;
2. Review fee;
3. Narrative Summary - summary of the proposed changes, reason for the changes, and how they differ from what was previously submitted; and
4. Revisions to Plat, Site Plan, Other Documents - If the changes affect the plat, site plan or other documents previously submitted, these shall be included and identified as "Amended" in their title, along with the date of amendment.

B. Format and Number of Copies

The format and number of copies for amended applications shall be the same as for preliminary plat applications as noted in section 11-4-1

11-4-7 FINAL PLAT REQUIREMENTS

A. The final plat application and supplemental materials shall include:

1. A Complete Final Plat Application;
2. Review Fee; and
3. Final Plat.

- a. Final plat shall comply with the Montana Uniform Standards for Final Subdivision Plats Title, 24.183.11,
- b. The final plat shall comply with the requirements of section 11-4-1 of these regulations.

4. Narrative Explanation

- a. A written explanation and documentation of how each of the conditions of the preliminary plat approval has been satisfied.

B. Supplemental materials should be clearly identified and noted as Appendix items with an associated numeric or alphabetized document identification

C. Format and Number of Copies

The application and supplementation materials shall be submitted as electronic documents with a minimum of one full-sized paper copy. Additional copies may be required. The subdivider shall contact the Planning Administrator for number of additional paper copies and/or number to be submitted as online share files (Dropbox, Google Drive etc.) or other portable devices.

CHAPTER 5 – SURVEY REQUIREMENTS

11-5-1 SURVEY REQUIREMENTS

- A. Except as provided in 70-22-105, MCA within 180 days of the completion of a survey, the professional land surveyor responsible for the survey, whether the surveyor is privately or publicly employed, shall prepare and submit for filing a certificate of survey in the county in which the survey was conducted if the survey:
 - 1. Provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;
 - 2. Reveals a material discrepancy in the map;
 - 3. Discloses evidence to suggest alternate locations of lines or points; or
 - 4. Establishes one or more lines not shown on a recorded map, the positions of which are not ascertainable from an inspection of the map without trigonometric calculations.
- B. A certificate of survey is not required for any survey that is made by the United States bureau of land management, that is preliminary, or that will become part of a subdivision plat being prepared for recording under the provisions of this chapter.
- C. It is the responsibility of the governing body to require the replacement of all monuments removed in the course of construction.
- D. A registered land surveyor may administer and certify oaths when:
 - 1. it becomes necessary to take testimony for the identification of old corners or re-establishment of lost or obliterated corners;
 - 2. a corner or monument is found in a deteriorating condition, and it is desirable that evidence concerning it be perpetuated; or
 - 3. the importance of the survey makes it desirable to administer an oath to the surveyor's assistants for the faithful performance of their duty.
- E. A record of oaths must be preserved as part of the field notes of the survey and noted on the certificate of survey filed under subsection (D) above.
- F. A surveyor who completes a survey identified in subsection (E) that establishes or defines a section line and creates a parcel that crosses the established or defined section line so that an irrigation district assessment boundary is included in more than one section shall note on the survey the acreage of the farm unit or created parcel in each section.
 - 1. The surveyor shall notify the appropriate irrigation district of the existence of the survey and the purpose of the survey.
- G. The requirements of subsection F above apply only to surveys for which the surveyor determines that, based on available public records, the survey involves land:
 - 1. traversed by a canal or ditch owned by an irrigation district; or
 - 2. included in an irrigation district

H. Review of surveys for compliance with the Administrative Rules of Montana (ARM) for Certificates of Survey (cos) and Subdivision Plats

The jurisdiction's examining land surveyor shall review all surveys for compliance with the ARMs. In the event that the jurisdiction has no examining land surveyor, the Planning Administrator shall conduct a review for compliance with general requirements such as title of the survey, landowner certifications, etc. but shall not be responsible for aspects which can only be verified by a registered land surveyor, such as the mathematical accuracy of the survey.

CHAPTER 6 DESIGN AND IMPROVEMENT STANDARDS, GENERAL

11-6-1 GENERAL STANDARDS

- A. Conformance: The design and development of a subdivision shall conform with adopted growth policies, zoning ordinances and other resolutions and regulations. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
- B. General Design: The design and development of the subdivision shall minimize adverse impacts to agriculture water conveyance facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety. Where a subdivision is expected to have an adverse impact on any of the above, the preliminary plat application shall describe such impacts and propose mitigation. (Ord. 2011-2, 5-16-2011)
- C. Lands Unsuitable For Subdivision: Land which the council has found to be unsuitable for subdivision because of potential hazards such as flooding, landslides, excessive slopes, rockfalls, snow avalanches, subsidence, high water tables, polluted or nonpotable water; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds, environmental degradation, and congestion in the roads, shall not be subdivided for building or residential purposes unless the hazards or excessive public burdens are eliminated or will be overcome by appropriate design and construction plans.
- D. Revegetation: All areas disturbed during construction shall be reseeded with vegetation types approved by the weed control supervisor.
- E. Watercourse Mitigation: Where a subdivision is crossed by or adjacent to a watercourse, the subdivider shall mitigate the impacts of the subdivision on the watercourse. This mitigation may not be less restrictive than the requirements of any applicable floodplain regulations or applicable zoning regulations.
 - 1. Setback: The subdivider shall provide the following setbacks, which parallel the ordinary high-water mark of the watercourse. A one-hundred-foot (100') setback shall be provided between the ordinary high-water mark and any residential or commercial structure.
 - 2. Watercourse Mitigation Plan: The subdivider shall submit a plan and propose measures to mitigate the impacts of the subdivision on the watercourse. The plan shall evaluate the potential effects of the proposed subdivision on the watercourse; to include consideration of wildlife and fish habitat, water quality, vegetation, and watercourse health. The mitigation measures might include setbacks, building envelopes, landscaping, type and/or location of septic systems, streambank stabilization, etc. (Ord. 2004-1, 4-5-2004)
- F. Mitigation Of Impacts on Water Conveyance Facilities:
 - 1. Mitigation Of Adverse Impacts: Where a water conveyance facility is located on or adjacent to property proposed for subdivision, the subdivider shall mitigate adverse impacts of the subdivision on the water conveyance facility. Mitigation shall include the requirements of subsection F1a or F1b of this section, and any other methodology necessary to mitigate adverse impacts on the water conveyance facility. Mitigation shall be reasonable, based on site specific conditions, and shall address any comments received from the water users and/or water conveyance facility's authorized representatives.
 - a. Establishment of water conveyance facility noninterference setbacks as described in subsection F2 of this section is required in the event water conveyance facilities exist or will be established on the property being subdivided and such facilities convey water through the property being subdivided to lands adjacent to or beyond the subdivision. Water conveyance facility noninterference setbacks may also be required on the property being

subdivided when a water conveyance facility is located on land adjacent to the proposed subdivision.

- b. Establishment of water conveyance facility easements as described in subsection 11-6-4.C of this chapter is required in the event water conveyance facilities exist or will be established on the property being subdivided and such facilities provide water for use on land within the subdivision, and do not convey water through the property being subdivided to lands adjacent to or beyond the subdivision.

2. Water Conveyance Facility Noninterference Setbacks:

- a. The preliminary and final plats shall show the water conveyance facility noninterference setback as set forth in subsection F1 of this section. This setback shall be reasonable and of sufficient width to provide for the unobstructed passage and delivery of water, unobstructed access, inspection, use, routine maintenance, repair, and construction related to the water conveyance facility, and shall be based on site specific conditions and shall address comments from the water users and/or water conveyance facility's authorized representatives. This setback shall extend on both sides of the water conveyance facility and shall be measured from the centerline along a horizontal plane.
- b. To assure noninterference with water conveyance facilities, no livestock grazing shall take place, nor shall any new structures (other than structures for the maintenance and operation of the water conveyance facility), fences, landscaping (other than grass), or roads be installed, or erected within the water conveyance facility noninterference setback, except where agreed to in writing by the water users and/or water conveyance facility's authorized representatives.

3. Disagreement With Mitigation Requested or Comments Not Received: Where the subdivider has not received comments from the water users or water conveyance facility's authorized representatives, or where the subdivider is not in agreement with the mitigation requested by water users or water conveyance facility's authorized representatives, the following shall take place:

- a. The preliminary plat shall show a default fifty-foot (50') water conveyance facility noninterference setback as described in subsection F2a of this section, or required water conveyance facility easements as described in subsection 11-6-4.C of this chapter; and
- b. If the subdivider, water users, or water conveyance facility's authorized representatives are of the opinion that, based on site specific conditions, the water conveyance facility noninterference setback should be different than the default setback, a written request justifying the proposed alternate setback shall be submitted with the preliminary plat application, and a copy of the written request shall be sent to the other applicable parties; and
- c. At the hearing on the preliminary plat application, the city council:
 - 1. Shall consider the site-specific conditions and any information entered into the record regarding the water conveyance facility;
 - 2. May impose conditions of preliminary plat approval as necessary to adequately mitigate adverse impacts on the subject water conveyance facility; and

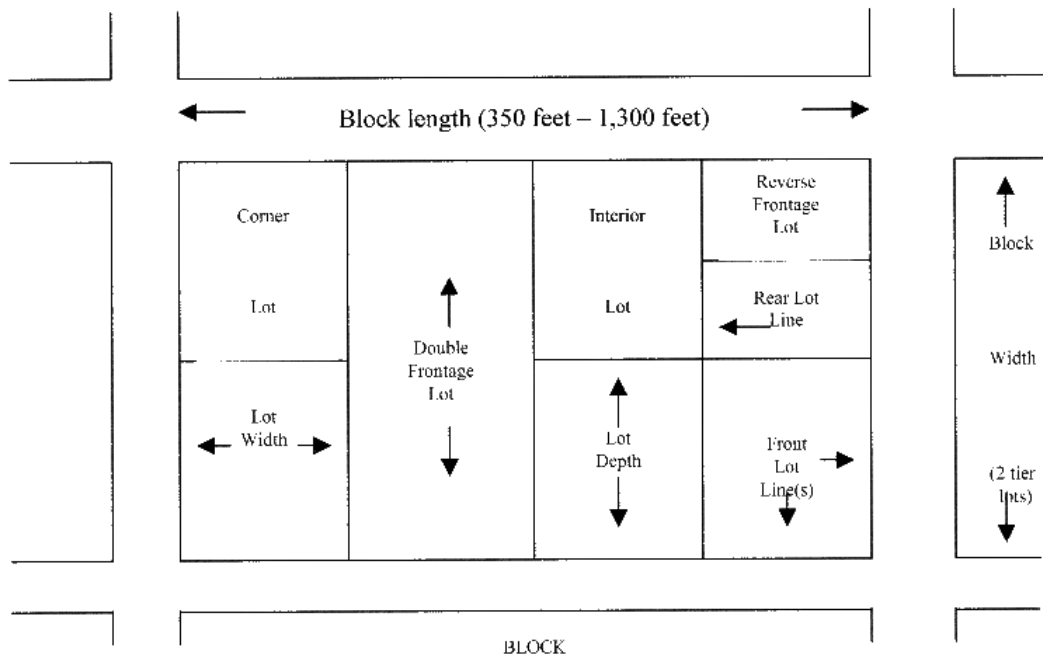
3. May require the width of the water conveyance facility noninterference setback to be greater than or less than the default width if site specific conditions so warrant.
4. **Written Agreement:** Any mitigation of water conveyance facilities required as a condition of preliminary plat approval shall be agreed to in writing by the subdivider prior to issuance of final plat approval. Such written agreement shall be filed with the Gallatin County clerk and recorder when the final plat is recorded and shall include language to assure the mitigation requirements are binding upon all successors in interest and remain in effect until such time that the water conveyance facility is abandoned in accordance with the requirements of Montana law or alternative requirements are agreed to in writing by all applicable parties.
5. **Secondary Easement:** Water conveyance facility noninterference setbacks do not eliminate any secondary easement for maintenance and repair of the water conveyance facility as described by Section 70-17-112, Montana Code Annotated. Subdividers shall consider the specific terms and requirements of any such secondary easement(s) when designing a subdivision to ensure a buildable location on each developable lot.
6. **Written Permission:** Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives. (Ord. 2011-2, 5-16-2011)

11-6-2 LOTS

See Figure 1 of this section.

- A. **Dimensions And Orientation:** Lot size, width, shape, and orientation shall be appropriate for the location and contemplated use of the subdivision. Lot designs with irregular shapes, narrow necks, points, and flag shapes shall be permitted only when the subdivider can demonstrate that the proposed lot designs are necessary due to topography or other physical constraints. Each lot shall contain a satisfactory building site and shall conform to zoning codes and growth policies where officially adopted, and to the regulations of MDEQ. Slopes in excess of twenty five percent (25%) shall be presumed unsuitable for building sites unless otherwise proved by the subdivider. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
- B. **Division By Rights of Way:** No single lot shall be divided by a dedicated right of way or easement which would reduce the buildable area to a size less than required by these and other adopted regulations.
- C. **Double Frontage:** Double frontage lots shall be avoided except where essential to:
 - 1. Provide separation of residential development from arterial roads.
 - 2. Provide access to development adjacent to limited access roads.
 - 3. Overcome topography or other physical conditions.
 - 4. Overcome specific disadvantages of existing design and orientation.
- D. **Corner Lots:** Corner lots shall have sufficient width to permit appropriate building setbacks from both roads and provide acceptable visibility for traffic safety.
- E. **Width:** Lots shall have a width sufficient to allow normal construction without the construction encroaching on property lines.
- F. **Depth:** No lot shall have an average depth greater than three (3) times its average width.
- G. **Side Lot Lines:** Side lot lines shall be, whenever practical, at right angles or radial to road lines.
- H. **Frontage On Public Roads:** Each lot shall have a minimum of thirty feet (30') of frontage on a public road or on a public road easement to provide enough room for snow removal along the lot access (driveway) and utility easements.

FIGURE 1
SUBDIVISION LOT TERMS



(Ord. 2004-1, 4-5-2004)

I. Location In Regard to Water Conveyance Facilities:

1. No developable lot may be created in which any portion of a water conveyance facility is located.
2. The city council may waive this standard at the request of the subdivider without need for a variance where such action is agreed to in writing by the water users and/or water conveyance facility's authorized representatives. Where such agreement cannot be reached, the subdivider may request a variance in accordance with the requirements of chapter 13 of this title. (Ord. 2011-2, 5-16-2011)

11-6-3 BLOCKS

See section 11-6-2, figure 1 of this chapter.

- A. Size And Orientation: Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
- B. Block Length: Block length shall not be designed, unless otherwise impractical, to be more than one thousand three hundred feet (1,300') or less than three hundred fifty feet (350') in length.
- C. Block Width: Blocks shall be wide enough to allow for two (2) tiers of lots except where essential to provide separation of residential development from a traffic arterial or to overcome specific disadvantages of topography and orientation.
- D. Rights Of Way for Pedestrians: Rights of way for pedestrian walks, not less than ten feet (10') wide, shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities. (Ord. 2004-1, 4-5-2004)

11-6-4 EASEMENTS

- A. Required Easements: Where determined to be necessary, the council shall require that easements be provided for utilities, drainage, vehicular or pedestrian access, and planting screens. All easements shall be shown on the plat.
- B. Utility Easements: Utility easements shall meet the following standards:
1. Utility easements shall be centered alongside and rear lot lines wherever possible, and, if placed in the road, be located between the roadway and the right of way line, or in a location requested by and agreed upon, in writing, by all of the appropriate utilities.
 2. Utility easements shall be twenty feet (20') wide; except the council may require easements for sanitary sewer, storm sewer, and water lines to be thirty feet (30') wide.
 3. Where a utility is to be located in an existing, dedicated right of way, an encroachment permit must be obtained from the local or state road department having jurisdiction.
 4. The following statement shall appear on the final plat:

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

(Ord. 2004-1, 4-5-2004)

C. Easements For Water Conveyance Facilities:

1. Where easements have been filed, recorded, or otherwise officially established for water conveyance facilities that convey water through the property being subdivided to lands adjacent to or beyond the subdivision, such easements shall be shown on the preliminary and final subdivision plats in addition to the water conveyance facility noninterference setback described in subsection 11-6-1F of this chapter.
2. Where water conveyance facilities exist or will be established on the property being subdivided and such facilities provide water for use on land within the subdivision, and do not convey water through the property being subdivided to lands adjacent to or beyond the subdivision, easements shall be established that:
 - a. Are in locations of appropriate topographic characteristics and sufficient width to allow for the physical placement and unobstructed maintenance of water conveyance facilities for the delivery of water 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;
 - b. Are sufficient distance from the centerline of the ditch to allow construction, repair, maintenance, and inspection of the ditch; and
 - c. Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

3. Establishment of easements as described in subsection C2 of this section is not required if:
 - a. The average lot size is one acre or less and the subdivider provides for disclosure, in a manner acceptable to the commission, 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 subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
 4. Interference with canal or ditch easements is prohibited as described by section 70-17-112, Montana Code Annotated. The subdivision shall be designed to maintain or enhance access to any such easements. (Ord. 2011-2, 5-16-2011)
- D. Avigation Easement: An avigation easement shall accompany and be filed at the Gallatin County clerk and recorder with the final plat for the entire subdivision. The required avigation easement language is attached to the ordinance codified herein as appendix F. (Ord. 2006-2, 6-5-2006)

11-6-5 FIRE PROTECTION REQUIREMENTS

All subdivisions shall provide adequate fire protection in accordance with National Fire Protection Association (NFPA) standards for hydrant systems and city standards (see appendix A adopted by reference in section 11-15-1 of this title). All fire protection requirements must be reviewed and approved by the fire chief and the director of public works prior to final plat approval. (Ord. 2004-1, 4-5-2004)

11-6-6 GRADING AND DRAINAGE

- A. Plan Required: The subdivider shall provide a complete grading and drainage plan with accurate dimensions, courses, and elevations, showing the proposed grades of roads and drainage improvements.
- B. Drainage System and Facilities: The drainage system and facilities required for any surface runoff affecting the subdivision shall meet the minimum standards of MDEQ, as required by Montana Code Annotated Title Section 76, chapter 4, and all regulations adopted pursuant thereto, and are subject to the approval of the council.
 - 1. Drainage systems shall not discharge into any sanitary sewer facility.
 - 2. The subdivider shall provide suitable drainage facilities for any surface runoff affecting the subdivision; these facilities shall be located in road rights of way or in perpetual easements of appropriate widths and are subject to approval by the council. (Ord. 2004-1, 4-5-2004)
 - 3. Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, the subdivision shall be designed and developed so stormwater, snowmelt runoff, water from dewatering activities, or other water originating from within the boundaries of the subdivision, does not run into or become captured by any water conveyance facility. (Ord. 2011-2, 5-16-2011)

11-6-7 PARK REQUIREMENTS

- A. Dedications: Except as provided in subsections B, C, and F of this section, a subdivider shall dedicate to the city a cash or land donation equal to:
1. Eleven percent (11%) of the area of the land proposed to be subdivided into parcels of one-half (1/2) acre or smaller.
 2. Seven and one-half percent (7.5%) of the area of the land proposed to be subdivided into parcels larger than one-half (1/2) acre and not larger than one acre.
 3. Five percent (5%) of the area of the land proposed to be subdivided into parcels of one acre or larger but not larger than three (3) acres.
 4. Two and one-half percent (2.5%) of the area of the land proposed to be subdivided into parcels of three (3) acres or larger but not larger than five (5) acres. (Ord. 2004-1, 4-5-2004)
- B. Power Of Council To Establish: When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under Montana Code Annotated title Section 76, chapter 1, or pursuant to zoning regulations under Montana Code Annotated title Section 76, chapter 2, the council may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection A of this section and may not exceed three-hundredths (0.03) acre per dwelling unit. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
- C. Parks dedications and any open space proposed must adhere to any parks design standards adopted by the City, as applicable, subject to the approval of the Belgrade Regional Parks, Trails, and Recreation District.”
- D. Dedication Not Required: A park dedication may not be required for:
1. A minor subdivision.
 2. Land proposed for subdivision into parcels larger than five (5) acres.
 3. Subdivision into parcels that are all nonresidential.
 4. A subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums.
 5. A subdivision in which only one additional parcel is created.
- E. Location Of Parks And Playgrounds: The council, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash is required, the cash donation may not exceed the proportional amount not covered by the land donation.
1. A "cash donation" is the fair market value of the unsubdivided, unimproved land.
 2. Where cash has been accepted in lieu of land dedication, the amount of cash donation shall be stated on the final plat.

3. Where cash has been accepted in lieu of land dedication, the council shall record in the minutes of the meeting upon the proposed subdivision why the dedication of land for parks and playgrounds was undesirable.
 4. The subdivider shall provide a current appraisal of the fair market value by a certified real estate appraiser of their choosing. The appraisal fee shall be the responsibility of the subdivider.
- F. Residential Subdivisions: All subdivisions shall be considered to be residential subdivisions and park dedication requirements shall be satisfied unless there are adopted zoning restrictions which prohibit residential development or it can be shown that the subdivider has immediate plans for nonresidential development.
- G. Criteria For Waiver: The council shall waive the park dedication requirement if:
1. The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreation uses sufficient to meet the needs of the persons who will ultimately reside in the development, and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required.
 2. The preliminary plat provides long term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be subdivided, by virtue of providing long term protection provided above, is reduced by an amount equal to or exceeding the area of the required dedication.
 3. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections F1 and F2 of this section, is reduced by an amount equal to or exceeding the area of the dedication required.
- H. Park Fund:
1. The council shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.
 2. The council may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks, or recreational areas or for the purchase of public open space or conservation easement only if:
 - a. The park, recreational area, open space, or conservation easement is within reasonably close proximity to the proposed subdivision.
 - b. The council has formally adopted a park plan that establishes the needs and procedures for use of the money.
 3. The council may not use more than fifty percent (50%) of the dedicated money for park maintenance. (Ord. 2004-1, 4-5-2004)

11-6-8 SANITARY SEWERS

The subdivider shall install complete sanitary sewer system facilities in accordance with the requirements of the city and MDEQ. The subdivider shall submit plans and specifications for the proposed facilities to the director of public works and to MDEQ and shall obtain their approvals prior to undertaking any construction. (Ord. 2004-1, 4-5-2004)

11-6-9 UTILITIES

Underground utilities, if placed in the road right of way, shall be located between the roadway and the right of way line to simplify location and repair of lines. Such underground facilities shall be installed or utility culverts provided before the road is surfaced to eliminate the necessity of disturbing the road surface when connecting individual services. Overhead utility lines shall be located at the rear property lines where practical. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities. (Ord. 2004-1, 4-5-2004)

11-6-10 WATER SUPPLY SYSTEM

The subdivider shall install complete water system facilities in accordance with the requirements of the city and MDEQ. The subdivider shall submit plans and specifications for the proposed facilities to the director of public works and to MDEQ and shall obtain their approval prior to undertaking any construction. (Ord. 2004-1, 4-5-2004)

11-6-11 MAIL DELIVERY

If mail delivery will not be to each individual lot within the subdivision, the subdivider shall provide an off road area for mail delivery within the subdivision in cooperation with the United States postal service. It shall not be the responsibility of the city to maintain or plow any mail delivery area constructed within a city road right of way. (Ord. 2004-1, 4-5-2004)

11-6-12 NOXIOUS WEED:

Noxious weeds shall be controlled as directed by the weed control district in accordance with the Montana county noxious weed control act.

- A. Noxious Weed Control and Revegetation Plan: Prior to application for preliminary plat approval, the subdivider shall design a noxious weed control and revegetation plan, and the subdivider shall submit the plan to the district for approval. This plan ensures the control of noxious weeds upon preliminary plat approval and the revegetation of any land disturbed during the construction of subdivision improvements.
- B. Submission Of Plan: The subdivider shall submit the approved plan at the time of application for preliminary plat approval.
- C. Memorandum Of Understanding: Prior to application for final plat approval, the subdivider shall enter into a memorandum of understanding (MOU) with the weed district. The MOU shall be signed between the weed district and the subdivider prior to final plat approval.
- D. Submission Of MOU: The subdivider shall submit the signed MOU at the time of application for final plat approval.
- E. Covenant: The subdivider shall ensure that after final plat approval the property owner(s) and/or property owners' association shall be responsible for the control of county declared noxious weeds by placing a covenant on the property. (Ord. 2004-1, 4-5-2004)

CHAPTER 7 DESIGN AND IMPROVEMENT STANDARDS, ROADS

11-7-1 GENERAL DESIGN

- A. Roads: The arrangement, type, extent, width, grade, and location of all roads shall be considered in their relation to existing and planned roads, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such roads.
- B. Relation To Unsubdivided Areas:
 - 1. When a new subdivision adjoins unsubdivided land and access to the unsubdivided land must pass through the new subdivision, the subdivider shall provide rights of way and construct roads so as to allow suitable access to the unsubdivided land.
 - 2. The public works department may waive this requirement if one of the following criteria is met:
 - a. Topography or other physical condition would make it impracticable to provide access to adjacent unsubdivided property.
 - b. Adequate public access is otherwise available to the adjacent unsubdivided property.
 - c. When the adjoining unsubdivided property is under a conservation easement, public ownership, or other legally restrictive covenants.
 - 3. The public works department must review and approve all proposed waivers.
- C. Relation To Subdivided Areas: The subdivider shall arrange the roads to provide for the continuation of roads between adjacent subdivided properties when such continuation is necessary for the convenient movement of traffic, effective provision of emergency services, and efficient provision of utilities.
- D. Separation Of Through And Local Traffic: Where a subdivision abuts or contains an existing or proposed arterial or collector road, the subdivider may be required to provide frontage roads, reverse frontage with a reservation prohibiting access along the rear property line, screen planting, or such other treatment as may be necessary for protection of residential properties and to afford separation of through and local traffic.
- E. Distance Between Parallel Rights Of Way: Where a subdivision borders on or contains a railroad, limited access highway, canal, ditch, or stream right of way, the subdivider may be required to provide a road approximately parallel to and on each side of such right of way at a distance suitable to allow for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation.
- F. Dead End Roads:
 - 1. No dead end roads shall be permitted without an approved turn around. Where streets terminate, the subdivider shall provide either a cul-de-sac or "T" turnaround at the terminus. Cul-de- sacs and "T" turnarounds must conform to the design specification of section 11-7-9, table 1 of this chapter. Where it is planned that a dead end road will be extended in the future, a temporary cul-de-sac or "T" turnaround shall be provided.
 - 2. "T" turnarounds shall include two (2) straight backup lengths of thirty feet (30') each, shall have an inside turning radius of twenty six feet (26'), and shall have an outside turning radius of thirty eight feet (38').
- G. Half Roads: Half roads may be permitted only when it is shown they are beneficial to the city and are approved by the public works department.

- H. Second Or Emergency Access: To facilitate traffic, the provision of emergency services, and the placement of utility easements, the subdivider shall provide all subdivisions with six (6) or more lots with a second means of access. If, in the judgment of the council, a second dedicated right of way cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access, built to the standards in these regulations. The subdivider may be required to provide a second or emergency access for minor subdivisions if the maximum cul-de-sac length standard is exceeded or if topography or physical conditions so warrant.
- I. Road Design Standards, General: The design standards contained in these regulations shall apply to all construction, reconstruction, and paving of roads dedicated to the public or within the city maintained road system, and to roads improved through the special improvement district process. The variance procedure and standards of these regulations shall apply to the above roads.
- J. Bridges: Bridges shall be provided and installed by the subdivider where drainage channels intersect any road rights of way.
 - 1. Bridges shall be built to water load standards and approved by the public works department.
- K. Culverts: Culverts shall be provided and installed by the subdivider where drainage channels intersect any road rights of way.
 - 1. All culverts shall, at a minimum, extend across the entire improved width of the road cross section. The size and length of the culvert and the amount of backfill over the culvert shall be determined by a registered engineer, when determined necessary by the public works department.
 - 2. Each culvert or other drainage facility shall be large enough to accommodate potential runoff from upstream drainage areas. The minimum capacity of a culvert shall be equivalent to a circular diameter of fifteen inches (15").
- L. Encroachment Permits: The subdivider shall be required to obtain encroachment permits for all access to county roads and state highways. (Ord. 2004-1, 4-5-2004)

11-7-2 ROAD DEDICATIONS

All roads within or providing access to the proposed subdivision shall be dedicated to the public or, if the criteria of this section are met, by a public road easement. Roads dedicated to the public are accepted for public use.

- A. The easement shall be approved by the city attorney.
- B. The easement shall be recorded with the clerk and recorder.
- C. The easement shall clearly grant to the public an unrestricted right of ingress and egress from a public road to the property to be subdivided.
- D. Documented proof of maintenance of the easement must be provided. (Ord. 2004-1, 4-5-2004)

11-7-3 INTERSECTIONS

The following requirements apply to road intersections:

- A. The intersection of more than two (2) roads at one point shall be avoided.
- B. Roads shall be laid out so as to intersect as nearly as possible at right angles and no road shall intersect any other road at less than a seventy five degree (75°) angle.
- C. Two (2) roads meeting a third road from opposite sides shall meet at the same point, or their centerline shall be offset at least two hundred feet (200'). (Ord. 2004-1, 4-5-2004)

11-7-4 NAMES

The following requirements apply to road names:

- A. Existing Roads: New roads aligned with existing roads shall have the same name as the existing roads.
- B. Approval Required: All road names must be approved by the public works department prior to preliminary plat approval in order to avoid duplication and confusion with names of existing roads. (Ord. 2004-1, 4-5-2004)

11-7-5 DEFINITIONS AND DESIGN STANDARDS

ARTERIAL ROADS: A road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing limited access to adjacent land. Generally, arterials are secondary state highways. Primary and community arterial roads shall have a minimum eighty foot (80') wide right of way and meet such other design standards as may be required by the council.

MAJOR COLLECTORS: Roads that carry more than three hundred (300) trips per day and have the equally important function of moving traffic and providing access to adjacent land. (See section 11-7-9, table 1 of this chapter.)

MINOR COLLECTORS: Roads which carry more than one hundred (100) trips per day but less than three hundred (300) trips per day and have the equally important functions of providing access to adjacent land and moving traffic. (See section 11-7-9, table 1 of this chapter.)

MINOR ROADS: Local roads, which carry less than one hundred (100) trips per day. The primary function of a minor road is to serve abutting property, with a secondary function of moving traffic. (See section 11-7-9, table 1 of this chapter.)

MOUNTAINOUS ROADS: Roads located on mountainous terrain. Mountainous terrain has a cross slope exceeding fifteen percent (15%).

NONMOUNTAINOUS ROADS: Roads not located on mountainous terrain. Mountainous terrain has a cross slope exceeding fifteen percent (15%).

PRIMARY ACCESS: The major access to a subdivision. The major access generally carries the most traffic as determined by the traffic engineering study. (Ord. 2004-1, 4-5-2004)

11-7-6 PRIMARY ACCESS ROAD STANDARDS

All off site roads providing primary access to the proposed subdivision shall meet the following standards:

- A. Right Of Way Width and Construction Standards: Right of way width and construction standards contained in this regulation shall apply.
- B. Access Roads Dedicated to Public: Access roads shall be dedicated to the public or shall have a public easement which meets the criteria of this regulation.
- C. Primary Access Roads and Interior Subdivision: Primary access roads and interior subdivision roads shall be paved. Paving shall be done in accordance with the standards in these regulations and the city specifications (design standards and specifications adopted in section 11-15-1 of this title). (Ord. 2004-1, 4-5-2004)

11-7-7 LOT ACCESS STANDARDS

Lot accesses shall comply with title 10 of this code. (Ord. 2004-1, 4-5-2004)

11-7-8 PAVING REQUIREMENTS

All roads within the subdivision shall be built to the paving standards in these regulations and city specifications (design standards and specifications adopted by reference in section 11-15-1 of this title) and in accordance with the timing requirements below. Trips per day will be calculated based on an average of eight (8) trips per day per household. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

- A. Timing Requirements: The subdivider shall meet one of the following requirements for completion of paving. The option shall be specified in the preliminary plat submittal. If the option in subsection A2 of this section is chosen, the subdivider shall enter into an improvement agreement as set forth below:
 - 1. The subdivision roads shall be paved prior to final plat approval; or
 - 2. Paving shall be completed within three (3) years of the date of final plat approval of the subdivision, or within one year of homes being built on fifty percent (50%) of the lots within the subdivision, whichever occurs first.
- B. Paving Improvement Agreements: The purpose of improvement guarantees is to ensure the paving requirements of this section are met.
- C. If the timing requirement in subsection A2 of this section is chosen, the council shall require an improvements agreement as a condition of final plat approval. The improvements agreement shall meet the following standards:
 - 1. The length of time of the agreement shall not exceed three (3) years from the date of final plat approval.
 - 2. Security in the amount equal to one hundred twenty five percent (125%) of the cost of the paving shall be included. Such security shall be in the form of a certificate of deposit, letter of credit, cash, or other reasonable security approved by the council.
 - 3. The required security shall not be reduced or paid out until all paving requirements are met.
 - 4. The agreement and security shall be satisfactory to the city attorney as to form and manner of execution.
- D. The subdivider shall do either of the following to meet the paving requirement:
 - 1. Pave according to the requirements of these regulations; or
 - 2. Initiate a special improvement district (SID) to meet the paving requirements of these regulations. If the SID fails, the subdivider shall comply with subsection B2 of this section. (Ord. 2004-1, 4-5-2004)

11-7-9 IMPROVEMENT STANDARDS

- A. Road Construction Standards: All roads shall meet the following standards and standards contained in appendix A adopted by reference in section 11-16-1 of this title. Any deviation from these standards must be designed by a licensed engineer and approved by the city engineer and the public works department.

TABLE 1
STREET DESIGN STANDARDS

Terrain ¹	Major/Minor Collectors		Minor Roads	
	Ordinary	Mountainous	Ordinary	Mountainous
Right of way width	60 to 100 feet	-	60 feet	-
Centerline radius on curves	300 feet	-	150 feet	-
Tangent length between reverse curves	100 feet	-	50 feet	-
Stopping sight distance	300 feet	-	200 feet	-
Angle of intersecting centerlines	75 degrees	-	75 degrees	-
Curb radius at intersections	25 feet	-	15 feet	-
Length of cul-de-sac	-	-	1,000 feet ²	-
Outside radius on cul-de-sac ROW	-	-	50 feet	-
Grade, maximum	7 percent	-	10 percent ³	-
Grade, minimum	0.5 percent	-	0.5 percent	-
Maximum grade within 150 feet of intersecting centerlines	3 percent	-	-	-
Maximum grade within 75 feet of intersecting lines	-	-	3 percent	-

Notes:

All standards are minimum standards unless noted.

1. "Mountain terrain" is defined as terrain that has a cross slope exceeding 15 percent.

2. *Cul-de-sac roads that provide access to unsubdivided land may exceed this length.*
3. *Grades of over 10 percent shall not exceed 100 feet in length.*

TABLE 2
PAVING AND STREET WIDTH STANDARDS

	Average Daily Trips	Finished Gravel Width	Paving Width
Nonmountainous terrain:			
	8	-	28 feet
	16	-	28 feet
	24	-	28 feet
	32to99	-	28 feet
	100+	-	28 feet
Major collectors and arterials		-	As approved by the council

- B. Road Signs: Road signs of the size, shape, and height as approved by the public works department, shall be placed at all intersections by the subdivider.
- C. Road Sign Standards: Location of road signs shall be designated on road plans, which are submitted for review and approval.
 1. Posts: See the city specifications (design standards and specifications adopted by reference in section 11-16-1 of this title).
 2. Signs: See the city specifications (design standards and specifications adopted by reference in section 11-16-1 of this title). (Ord. 2004-1, 4-5-2004)

CHAPTER 8 IMPROVEMENT PROCEDURES

11-8-1 IMPROVEMENTS

- A. General: It shall be the responsibility of the subdivider to comply with the following procedures and standards for the installation of subdivision improvements.
- B. Plans And Specifications: Engineering and survey plans, specifications and reports required in connection with public improvements and other elements of the subdivision required by the council shall be prepared by an engineer or a registered land surveyor as their respective licensing laws allow.
- C. Scope Of Work:
 - 1. The intent of these regulations is to provide standards by which the contractor and the subdivider shall execute their respective responsibilities and guarantee proper construction and completion in every detail of the work in accordance with the plans, specifications and terms set forth under these regulations.
 - 2. The subdivider shall furnish the plans, specifications, and typical section for approval by the city engineer and public works department. It shall be understood that the work to be done will not necessarily be limited to within the right of way boundaries.
 - 3. The council shall have authority to make or cause to be made any reasonable changes, alternations, amendments, and additions to the standard specifications for subdivision roads and roads not to exceed twenty five percent (25%) of the cost of the work. (Ord. 2004-1, 4-5-2004)

11-8-2 APPROVAL OF IMPROVEMENT PLANS AND SPECIFICATIONS

- A. Improvement Procedure: After the preliminary plat has received approval or conditional approval and before the final plat is submitted, the following procedure for approval of improvement plans and specifications shall be completed:
1. Submittal: Engineering plans and specifications for all improvements required by these regulations shall be submitted to the public works department and to MDEQ, if appropriate.
 2. Review: Plans and specifications shall be locally reviewed by the public works department and city engineer, to ascertain that the engineering plans and specifications meet the requirements of this regulation and other adopted rules and regulations. And, when determined by the public works department to be necessary, by:
 - a. Planning department to ascertain that there have been no significant deviations from the preliminary plat as approved.
 - b. Other affected local agencies and utilities.
 3. Comments And Recommendations: Written comments and recommendations from the local reviewing agencies shall be forwarded to the public works department within fifteen (15) days of submission.
 4. Approval: After comments and recommendations have been received from local agencies and a certificate of approval of sanitary facilities has been received from MDEQ, the director of public works shall either approve the plans and specifications or shall inform the subdivider, in writing, as to what additional requirements must be met to receive approval.
 5. Preconstruction Meeting: Prior to beginning construction of required road or pathway improvements, the subdivider or a representative, the subdivider's engineer, and the contractor who will install the improvements shall meet with the public works department to ensure that improvements will be installed in accordance with approved plans and specifications.
 6. Completion Of Improvements: Improvements shall be installed, in accordance with the approved plans and specifications, by the subdivider and certified by an engineer and accepted by the public works department prior to the approval of the final plat or in accordance with the terms of an executed improvements agreement.
 7. Improvement Agreement: All improvement agreements shall meet the following standards:
 - a. The length of time of the agreement shall not exceed three (3) years from the date of final plat approval.
 - b. Security in the amount equal to one hundred twenty-five percent (125%) of the cost of the improvement shall be included. The council has the discretion to require a second estimate of the cost of improvements. The cost of obtaining the second estimate shall be borne by the subdivider. Such security shall be in the form of a certificate of deposit, letter of credit, cash, or other reasonable security approved by the council.
 - c. The agreement and security shall be satisfactory to the city attorney as to form and manner of execution.

- d. Security for improvements, other than internal subdivision roads, shall be reduced only upon recommendation of the director of public works and approval by the council, upon request by the subdivider. Requests for partial release of security shall only be in amounts such that the security will always equal one hundred twenty five percent (125%) of the value of the uncompleted work, as determined by the city engineer, and such that not more than ninety percent (90%) of the security is released prior to completion of improvements.
- e. The improvements agreements and, when needed, the security shall be placed in the keeping of the director of finance.

B. Design Standards:

- 1. Roads: All road improvements shall be designed by and constructed under the supervision of an engineer and shall meet or exceed the standards for the type of road and subdivision required. All road improvements shall be reviewed and approved by the city engineer and the public works department.
 - a. Construction materials specified may be substituted with other appropriate materials with the approval of the city engineer.
 - b. Roads within mobile home and recreational vehicle parks shall meet or exceed the standards with the exception of the roadway width requirements.
 - c. Following the completion of all required improvements, the subdivider shall have an as built plan prepared. The as built plan shall be drawn in permanent ink on the original construction plan and profile. The as built plan shall show the actual location of all improvements as installed and shall clearly designate any and all changes from the approved plans and specifications and shall bear the signature and seal of the engineer who prepared it.
- 2. Emergency Access Standards:
 - a. All emergency access roads shall be built to the standard specified with the exception that the minimum width shall be fourteen feet (14'), and a minimum of nine inches (9") of pit run shall be required.
 - b. All plans shall be submitted to the public works department for review and approval.
 - c. Provisions for maintenance of the emergency access shall be included.

C. Protection Of Existing Improvements: The subdivider, his contractors, and suppliers shall be jointly and severally responsible that existing improvements are not damaged or rendered less useful by the operation of the subdivider, his contractors, or suppliers. This provision is intended to preclude damage to existing roads and drainage systems. The council may instruct the subdivider as to the roads to be used for access by construction equipment, and the subdivider shall be responsible for enforcement of this instruction upon his contractors and their suppliers. The council may require the subdivider to post a surety to guarantee repair of damages.

D. Control Of Work; Requirements Of Engineer: During the course of construction, at the completion of each phase of the project, the engineer will be required to submit a statement that the improvements have been inspected and found to have been constructed in accordance with plans and specifications approved by the

city engineer and public works department. The engineer shall notify and receive written approval or disapproval from the city engineer for any changes in approved plans or specifications.

- E. Conformity With Plans and Specifications: All work performed and all materials furnished shall be in substantial conformity with lines, grades, cross sections, dimensions, and material requirements. (Ord. 2004-1, 4-5-2004)

11-8-3 ACCEPTANCE OF IMPROVEMENTS

A. Acceptance Of Subdivision Roads and Bridges to City Road System:

1. City Standards: Before any subdivision road or bridge can be accepted into the city road system by the council, it shall be built to meet or exceed the standards set by the city. Existing roads or bridges shall be improved to meet or exceed the standards set by the city.
2. Maintenance Of Roads: If a public subdivision road has been built to a paved standard approved by the public works department, the city will then accept responsibility for maintenance and snow removal of that subdivision road. (Ord. 2004-1, 4-5-2004)

11-8-4 BONDING REQUIREMENTS TO ENSURE COMPLETION

- A. Completion Required: The subdivider shall complete required improvements within the subdivision prior to the approval of final plat, except as provided in these regulations.
- B. Bond: In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the subdivider shall provide, or cause to be provided, a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the council, providing for and securing the construction and installation of the improvements within a period specified by the council and expressed in the bonds or other security. The council shall reduce bond requirements commensurate with the completion of improvements, subject to these regulations. The bond shall be placed in the keeping of the city director of finance.
- C. Incremental Payment or Guarantee Plan: In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements, the council may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior improvement must be satisfied before development of future increments. (Ord. 2004-1, 4-5-2004)

CHAPTER 9 ENVIRONMENTAL ASSESSMENT

11-9-1 RESPONSIBILITY TO SUBMIT

It shall be the responsibility of the subdivider to submit the information required by this chapter with the preliminary plat. (Ord. 2004-1, 4-5-2004)

11-9-2 EXEMPTIONS

- A. Criteria For Waiver: The requirement for preparing an environmental assessment pursuant to Montana Code Annotated subsection 76-3-504(1), shall be waived when:
1. The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to Montana Code Annotated Section 76-1-606.
 2. City zoning pursuant to a growth policy has been adopted pursuant to Montana Code Annotated sections 76-2-301 through Section 76-2-328.
 3. A long range development program of the public works projects has been adopted pursuant to Montana Code Annotated subsection 76-1-601(4).
 4. The proposed subdivision is the first minor subdivision from a tract of record.
- B. Criteria For Granting Variance: The planning board may grant a variance to exempt the subdivider from the completion of all or any portion of the environmental assessment when:
1. The proposed subdivision is in an area covered by a growth policy adopted pursuant to Montana Code Annotated sections 76-1-101 through 76-1-606 and the proposed subdivision will be in compliance with the policy.
 2. The subdivision will contain fewer than ten (10) parcels and less than twenty (20) acres.
 - a. The subdivider may request the variance for an exemption as a part of the preapplication process.
 - b. When such variance for an exemption is granted, the Planning Administrator, or Planning Commission shall prepare and certify a written statement of the reasons for granting the variance for an exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted for review. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

11-9-3 CONTENTS OF ENVIRONMENTAL ASSESSMENT

The environmental assessment must accompany the preliminary plat and must include the required information.

- A. Major Subdivision: An environmental assessment must accompany the preliminary plat and must include the following information:
 - 1. A description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision as required under the environmental description contents.
 - 2. A summary of the probable impacts of the proposed subdivision based on the criteria described in Montana Code Annotated section 76-3-608.
 - 3. A community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and business; roads and maintenance; water, sewage, and solid waste facilities; fire and police protection.
 - 4. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under Montana Code Annotated section 76-3-501.
- B. Second Or Subsequent Minor Subdivision: An environmental assessment must accompany the preliminary plat and must include the following information
 - 1. A summary of the probable impacts of the proposed subdivision based on the criteria described in Montana Code Annotated section 76-3-608.
- C. First Minor Subdivision from Tract of Record: The first minor subdivision from a tract of record is exempt from any environmental assessment requirement 1 . (Ord. 2004-1, 4-5-2004)

Notes

- 1 1. MCA Section 76-3-609(3).

11-9-4 ENVIRONMENTAL DESCRIPTION CONTENTS

A. Surface Water:

1. Mapping: Locate on a plat overlay or sketch map all surface waters and the delineated floodways which may affect or be affected by the proposed subdivision, including:
 - a. Natural water systems such as streams, lakes, rivers, or marshes.
 - b. Artificial water systems such as canals, ditches, aqueducts, reservoirs, irrigation, or drainage systems.
2. Description:
 - a. Describe all surface waters which may affect or be affected by the proposed subdivision including name, approximate size, present use, and time of year when water is present.
 - b. Describe proximity of proposed construction (such as buildings, sewer systems, roads) to surface waters.
3. Water Body Alteration: Describe any existing or proposed stream bank or shoreline alterations or any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration. A 310 permit from the Gallatin conservation district shall be required for any alterations to perennial streams.
4. Wetlands: When the soil survey maps indicate hydric soils are present, the subdivider shall provide a wetlands investigation completed by a certified consultant, using the U.S. army corps of engineers' wetlands manual. If the investigation indicates the presence of wetlands, a wetlands delineation shall be shown on the final plat. If any construction or changes are proposed which require a 404 permit, the subdivider shall provide evidence of such permit to the planning department.

B. Ground Water:

1. Depth: Establish the seasonal minimum and maximum depth to the water table, dates on which these depths were determined, and the location and depth of all known aquifers which may be affected by the proposed subdivision. The high water table shall be determined from tests taken during the period of major concern as specified, in writing, by the health department. Specific locations for test holes may also be determined by the health department.
2. Steps To Avoid Degradation: Describe any steps necessary to avoid the degradation of ground water and ground water recharge areas.

C. Geology; Soils; Slopes:

1. Geologic Hazards: Identify geologic hazards affecting the proposed subdivision which could result in property damage or personal injury due to rock falls or slides; land, mud, or snow slides; surface subsidence (e.g., settling or sinking); and seismic activity.
2. Protective Measures: Explain what measures will be taken to prevent or materially lessen the danger of future property damage or injury due to any of the hazards referred to above.
3. Unusual Features: Provide a statement describing any unusual soil, topographic or geologic conditions on the property which limit the capability for building or excavation using ordinary

and reasonable construction techniques. The statement should address conditions such as shallow bedrock, high water table, unstable or expansive soil conditions, and slope. On a map identify any slopes in excess of fifteen percent (15%) grade.

4. Soils Map: The subdivision shall be overlaid on the Gallatin County soil survey maps obtained from the NRCS. The maps are one to twenty four thousand (1:24,000) scale. These maps may be copied without permission. However, enlargement of these maps could cause misunderstanding of the detail of mapping. Soils were mapped using a minimum delineation of five (5) acres. Soils reports were intended to alert subdividers to possible problems and the need for a more detailed on site investigation. The subdivider shall provide the following soil reports which can be obtained from the NRCS:
 - a. The physical properties and engineering indexes for each soil type.
 - b. Soil limitations for sanitary facilities, building site development, and water features for each soil type.
 - c. Hydric soils report for each soil type. If hydric soils are present, the subdivider shall provide a wetlands investigation by a certified consultant, using the U.S. army corps of engineers' wetlands manual.
 - d. The subdivider shall provide any special design methods planned to overcome the above limitations.
5. Cuts And Fills:
 - a. Describe the location and amount of any cut or fill three (3) or more feet in depth. These cuts and fills should be indicated on a plat overlay or sketch map.
 - b. Where cuts or fills are necessary, describe any plans to prevent erosion and to promote revegetation such as replacement of topsoil and grading.

D. Vegetation:

1. Vegetation Map: On a plat overlay or sketch map:
 - a. Indicate the distribution of the major vegetation types such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
 - b. Identify critical plant communities such as stream bank or shoreline vegetation; vegetation on steep, unstable slopes; vegetation on soils highly susceptible to wind or water erosion.
 - c. The subdivider shall have any noxious weeds identified and their location mapped by a person with experience in weed management and knowledgeable in weed identification.
2. Protective Measures: Describe measures to preserve trees and critical plant communities (e.g., design and location of roads, lots, and open spaces).

E. Wildlife:

1. Species: Describe species of fish and wildlife which use the area affected by the proposed subdivision.

2. Critical Areas: Identify on a plat overlay or sketch map of the proposed subdivision any known critical or "key" wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, wetlands.
3. Protective Measures: Describe any proposed measures to protect or enhance wildlife habitat or to minimize degradation (e.g., keeping building and roads back from shorelines; setting aside marshlands as undeveloped open space).
4. Department Of Fish, Wildlife and Parks: The subdivider shall discuss the impact of the proposed development on fish and wildlife with the department of fish, wildlife, and parks (FWP). The subdivider shall provide a written statement outlining any recommendation of FWP and any mitigation planned to overcome any adverse impacts.

E. Historical Features:

1. Affected Areas: Describe and locate on a plat overlay or sketch map any known or possible historic, paleontological, archeological, or cultural sites, structures, or objects which may be affected by the proposed subdivision.
2. Protective Measures: Describe any plans to protect such sites or properties.
3. Impact Discussion: The subdivider shall discuss the impact of the proposed development on any historic features, and the need for inventory, study, and/or preservation with the state historic preservation office (SHPO). The subdivider shall provide a written statement outlining any recommendations of SHPO and any plans for inventory, study and/or preservation and any mitigation planned to overcome any adverse impacts.

F. Visual Impact: Describe any efforts to visually blend development activities with the existing environment (e.g., provisions for appropriate building materials, colors, road design, and underground utilities and revegetation or earthworks). (Ord. 2004-1, 4-5-2004)

11-9-5 SUMMARY OF PROBABLE IMPACTS CRITERIA

- A. Agriculture: The effect on agriculture and proposed mitigation of impacts.
 - 1. Number of acres in type of production.
 - 2. Agricultural operations in the vicinity.
 - 3. Additional information as needed. (Ord. 2004-1, 4-5-2004)
- B. Agricultural Water: The effect on agricultural water user facilities and other water conveyance facilities and proposed mitigation of adverse impacts. The terms "agricultural water user facility" and "water conveyance facility" are defined in chapter 1 of this title.
 - 1. Type, description, ownership, and users of facilities.
 - 2. Describe conflicts the subdivision would create with agricultural water user facilities and water conveyance facilities (e.g., residential development creating problems for operating and maintaining irrigation systems) and whether such facilities would be more subject to vandalism or damage because of the subdivision.
 - 3. Describe possible nuisance problems that the subdivision would generate with regard to agricultural water user facilities and water conveyance facilities (e.g., safety hazards to residents or water problems from irrigation ditches, headgates, siphons, sprinkler systems, or other agricultural water user facilities or water conveyance facilities).
 - 4. Where the water users and/or water conveyance facility's authorized representatives have provided the subdivider with written comments, those comments shall be submitted with the preliminary plat application.
 - 5. Additional information as needed. (Ord. 2011-2, 5-16-2011)
- C. Local Services: The effect on local services and proposed mitigation of impacts.
 - 1. Methods of water supply and sewage disposal.
 - 2. Provision of law enforcement services and fire protection services, and projected costs to providers.
 - 3. Costs of upgrading or extending off site public roads. Costs of annual road maintenance.
 - 4. Provision of educational services and projected costs to providers.
 - 5. Current amount of local property taxes, projected amount land and improvements will pay in local property taxes.
 - 6. Provision of utilities and easements.
 - 7. Additional information as needed.
- D. Natural Environment: The effect on the natural environment and proposed mitigation of impacts.
 - 1. Road drainage and erosion.
 - 2. Terrain and surface runoff effects.

3. Grading and drainage plan.
 4. Effects on native vegetation, soils, quality or quantity of surface or ground waters.
 5. Weed control.
 6. Additional information as needed.
- E. Wildlife And Wildlife Habitat: The effect on wildlife and wildlife habitat and proposed mitigation of impacts.
1. Proximity to area of significant wildlife habitat or critical wildlife areas.
 2. Expected effects of pets and human activity on wildlife.
 3. Effects on fisheries.
 4. Effects on public access to public lands, trails, hunting, or fishing areas.
 5. Additional information as needed.
- F. Public Health and Safety: The effect on public health and safety and proposed mitigation of impacts.
1. Potential natural hazards, i.e., flooding, snow or rock slides, high winds, wildfire, excessive slopes, etc.
 2. Potential manmade hazards, i.e., high voltage power lines, high pressure gas lines, nearby industrial or mining activity, high traffic volumes, lack of fire protection, inadequate traffic safety, etc.
 3. Additional information as needed. (Ord. 2004-1, 4-5-2004)

11-9-6 COMMUNITY IMPACT REPORT CONTENTS

A. Water Supply:

1. Description Of Use: Describe how water will be provided for household use and fire protection.
2. Capacity: Indicate the number of gallons per day of water the proposed subdivision will require and whether the water supply is sufficient to meet the needs of the anticipated, final population of the subdivision. Are there any anticipated effects on existing water systems or wells within the area?
3. State Standards: Indicate whether the plans for water supply meet the standards of MDEQ for quality, quantity, and construction criteria.
4. Existing Public System: If the subdivider proposes to connect to an existing water system:
 - a. Identify and describe that system.
 - b. Provide written evidence that permission to connect to that system has been obtained.
 - c. State the approximate distance to that system.
 - d. State the cost of extending or improving the existing water system to service the proposed development.
 - e. Show that the existing water system is adequate to serve the proposed subdivision.
5. New Public System: If a separate public water system is to be installed, discuss:
 - a. Who is to install that system and when it will be completed.
 - b. Who will administer and maintain the system at the beginning of subdivision development and when subdivision is completed.
 - c. Provision of evidence that the water supply is adequate in quantity, quality, and dependability.
6. Individual System: If individual water systems are to be provided, describe the adequacy of supply of the ground water for individual wells or cisterns and how this was determined.

B. Sewage Disposal:

1. Method: Describe the proposed method of sewage disposal.
2. Capacity: Indicate the number of gallons of effluent per day which will be generated by the proposed subdivision at its full occupancy, whether the proposed method of sewage disposal is sufficient to meet the anticipated final needs of the subdivision and whether it meets the standards of MDEQ.
3. Existing System: If the development will be connected to an existing public sewer system, include:
 - a. A description of that system and approximate distance from proposed subdivision.
 - b. Written evidence that permission to connect to that system has been obtained.
4. New System: If a new public sewage disposal system is to be installed, discuss:
 - a. When the system will be completed, and how it will be financed.

- b. Who is to administer and maintain the proposed system at the beginning of subdivision development and when development is completed.

C. Solid Waste Disposal:

1. Collector System: Describe the proposed system of solid waste collection and disposal for the subdivision including:
 - a. Evidence that existing systems for collection and facilities for disposal are available and can handle the anticipated additional volume.
 - b. A description of the proposed alternative where no existing system is available.
 - c. Whether the proposed method of solid waste disposal meets the standards of MDEQ.

D. Roads:

1. Description: Describe any proposed new public or private access roads or substantial improvements of existing public or private access roads.
2. Access To Arterial: Discuss whether any of the individual lots or tracts have access directly to arterial roads; and if so, the reason access was not provided by means of a road within the subdivision.
3. Modification Of Existing Roads: Explain any proposed closure or modification of existing roads.
4. Dust: Describe provisions considered for dust control on roads.
5. Pollution And Erosion: Explain how road maintenance will be provided to meet MDEQ guidelines for prevention of water pollution and erosion.
6. Installation And Maintenance: Indicate who will pay the cost of installing and maintaining dedicated and private roadways.
7. Traffic Generation: Discuss how much daily traffic will be generated on existing local and neighborhood roads and main arterials, when the subdivision is fully developed.
8. Capacity: Indicate the capacity of existing and proposed roads to safely handle any increased traffic. Describe any anticipated increased maintenance that will be necessary due to increased traffic and who will pay the cost of maintenance.
9. 9- Year Round Access: Explain whether year round access by conventional automobile will be available over legal rights of way to the subdivision and to all lots and common facilities within the subdivision.
10. Private Access: Indicate ownership of any private access to the subdivision.

E. Utilities:

- C. Affected Utilities: Indicate whether the subdivision preliminary plat has been submitted to affected utilities for review; if so, include a copy of response.
- D. Furnishing, Placement of Utilities: Include a description of:
 - a. The method of furnishing electric, natural gas, or telephone service, where provided.

- b. The extent to which these utilities will be placed underground.
- c. Estimated completion of each utility installation.
- d. The subdivider shall provide a written statement from the utility companies that the proposed subdivision can be provided with service.

F. Emergency Services:

1. Describe the emergency services available to the subdivision such as:
 - a. Fire protection. Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?
 - b. Police protection.
 - c. Ambulance service.
 - d. Medical services.
2. Give the estimated response time of the above services.
3. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?
 - a. If not, what additional expense would be necessary to make these services adequate?
 - b. At whose expense would the necessary improvements be made?
 - c. Indicate whether the subdivision preliminary plat has been submitted to affected above agencies; if so, include copy of response.
 - d. The subdivider shall discuss the impact of the proposed development on the provision of emergency services with each of the providers. The subdivider shall provide a written statement outlining the recommendations of the providers and any mitigation planned to overcome any inability to provide services or adverse impacts.

G. Schools:

1. Available Facilities: Describe the available educational facilities which would service this subdivision.
2. Schoolchildren: Estimate the number of schoolchildren that will be generated from the proposed subdivision.
3. Accommodation Of Concerns; Mitigation: The subdivider shall discuss the impact of the proposed development on the provision of educational services with the administrator(s) of the appropriate school system(s). The subdivider shall provide a written statement outlining whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system, any recommendations of the administrator(s), and any mitigation planned to overcome any adverse impacts of the proposed development on the provision of educational services.

G. Land Use:

1. Planning: Describe comprehensive planning and/or land use regulations covering the proposed subdivision or adjacent land and if located near the jurisdictional area of an incorporated city or town, whether annexation is proposed.
2. Public Lands: Describe how the subdivision will affect access to any public lands. Where public lands are adjacent to or near the proposed development, describe present and anticipated uses for those lands (e.g., grazing, logging, recreation, etc.).
3. Adjacent Land Use: Describe the effect of the subdivision on adjacent land use.
4. Hazards: Describe any health or safety hazards on or near the subdivision, such as mining activity or potential subsidence, high pressure gas lines, dilapidated structures, or high voltage power lines. Any such conditions should be accurately described and their origin and location identified. List any provisions that will be made to mitigate these hazards.
5. Nuisance: Describe any on site or off site land uses creating a nuisance, such as unpleasant odors, unusual noises, dust, or smoke.

H. Housing:

1. Indicate the proposed use(s) and number of lots or spaces in each:
 - a. Residential, single-family.
 - b. Residential, multiple-family. Types of multiple-family structures and numbers of each (e.g., duplex, fourplex).
 - c. Planned unit development (number of units).
 - d. Condominium (number of units).
 - e. Mobile home park.
 - f. Recreational vehicle park.
 - g. Commercial or industrial.
 - h. Other (please describe).
2. Is the subdivision planned as a second home or recreational subdivision?

I. Parks And Recreation Facilities: Describe Park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

J. Taxation:

1. Acreage: Include a list of the number of acres in each land assessment classification prior to subdivision.
2. Existing Taxes: Describe any existing tax and existing or proposed special assessments which will affect the subdivision.
3. Anticipated Taxes: Estimate the increased amount of taxes that will be generated by the subdivision at full development using existing valuations and mill levies.

K. Accessibility Of Service Systems and Facilities: Provide total distances over road types to each of the following:

	Unimproved	Graded	Graveled	Paved	Total	Town Where Located
Fire protection						
Police protection						
Hospital facilities						
Elementary schools						
High school						

L. Effects On Agriculture: Supply the following information:

1. The number of acres in production of crops.
2. The productivity of the land.
3. Whether or not the property is part of a viable farm unit. Was the property under production during the last regular season?
4. The other uses of land in the general locality.
5. What measures will be taken, if any, to control family pets.
6. Describe any existing fence lines around the subdivision boundary which protect agricultural lands under an ownership other than that of the subdivider, and describe any measures which will be taken to ensure that the owners of the subdivision will share with the owner of the agricultural lands in the continued maintenance of the fence.

L. Effects On Agricultural Water User Facilities:

1. Type, description of facility.
2. Ownership, users of facility. (Ord. 2004-1, 4-5-2004)

CHAPTER 10 FLOOD HAZARD EVALUATION

Notes

- 1 1. See also title 12 of this code.

11-10-1 USE RESTRICTED

Land subject to being flooded by a "flood of 100-year frequency" as defined by Montana Code Annotated title Section 76, chapter 5, or land deemed to be subject to flooding by the council, shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate flood hazards to life, health or welfare, or that may be prohibited by state or local floodplain or floodway regulations. (Ord. 2004-1, 4-5-2004)

11-10-2 PROCEDURE

- A. Evaluation Required: If any portion of a proposed subdivision is within two thousand (2,000) horizontal feet and less than twenty (20) vertical feet of a watercourse draining an area of twenty five (25) square miles or more, and no official floodplain or floodway delineation (study) of the stream has been made, the subdivider shall provide, in detail, the calculated 100-year frequency water surface elevations and/or 100-year floodplain boundaries. This detailed information shall be performed by a licensed professional engineer experienced in this field of work.
- B. Submission Of Report: This information shall be submitted at the time of preliminary plat application. This information may be submitted, upon the request of the commission, to the floodplain management section, water resources division, department of natural resources and conservation (DNRC) for review and concurrence.
- C. Detailed Information: The detailed information to be submitted, shall include the following:
 1. Certification: Certification by a registered professional engineer.
 2. Overall Plan View: An overall scaled plan view (project map) with identified scale for vertical and horizontal distance showing the following:
 - a. Watercourse.
 - b. Floodplain boundaries.
 - c. Location of property.
 - d. Contours.
 - e. Cross sections.
 - f. Bridges or other contractions in the floodplain.
 - g. USGS gauging stations, if any.
 3. Bench Marks: The location and elevation of temporary bench mark established within the subdivision and referenced to mean sea level with appropriate elevation adjustment.
 4. Cross Sectional Information 1 :
 - a. Cross section elevations and stations should be determined at points representing significant breaks in ground slope and at changes in the hydraulic characteristics of the floodplain (e.g., points where ground cover, soil, or rock conditions change). Elevations must be reported in NAVD 88 or NGVD 29 datum.
 - b. Each cross section shall cross the entire floodplain. The cross section alignment should be perpendicular to the general flow of the watercourse (approximately perpendicular to contour line). Occasionally, wide floodplains require a dogleg alignment to be perpendicular to the anticipated flow lines. Shots should be taken at the water's edge and measurement taken (if elevation shots cannot be taken) to determine the channel bottom shape. Cross sections shall be accurately located on a USGS seven and one-half (7 1/2) minute quad sheet.

- c. The number of cross sections needed and the distance between cross sections will vary depending on the site, the slope of the watercourse, the slope of the channel, and the hydraulic characteristics of the reach. A minimum of four (4) cross sections are required over the entire reach with at least two (2) cross sections at the property where the elevations are desired. Additional cross sections must be taken at bridges, control structures, or natural constrictions in topography.
5. Bridges: Descriptions and sketches of all bridges within the reach, showing unobstructed waterway openings and elevations.
6. Water Surface: Elevation of the water surface is to be determined by survey as part of each valley cross section.
7. Supporting Documentation: Engineering report of computer computations, calculations, and assumptions that may include:
 - a. Hydrology (research of published hydrology or calculations showing how hydrology was derived).
 - b. Input files (hard copy and on diskette).
 - c. Output files (diskette only). (Ord. 2004-1, 4-5-2004)

Notes

- 1 1. Photogrammetric methods may be used in lieu of cross sections whenever appropriate, and when the use has been reviewed and approved in advance by the city engineer.

11-10-3 WAIVER OF REQUIREMENT

The council shall waive this requirement where the subdivider contacts the water resources division, NRCS, and that agency states, in writing, that data indicates that the proposed subdivision is not in the "flood hazard area" as defined in this chapter. (Ord. 2004-1, 4-5-2004)

CHAPTER 11 DIVISIONS OF LAND EXEMPT FROM REVIEW AS A SUBDIVISION

11-11-1 DIVISIONS EXEMPT FROM SUBDIVISION REVIEW

The following divisions, when found in substantial compliance with the City's zoning regulations, are exempt from subdivision review under this chapter but must be surveyed when applicable and approved by the Planning Administrator.

- A. Creating four or fewer new lots from an original lot or parcel by order of a Montana court, by operation of law, or that could be created by order of a Montana court pursuant to the law of eminent domain if there is no agreement between the parties to a sale (survey required).
 - 1. The court shall first notify the governing body of the pending division and allow the governing body to present written comment on the division.
- B. Providing security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing (survey required).
 - 1. If any parcel created under (B) is transferred to any person or 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, the division is subject to subdivision review under this chapter.
- C. Creating an interest in oil, gas, mineral or water severed from the surface ownership;
- D. Creating cemetery lots;
- E. Reserving a life estate on a portion of a tract of record;
- F. Leasing or renting a portion of a tract of record for farming and agricultural purposes;
- G. Any division of property over which the state does not have jurisdiction;
- H. Creating rights-of-way or utility sites (survey required);
- I. Creating condominiums, townhomes, townhouses, or conversions, as those terms are defined in Section 70-23-102, MCA (survey required). Any applicable park dedication requirements set forth in these regulations must be complied with;
- J. Leasing or renting contiguous airport-related land owned by a city, a county, the state, or a municipal or regional airport authority;
- K. Any division of state-owned land;
- L. Creating lots by deed, contract, lease, or other conveyance executed prior to July 1, 1974;
- M. Relocating common boundary lines between or aggregating adjoining properties without increasing the number of lots (survey required);
- N. A single gift or sale in each county to each member of the landowner's immediate family (survey required);
or
- O. Lots created by deed, contract, lease, or other conveyance in which the landowner enters into a covenant with the governing body that runs with the land requiring the land to be used exclusively for agricultural purposes. The governing body, in its discretion, may revoke the covenant without subdivision review if the original lot lines are restored through aggregation of the covenanted land prior to or in conjunction with the revoking of the covenant.

11-11-2 REVIEW PROCESS

- A. A landowner claiming the application of an exemption must submit a request to the Planning Administrator on a form provided by the City with all information required to establish proper use of the claimed exemption. Information submitted in other formats may incur additional charges for copying, scanning, or distribution.
- B. If an exemption from review under this chapter requires the division to be surveyed, the survey must follow the uniform standards governing certificates of survey prescribed and adopted by the board of professional engineers and professional land surveyors as set forth in ARM 24.183.1104.
- C. The Planning Administrator, or designee, reviews the submittal to determine if all required information has been submitted. If incomplete, Planning Administrator will notify the landowner in writing of any deficiencies in the submittal. If complete, the Planning Administrator shall review all information submitted, the criteria in these regulations, the Act, the Administrative Rules of Montana (ARMs), and review by an Examining Land Surveyor, if applicable, to determine if the request is a proper use of the claimed exemption.
- D. Within twenty (20) business days of determining the request is complete, the Planning Administrator must either approve the request, deny the request, or determine that the proposal is an attempt to evade subdivision review. The applicant may appeal the decision to the governing body as identified in Chapter 14
- E. The Planning Administrator will send written notice to the governing body, the County Clerk and Recorder and the applicant when the division is approved and may be recorded.
- F. The city may not impose conditions of approval on any exemption from subdivision review.

11-11-3 IDENTIFICATION CODES TO BE INCLUDED ON CERTIFICATE OF SURVEYS

A. To implement and monitor tracts of record created by exemption, the following identification codes shall be added to the numbering of recorded certificates of survey.

- CO ... Court order [Section 76-25-2402(1)(a)(i), MCA]
- ME ... Mortgage Exemption [Section 76-25-402 (1)(b), MCA]
- LE ... Life Estate [Section 76-25-402(1)(e), MCA]
- ROW... Right-of-way or utility site[Section 76-25-402(1)(h), MCA]
- RB ... Relocation of Common Boundary [Section 76-25-402(1)(m), MCA]
- FT ... Family Transfer [Section 76-25-402(1)(n), MCA]
- AE ... Agricultural Exemption [Section 76-25-402(1)(o), MCA]
- AL ... Aggregation of Lots [Section 76-25-402(1)(m) MCA]

11-11-4 OTHER AGENCY REVIEW OF EXEMPTED DIVISIONS

- A. Divisions of land exempted from the Act are still subject to requirements of other agencies. These requirements may restrict the use of the divided land or preclude the filing of the document creating the division. Laws and regulations that may restrict or preclude development include zoning, floodplain regulations, fire codes, building codes, etc.

- B. The clerk and recorder is prohibited from filing a division that does not meet the sanitation requirements. The landowner is responsible for obtaining the sanitation approvals necessary for a division of land to be filed with the County Clerk and Recorder.

11-11-5 FILING INSTRUMENTS OF TRANSFER & IDENTIFYING EXISTING TRACTS OF RECORD

- A. The County Clerk and Recorder may not file any instrument that purports to transfer title unless the instrument of transfer is accompanied by evidence that the parcel exists as a tract of record and has been surveyed as applicable. As required by Section 76-3-302, MCA, the evidence shall consist of:
 - 1. An instrument of transfer describing the parcel or tract by reference to a filed certificate of survey or subdivision plat;
 - 2. Documentation that the parcel is in a location in which the state does not have jurisdiction;
 - 3. Previously recorded documents verifying the parcel was created before July 1, 1973; or
 - 4. Documents that, if recorded, would verify the parcel was created before July 1, 1973.

- B. In addition, as established by the Montana Attorney General (47 Op. Att'y Gen. No. 10), a US government lot or an aliquot part of a US government section is not a tract of record simply because its description appears in a deed on file. The Clerk may not file any instrument that purports to transfer title to an aliquot part of a US government section or to a government lot, unless accompanied by:
 - 1. Reference to recorded documents that verify the parcel was segregated and individually conveyed prior to July 1, 1973; or
 - 2. Reference to recorded documents that verify the parcel was segregated and individually conveyed after July 1, 1973, but which was exempted by definition of the word subdivision.

- C. A remaining parcel of land created through the use of a valid statutory exemption is a tract of record.

11-11-6 REVIEW PROCESS FOR INSTRUMENTS OF TRANSFER

- A. The person submitting the instrument of transfer, including but not limited to warranty deeds or quit claim deeds, shall provide the above, Section 11-11-5, referenced documentation of the tract of record to the Clerk and Recorder.
- B. The Clerk and Recorder shall examine the filed documents referenced as evidence, and may confer with the review committee, to verify that the instrument of transfer does not create a new parcel subject to review as a subdivision and/or subject to survey requirements.
- C. If it is determined that the instrument of transfer is insufficiently documented to demonstrate no new parcel is created, the Clerk shall notify the individual in writing that the instrument shall not be filed until the required documentation is submitted. In addition, the notice will state that if the individual cannot provide the documentation and wishes to create a parcel, he/she may contact the Planning Administrator for additional information on requirements for divisions of land as exemptions or subdivisions.

11-11-7 GENERAL SUBMITTAL REQUIREMENTS FOR EXEMPTED DIVISIONS INITIAL SUBMITTAL

- A. The applicant shall apply for an exemption by submitting the following to the Planning Administrator. Except as otherwise noted below, the materials shall be submitted in electronic format (pdf, word documents or as otherwise specified by the Planning Administrator). Information submitted in other formats may incur additional charges for copying, scanning, or distribution.
1. Review Fee
Fees are found in the Fee Schedule, which is part of the supplemental Administrative Materials for the Subdivision Regulations. The fee shall be submitted as a check.
 2. Documentation of the division and entitlement to the claimed exemption listed below. Refer also to the supplemental Administrative Materials for additional guidelines on certifications, etc.
 3. Evidence that the parcel(s) to be divided or revised exist as a tract or tracts of record, legal description of the tract(s) of record, and sketch of proposed division; Refer to Section F above for more information on documenting “tract of record.”
 4. For each parcel created by the division, draft language for sanitation that contains:
 - a. The applicable sanitation exemption, or
 - b. [Draft Municipal Facilities Exclusion](#) (MFE) form;
 5. Survey (if applicable) or other document creating division must meet requirements for specific exemptions (as described for each exemption in the following sections);
 6. Survey (if applicable) meeting the requirements of the ARMs and containing the applicable identification code in the title, refer to 11-11-3 of these regulations for “Identification Codes”);
 7. Unless created by court order or eminent domain, Landowner statement that includes the complete citation of the applicable exemption in Section 76-25-2402 et. seq. or as otherwise required below for each exemption type; and a statement verifying their right to divide the land; and
 8. Additional requirements may be specified for specific exemptions in refer to 11-11-10 – 11-11-11 of these regulations, below.

11-11-8 FINAL DOCUMENTS

- A. Once the Planning Administrator has notified the applicant that the division may be recorded, the applicant shall submit the following documents as applicable to the Clerk and Recorder:
1. For each parcel created by the division: A completed and approved Municipal Facilities Exclusion (MFE) signed by the City Public Works Department; to be recorded with the division document, or the citation on the face of the survey or division document of the exemption from DEQ rules or local public health ordinance.
 2. The survey or division documents and any supplemental documents (such as warranty deeds) ready to record, with all signatures notarized, surveyor's seal etc.; and
 3. Filing fees.

11-11-9 EVASION CRITERIA GENERAL CRITERIA

- A. A subdivider seeking exemption should, prior to submittal, establish a meeting with City of Belgrade Planning Administrator. The Planning Administrator, when determining applicability of an exemption, shall consider the evidence related to a proposed use of that exemption in light of all of the surrounding circumstances and the evidence as a whole. Such evidence includes, but is not limited to:
1. Compliance of the proposed division with zoning code adopted pursuant to Section 76-25-301 et. seq.
 2. Prior history of the particular tract of record in question;
 3. Previous use of an exemption to create the tract of record in question;
 4. Proposed configuration of tracts of record once the proposed exemption is completed;
 5. Any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review; or
 6. The nature of the claimant's purpose for the division or the claimant's history related to previous exemptions.

11-11-10 SPECIFIC EXEMPTION CRITERIA

This chapter of the Subdivision Regulations is organized by specific exemption types.

- A. Divisions of Land Exempt from Review as a Subdivision and Exempt from Surveying Requirements
 - 1. Court Order
 - 2. Mortgage Exemption
 - 3. Severed Interest (oil, gas, minerals, or water)
 - 4. Cemetery Lots
 - 5. Life Estate
 - 6. Lease or Rental for Farming or Agriculture
 - 7. Outside of State Jurisdiction
 - 8. Rights-of-Way or Utility Sites
 - 9. Condominiums
 - 10. Airport Lands
 - 11. State-Owned Lands
 - 12. Conveyances Prior to July 1, 1974
 - 13. Lands Acquired for State Highways

- B. Divisions of Land Exempt from Review as a Subdivision but Subject to Surveying Requirements
 - 1. Relocating Common Boundaries between Adjoining Properties
 - 2. Aggregation of Adjoining Properties
 - 3. Gift or Sale to Family Member
 - 4. Agricultural Covenant

- C. The following format is used for each specific exemption:
 - 1. Description of the exemption: Expressed as “This exemption applies to:”
 - 2. Required Documentation: The information that the landowner is required to provide at initial submittal.
 - 3. Evasion Criteria: The use of exemption shall be considered an evasion of the Act if the Exemption Review Committee finds existence of any one of the evasion criteria listed in the following sections or the general criteria listed above.

11-11-10 DIVISIONS OF LAND EXEMPT FROM REVIEW AS A SUBDIVISION AND EXEMPT FROM SURVEYING REQUIREMENTS

A. Court-Ordered Division (Section 76-25-402(1)(a)(i-iii), MCA)

1. This exemption applies to:
 - a. Land divisions created by court order; or
 - b. Land divisions that could be created by an order of any court pursuant to the law of eminent domain, Title 70, Chapter 30, and for which there has been no agreement between parties to the sale; or
 - c. Land divisions that create four or fewer lots or parcels from the original lot or parcel.
2. Required documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above; and
 - b. Copy of the order issued by the court.
3. Evasion Criteria:
 - a. No court order is filed;
 - b. No transfer documents accompany the recording of the division; or
 - c. The governing body has not been allowed to present written comments on the division prior to the court order.

B. Mortgage Security (Section 76-25-402(1)(b), MCA)

1. This exemption applies:
 - a. To a division of land of any size to provide security for mortgages, reverse mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes;
 - b. Only if the land that is divided is conveyed to a licensed 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 the preceding sentence subjects the division of land to the requirements of the Act and these regulations; and
 - c. Only to the parcel that is created to provide security under this subsection. Any subsequent division of the remaining tract of land, if applicable, is subject to the provisions of the Act and these regulations.
2. Required Documentation
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above; Documentation that the lending institution is a financial or lending institution registered to do business in the State of Montana;
 - b. A signed, notarized statement from the landowner(s) certifying: 1) landowners will retain title to the entire tract of record until such time as the mortgage exemption parcel may be foreclosed upon, 2) the purpose of the mortgage, lien, or trust indenture is for construction,

improvements to the land being divided, or refinancing, 3) transfer of ownership of the separate mortgage exemption parcel will occur only upon foreclosure, 4) landowner will not transfer ownership of the remaining portion unless the mortgage exemption parcel has been foreclosed upon or the landowner has submitted a subdivision application and received final plat approval for the subdivision of the mortgage exemption parcel and the remaining portion; and

- c. A copy of any certificate of survey proposed to be surveyed for the mortgage exemption parcel or of any other document proposed to be filed with the clerk and recorder establishing the mortgage exemption parcel. The survey title shall the exact wording of the exemption as found in Section 76-25-402(1)(b), MCA.

3. Evasion Criteria:

- a. Financing is not for construction, improvements to the exempted parcel, or refinancing;
- b. There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract;
- c. 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; or
- d. The notarized statements and certifications required as documentation (see items 2.b above) are not recorded with the document creating the division

C. Severed Interest (Section 76-25-402(1)(c), MCA)

1. This exemption applies:

- a. To divisions that sever interest in oil, gas, minerals, or water from surface ownership.

2. Required Documentation:

- a. Proposed document to be filed to establish the division or a copy of any survey proposed to be filed; either document must include the exact wording of the exemption in Section 76-25-402, MCA for subsurface interest and a notarized statement that there is no division of surface ownership or creation of new surface parcels.

3. Evasion Criteria:

- a. The division will create divisions of surface ownership into parcels of 160 acres or less.

D. Cemetery Lots (Section 76-25-402(1)(d), MCA).

1. This exemption applies:

- a. To divisions for cemetery lots.

2. Required Documentation:

- a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above; and
- b. The document or survey to be filed must include a statement limiting the use of the lots to cemetery lots only.

3. Evasion Criteria:

- a. Lots are not restricted to cemetery lot use only; or
- b. Lots are large enough for other uses.

E. Life Estate (Section 76-25-402(1)(e), MCA)

1. This exemption applies:
 - a. To divisions for life estates as provided for in Title 70, "Property," chapter 15, "Definitions and Kinds of Estates in Real Property" of the Montana code.
2. Required Documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements" above; and
 - b. The document must include a statement identifying the interest is a life estate
3. Evasion Criteria:
 - a. Life estate does not qualify as a life estate under provisions of title 70, MCA; or
 - b. The document that establishes the life estate does not state that the life estate parcel is temporary, and no longer a valid legal parcel after the death of the holder.

F. Agricultural Lease (Section 76-25-402(1)(o), MCA)

1. This exemption applies to:
 - a. Parcels that will be rented or leased for farming and agricultural purposes.
2. Required Documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements" above; and
 - b. The document to be filed must include a statement limiting the use of the parcel or parcels to agricultural lease or rent only.
3. Evasion Criteria:
 - a. The division is created for the purpose of conveyance;
 - b. Use is for other than rent or lease for farming or agricultural purposes;
 - c. A residence, or residences, exist or are proposed on the parcel to be rented or leased; or
 - d. Commercial uses, such as implement dealership or similar, exist or are proposed on the parcel to be rented or leased.

G. Federal and Tribal Lands (Section 76-25-402(1)(g), MCA)

1. This exemption applies to:
 - a. Federal or tribal lands or other lands over which the state does not have jurisdiction.
2. Required Documentation:
 - a. Documents required per section 11-11-6 "Initial Submittal" of "General Submittal Requirements" above.
3. Evasion Criteria:
 - a. The land is within the state's jurisdiction.

H. Rights of Way and Utilities (Section 76-25-402(1)(h), MCA)

1. This exemption applies to:
 - a. Rights-of Way as land dedication for city streets and other transportation systems typically requiring land dedication rather than easements; or
 - b. Sites for utilities as utilities are defined in Section 76-3-103, MCA.
2. Required Documentation:
 - a. For Rights-of-Way:

- b. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above;
 - c. Landowner approval or proof of eminent domain authority by the entity acquiring the right-of-way;
 - d. Document to be filed shall include a notarized statement from the recipient accepting the right-of-way, stating the purpose of the right-of-way, and noticing that under Section 76-25-402, MCA a subsequent change in the use to residential, commercial, or industrial subjects the division to review.
 - e. For utility sites:
 - 1. Documentation to verify utility meets definition in 69-3-101, MCA;
 - 2. Documents required per section 11-11-6 “Initial Submittal” of “General Submittal Requirements” above;
 - 3. Landowner approval or proof of eminent domain authority by the utility; and
 - 4. Document to be filed shall include notarized statement from the utility accepting the utility site, stating the purpose of the site, and noticing that under Section 76-25-402, MCA a subsequent change in the use to residential, commercial, or industrial subjects the division to review under the Act.
3. Evasion Criteria:
- a. The purposes are for other than rights-of-way or utility sites; or
 - b. The entity for which a utility site is created does not meet the definition of a utility per 69-3-101, MCA.
- I. Certain Condominiums (Section 76-25-402(1)(i), MCA)
- 1. This exemption applies to:
 - a. Condominiums, townhomes, or townhouses, as defined in 70-23-102, MCA of the “Unit Ownership Act”, and applicable park dedications required by Section 76-3-621, MCA, are complied with; or
 - b. The condominium, townhome, or townhouse proposal is in conformance with applicable zoning regulations.
 - 2. Required Documentation:
 - a. For proposals in a zoned, incorporated municipality or in other areas with applicable zoning regulations:
 - 1. Evidence that the parcel to be divided exists as a tract of record, legal description of the tract of record;
 - 2. Proposed site layout; and
 - 3. Evidence that the proposal complies with zoning.
 - 3. Evasion Criteria:
 - a. The proposed development does not comply with the requirements for unit ownership under Title 70, Chapter 23, MCA;
 - b. The proposed development is within an incorporated municipality but does not conform to applicable zoning requirements;

- c. The documents establishing the condominium division are not recorded with the “Declaration of Unit Ownership” and all accompanying materials, as approved by the Montana Department of Revenue, as required for declarations per 70-23-301, MCA.

J. Airport Lands (Section 76-25-402(1)(j), MCA)

- 1. This exemption applies to:
 - a. A division of land created by lease or rental of contiguous airport-related land owned by a city, a county, the state, or a municipal or regional airport authority if such use is for on-site weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier-related activities
- 2. Required Documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above; and
 - b. Map showing current ownership and location of tract in relation to existing airport lands owned by the city, county, state, or a municipal or regional airport authority.
- 3. Evasion Criteria:
 - a. Land is not owned by the city, county, state, or a municipal or regional airport authority;
 - b. Proposed use is not for on-site weather or air navigation facilities, or not for the manufacture, maintenance, and storage of aircraft or air carrier-related activities; or
 - c. Land is proposed for conveyance other than lease or rental.

K. State-Owned Lands (Section 76-25-402(1)(k), MCA)

- 1. This exemption applies to:
 - a. State-owned land, except for divisions that create a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- 2. Required Documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above;
 - b. Documentation or a certified statement that there has been no previous division; and
 - c. Documentation that the proposed use is for other than sale, rent, or lease for residential purposes.
- 3. Evasion criteria:
 - a. Creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes; or
 - b. Land is not owned by the state.

L. Conveyances Prior to July 1, 1974 (Section 76-25-402(1)(l), MCA)

- 1. This exemption applies to:
 - a. Any parcels created via deeds, contracts, leases, or other conveyances executed prior to July 1, 1974.
- 2. Required Documentation

- a. No documentation is required to be submitted to the Planning Administrator for review as an exemption. Documentation will be required by the clerk and recorder to establish the legal existence of the parcel as a tract of record. (Refer to Section F above.)
3. Evasion Criteria: Non applicable

M. Lands Acquired for State Highways (Section 76-25-402(4), MCA)

1. This exemption applies to:
 - a. Lands acquired for state highways.
2. Required Documentation:
 - a. The instrument of transfer must refer by parcel and project number to State Highway plans which have been recorded in compliance with 60-2-209, MCA; or?
 - b. If the 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 surveys and plats when presented for recording.
3. Evasion Criteria:
 - a. Land is not being acquired for state highways; or
 - b. Land is not describable by reference to recorded state Highway plans or by certificates of survey or plats.

11-11-11 DIVISIONS OR AGGREGATIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW, BUT SUBJECT TO SURVEYING REQUIREMENTS AND ZONING REGULATIONS

A. Relocation of Common Boundaries (Section 76-25-402(1)(m), MCA)

1. This exemption applies to:
 - a. Relocating common boundary lines between adjoining properties
2. Required Documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above;
 - b. Evidence that the proposed action complies with applicable zoning;
 - c. A survey conforming to the requirements of the ARMs;
 - d. Draft language for certification by the county treasurer that all taxes and special assessments assessed and levied on the surveyed land have been paid; and
 - e. Landowner(s) signed and notarized statement on the survey that the area of the boundary relocation does not create a separate tract and is forever merged with existing parcels as shown on the survey, and that a restriction or requirement on the original parcel continues to apply to that portion after the boundary relocation
3. Evasion Criteria:
 - a. The boundary relocation would create an additional tract of record.

B. Gift or Sale to Immediate Family (Section 76-25-402(1)(n), MCA)

1. This exemption applies to:
 - a. A single gift or sale in each county to each member of the landowner’s immediate family;
 - b. The term “immediate family” means the spouse, children (by blood or adoption), or parents of the landowner (Section 76-25-103(13), MCA); and
 - c. This exemption may not be used when the land is owned by non-corporal legal entities such as corporations, companies, partnerships, and trusts
2. Required Documentation:
 - a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above;
 - b. Evidence that the proposed action complies with applicable zoning; and
 - c. A written statement from the landowners as to the intended purpose indicating the name and relationship of the person who will receive the land and that this action does not result in more than one gift or sale of a parcel to each member of the landowner’s immediate family in the county; and
 - d. Evidence that the proposed action complies with applicable zoning; and
 - e. A survey conforming to the requirements of the ARMs; and
 - f. Draft language for certification by the county treasurer that all taxes and special assessments assessed and levied on the land have been paid; and
 - g. If no survey is required per Section 76-25-412, MCA because the area to be conveyed is describable as a 1/32nd aliquot part, a copy of the document proposed to be recorded, which must include all of the information described above to be included for the survey, except for the survey itself.

3. Evasion Criteria:
 - a. There has been a previous transfer of land in the county from the landowner to the same individual using the family transfer exemption;
 - b. The recipient does not qualify as an immediate family member; or
 - c. The landowner is a non-corporal legal entity such as a corporation, company, partnership, or trust.

C. Divisions of Land Proposed for Agricultural Use Only (Section 76-25-402(1)(o), MCA)

1. This exemption applies to:
 - a. The landowner of such a parcel may gift, sell, or enter into an agreement to buy and sell a portion thereof to be used exclusively for agricultural purposes;
 - b. Parties to the gift, sale, or agreement to buy and sell must establish a covenant running with the land that is revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;
 - c. Any change in the use of the land for anything other than agricultural purposes subjects the parcel to review as a subdivision
2. Required Documentation:
 - a. Documents required per section 11-11-6 "Initial Submittal" of "General Submittal Requirements" above;
 - b. A written statement from the landowners as to the intended purpose, and evidence that the parcel is large enough to accommodate that use;
 - c. Evidence that the proposed action complies with applicable zoning;
 - d. A survey signed by the landowners and conforming to the requirements of the ARMs; The covenant that runs with the land, restricting use of the property to agricultural purposes only. Covenant language shall clarify that it is revocable only by mutual consent of the governing body and the property owner and that prior to officially revoking the covenant the parcel must be reviewed as a subdivision. The covenant shall be signed by all parties to the gift, sale, or agreement to buy/sell, and the governing body;
 - e. The survey must bear a signed and acknowledged recitation of the covenant on the face of the survey; and
 - f. If no survey is required per Section 76-25-412(3), MCA because the area to be conveyed is describable as a 1/32nd aliquot part, a copy of the document proposed to be recorded, which must include all of the information described above to be included for the survey, except for the survey itself
3. Evasion Criteria:
 - a. Any use other than agricultural is proposed. For the purposes of this exemption, agriculture is defined as: "the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes.;" or
 - b. Residential uses are not permitted on a tract of land created pursuant to this exemption.

D. Aggregation of Lots (76-25-402(1)(m), MCA)

1. This exemption applies to:

- a. The aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established; and
 - b. A restriction or requirement on the original platted lot(s) or original un-platted parcel(s) continues to apply to those areas
2. Required Documentation:
- a. Documents required per section 11-11-7 General Submittal Requirements for Exempted Divisions Initial Submittal Requirements” above;
 - b. Evidence that the proposed action complies with applicable zoning;
 - c. A survey conforming to the requirements of the ARMs;
 - d. Draft language for certification by the county treasurer that all taxes and special assessments assessed and levied on the surveyed land have been paid;
 - e. The certificate of survey must clearly distinguish between the existing boundary location(s) and the new boundary location(s);
 - f. The certificate of survey must be entitled “amended plat of the (insert the name of the subdivision)” if the aggregation affects lots within a subdivision;
 - g. Landowner(s) signed and notarized statement on the survey that the aggregation is forever merged with existing parcels to form the aggregate parcel(s) as shown on the survey, and that a restriction or requirement on the original parcel continues to apply to that portion after the aggregation; and
 - h. If no survey is required per Section 76-25-412(3), MCA because the area to be conveyed from one property to another is describable as a 1/32nd aliquot part, a copy of the document proposed to be recorded, which must include all of the information described above to be included for the survey, except for the survey itself
3. Evasion Criteria:
- a. The aggregation would create a new tract of record in addition to the aggregated parcel; or
 - b. The aggregation eliminates existing restrictions or requirements.

CHAPTER 12 SUBDIVISION CAPITAL IMPROVEMENTS

11-12-1 REQUIRED IMPROVEMENTS TO BE INSTALLED BY THE SUBDIVIDER

A. Capital Improvements – General Requirements

After preliminary plat approval but prior to final plat approval, the subdivider shall complete all capital improvements required by the governing body and these regulations or enter into a subdivision improvements agreement with the governing body.

B. Improvements to be Completely Installed by Final Plat

The following improvements are required to be 100% completed prior to final plat, as these improvements are necessary to protect public health and safety.

1. Street Access to the Subdivision and to Each Lot: Streets shall be at a minimum built to the completed and compacted sub-base component (Refer to Chapter 7) or as otherwise required by preliminary plat conditions of approval.
2. Streets requiring bridges and culverts: Bridges and culverts constructed to the standards in Chapter 7, or as otherwise required by preliminary plat conditions of approval.
3. Storm-water drainage: Streets shall be adequately sloped and drained to prevent street deterioration until completion of street and final storm-water drainage facilities.
4. Street Name and Traffic Control Signage
5. Water Supply Systems: Shall be completely installed as approved by either DEQ or the municipality providing the water.
6. Wastewater Systems: Shall be completely installed as approved by either DEQ or the municipality providing the system.
7. Fire Protection Water Supply Systems
8. Electrical Supply to each Lot
9. Telephone: If cell service is not available or inadequate, land-line telephone installation to each lot.
10. Other improvements necessary for public health and safety not listed above may also be required to be 100% completed if required as a condition of preliminary plat approval

C. Improvements that May be Completed After Final Plat

The following improvements may be completed after final plat, provided that they are secured with a Subdivision Improvement Agreement and financial guarantee as required in section 11-12-4 below.

1. Streets: The surface treatment of streets (crushed base course and pavement surface as applicable)
2. Streetside Stormwater Drainage: Drainage swales, curb and gutter, etc.
3. Stormwater drainage facilities that serve more than one lot: Detention/retention facilities, etc.
4. Street Lighting
5. Pedestrian and Bike Facilities
6. Postal Service Collection Units
7. Noxious weed management
8. Park Facilities
9. Re-vegetation
10. Other improvements not specified above, but which are either proposed by the subdivider or required by conditions of approval.

11-12-2 PROCESS FOR COMPLETING IMPROVEMENTS PRIOR TO FINAL PLAT

A. Preliminary Plat Approval

1. All improvements shall be built to the design standards in Chapter 6 and as otherwise specified in conditions of preliminary plat approval.
2. Timing of Improvements. Except upon written approval of the Planning Administrator, no grading, removal of trees or other vegetation, land filling, construction of improvements or other material change, except for purposes of aiding in preparation of final engineering drawings or plans, shall commence on the subject property until the subdivider has received approval of the construction plans and all necessary development approvals.

B. Submit Plans

1. Prior to installation of improvements and prior to final plat application, the subdivider shall submit engineering and construction plans and specifications for all improvements to the Planning Administrator, with the exception of plans to be submitted to DEQ. In the case of DEQ, the subdivider shall submit copies of the plans and specifications for DEQ approval to DEQ, and a copy to the Planning Administrator.
2. With the exception of the improvements identified below, all plans and specifications shall be certified by an engineer licensed in the state of Montana (engineer) to meet design standards of the subdivision regulations and requirements of conditions of approval. The Planning Administrator shall route the plans for comment to each reviewing agency or service provider (e.g., public works department, fire department authorities, electrical company, irrigation district, etc.).

C. Agency Review

1. Agencies shall be requested to submit comments to the planning administrator within fifteen (15) days.
2. The Planning Administrator shall forward comments to the subdivider, who shall address the comments. Once the subdivider makes changes, the revised documents shall be submitted to the administrator who shall route again for agency review.
3. This process is repeated until agencies have submitted written approval of the final version of the plans and specifications.
4. Once agencies submit written approval of the plans, the Planning Administrator shall provide notice to the subdivider to proceed.

D. Installation

1. Once the subdivider has received written notification from the Planning Administrator, DEQ, and other reviewing agencies, the subdivider may proceed to install improvements in accordance with the approved plans and specifications.
2. The governing body, Planning Administrator, and approval agencies may inspect any improvements at any time before, during, or after installation.
3. Field certification of installations at identified stages shall be completed by the engineer (unless other party designated and approved in the plans).

E. Certify completed improvements

1. The subdivider shall provide the following to the Planning Administrator for those improvements that were required to be designed and planned by an engineer:
 - a. As-built plans shall be drawn on the original construction plan and profile. The as-built plan shall show the actual location of all improvements as installed and shall clearly designate any and all changes from the approved plans and specifications and shall bear the signature and seal of the engineer who prepared it.
 - b. All improvements shall be certified by an engineer as being built in substantial compliance with the approved plans and specifications.
 - c. The subdivider's engineer shall submit a copy of the field inspection logs along with the certification.
 - d. If there are no changes in actual installation compared to plans, the engineer shall certify improvements were completed and the same as designed.
2. The subdivider shall provide the following to the Planning Administrator for those improvements that were not required to be designed and planned by an engineer:
 - a. The subdivider's contractor shall submit a signed, notarized statement certifying the improvements as installed meet the applicable design standards and conditions of approval. The statement shall include the exact wording of the standards and conditions.

F. Agency approval

The subdivider shall submit verification from review agencies and service providers that improvements have been installed to the agencies' specifications. This shall be indicated by the agency's approval signature on the as-built plans.

G. Governing Body Review

If any improvements are to be dedicated to the public and accepted for maintenance by the governing body, the governing body or its designee shall inspect the improvements prior to dedication and acceptance. In such cases the subdivider shall warranty such improvements as free from defect for a period of one year, during which time the governing body may require the subdivider to make all necessary repairs to bring the improvement to like-new condition in accordance with the specifications of these regulations. A financial guarantee may be required to secure the warranty.

H. Final As-Built Drawings

Prior to final approval of any improvements by the governing body, the subdivider shall submit final as-built drawings to the Planning Administrator. If any change to the improvements has been made subsequent to step F, the subdivider shall provide updated agency approvals on the final as-built drawings.

I. Final Approval

Once the installation and as-builts have been approved by all agencies and the governing body, the subdivider may proceed to final plat application. The subdivider may proceed with the process for a Subdivision Improvements Agreement (Chapter 6) for those improvements that may be completed after final plat (as identified in section 11-4-7 above).

11-12-3 SUBDIVISION IMPROVEMENTS AGREEMENT PROCESS

Improvements that are not essential to public health and safety and human habitation (per section 11-12-1.C above) may be completed after final plat if secured with a Subdivision Improvements Agreement (SIA) and financial guarantee. The SIA is a contract between the subdivider and the governing body designed to document the outstanding improvements, establish the estimated cost and timeframe for completing the improvements, and provide a mechanism and financial security for the governing body to install the improvements in the event the subdivider fails to install them.

A. Governing Body Approval of Improvements Installed Prior to Final Plat

Once the governing body has approved those improvements, the subdivider may move to the next step of identifying and securing improvements to be completed after final plat.

B. Subdivider Submits List of Improvements and Cost

1. Subdivider submits a list of remaining improvements and cost estimates for improvements that are not necessary to protect public health and safety (as identified in A.3 above).
2. The improvement plans and specifications should already have agency approval. If not, that shall be done as part of this step. The governing body shall not enter into a SIA until all Department of Environmental Quality and other federal, state, and local approvals are obtained.
3. The cost of the improvements shall be determined by the subdivider's engineer providing an itemized list of all outstanding improvement costs, including all labor, equipment, materials, insurance, and other items.
4. The Planning Administrator shall determine if all remaining improvements are addressed by the SIA and if they qualify for an SIA.
5. The governing body may require a second estimate of the cost of improvements. The cost of obtaining a second estimate shall be borne by the subdivider.

B. Subdivider Submits SIA and Draft Financial Security

1. The length of time of the agreement shall be determined by the governing body, not to exceed 12 months, with a possible 6-month extension. A request for extension must be submitted in writing to the planning administrator not less than 1 month prior to the end of the 12-month period. Up to two extensions may be allowed.
2. Financial Guarantee requirements are in section 11-12-4 below.

C. Review the SIA

1. The City Attorney shall review the SIA as to form and provide comments and recommendations to the governing body.
2. The Planning Administrator shall review to determine if all remaining improvements will be addressed by the SIA.
3. The governing body may also review or appoint a designee for other review.
4. Once the SIA, list of improvements, and amount and form of financial guarantee are sufficient for approval by the governing body, the subdivider shall be noticed in writing.

D. Final Plat Application

1. The subdivider submits the final plat application, including the SIA and required securities. The SIA and securities are approved by the governing body as part of the final plat approval.

E. Partial Installation of Improvements

1. Once the subdivider has received final plat approval, the subdivider may proceed to install improvements in accordance with the approved plans and specifications.
2. If the SIA has specifically provided for sequential partial installation of improvements and release of funds, the subdivider shall submit as-builts or certifications as required
3. The governing body, Planning Administrator, and approval agencies may inspect any improvements at any time before, during, or after installation.
4. Field certification of installations at identified stages shall be completed by the engineer (unless other party designated and approved in the plans).

F. Administrative Review

1. Once partial improvements are determined to comply with requirements of the SIA and in compliance with the design standards and applicable conditions of approval, partial release of funds will be made according to provisions of the SIA.

G. Completion of Improvements

1. Once all improvements are completed, the improvements shall be certified

H. Administrative Review and Approval

1. The same process as Steps F and G.
2. Once the installation and as-builts have been approved by all agencies and the governing body, the governing body will issue approval.

11-12-4 FINANCIAL GUARANTEES

Financial guarantees shall comply with the following requirements.

- A. Financial guarantees shall be in the form of a certificate of deposit in the name of the governing body, an irrevocable letter of credit redeemable only by the governing body, or cash.
- B. The amount of the financial guarantee shall include:
 - 1. An amount equal to 15% of the total cost of construction to cover an anticipated one-year warranty period after work has been completed and approved.
 - 2. An amount equal to 25% of the estimated cost of completion of improvements to cover costs of the governing body to complete improvements in the event that the subdivider does not finish the work. The governing body shall have the discretion to require up to 50% of estimated completion costs during times of rapid inflation of prices of materials, fuel, and labor or when the SIA is for a period of more than two years.
- C. The expiration of the financial guarantee shall not be less than fifteen (15) months from the date of approval of the completed improvements.
- D. Requests for partial release of the financial guarantee shall only occur after improvements are completed, certified by the subdivider and the subdivider's engineer as being built to the approved specifications, inspected and accepted by the governing body as applicable, and as-built drawings have been submitted (if applicable), and after the adopted administrative review fee has been paid by the subdivider (or withheld from the release payment to the subdivider).
- E. Requests for partial release shall only be in amounts such that the financial guarantee will always equal at least the value of the uncompleted work as per the approved cost estimate, plus the administrative fee (25-50% of uncompleted work cost estimate) and the warranty amount.
- F. After final completion, certification, inspection and acceptance (as applicable) of all improvements, and after expiration of the one-year warranty period when no defects are found (as applicable), the governing body shall return all remaining portions of the financial guarantee to the subdivider along with a letter signifying final completion of the subdivider's obligations.

11-12-5 PHASED SUBDIVISIONS

Subdividers proposing to develop a subdivision in phases rather than install all of the required improvements for the entire subdivision at one time. This mechanism allows development and costs to be deferred.

- A. Each phase of a multi-phase subdivision must be designed and installed to contain all of the capital improvements necessary for the lots to be developed and occupied independently of other phases in the subdivision. This means each phase must have complete streets and a looped water system as applicable, and other fully developed and approved infrastructure necessary to serve that phase. The requirements for what must be completely installed by final plat and what may be secured with an SIA (as described in section) apply to each phase of a subdivision.
- B. Once the final plat is accepted for one phase, the subdivider may begin the final plat process for a subsequent phase.
- C. A phasing plan is required to be submitted at the preliminary plat review stage. However, if the subdivider seeks to phase development after the preliminary plat review stage, additional review by the planning board and governing body shall be required (, Chapter 12,

11-12-6 EXTENDING CAPITAL FACILITIES TO A SUBDIVISION

- A. The subdivider shall cause to be designed and installed all streets, sewer lines, water supply lines, storm drainage, electrical and telephone utilities, fire protection facilities, pedestrian and bicycle facilities and easements necessary to serve the subdivision in accordance with these regulations.
- B. The subdivider shall be responsible for 100% of the costs of providing these services to the subdivision but shall not be held responsible for installing improvements that are not directly related to the anticipated impacts of the subdivision or are disproportionate to the anticipated impacts of the subdivision, as determined by the governing body.
- C. In the event a subdivider is willing to install improvements with a greater capacity than required by the subdivision, a payback agreement may be developed and administered by the governing body to help the subdivider recover upfront costs.

CHAPTER 13 – AMENDMENTS

13.1.1 AMENDMENTS

- A. The governing body may, from time to time, amend this chapter. An amendment to adopted subdivision regulations may be initiated:
 - 1. By majority vote of the governing body;
 - 2. By petition of at least 15% of the electors of the City of BELGRADE, as registered at the last general election; or
 - 3. By a property owner, as related to an application for any zoning, subdivision, or other land use permit or approval for their property.

- B. A petition to amend these regulations that does not meet the required number of signatures of the electors does not preclude the governing body from initiating the requested amendment by a majority vote of the governing body.

- C. Upon initiation of an amendment to these regulations, the Planning Commission shall:
 - 1. Provide public notice and participation in accordance with the public participation plan adopted by the governing body in compliance with Section 76-25-106, MCA;
 - 2. Accept, consider, and respond to public comment on the proposed amendment.
 - 3. Make a preliminary determination as to whether the amendment is in substantial compliance with the land use plan and zoning regulations, including whether the amendment:
 - a. Enables the development of projected needed housing types identified in the land use plan and zoning regulations;
 - b. Reflects applicable strategies from the land use plan and zoning regulations to encourage the development of housing within the jurisdiction;
 - c. Facilitates the adequate provision of public safety, emergency, utility, transportation, education, and any other local facilities or services for proposed development, as identified in the land use plan and zoning regulations;
 - d. Reflects standards that provide for existing, new, or expanding commercial, industrial, and institutional enterprises identified in the land use plan and zoning regulations for economic growth;
 - e. Protects and maximizes the potential use of natural resources within the area, as identified in the land use plan and zoning regulations;
 - f. Contains standards that minimize or avoid impacts to the natural environment within the area, as identified in the land use plan and zoning regulations; and
 - g. Contains standards that avoid or minimize dangers associated with natural hazards in the jurisdiction, as identified in the land use plan and zoning regulations.
 - 4. Make a preliminary determination whether the proposed amendment results in any new or increased potential impacts to or from local facilities, services, natural resources, natural

environment, or natural hazards from those previously described and analyzed in the assessments conducted for the land use plan and zoning regulations.

- D. If the Planning Commission finds new or increased potential impacts from the amendment, pursuant to subsection (3)(d) , the local government shall collect additional data and conduct additional analysis necessary to provide the Planning Commission and the public with the opportunity, pursuant to the public participation plan adopted by the governing body in compliance with Section 76-25-106, MCA, to comment on and consider all potential impacts resulting from adoption of the proposed amendment.
- E. After meeting the requirements of subsection (4), the Planning Commission shall make a final recommendation to the governing body to approve, modify, or reject the proposed subdivision regulation or amendment to a subdivision regulation.
- F. The governing body shall consider any proposed amendment after receiving a recommendation from the Planning Commission.
- G. After providing public notice and participation in accordance with the public participation plan adopted by the governing body in compliance with Section 76-25-106, MCA, the governing body may adopt the amendment, adopt the amendment with revisions that the governing body considers appropriate, or reject the amendment recommended by the Planning Commission.
- H. The governing body may not amend these regulations unless the governing body finds:
 - 1. The amendment is in substantial compliance with the adopted land use plan and zoning regulations of the City of Belgrade; and
 - 2. The impacts resulting from development in substantial compliance with these regulations as amended have been made available for public review and comment, which have been fully considered by the governing body.
- I. After the amendment has been adopted by the governing body, there is a presumption that:
 - 1. All subdivisions in substantial compliance with the amended regulations are in substantial compliance with the land use plan and zoning regulations; and
 - 2. The public has been provided with a meaningful opportunity to participate.

CHAPTER 14 APPEALS

Appeals of any final decisions made pursuant to these regulations must be made in accordance with this section.

11-14-1 APPEAL OF ADOPTION OR AMENDMENT OF REGULATIONS

For a challenge to the adoption of or amendment to these regulations, a petition setting forth the basis for the challenge must be presented to the district court within thirty (30) days of the date of the resolution or ordinance adopted by the governing body.

11-14-2 APPEAL OF ADMINISTRATIVE DECISION

- A. Any final administrative land use decision, including but not limited to approval or denial of a preliminary plat or final plat, imposition of a condition on a plat, approval, or denial of a variance from a subdivision regulation may be appealed by the applicant or any aggrieved person to the Planning Commission.
- B. An appeal under this subsection must be submitted in writing within fifteen (15) business days of the challenged decision, stating the facts and raising all grounds for appeal that the party may raise in district court.
- C. The Planning Commission shall hold a public hearing to hear the appeal de novo. The Planning Commission is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal.
- D. The appellant has the burden of proving that the appealed decision was made in error.
- E. Notice of the appeal must be published as provided in Section 7-1-2121, MCA or Section 7-1-4127, MCA, as applicable.
- F. A decision of the Planning Commission on appeal takes effect on the date when the Planning Commission issues a written decision.

11-14-3 APPEAL OF PLANNING COMMISSION DECISION

- A. Any final decision by the Planning Commission may be appealed by the applicant, Planning Administrator, or any aggrieved person to the governing body.
- B. An appeal under this subsection must be submitted in writing within fifteen (15) business days of the challenged decision, stating the facts and raising all grounds for appeal that the party may raise in district court.
- C. The governing body shall hold a public hearing to hear the appeal de novo. The governing body is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.
- D. Notice of the appeal must be published as provided in Section 7-1-2121, MCA or Section 7-1-4127, MCA., as applicable.
- E. A decision of the governing body on appeal takes effect on the date when the governing body issues a written decision.
- F. No person may challenge in district court a land use decision until that person has exhausted the person's administrative appeal process as provided in this section.

11-14-4 APPEAL OF GOVERNING BODY DECISION

- A. Any final land use decision of the governing body may be challenged by presenting a petition setting forth the grounds for review of a final land use decision with the district court within thirty (30) calendar days after the written decision is issued.
- B. A challenge in district court to a final land use decision of the governing body is limited to the issues raised by the challenger on administrative appeal.

11-14-5 BASIS OF DECISIONS

Every final land use decision made pursuant to this section must be based on the administrative record as a whole and must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

CHAPTER 15 ENFORCEMENT OF THESE REGULATIONS

11-15-1 ENFORCEMENT

- A. Enforcement of this chapter is the responsibility of the Planning Administrator.
- B. Any failure to comply with terms of any exemption, plat, variance, condition, or other approval issued under these regulations shall constitute a violation of these regulations.
- C. Upon learning that any provisions of these regulations are being violated, the Planning Administrator must notify the owner in writing, by mail or hand delivery to the address of the owner of record on file in the office of the County Recorder, indicating the nature of the violation(s) and ordering the action(s) necessary to correct the violation(s). The written notice shall provide the owner with a schedule of the civil penalties that may be imposed on the owner for failure to cure the violation and a reasonable time period within which the violation(s) must be cured.
- D. If the owner does not take the action(s) necessary to correct the violation(s) identified in the written notice by the date provided, the City of Belgrade may, in addition to other remedies provided by law:
 - 1. Institute and maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter; or
 - 2. Criminally prosecute any person responsible for violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter as a misdemeanor punishable by a fine not to exceed \$500 per day for each violation.
 - 3. Nothing herein contained prevents the city from taking such other lawful action as is necessary to prevent or remedy any violation.
- E. In any enforcement action taken under this section or remedy sought thereunder, the parties shall pay their own costs and attorney fees.

11-15-2 PENALTIES

- A. A local government may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter. Section 76-25-504, MCA

- B. Prior to seeking civil penalties against a property owner, a local government shall provide:
 - 1. written notice, by mail or hand delivery, of each ordinance violation to the address of the owner of record on file in the office of the county recorder;
 - 2. a reasonable opportunity to cure a noticed violation; and
 - 3. a schedule of the civil penalties that may be imposed on the owner for failure to cure the violation before expiration of a time certain.

- C. A local government may, in addition to other remedies provided by law, seek:
 - 1. an injunction, mandamus, abatement, or any other appropriate action provided for in law;
 - 2. proceedings to prevent, enjoin, abate, or remove an unlawful building, use, occupancy, or act; or
 - 3. criminal prosecution for violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter as a misdemeanor punishable by a fine not to exceed \$500 per day for each violation.

- D. In any enforcement action taken under this section or remedy sought thereunder, the parties shall pay their own costs and attorney fees.

CHAPTER 16 DESIGN STANDARDS AND SPECIFICATIONS POLICY

11-16-1 ADOPTION

The "City of Belgrade Design Standards and Specifications Policy, 2004", adopted as appendices to ordinance 2004-1, is hereby incorporated by reference as fully as if set forth in full and at length. Copies are on file in the city office. (2009 Code)

CHAPTER 17 CONDITIONS AND COVENANTS

11-17-1 INTENT

The following conditions and covenants are commonly required as part of the subdivision review and approval process in the city of Belgrade. The primary purpose of this chapter is to give applicants an idea of some of the conditions and covenants that may be attached to the approval of their project. While the planning department attempts to utilize standard conditions, please be aware that these conditions and covenants are likely to change as the subdivision review process evolves, and as site-specific conditions may warrant. (Ord. 2011-2, 5-16-2011)

11-17-2 WATER CONVEYANCE FACILITIES:

A. Conditions Related to Water Conveyance Facilities:

1. Water conveyance facilities and the required water conveyance facility noninterference setback shall be shown on the final plat and clearly labeled. Plats shall depict irrigation ditches, canals, or pipelines by their centerline.

The following note shall appear on the final subdivision plat:

- a. Any water conveyance facility non-interference setback or easement shown on the subdivision plat does not eliminate any secondary easement described by Section 70-17-112, MCA.
- b. Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, stormwater, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.
- c. The subdivider shall not undertake any activity that would result in the interference or obstruction in the transmission of water in any water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the subdivider shall provide written notice to the water users and/or water conveyance facility's authorized representatives and allow them an opportunity to inspect such work.

B. Covenants Related to Water Conveyance Facilities:

1. No water may be removed from any irrigation ditch, canal, or other water conveyance facility without a water right, permit, or written water lease agreement with the appropriate water users and/or water conveyance facility's authorized representatives.
2. Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, stormwater, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.
3. The owners' association shall remove any trash or debris that originated from within the subdivision and has accumulated in the water conveyance facilities passing through their subdivision by no later than April 1 of each year. If the owners' association fails to remove the trash or debris as described above, the water users and/or water conveyance facility's authorized representatives may cause the trash or debris to be removed and bill the owners' association for such efforts. Until such time that the owners' association assumes responsibility for the requirements described herein, such requirements shall be the responsibility of the developer.

4. Lot owners are hereby notified of the water users, water conveyance facility's authorized representatives, and/or their designee's right to access the property to maintain and repair the water conveyance facility (this includes, but is not limited to, placement of excavated material, removal of vegetation and debris along the water conveyance facility); to install, repair, and/or adjust headgates and other diversion structures; and to carry out other normal means of repair and maintenance related to the ditch/canal.
5. To assure noninterference with water conveyance facilities, no livestock grazing shall take place, nor shall any new structures (other than structures for the maintenance and operation of the water conveyance facility), fences, landscaping (other than grass), or roads, may be installed or erected within the water conveyance facility noninterference setback, except where agreed to in writing by the water users and/or water conveyance facility's authorized representatives. (Note: Where the water users and/or water conveyance facility's authorized representatives agree to something else as part of the subdivision review process, this covenant would need to be amended to reflect those changes.)
6. Neither the owners' association nor any lot owners shall undertake any activity that would result in the interference or obstruction in the transmission of water in the water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives prior to commencing such work. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the person responsible for such work shall provide written notice to the water users and/or water conveyance facility's authorized representatives and allow them an opportunity to inspect such work.
7. Lot purchasers are hereby notified that Montana law provides specific protections in regards to liability and nuisance claims for agricultural operations and irrigators. Those specific protections include, but are not limited to, Montana Code Annotated sections 85-7-2211, 85-7-2212 and 27-30-101. (Ord. 2011-2, 5-16-2011)