

***Park County Subdivision Regulations COLOR-CODED DRAFT***

**State-Required Provisions:** Black text identifies provisions that are based on, implement, or are required by the Montana Subdivision and Platting Act (MSPA) or other applicable state statutes. In some instances, the language closely tracks the statute; in others, it has been reorganized, clarified, or supplemented with implementing language while remaining consistent with the applicable statutory requirements and intent. Statutory citations are provided to identify the legal authority for each provision rather than to indicate that the text is quoted verbatim.

**Park County-Specific Provisions:** Text in green reflects local policy choices, standards, procedures, or clarifications that go beyond state minimum requirements and are specific to Park County.

*All provisions in this document are authorized by Montana law. However, the provisions shown in green represent discretionary local decisions made by Park County rather than requirements expressly mandated by state statute.*

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**I. GENERAL PROVISIONS**

- A. Title. These regulations will be known and may be cited as “The Park County Subdivision Regulations”; hereinafter referred to as “these regulations.”
- B. Authority. Authorization for these regulations is contained in the Montana Subdivision and Platting Act [Title 76, Chapter 3, MCA].
- C. Effective Date and Applicability.
  - 1. These regulations take effect upon adoption by the Park County Commission through an approved resolution. Subsequent amendments to these regulations will take effect upon their approved resolution date, with the regulations with amendments approved most recently considered the current regulations in effect.
  - 2. Subdivision review and approval, conditional approval or denial shall be based on the regulations in effect at the time a subdivision application and preliminary plat are deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, subdivision review shall be based on the new regulations.
- D. Purpose. Adopted pursuant to the Montana Subdivision and Platting Act (MSPA), Title 76, Chapter 3, MCA, to implement the purposes stated in §76-3-102 and to reasonably provide for the matters listed in §76-3-501, subdivision review in Park County is intended to:
  - 1. Protect public health, safety, and general welfare by regulating the subdivision of land and avoiding or minimizing congestion, overcrowding, and unsafe conditions.

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2. Ensure adequate public services and facilities, including transportation, water supply, sewage disposal (subject to §76-3-511, MCA), drainage, parks and recreation areas, ingress and egress, and other public requirements.
3. Coordinate roads within subdivided land with existing and planned roads and provide for necessary dedication and improvement of rights-of-way and public utility easements.
4. Promote development in harmony with the natural environment, including preservation of open space and use of cluster design to minimize costs to the public and support efficient service provision.
5. Protect the rights of property owners and require uniform monumentation and the lawful transfer of interests by reference to approved plats or certificates of survey; allow phased development where appropriate.
6. Avoid unnecessary environmental degradation and risks to health and safety from natural hazards, including flooding and wildland fire; subdivision designs and conditions should be consistent with Park County Flood Hazard Management Regulations and the Community Wildfire Protection Plan.
7. Consider the cumulative effects of proposed and reasonably foreseeable development on public facilities and services, transportation systems, natural resources, scenic values, and community character, and will condition or deny proposals when impacts cannot be avoided or effectively mitigated under the MSPA.
8. Maintain or enhance natural infiltration and recharge functions; protect surface and groundwater quantity and quality; and incorporate site design, drainage, and wastewater solutions that avoid impairment of water resources and downstream users.

#### E. Jurisdiction.

1. These regulations govern the subdivision of land within the jurisdictional area of the Board of Commissioners of Park County, Montana.
2. If a proposed subdivision lies within one mile of the Town of Clyde Park or within two miles of the City of Livingston, the county Board of Commissioners must submit the preliminary plat to the city or town Board of Commissioners or its designated agent for review and comment. If a proposed subdivision lies partly within the City of Livingston or the Town of Clyde Park, the preliminary plat must be submitted to, and approved by, both the City of Livingston or the Town of Clyde Park and their governing bodies.
3. When a proposed subdivision is also proposed to be annexed to a municipality, the Board of Commissioners of the municipality will combine public hearings and

otherwise coordinate the subdivision review process and annexation procedures whenever possible.

4. These regulations supplement all other regulations, and where there are discrepancies with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply. Other regulations include, but are not limited to, zoning regulations, floodplain regulations, building codes, development codes, and fire codes.
- F. Severability. If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.
- G. Construction Timing.
1. A person may not erect any facility for supply of water, disposal of sewage or solid waste, erect any building or shelter that requires facilities for the supply of water, disposal of sewage, or solid waste, or any other public or private improvement, until the governing body has given conditional approval of the preliminary plat. In addition, a person shall not begin construction on facilities to be used by the public such as roads, parks or utilities until the governing body has given conditional approval of the preliminary plat. Construction work undertaken prior to the preliminary plat approval subjects the subdivider to the possibility the work will have to be redone or removed, as determined by the Subdivision Administrator. There shall be no site disturbance of any area within 100 feet of a stream or riparian area prior to preliminary plat approval.
  2. If unauthorized construction has occurred prior to preliminary plat approval, the Subdivision Administrator may determine the application to be insufficient for review until one or more of the following actions have occurred:
    - a. The unauthorized construction has been removed or restored to pre-construction conditions; or
    - b. The applicant has submitted revised plans, studies, and mitigation measures demonstrating that the unauthorized construction does not conflict with subdivision regulations, agency requirements, or adopted review criteria.
  3. If removal, redesign, or mitigation of unauthorized construction results in a substantive change to the proposed subdivision design, infrastructure layout, or supporting documentation, the Subdivision Administrator shall require the applicant to resubmit the preliminary plat application, and review timelines shall restart upon acceptance of a complete resubmittal.
- H. Transfers of Title. Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or

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transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the applicant may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met [Section 76-3-303, MCA]:

1. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
  2. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder;
  3. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
  4. That the contracts contain the following language conspicuously set out therein:  
“The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner;”
  5. That the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and
  6. A copy of the contracts and escrow agreement described above shall be submitted to the Subdivision Administrator. The purchase price may be blacked out.
- I.  **Permission to Enter.** The Board of Commissioners or its designated agent(s) or affected agencies identified during the pre-application meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the applicant and to subsequently monitor compliance with any conditions if the preliminary plat is conditionally approved. The submission of a subdivision application constitutes a grant of permission by the applicant for the Board of Commissioners, its agents, and affected agencies to enter the subject property.
- J.  **Roles and Responsibilities.** Subdivision review in Park County requires coordinated action among county officials, advisory bodies, state and local agencies, applicants, and the public. The responsibilities, authorities, and expectations of each through the review and approval process is established below.
1. **Board of County Commissioners (Governing Body).** The Board of County Commissioners is the final decision-making authority for all subdivisions reviewed under these regulations. Their powers and responsibilities include:

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- a. Final Decision Authority: Approves, conditionally approves, or denies subdivision applications and preliminary plats based on the criteria of §76-3-608, MCA, these regulations, applicable zoning, and other adopted county regulations.
  - b. Public Hearings: Conducts required public hearings and ensures legal notice requirements are fulfilled.
  - c. Conditions of Approval: Establishes and enforces conditions necessary to mitigate impacts, ensure public health and safety, and achieve compliance with adopted regulations.
  - d. Review of Variances: Grants or denies variances pursuant to Section VII-B of these regulations.
  - e. Review of Covenants: Approves and may require specific county-imposed restrictive covenants related to subdivision approval.
  - f. Final Plat Approval: Certifies final plats that satisfy preliminary plat conditions, state law, and the Uniform Standards for Final Subdivision Plats.
  - g. Interpretation: Interprets these regulations when necessary to clarify intent, application, or implementation.
2. Subdivision Administrator (Planning Department). The Planning Department, acting as the Subdivision Administrator, performs the day-to-day administration of subdivision review. Their powers and responsibilities include:
  - a. Primary Point of Contact: Serves as the initial and continuous point of contact for applicants, agencies, and the public.
  - b. Pre-Application Process: Conducts required pre-application meetings, identifies applicable regulations, and provides agency contact lists and submittal expectations.
  - c. Element & Sufficiency Review: Determines whether subdivision applications contain all required materials (element review) and whether information is adequate for review (sufficiency).
  - d.  Staff Reports: Prepares written staff reports and recommendations for the Planning Board and Board of Commissioners.
  - e. Agency Coordination: When applicable, distributes applications to relevant state, federal, local, and utility agencies for comment; ensures agency responses are appropriately tracked and conveyed.
  - f. Application Management: Tracks statutory review timelines, suspensions, extensions, and resubmittals; provides written notices to applicants as required by the MSPA.
  - g. Field Review: Visits proposed subdivision sites as authorized under Section I-I to verify application information and evaluate compliance with conditions.

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- h. Exemptions Review: Reviews claimed exemptions from subdivision review and prepares written determinations regarding potential evasion of MSPA.
    - i. Documentation & Record-Keeping: Maintains official files, staff analyses, correspondence, and public records associated with subdivision applications.
    - j. Final Plat Review: Verifies compliance with preliminary plat conditions, reviewing agency approvals, and all final plat submittal requirements prior to scheduling before the Board.
- 3. Planning Board. The Planning Board acts as an advisory board to the Board of County Commissioners. Their powers and responsibilities include:
  - a. Public Hearings: Conducts public hearings for subsequent minor and major subdivisions and collects public comment, including on water and sanitation information.
  - b. Review & Recommendation: Evaluates subdivision applications for compliance with these regulations, zoning, the growth policy, and the primary review criteria, and prepares written findings and recommendations for the Board.
  - c. Variance Recommendations: Reviews and makes recommendations on requested variances to the subdivision regulations.
  - d. Consideration of New Information: When directed by the Board, reviews new relevant and credible information at subsequent public hearings.
- 4. Park County Departments and Officials. Multiple county departments contribute to the review of subdivision applications, as needed.
  - a. Environmental Health Department
    - i. Reviews required water and sanitation materials.
    - ii. Provides written determinations or forwards materials to DEQ as appropriate.
    - iii. Advises on on-site wastewater, water availability, and environmental health concerns.
  - b. Public Works Department
    - i. Reviews proposed road plans, profiles, intersections, and approaches.
    - ii. Verifies compliance with county road standards, sight distance, materials, and construction specifications.
    - iii. Conducts inspections and provides approvals related to road improvements.
  - c. County Attorney, Treasurer, Clerk & Recorder
    - i. Providing review of exemption claims, tax status, title documents, and plat formatting.
    - ii. Certify legal sufficiency, recording requirements, tax payments, and proper form.
  - d. Floodplain Administrator

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- i. Reviews subdivisions for compliance with Park County Floodplain Regulations.
- ii. Requires flood hazard evaluations where necessary and verifies buildable areas outside flood hazard zones.
- e. Fire Protection Authority (FPA)
  - i. Reviews submitted fire protection plans for adequacy, including access, water supply, emergency response considerations, and wildfire mitigation.
  - ii. Provides written or verbal recommendations regarding fire safety to the Planning Board and Board of County Commissioners.
  - iii. May conduct site visits, when authorized, to assess terrain, fuel loads, access conditions, or other fire-related risks.

## II. GENERAL PROCEDURES

### A. Pre-Application.

1. Prior to submitting a subdivision application, the applicant(s) shall request a pre-application meeting with the Subdivision Administrator or authorized agent. The meeting shall occur within 30 days after the applicant(s) submits a written request for the meeting to the Subdivision Administrator or authorized agent, along with all required information outlined in the Pre-Application Meeting Process supplement. At the pre-application meeting, all landowners of land included within the subdivision must be present or represented by an agent with a notarized power of attorney.
2. At the time the applicant requests to schedule a pre-application meeting, the applicant shall provide to the Subdivision Administrator or authorized agent a pre-application packet containing the information specified in the Pre-Application Meeting Checklist as maintained and provided by the Park County Planning Department.

### B. Preliminary Plats

1. Subdivision Application and Preliminary Plat Submittal.
  - a. The applicant shall submit to the Subdivision Administrator the Subdivision application addressing these topics and containing the following materials, all described in more detail in application forms provided by the Subdivision Administrator, as applicable:
    - (1) A completed and signed Subdivision Application Form;
    - (2) The required review fee and fire review fee;
    - (3) A preliminary plat;
    - (4) A vicinity sketch;
    - (5) A topographic map;

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- (6) A grading and drainage plan;
- (7) Certification of adjoining property owner's list;
- (8) Preliminary plans for all public and private improvements;
- (9) Overall development plan if development is in phases;
- (10) Abstract of Title (or Title Report);
- (11) Lienholders' acknowledgement of Subdivision;
- (12) Documentation of legal and physical access;
- (13) Existing covenants and deed restrictions;
- (14) Existing water rights;
- (15) Existing mineral rights;
- (16) Proposed road plans and profiles;
- (17) Encroachment permits from Montana Department of Transportation or the local jurisdiction;
- (18) Proposed and existing easements, including those for agricultural water user facilities;
- (19) Proposed disposition of water rights;
- (20) Proposed disposition of mineral rights;
- (21) Letter from Park County Health Department addressing water availability.
- (22) Parkland dedication calculations or alternative plans;
- (23) Environmental Assessment;
- (24) Community Impact Report;
- (25) Summary of Probable Impacts;
- (26) Transportation Impact Analysis or transportation plan;
- (27) Fire Protection Plan, as well as whether or not the proposed Subdivision is in the wildland-urban interface as may be identified by the United States Forest Service (USFS), the Montana Department of Natural Resources and Conservation, a local Fire Protection Authority (FPA), a local Growth Policy, or a Community Wildfire Protection Plan (CWPP);
- (28) Water and sanitation information per 76-3-622, MCA;
- (29) Weed management plan and re-vegetation plan;
- (30) Property owners' association documents, including draft articles of incorporation, declaration and bylaws;
- (31) Flood Insurance Rate Map (FIRM) or Federal Emergency Management Agency (FEMA) panel map and letter identifying floodplain status;
- (32) Required water and sanitation information;

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- (33) A form of Subdivision Improvements Agreement, if proposed;
  - (34) Letter requesting a revocation of agricultural covenants;
  - (35) Letter indicating presence of cultural or historic resources;
  - (36) Variance request that complies with the provisions under section VII-B of these regulations;
  - (37) Re-zoning application or approval;
  - (38) Permission from existing homeowners' association, if applicable;
  - (39) Letter identifying and proposing mitigation for potential hazards or other adverse affects as identified in the pre-application meeting and not covered by any of the above required materials; and
  - (40) Such additional relevant and reasonable information as identified by the Subdivision Administrator during the Subdivision review process that is pertinent to the required elements of this section.
2. Preliminary Plat Review. The preliminary plat review process ensures that applications are both complete and sufficiently detailed for evaluation under these regulations and the Montana Subdivision and Platting Act. The application fee includes up to two rounds of element and sufficiency review. If more than two rounds of either review are required, an additional review fee shall be assessed for each subsequent round beyond the second. The steps below outline the required element review and sufficiency reviews for all minor and major subdivisions:
- a. Element Review - [76-3-604(1)(a), MCA]
    - i. Within five working days of receiving a Subdivision application and applicable fee(s), the Subdivision Administrator shall review the submission to determine whether it contains all materials required under Section II-B of these regulations. The Subdivision Administrator shall then provide the applicant written notice of the determination.
    - ii. For incomplete applications when required materials are found missing through the Element Review, the Subdivision Administrator shall identify the missing items in writing and no further processing of the application will occur until the missing materials are submitted. If the applicant does not submit the missing materials within one year of the initial notice, the application is considered withdrawn and void.
  - b. Sufficiency Review - [76-3-604(2)(a), MCA]
    - i. Within 15 working days after the Subdivision Administrator notifies the applicant that the application contains all of the required materials and has completed the Element Review, as described above, the Subdivision Administrator shall determine whether the application contains sufficient

detailed information to allow for the full review of the proposed Subdivision under these regulations. Written notice shall be provided to the applicant.

- ii. If the Subdivision Administrator determines that the information in the application is not sufficient to allow for review of the proposed Subdivision, the Subdivision Administrator shall identify specific required information and notify the applicant in writing, and no further action will be taken on the application by the Subdivision Administrator until the applicant correct the deficiencies and submit the required information.
- iii. The applicant shall submit all required information necessary to address identified deficiencies within one year from the date of the first written insufficiency determination letter issued by the Subdivision Administrator.
  - A) The one-year period shall not restart or be extended by subsequent determinations of insufficiency or resubmittals.
  - B) Failure to submit sufficient information within this one-year period shall result in the application being deemed withdrawn and null and void.
- iv. Upon submittal, the Subdivision Administrator shall have 15 working days to notify the applicant whether the revised materials are sufficient.
- v. This sufficiency review process may be repeated within the one-year period established in subsection (iii) until either the application is determined sufficient for review, or the application is withdrawn or deemed null and void.
- vi. If, during the sufficiency review process, the applicant makes material changes to the proposed subdivision, the application shall be deemed withdrawn and a new application shall be required. Material changes include, but are not limited to: changes to the number, configuration, or arrangement of lots; changes to access points, internal road layout, or primary circulation; and changes that substantially alter the scope, intensity, or impacts of the proposed subdivision. In such cases, the applicant shall be required to restart the subdivision review process, including pre-application meeting, and submit a new application subject to all applicable requirements in effect at the time of resubmittal.
- vii. A determination that an application contains sufficient information for review as provided in the Sufficiency Review does not guarantee that the proposed Subdivision will be approved or conditionally approved by the Board of Commissioners and does not limit the ability of the Subdivision Administrator, Planning Board, or the Board of Commissioners to request additional information during the review process.

viii. A determination of sufficiency by the Subdivision Administrator pursuant to this subsection does not limit the DEQ from requiring additional water and sanitation information as part of the DEQ's independent review of water and sanitation information.

3. Restrictive Covenants.

- a. The Board of Commissioners may require that all County-imposed restrictive covenants governing the use of land within the Subdivision, whether proposed by the applicant(s) or required by the Board of Commissioners, be set forth in a separate heading identifying them as plat approval Covenants, and indicating: "These County-imposed covenant(s) may not be repealed or amended without prior written consent of the Board of Commissioners."
- b. The Board of Commissioners may require that specific restrictive Covenants it has required as a condition of plat approval contain the following language: "Park County is a party to this restrictive covenant and may enforce its terms."
- c. If common property is to be deeded to a property owners' association, the Covenants and by-laws which govern the association must, at a minimum, provide for the:
  - i. Formation of a property owners' association concurrently with the filing of the final Subdivision plat. Articles of Incorporation shall be filed with the Secretary of State's office;
  - ii. Mandatory membership for each property owner. Purchasers of property shall be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements; The infrastructure to which the waiver applies needs to be specified, and the waiver is limited to 20 years from the date of filing the final plat.
  - iii. Perpetual reservation of the common property when required under Section 76-3-621(6)(a), MCA;
  - iv. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
  - v. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
  - vi. Adjustment of assessments to meet changing needs;
  - vii. Means of enforcing the Covenants, and of receiving and processing complaints;
  - viii. Transition of control of the association from the declarant to the homeowners;

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4. Planning Board Review and Recommendation of Preliminary Plats. After the Subdivision Administrator notifies the applicant that the application is sufficient for review, the Planning Board shall consider the subdivision application at a regularly scheduled meeting determined by the Subdivision Administrator, based on the time necessary to complete staff review, prepare required notices and reports, and satisfy applicable public notice requirements. The Planning Board is responsible for providing a recommendation for approval, conditional approval, or denial of the subdivision application and preliminary plat to the Board of County Commissioners.
  - a. In recommending approval, conditional approval, or denial of the subdivision application and preliminary plat, the Planning Board shall base its recommendation on whether the subdivision complies with the criteria established in Section 76-3-608, MCA.
  - b. The Subdivision Administrator shall, within ten working days of the meeting, provide a written recommendation to the applicant and the Board of County Commissioners containing:
    - i. Findings of fact based on the consideration evidence;
    - ii. A recommendation for approval, conditional approval (including mitigation measures), or denial.
    - iii. A recommendation on requested variances.
    - iv. Forwarding of public comments to the Commission.
5.  Applicant Response and Preference for Mitigation.
  - a. In response to the Planning Board's recommendation, the applicant may submit:
    - i. Comments on and responses to the Planning Board's recommendations; and
    - ii. Any proposed mitigation measures not already discussed with the Planning Board.
  - b. Such comments and proposed mitigation measures must be submitted to the Subdivision Administrator at least one full calendar week prior to the Board of County Commissioners meeting.
  - c. The Board of County Commissioners shall consult with the applicant and give due weight and consideration to the applicant's expressed preference regarding mitigation, consistent with § 76-3-608(5)(b), MCA.
6. Governing Body Review and Decision of Preliminary Plats.
  - a. First Minor Subdivisions. Within 35 working days after the day the Subdivision Administrator notifies the applicant in writing that the application is sufficient for review, and after the Planning Board recommendation, the Board of County Commissioners shall approve, conditionally approve, or deny the preliminary plat.

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- i. The 35-working-day period may be extended or suspended only upon written agreement between the applicant and the Subdivision Administrator, not to exceed one year. The review period is suspended during consideration of amended applications as provided in Section III-H.
  - b. Subsequent Minor and Major Subdivisions. Within 60 working days, or 80 working days if the proposed subdivision contains 50 or more lots, the Board of County Commissioners shall approve, conditionally approve, or deny the preliminary plat. The 60- or 80-working-day period begins the day after the Subdivision Administrator notifies the applicant in writing that the application contains sufficient information for review.
    - i. The 60-80-working day period may be extended or suspended only upon written agreement between the applicant and the Subdivision Administrator, not to exceed one year. The review period is suspended during consideration of amended applications as provided in Section II-B-8, below.
  - c. Conditions of Approval. The Governing Body may impose conditions of approval to the Preliminary Plat to be addressed prior to final plat application.
  - d. Restrictive Covenants. As a condition of preliminary plat approval, the Board of Commissioners may require restrictive covenants and/or other recorded documents necessary to ensure compliance with subdivision approval conditions. All County-required covenants and recorded agreements shall be finalized to the satisfaction of the Subdivision Administrator and recorded prior to, or concurrently with, filing of the final subdivision plat. Any restrictive covenants required by the Board of Commissioners shall be clearly identified under a separate heading as "Plat Approval Covenants" and shall state:  
  
*"These County-required covenant(s) may not be repealed or amended without the prior written consent of the Park County Board of Commissioners."*
7. Public Agency and Utility Review. Review and comment by public agencies or utilities may not delay the Board of Commissioners' action on the Subdivision application beyond the review period. The Board of Commissioners will make these comments available to the applicant and to the general public upon request. If, during the review of the application, the Subdivision Administrator or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Subdivision Administrator shall notify the applicant of the contact and the timeframe for response.
8.  Amending Approved Preliminary Plats Before Final Plat Approval.

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- a. If the applicant proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the applicant shall submit the proposed changes to the Subdivision Administrator for review.
  - i. Within five working days of receiving the proposed changes, the Subdivision Administrator shall determine whether the changes to the preliminary plat are material. The following changes, although not a complete list, may be considered material:
    - A) Reconfiguration or number of lots; that results in an increased number of lots or redesign of six or more lots.
    - B) Road layout;
    - C) Water and/or septic proposals;
    - D) Configuration of park land or open spaces;
    - E) Easement provisions;
    - F) Designated primary or secondary access;
    - G) Proposed covenants; or
    - H) Change to conditions of approval.
  - ii. If the Subdivision Administrator determines the changes are material, the Subdivision Administrator shall require the applicant to begin the Subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee.
  - iii. If the Subdivision Administrator determines the changes are not material, s/he shall accept the changes, and notify the applicant and the Board of Commissioners of that decision. The Board of Commissioners shall approve of those changes in a meeting for which notice has been given of non- material changes to the final plat.
- b. An applicant whose proposed changes to the preliminary plat that have been deemed material by the Subdivision Administrator may appeal the Subdivision Administrator's decision to the Board of Commissioners by written notice within ten working days. The applicant may request a hearing and may submit additional evidence to show why the changes to the preliminary plat should not be considered material. By appealing the decision of the Subdivision Administrator, the applicant agrees to suspension of the review period. The review period will resume the next working day after the Board of Commissioners' decision concerning the appeal is made.
  - i. If the Board of Commissioners concludes that the evidence and information demonstrate that the changes to the Subdivision application or preliminary

plat are material, the Board of Commissioners shall require the Subdivision application and preliminary plat to be resubmitted.

- ii. If the Board of Commissioners concludes the evidence and information demonstrate the changes to the Subdivision application or preliminary plat are not material, the 35-working day review period resumes as of the date of the decision.

C. Final Plats

1. Final Plat Contents. The final plat submitted for approval must conform to the preliminary plat as previously reviewed and approved by the Board of Commissioners and must incorporate all required modifications and comply with all conditions imposed at the time of Subdivision application and preliminary plat approval. The final plat and accompanying documents shall comply with the Montana Uniform Standards for Final Subdivision Plats [ARM 24.183.1101, 1104, and 1107]
2. Final Plat Review.
  - a. Final Plat Submittal. The final plat approval application form and all supplementary documents must be submitted to the Subdivision Administrator at least 30 working days prior to the expiration of preliminary plat approval. The Subdivision 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. The submittal shall include:
    - i. The final plat application;
    - ii. The final plat review fee;
    - iii. A statement from the applicant, included in the definition of applicant or project surveyor or engineer describing how each condition of approval has been satisfied;
    - iv. A title report or updated abstract dated no less than 30 days prior to the date of submittal;
    - v. The DEQ or local environmental health department approval;
    - vi. The final grading and drainage plan, including all road plans and profiles, state or local encroachment permits, and the traffic Affect analysis (if required);
    - vii. All engineering plans;
    - viii. Any homeowner association documents, including bylaws, covenants, and declarations and deeds to the homeowner association for common property;
    - ix. One 11" x 17" and one 18" x 24" or larger copies of the final plat.
  - b. Review by Subdivision Administrator.

- i. Within 30 working days the Subdivision Administrator shall review the final plat to ascertain that all required information is included in the application and all conditions and requirements for final plat approval have been met. If the Subdivision Administrator determines that the final plat application does not comply with the applicable Subdivision regulations or conditions of final plat, the Subdivision Administrator will notify the applicant of all deficiencies and no further action will be taken until the applicant corrects the deficiencies and submits the required information to the Planning Department.
  - ii. If the Subdivision Administrator identifies deficiencies in the final plat application pursuant to Section II-B.2.B, the applicant shall have until the expiration of the governing body approval period, or 30 working days from the date of notification of the deficiencies, whichever is longer, to correct the deficiencies and submit the required information to the Planning Department.
  - iii. If the Subdivision Administrator determines that the final plat application is in compliance with all relevant Subdivision regulations and conditions of final plat, or if the governing body approval period has expired, the Subdivision Administrator will schedule a public meeting before the Board of Commissioners. At the public meeting the Board of Commissioners will review and consider the Final Plat Application and relevant information in accordance with section II-B-3.
  - iv. If the Subdivision Administrator determines that the final plat differs from the approved or conditionally approved preliminary plat, the applicant must submit an amended application pursuant to section II-B-5.
  - v. The Subdivision Administrator may require that final Subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder's Office. The applicant may be required to pay for all, or a portion of, the fees required by the examining land surveyor. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped signed certificate on the plat.
- 3. Final Plat Approval.
  - a. Approval by the Board of Commissioners. The Board of Commissioners shall examine final Subdivision plats, not including administrative minors, and shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations, or deny it pursuant to the following:

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- i. If the final plat is approved, the Board of Commissioners shall certify its approval on the face of the final plat. When applicable, a certificate of the Board of Commissioners expressly accepting any dedicated land, easements, or improvements will be filed with the final plat; or
  - ii. If the Board of Commissioners determines the final plat does not comply with all relevant Subdivision regulations or conditions of final plat, the Board of Commissioners shall write a letter stating the reason for denial and forward a copy to the applicant. The Board of Commissioners will return the final plat application and determination to the applicant within ten working days of the action. If the governing body approval time period has not expired, the applicant, after making the necessary corrections, may resubmit the final plat application in accordance with section II-B of these regulations. If the governing body approval period has expired the preliminary plat approval will become null and void.
- b. **Inaccurate Information. The Board of Commissioners may withdraw approval of a final plat if it determines that any materials or information provided by the applicant is inaccurate.**
4. **Final Plat Filing.** After it is approved, the final plat may not be altered except as provided in section 5 below, Amending Filed Plats. The County Clerk and Recorder's Office may not accept any plat for filing that does not bear the Board of Commissioners Office approval in proper form or that has been altered. The County Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats.
5. **Amending Filed Plats.**
  - a. Unless subject to section IV-C-4 of these regulations, changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the Subdivision, must be made by filing an amended plat showing all alterations. Material alterations or any alteration which cumulatively increases the number of lots or modifies six or more lots, or abandons or alters a public road Right-Of-Way or parkland dedication may be subject to resubmittal of the subdivision application and preliminary plat.
    - i. The following changes, although not a complete list may be considered material:
      - A) Reconfiguration or number of lots; that results in an increased number of lots or redesign of six or more lots.
      - B) Road layout;

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- C) Water and/or septic proposals;
    - D) Configuration of park land or open spaces;
    - E) Easement provisions;
    - F) Designated primary or Secondary Access;
    - G) Proposed covenants; or
    - H) Change to conditions of approval.
  - b. The Board of Commissioners may not approve an amended final plat without the written consent of the owners and lienholders of all lots which will be modified by the proposed amendment.
  - c. The Board of Commissioners may not approve an amendment that will place a lot in non-conformance with the standards contained in section VI [Design and Improvement Standards] of these regulations or with local zoning regulations unless the Board of Commissioners holds a public hearing on the amendment and issues a written variance from the standards pursuant to section VII-B [Variances].
  - d. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats.
6. Public Hearings.
- a. Public Hearing Required. Public hearings are required per the following schedule:

|                              | Planning Board public hearing | Board of County Commissioners public hearing |
|------------------------------|-------------------------------|----------------------------------------------|
| First minor subdivision      | Not required                  | Not Required                                 |
| Subsequent minor subdivision | Required                      | Required                                     |
| Major subdivision            | Required                      | Required                                     |

- b. Notice.
  - i. The Planning Board shall give notice of the time, date(s), and location of the hearing by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing.
  - ii. At least 15 days prior to the date of the hearing, the Planning Board shall also give notice of the hearing by certified mail to the subdivider, each adjoining landowner to the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.
  - iii. The cost associated with noticing for a public hearing is the responsibility of the subdivider.
- c. Subsequent Hearings.

- i. Per 76-3-615, MCA, at the Governing Body's public hearing on a subdivision application, the Board of County Commissioners shall determine whether any comment, document, or other evidence presented constitutes:
  - A) Information or analysis of information that was previously submitted and reviewed during the Planning Board hearing and on which the public has had a reasonable opportunity to comment; or
  - B) New information or new analysis of information that was not previously submitted or considered by the Planning Board.
- ii. The governing body may rely on the Subdivision Administrator to summarize whether information presented at the hearing is new, and whether the public has had an opportunity to review or comment on it; however, the final determination rests with the Governing Body.
- iii. If a subsequent public hearing is held, it must be held within 45 days of the Board of Commissioners' determination to schedule a subsequent hearing. The Planning Board shall consider only the new information or analysis that may have an impact on the findings and conclusions that the Board of Commissioners will rely upon in making its decision on the proposed subdivision.
- iv. Notice requirements for a subsequent public hearing are the same for an initial public hearing.
- v. If a subsequent public hearing is held, the 60-working day review period is suspended as of the date of the Board of Commissioner's decision to schedule a subsequent hearing. The 60-working day review period resumes on the date of the next scheduled public hearing before the Board of Commissioners for which proper notice can be provided.

### **III. SUBDIVISION REVIEW AND DECISION CRITERIA**

- A. Planning Board Consideration Standards. The Planning Board shall recommend approval, conditional approval, or denial of a subdivision application and preliminary plat based on whether the proposal complies with:
  - 1. These regulations, including but not limited to the design and improvement standards of Section V of these regulations.
  - 2. Applicable zoning regulations.
  - 3. Montana Subdivision and Platting Act (MSPA), including Section 76-3-608(3), as referenced in the prerequisites to approval and effects sections of these regulations.
  - 4. Other applicable regulations.

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- B. Consideration Evidence. When making its recommendation, the Planning Board may consider:
  - 1. The subdivision application, general description and required submittals.
  - 2. Preliminary plat form, contents, and supplements.
  - 3. Summary of probable impacts and Community Impact Report.
  - 4. Environmental Assessment (for subsequent minor and major subdivisions).
  - 5. Water and sanitation information.
  - 6. The adopted Park County Growth Policy.
  - 7. Staff report and recommendation from the Subdivision Administrator.
  - 8. Public hearing information and public comments.
  - 9. Any other information authorized by law.
- C. Board of County Commissioners Review and Decision.
  - 1. Prerequisite to Approval. The Board of Commissioners may not approve or conditionally approve a subdivision unless the proposed subdivision:
    - a. Provides required utility easements for planned utilities.
    - b. Provides legal and physical access to each lot, shown on the plat and any transfer instrument.
    - c. Ensures installation or guarantee of public/private improvements before or after final plat, as allowed by Section II-B-4.
    - d. Ensures compliance with MCA 76-3-504(1)(j) regarding disclosure and disposition of water rights (Section VI-O).
    - e. Ensures compliance with MCA 76-3-504(1)(k) regarding irrigation watercourse and ditch/pipeline easements (Section VI-N).
    - f. If applicable, provides WUI mitigation (Section VI-R).
    - g. Provides parkland dedication or an approved alternative (Section XXX).
    - h. Obtains approval from the DEQ regarding water and sanitation.
  - 2. Consideration of Standards. In making a decision, the Board shall consider whether the subdivision complies with:
    - a. These regulations, including but not limited to the design and improvement standards of Chapter VI.
    - b. Applicable zoning regulations.
    - c. Other applicable local regulations (e.g., floodplain, airport affected areas).
    - d. Montana Subdivision and Platting Act (MSPA), including Section 76-3-608(3), as referenced in the prerequisites to approval and effects sections of these regulations.
    - e. Mitigation, including an applicant's response to Planning Board recommendations.

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- f. The Board of Commissioners may assess all or a portion of the costs of employing outside expertise necessary to properly review a proposed subdivision to the applicant.
- 3. Consideration of Evidence. In making its decision, the Board of Commissioners may consider:
  - a. The subdivision application, general description and required submittals.
  - b. Preliminary plat form, contents, and supplements.
  - c. Summary of probable impacts and Community Impact Report.
  - d. Environmental Assessment (for subsequent minor and major subdivisions).
  - e. Water and sanitation information.
  - f.  The adopted Park County Growth Policy.
  - g. Staff report and recommendation from the Subdivision Administrator.
  - h. Public hearing information and public comments.
  - i. Any other information authorized by law.
- 4. Water and Sanitation Rules. All subdivisions are required to provide for adequate and sustainable water and sanitation provision for future lots, according to the following:
  - a. Lots < 20 acres require DEQ approval prior to final plat.
  - b. Lots ≥ 20 acres require demonstration of adequate water, septic, and replacement drainfield area.
  - c. Public comments on water/sanitation must be forwarded to the applicant within 30 days after approval/conditional approval.
  - d. The applicant must forward comments to:
    - i. DEQ for lots < 20 acres, or
    - ii. Local health department/board of health for 20–160-acre lots.
- 5. Exceptions. The following do not apply to first minor subdivisions:
  - a. Preparation of an environmental assessment, in accordance to Section 76-3-603(2), unless the first minor falls within Section 76-3-609(2)(c), MCA;
  - b. Public hearing requirements; and
  - c. Review of the subdivision application for the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, if the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those affects.
- D. Administrative Minor Subdivisions. The purpose of the Administrative Minor Subdivision process is to provide a ministerial, expedited review pathway for minor subdivisions that meet the eligibility criteria of MCA 76-3-609 and SB 170. Administrative Minor Subdivisions are reviewed only for compliance with adopted subdivision regulations and

applicable zoning regulations and are not subject to primary criteria review under MCA 76-3-608(3). This section applies only to subdivision applications that meet the eligibility criteria below.

1. Eligibility for Administrative Minor Subdivision Review. A subdivision application shall be processed as an Administrative Minor Subdivision if it meets all of the following:
  - a. The application proposes a first minor subdivision as defined in these regulations.
  - b. The subdivision has existing legal and physical access to each lot.
  - c. The subdivision has a will-serve letter from a municipal water and sewer service or by a county water and/or sewer district created under 7-13-2203 that supplies both water and sewer services.
  - d. The subdivision is located in an area that is subject to and complies with zoning regulations adopted pursuant to Title 76, Chapter 2, Part 2 or 3, that, at a minimum, address development intensity through densities, bulk and dimensional requirements, and use standards.
  - e. The subdivision does not require a variance to any of the contents of the subdivision regulations required in 76-3-504(1)(g), MCA.
2. Administrative Minor Subdivision Exemptions. An administrative minor subdivision is exempt from:
  - a. Submitting the summary of probable impacts based on criteria described in 76-3-608(3) and the environmental assessment required in 76-3-603;
  - b. Evaluation against the review criteria described in 76-3-608(3)(a); and
  - c. Review and action by the Planning Board or Board of County Commissioners.
3. Administrative Review Process. For administrative minor subdivisions, the Subdivision Administrator:
  - a. Assumes all decision-making authority of the governing body provided in 76-3-608, MCA;
  - b. May approve, conditionally approve, or deny an administrative minor subdivision and issue a written statement pursuant to 76-3-620, MCA within 30 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in 76-3-604(1) through (3), MCA; and
  - c. Shall immediately on a determination that the application meets the requirements of 76-3-604(1) through (3), MCA, notify by first-class mail of the pending application:
    - i. Each property owner of record whose property is immediately adjoining the land included in the preliminary plat; and

- ii. Each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.
4. Objections to Administrative Minor Subdivisions. If a party identified in 76-3-625(3), MCA objects to a planner's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the planner forward the application on to the governing body. The governing body shall sustain the planner's decision based on the record as a whole unless the decision was arbitrary, capricious, or unlawful. The governing body has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.
5. Other Requirements. All requirements of Title 76, Chapter 3, except those exempted in III-C-2 and III-C-3, apply to an administrative minor subdivision.

#### **IV. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW**

- A. Purpose. The MSPA provides miscellaneous exemptions for some divisions of land, which are found in Part 2 of Title 76, Chapter 3 MCA. These divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the Board determines the use of the exemption is an attempt to evade the MSPA. The following section establishes the criteria that the Governing Body or reviewing authority will use to determine whether proposed division is an attempt to evade the MSPA. Full detail regarding qualification standards and procedures should be referenced in Part 2 of Title 76, Chapter 3 MCA.
- B. Criteria to Determine Whether a Proposal is an Attempt to Evade MSPA. The Board of Commissioners and its agents, when determining whether an exemption is claimed for the purpose of evading MSPA, shall consider all of the surrounding circumstances. These circumstances include:
  1. The nature of the claimant's business;
  2. The prior history of the particular tract in question (the tract of record on file at the County Clerk and Recorder Office filed prior to July 1, 1974);
  3. The proposed configuration of the tracts if the proposed exempt transaction is completed; and
  4. Any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review. [State ex rel. Dreher v. Fuller, 849 P.2d 1045 (1993)]
- C. General Requirements for Exemptions.
  1. All parcels and the use of all parcels created or amended using an exemption shall comply with any applicable zoning regulations.

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2. The local jurisdiction may not require lots resulting from exempt divisions to comply with Chapter V, Design and Improvement Standards, unless the exemption seeks to alter a lot that was subject to the design and improvement standards of the subdivision regulations during subdivision review.
  3. To exempt divisions and/or remaining parcels of land resulting from the exemptions in Section 76-3-207, MCA from the survey requirements of MCA 76-3-401, the parcel(s) must be able to be described as a 1/32 or larger aliquot part of a United States Government section.
  4. Subject to the following, a division of land exempt from subdivision review by Section 76-3-207, MCA (family transfers, agricultural exemptions, relocation of common boundaries, or aggregations) may not be made unless the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.
  5. **The fees for examination of exemptions are set forth in Park County Resolution No 874.**
    - a. If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.
    - b. The County Treasurer may accept the amount of the tax prorated pursuant to the above subsection as a partial payment of the total tax that is due.
- D. Procedures and Review of Subdivision Exemptions.
1. Submittal. Any person seeking exemption from the requirements of MSPA shall submit to the Subdivision Administrator:
    - a. Required Documents:
      - i. A Certificate of Survey or, if a survey is not required, an instrument of conveyance; and
      - ii. Evidence of, and an affidavit affirming, entitlement to the claimed exemption.
    - b. Contract-for-Deed Clarification. For purposes of Section 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner,” and “owner” refer to the seller of the parcel under the contract-for-deed (ARM 24.183.1104).
  2. Review. When a division of land for which an exemption is claimed is submitted to the Subdivision Administrator, the Subdivision Administrator shall cause the

documents to be reviewed by the designated agents of the Board of Commissioners (e.g., county or civil attorney's office, sanitarian, treasurer, and clerk and recorder's office). The Subdivision Administrator and Board of Commissioners agents shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in MSPA, the Montana Sanitation in Subdivisions Act, and these regulations.

- a. Landowners or their agents are encouraged to meet with the Subdivision Administrator to discuss whether a proposed land division or use of an exemption is in compliance with the criteria in this Section V.
  - b. The Subdivision Administrator shall make a written determination of whether the use of the exemption is intended to evade the purposes of MSPA or these regulations, explaining the reasons for the determination.
  - c. If the Subdivision Administrator finds that the proposed use of the exemption complies with the statutes and the criteria set forth in this section, the Subdivision Administrator shall notify the Board of Commissioners and advise the Clerk and Recorder's to file the Certificate of Survey or record the instrument of conveyance and accompanying documents. If the Subdivision Administrator finds that the proposed use of the exemption does not comply with the statutes and the criteria in Chapter V, the Subdivision Administrator shall advise the Clerk and Recorder's Office not to file or record the documents, and the materials will be returned to the landowner.
3. Appeals.
- a. Any claimant whose proposed use of an exemption has been denied by the Planning Department, Health Department, or County Attorney's Office because the proposed division of land is not in compliance with these regulations or has been deemed an attempt to evade MSPA and/or these regulations may appeal the decision to the Board of Commissioners by submitting a written request to the Planning Department. The Planning Department will schedule a public meeting before the Board of Commissioners and will notify the claimant of the date and time of the scheduled meeting.
  - b. The claimant may submit additional evidence to show that the use of the exemption in question is not intended to evade MSPA or these regulations, and, thereby rebut a presumption.
  - c. If the Board of Commissioners concludes that the evidence and information overcome the presumption that the exemption is being invoked to evade the MSPA and/or these regulations, it may authorize the use of the exemption in writing. A Certificate of Survey claiming an exemption from subdivision review,

which otherwise is in proper form, and which the Board of Commissioners has found not to be an attempt to evade MSPA or these regulations, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the Board of Commissioners.

- d. If the claimant proposing to use an exemption chooses not to rebut a presumption when the Community Department, Health Department, or County Attorney's Office deems the use of the exemption an attempt to evade MSPA and/or these regulations, or if the Board of Commissioners determines that the proposed use of an exemption was for the purpose of evading the MSPA and/or these regulations, the exemption application will become null and void.
4. Divisions of Land Exempt from the Requirements of these Regulations and the Montana Subdivision and Platting Act [Section 76-3-201, MCA]. Certain divisions of land are exempt from the requirements of these regulations and the Montana Subdivision and Platting Act. Such exemptions are found in Section 76-3-201, MCA. Such divisions are still subject to review, fees, and filing protocols detailed in Section IV-D above.
5. Divisions of Land Which May be Exempt from Review and Surveying. Certain divisions of land are exempt from the requirements of these regulations and the Montana Subdivision and Platting Act. Such exemptions are found in Section 76-3-203, MCA. Such divisions are still subject to review, fees, and filing protocols detailed in Section IV-D above.
6. Divisions of Land Exempt from Review but Subject to Survey Requirements and Zoning Regulations. Certain divisions of land are exempt from the requirements of these regulations and the Montana Subdivision and Platting Act. Such exemptions are found in Section 76-3-207, MCA. Such divisions are still subject to review, fees, and filing protocols detailed in Section IV-D above.

## **V. DESIGN AND IMPROVEMENT STANDARDS**

All subdivisions approved by the Board of Commissioners must comply with the provisions of this chapter, except where granted a variance pursuant to section VII-B, [Variances]. The Board of Commissioners may not grant variances from the provisions of section V-K, [Floodplain and Flood Hazards].

76-3-504(1), MCA establishes that standards of development must be upheld for various areas of impact related to subdivision design and related improvements. This section details those areas of impact, explaining their expected standards, required submittals as proof of addressing impacts, and methods to comply.

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Each subsection below identifies the minimum standards applicable to subdivisions and the minimum required submittals for review. Required submittals represent the materials necessary to evaluate compliance with each subsection; however, the Subdivision Administrator may request additional information as needed to complete the review.

#### A. Lots and Blocks

##### 1. Lots.

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

##### 2. Blocks.

- a. Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
- b. Unless impractical, block length must not be more than 1,200 feet.
- c. Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation, or unless the Board of Commissioners approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.
- d. Rights-Of-Way for adequate and safe pedestrian access, at least ten feet wide, must be provided where deemed essential to provide circulation to schools, playgrounds, shopping, transportation, and other community facilities.

##### 3. Required Submittals.

- a. Lot layout plan with dimensions and lot areas.

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- b. Building envelope locations demonstrating compliance with setbacks and hazard-free siting.
  - c. Access plan for all lots, including corner lots.
  - d. Narrative explaining any proposed through-lots and justification.
- B.  Streets and Roads.
  - 1. Design Standards. All new or improved subdivision roads must meet Park County Transportation Standards or MDT standards if under state jurisdiction. In addition to the specifications of the Park County Transportation Standards and MDT, the following design standards shall apply:
    - a. All new subdivisions shall provide and demonstrate Legal and Physical Access to all lots.
    - b. When a new subdivision adjoins un-subdivided land (lands or parcels not created by a recorded subdivision plat) and access to the un-subdivided land must pass through the new subdivision, the applicant shall provide rights-of-way so as to allow suitable access to the un-subdivided Land (See Chapter 3.8, T 2.2, Park County Growth Policy). This requirement may be waived by the Board when the Subdivision Administrator finds that one of the following criteria is met:
      - i. Topography or other physical conditions would make it impracticable to provide access to adjacent un-subdivided land;
      - ii. Adequate public access is otherwise available to the adjacent un-subdivided land;
      - iii. When the adjoining un-subdivided land is under public ownership; and
      - iv. When the adjoining un-subdivided land is subject to a conservation easement or other legally restrictive covenant as confirmed by the County Attorney's Office.
    - c. When the subdivision adjoins subdivided properties (lands or parcels created by a recorded subdivision plat), the applicant 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, connection of neighborhoods, effective provision of emergency services, and provisions of utilities.
    - d. To facilitate traffic, the provisions of emergency services, and the placement of utility easements, major or subsequent minor subdivisions shall provide a second means of access. A secondary access may be required for minor subdivisions if topography or physical conditions so warrant.
    - e. Bikeways should be considered in the planning of a subdivision. Bikeways should be built to the minimum standards given in the American Association of State

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Highway & Transportation Officials (AASHTO) Guide for the Provision of Bicycle Facilities.

- f. All new road approaches and driveways shall be identified and approved on the preliminary plat, and must be installed, inspected and approved by the County Road Supervisor prior to final plat approval.
  - g. Where applicable, sidewalks shall be installed on both sides of all new roads constructed, per the sidewalk specifications provided for in the Park County Transportation Standards and the Americans with Disabilities Act (ADA). Where sidewalks are not feasible due to topographic constraints, a trail of equal length shall be provided within or immediately adjacent to the subdivision. When sidewalks or a trail already exist, or no sidewalks are required, cash in-lieu of the cost of construction of the sidewalk or trail shall be provided to a maintenance fund for the existing infrastructure.
  - h. Where dead-end roads are created, either a cul-de-sac or a “T” turnaround shall be provided and must conform to the following minimum requirements:
    - i. Maximum road length: 750 feet
    - ii. Cul-de-sac: Minimum outside right-of-way radius: 50 feet
    - iii. Minimum outside road way radius: 45 feet
    - iv. “T” turnaround minimum length of each leg: 50 feet
2. Improvement Certification. Roadway improvements which have been designed by and constructed under the supervision of a registered professional engineer shall, upon completion of their construction, be certified by the engineer as meeting the standards herein as a condition of filing the subdivision final plat. Engineering certification shall also be a condition of the County's issuance of a Satisfaction of Improvements Guarantee in the event the improvements were not constructed and certified prior to the filing of the final or minor subdivision plat. NOTE: Under certain conditions the County may not issue a Satisfaction of Guarantee until a specific period of time has passed to evaluate the performance of the guaranteed improvement. All street and Road Improvements shall be inspected and approved by the Park County Road Supervisor prior to final plat approval.
3. Required Submittals.
- a. Road plan/profile sheets prepared by a licensed engineer.
  - b. Connectivity analysis showing connections to existing roads and provision for future connections.
  - c. Secondary access justification narrative and design.
  - d. Approach permits or approval from the County Road Supervisor.
  - e. Roadway improvement certification at completion.

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#### C. Drainage and Stormwater.

1. Design Standards. Subdivision design must provide adequate on-site stormwater detention, protect downstream capacity, and avoid discharge to sanitary or irrigation systems.
  - a. Storm Drainage Plan.
    - i. A storm drainage plan must be designed in accordance with DEQ Circular DEQ-8, unless exempt.
    - ii. Drainage systems must not discharge into any sanitary sewer facility or irrigation facility.
    - iii. A storm drainage plan must include a maintenance plan for all drainage structures. The maintenance plan must describe the maintenance structures, provide a maintenance schedule, and designate the entity responsible for performing maintenance. The Subdivision Administrator may require the applicant to create a homeowner's association or other legal entity that will be responsible for maintenance of storm drainage structures and that will have authority to charge appropriate fees. The maintenance plan must include easements and agreements as necessary for operation and maintenance of all proposed off-site storm drainage structures or facilities.
  - b. Grading Plan.
    - i. The preliminary grading plan, including all road plans and profiles must be submitted to the Subdivision Administrator at the time of the preliminary plat submittal; and
    - ii. If fill material will be placed within a delineated floodplain, the applicant shall provide evidence that the Army Corps of Engineers has been notified and appropriate approvals have been obtained. Any person planning to work in or near a year-round (perennial) stream or river on private or public land must first submit a 310 Permit (Conservation District's Decision) from the local conservation district.
  - c. Exemptions. Exemptions from using DEQ Circular and the Administrative Rules of Montana when preparing grading and drainage plans shall be granted if the subdivision meets the following exemption criteria:
    - i. The proposed subdivision has five or fewer parcels;
    - ii. The area of disturbance within the proposed subdivision has a slope of 3% or less;
    - iii. Unvegetated areas including, but not limited to, road surfaces, road cuts and fills, roofs, and driveways, comprise less than 15% of the total acreage of the proposed subdivision;

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- iv. Drainage structures, such as roads and ditches, will be constructed;
- v. Completion of the proposed subdivision will not increase the amount of pre-development storm runoff from the area;
- vi. The proposed subdivision will not alter pre-development water flow patterns; and
- vii. The applicant provides the Subdivision Administrator with a 7 ½ - minute USGS topographic map showing the proposed subdivision and, if available, a map with contour intervals no greater than 20 feet that shows drainage patterns [DEQ 17.36.310].

#### 2. Required Submittals.

- a. Grading and drainage plan prepared by a licensed engineer.
- b. Storm drainage plan per DEQ-8, including O&M plan identifying responsible entity.
- c. Culvert/bridge sizing calculations.
- d. Evidence of required 310 Permit when working near perennial streams.
- e. Floodplain fill approval (if applicable).
- f. Exemption documentation if proposing DEQ-8 exemption.

#### D. Water Supply.

- 1. Design Standards. Subdivisions creating parcels <20 acres must comply with DEQ water supply standards (ARM 17.36.301–305). Subdivisions ≥20 acres must demonstrate an adequate water source on each lot. Central systems must provide adequate fire flow, as detailed in Appendix A. Additional water supply standards can be found in supplementary subdivision materials.
- 2. Required Submittals.
  - a. DEQ approval for subdivisions subject to Title 76-4.
  - b. Well logs or hydrogeologic evidence for ≥20-acre parcels.
  - c. Fire flow documentation for central systems.
  - d. For subdivisions proposing individual or shared wells, the subdivider shall provide information sufficient for the County to evaluate groundwater impacts under Title 76, chapter 3, MCA.

#### E. Wastewater.

- 1. Design Standards. Subdivisions creating parcels <20 acres must comply with DEQ wastewater standards (ARM 17.36.312, 320–326). Parcels ≥20 acres must demonstrate areas for septic and replacement drainfield. The Board may impose conditions to ensure adequate sanitation per MCA 76-3-511. Additional wastewater standards can be found in supplementary subdivision materials.
- 2. Required Submittals.

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- a. DEQ approval for subdivisions under Title 76-4.
  - b. Soil profiles, percolation tests, groundwater assessments.
  - c. Drainfield and replacement area mapping.
- F. Utilities.
  - 1. Design Standards.
    - a. All utilities must be placed underground where practical, with easements adequate for installation, maintenance, and joint use. Underground utilities, if placed in a street Right-Of-Way, must be located between the roadway and the Right-Of-Way line to simplify location and repair of lines. Underground facilities must be installed after the road has been brought to grade and before it is surfaced and before final plat approval. The applicant must obtain any Easements necessary to extend utilities to the subdivision.
    - b. Where undergrounding is not possible, overhead utility lines must be located at the rear property line.
    - c. Utility facilities must be designed by utility firms in cooperation with the applicant. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.
    - d. Utility easements located between adjoining lots must be centered on lot lines.
    - e. Utility easements must be 15 feet wide unless otherwise specified by a utility company or Board of Commissioners.
    - f. When a utility is to be located in an existing, dedicated Right-Of-Way, an encroachment permit must be obtained from the Board of Commissioners, or local or state highway department.
    - g. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear on the final plat:  
*"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, internet, 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."*
  - 2. Required Submittals.
    - a. Utility plan approved by serving utility providers.
    - b. Encroachment permits for utilities in existing ROW.
    - c. Plat showing easements and required dedication statement.
- G. Irrigation and Water Rights.

1. Irrigation Easements.
  - a. Except as noted in paragraph (b), below, the applicant shall establish within the subdivision ditch and pipeline Easements that:
    - i. Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
    - ii. Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
    - iii. Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
  - b. The applicant need not establish irrigation easements as provided above if:
  - c. The average lot size in the proposed subdivision will be one acre or less and the applicant provides for disclosure, in a manner acceptable to the Board of Commissioners, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or
    - i. The water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and
    - ii. The fact the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the applicant shall provide written notification to prospective buyers of the applicant intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
2. Disposition of Water Rights. If a subdivision will create lots averaging less than five acres in size, the applicant shall submit evidence with the final plat that the applicant has:
  - a. Reserved all or, a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;

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- b. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a Landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of Landowners within the subdivision who have a legal right and access to the water; or
    - c. Reserved and severed all surface water rights from the land proposed for subdivision.
  3. Required Submittals.
    - a. Irrigation ditch/pipeline map and easement widths.
    - b. Written approval from ditch company if altering infrastructure.
    - c. Buyer disclosure if average lot size  $\leq 1$  acre and easements are not provided.
    - d. Water rights reservation or severance documentation.
    - e. Water users' agreement if operating under a delivery entity.
- H. Mineral Rights.
  1. Disposition of Mineral Rights. As mineral rights often exist independently from surface land ownership and division as regulated by these subdivision regulations, disposition of mineral rights shall be addressed as follows in the preliminary plat application:
    - a. A description and documentation of mineral rights associated with the property.
    - b. A list of mineral right owners and contact information, as applicable.
    - c. If mineral rights are not being transferred with the surface land, proof of written notification to future lot purchasers regarding the potential for future mineral extraction.
    - d. A signed affidavit of proposed disposition of mineral rights.
- I. Parkland Dedication. Parkland dedication is required for all subdivisions creating dwelling units, consistent with MCA 76-3-621. Parkland must be dedicated via land, cash, or a combination thereof based on statutory acreage percentages. Improved public trails, greenways, or conservation easements that provide permanent public benefit may also be accepted as parkland alternatives when approved by the Governing Body. Giving due weight to the expressed preference of the subdivider, the Governing Body shall determine whether the park dedication is met through:
  - Land donation;
  - Cash donation;
  - A combination of land and cash; or
  - An approved alternative that meets the recreational, open space, or resource conservation needs of the community.

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1. Required Dedication.
  - a. Land calculations. A subdivision must dedicate to the Governing Body a cash or land donation equal to the calculations described in MCA 76-3-621.:
  - b. Cash-in-Lieu of Land. A subdivider may satisfy part or all of the required dedication by donating cash equal to the fair market value of the unsubdivided, unimproved land area that would otherwise be required to be dedicated, as described in MCA 76-3-621.
  - c. Land Dedication, Location and Suitability. Dedicated parkland must:
    - i. Be reasonably accessible and usable for recreation, community gathering, trail access, or open space;
    - ii. Have suitable topography and drainage for active or passive recreation;
    - iii. Avoid steep slopes, floodways, or hazardous areas unless proposed for open space only;
    - iv. Possess sufficient frontage or access easement to a public or private road; and
    - v. Not be encumbered by utilities, irrigation infrastructure, or other encumbrances that limit recreational use, except where complementary.
  - d. Land Dedication Design Criteria.
    - i. Parkland must be configured to support active or passive recreation and avoid leftover or remnant parcels. Parkland may not include stormwater retention or detention areas.
    - ii. When trails are proposed as parkland, they must meet the County trail standards or adopted plans.
    - iii. When off-site land is proposed, it must serve the future residents of the subdivision and provide an equivalent or greater public benefit.
2. Alternatives to Land Dedication. The Governing Body may approve alternatives when they provide equal or greater benefit to future residents and the public. Alternatives include:
  - a. School Donation. Where the school district in which the subdivision is proposed expresses need for additional facilities, land, or resources, subject to Governing Body approval, a subdivider may dedicate parkland to a school district for future school facilities. Such donation shall comply with Section V-I-1 above.
  - b. Trail Dedication and Construction. Improved public trails may satisfy all or part of the parkland requirement when they are constructed to County standards and either connect to an existing trail network or are in an area identified for improved trails, recreation amenities, or connectivity by the Growth Policy or

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- other study. Such trails shall be preserved by a permanent public access easement.
  - c. Conservation Easements. The Governing Body may accept a conservation easement if it Permanently protects wildlife habitat, riparian resources, cultural/historic features, or agricultural values; reduces the net development area by an amount equal to or greater than the required dedication; is held by a qualified land trust or public entity; and provides public benefit consistent with MCA 76-3-621(4)(b).
  - d. Adjacency to Public Land. When the subdivision adjoins federal, state, or local public land, a subdivider may propose an alternative such as:
    - i. Trailheads, easements, or public access points;
    - ii. Trail construction connecting the subdivision to public land; or
    - iii. Dedication of land that enhances access to, or management of, the adjoining public land.
3. Exceptions to Parkland Dedication.
- a. Parkland dedication, cash-in-lieu, or alternatives are not required for:
    - i. Subdivisions creating lots > five acres;
    - ii. Non-residential subdivisions;
    - iii. Subdivisions that do not create parcels, except those creating permanent spaces for RVs, mobile homes, or condominiums;
    - iv. Subdivisions creating only one additional parcel;
    - v. First Minor Subdivisions exempt under MCA 76-3-621(3)(e) unless the exemption does not apply per MCA 76-3-621(8)(a)(ii).
  - b. The Governing Body shall waive dedication requirements when:
    - i. A planned unit development (PUD) permanently sets aside park area meeting or exceeding required dedication; or
    - ii. Long-term resource protection reduces the subdivision area by an amount equal to or greater than the required dedication.
4. Required Submittals.
- a. Narrative of proposed parkland dedication or alternative, including calculations and layout.
  - b. Fair market valuation for cash-in-lieu.
  - c. Parkland suitability report addressing health/safety, topography, and recreational value.
  - d. Coordination documentation with school district if school donation proposed.
  - e. Easement documentation.

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- J. Fire Protection. All subdivisions must minimize wildfire risk and comply with Appendix A. Subdivisions within the Wildland Urban Interface (WUI) must demonstrate enhanced mitigation.

1. Required Submittals.

- a. Fire Protection Plan (FPP) submitted with preliminary plat.
- b. Verification of fire service availability.
- c. FPP map (access, slopes, vegetation, building sites, water sources).
- d. Covenants addressing vegetation, defensible space, materials, and road/water maintenance.
- e. Demonstration of compliance with applicable Fire Protection Package.

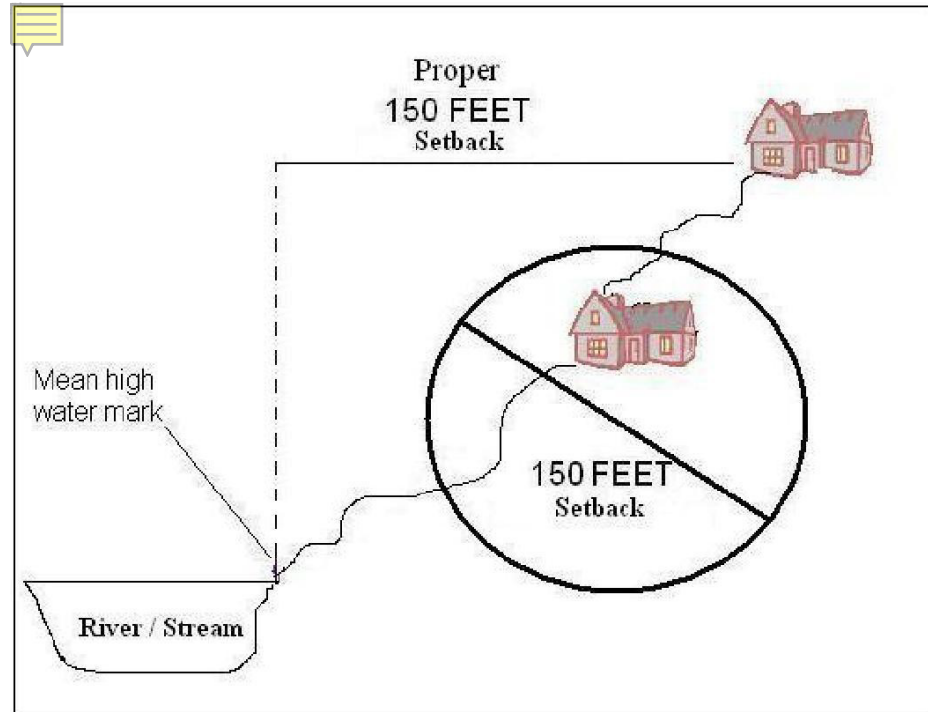
- K. Floodplain and Flood Hazards.

1. Design Standards.

- a. Land located in the floodway of a 100-year flood event as defined by Title 76, Chapter 5, MCA, or other land determined by the Board of Commissioners to be subject to flooding may not be Subdivided for building or residential purposes or other uses that may increase or aggravate flood hazards to life, health or welfare, or that may be prohibited by state or local floodplain or floodway regulations.
- b. Construction Setbacks from Water Bodies: The river frontage property in Park County is among the most desirable for new development. It is also recognized that the frontage is of major ecological importance for wildlife habitat and protection of water quality.
- c. The minimum construction setback from the Yellowstone, Shields, and Boulder Rivers shall be 150 feet from the mean high water mark or outside the 100-year floodplain, whichever is greater. The minimum construction setback from all other perennial rivers and lakes shall be 100 feet or outside the 100-year floodplain, whichever is greater.

Figure 1: Proper setback from mean high water mark

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- d. The minimum construction setback may be increased in order to protect riparian areas, wetlands, trout spawning areas, critical wildlife habitat, fragile areas, or important historical or archeological sites.
- e. Factors that may be considered a basis for increasing the 150-foot construction setback in new subdivisions are;
  - i. The width of the riparian area;
  - ii. The location of critical wildlife habitat on the land proposed for subdivision;
  - iii. Protection of riverbank stability, trees, water quality and trout spawning areas;
  - iv. The location of an important historic or prehistoric site on the property;
  - v. The 100-year floodplain;
  - vi. Protection of open space and/or viewsheds; and
  - vii. Potential for bank erosion.
- f. Prior to recommending an increase in the minimum setback, the Park County Planning Office, Park County Planning Board, and Board of Commissioners shall consult with the appropriate agencies, including but not limited to:
  - i. Montana Fish Wildlife and Parks;
  - ii. Environmental Protection Agency (EPA);
  - iii. U.S. Fish and Wildlife Services;
  - iv. U.S. Forest Service;
  - v. Park County Conservation District; or

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- vi. State Historic Preservation Office.
- g. If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a live watercourse draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the river have been made, the applicant shall provide in detail to the floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation, a flood hazard evaluation, including the calculated 100 year frequency water surface elevations and/or 100 year floodplain boundaries. This detailed evaluation must be performed by a licensed professional engineer experienced in this field of work. After the floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the applicant must submit it to the Planning Department (or Subdivision Administrator) along with the Environmental Assessment required for the preliminary plat.
- h. Each subdivided parcel with an individual water and sewer system shall contain at least one acre of buildable land outside the floodplain portion of a delineated 100-year floodplain as defined by the Park County Floodplain Regulations and Title 76, Chapter 5, MCA. The floodway will be determined by the official Park County Floodplain Maps. For rivers where the floodway portion of a delineated floodplain have not been identified (e.g. the Yellowstone River) the applicant shall furnish survey data as required by the Montana Requirements for Flood Hazard Evaluations (ARM 8.94.2601) for use in delineating the floodway portion of the 100 year floodplain with the preliminary plat.
- i. The above requirement is waived if the applicant contacts the Water Resources Division and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.
- j. Subdivision of Land within a 100-year Delineated Floodplain: Where the 100-year floodplain has been delineated and mapped in a state or federally approved study, or a flood hazard area has been identified, the following standards shall apply to all proposed subdivisions:
  - i. New subdivision roads, bridges, and utilities shall not be located within the 100-year floodplain. Variances shall be considered in accordance with section VII-B of these regulations when unusual topographical conditions exist or construction of roads and bridges are necessary to ensure public health and safety.
  - ii. A minimum of one acre of any subdivision lot shall not be located within the 100-year floodplain.;

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- iii. Lots with any area proposed to be within the 100-year floodplain shall designate a building lot on the plat that is outside of the 100-year floodplain; and
  - iv. Land within the 100-year floodplain may be used for open space, wildlife habitat, recreation, trail systems, and parks if the use does not aggravate flood hazards or degrade riparian vegetation or habitat.
  - k. Flood Hazard Evaluation Required: If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a perennial river draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the river have been made, the applicant must furnish survey data to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation. After the Floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the applicant must submit it to the Planning Office along with the Environmental Assessment required for the preliminary plat. The County Commission may waive the flood hazard evaluation requirement where the applicant contacts the Water Resources Division, DNRC, and that agency states in writing that data indicates that the proposed subdivision is not in the flood hazard area as defined in this Section. In considering a waiver the Board shall consult with the Park County Floodplain Administrator.
2. Required Submittals.
- a. Flood hazard evaluation.
  - b. DNRC floodway delineation if none exists.
  - c. Surveys showing building site outside floodplain.
  - d. Setback maps showing compliance with river setback requirements.
- L. Noxious Weeds.
- 1. Weed Control Plan Required. A weed control plan shall be developed and implemented for every new subdivision. The Park County Weed Supervisor approves the plan for the First Minor Subdivision and the Park County Weed Control Board for all Major and Subsequent Minor Subdivisions. The agreement with the Weed Control Board Chair shall be signed, notarized, and recorded with the final plat.
    - a. Noxious Weed Management on Parcels under applicant's Control. The applicant agrees to control noxious weeds on the parcels under their ownership until the parcels or remainder tracts have transferred ownership.
    - b. Noxious Weed Control on Roadways. The applicant agrees to control noxious weeds on all roadways within the subdivision until a homeowners' association, if

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applicable, accepts the responsibility of managing noxious weeds along applicable roadways within the subdivision. For sold parcels, noxious weed management on abutting roadways will be the responsibility of the individual property owners.

- c. Final Plat. Applicant shall place a statement on the face of the Final Plat stating, *“Weed management will be the responsibility of the individual property owners within the Subdivision.”*
2. Required Submittals.
  - a. Weed Control Plan approved by County Weed Supervisor or Weed Board.
  - b. Recorded agreement for weed control responsibilities on lots and roadways.
  - c. Final plat statement assigning responsibility to property owners.
- M. Fencing. Upon determination by the Park County Planning Department, Planning Board, or County Commission, the applicant may be required to install perimeter fencing where necessary around subdivisions to prevent conflicts between neighboring Landowners and subdivided property (See Chapter 3.2, LU 1.1.2, Park County Growth Policy). When required, wildlife friendly fencing shall be constructed in accordance Montana Fish, Wildlife, and Parks Subdivision Fencing Specifications.

## VI. ADMINISTRATIVE PROVISIONS

- A. Fee Schedule. The Subdivision Fee Schedule is maintained by the Park County Planning Department, as adopted by the Board of County Commissioners.
- B. Variances.
  1. Variances Authorized. The Board of Commissioners, after a public hearing on the variance request, may grant variances from chapter V, Design and Improvement Standards, of these regulations when, due to the characteristics of 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 will not be granted if it would have the effect of nullifying the intent and purpose of these regulations. The Board of Commissioners shall not give a variance unless it finds that:
    - a. The granting of the variance will not be detrimental to the Public Health, Safety, or general welfare or injurious to other adjoining properties;
    - b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;
    - c. The variance will not cause a substantial increase in public costs; and

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- d. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.
  2. Variances from Floodway Provisions Not Authorized. The Board of Commissioners shall not approve a variance permitting a subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.
  3. Procedure.
    - a. The applicant shall include with the submission of the preliminary plat a detailed written statement describing and justifying the requested (primary) variance, along with documentation, including, but not limited to:
      - i. Photographs of the requested variance area;
      - ii. Drawings;
      - iii. Topographical maps;
      - iv. Letters/documentation from professionals; and
      - v. The variance request must include a fully developed alternative design or method that meets all applicable subdivision regulations and satisfies the criteria of Section V of these regulations. The alternative must contain the same level of detail, analysis, and documentation required for the primary variance request. A variance application that does not include a complete, compliant alternative shall be deemed insufficient and will not be processed.
    - b. After the requested variance has been deemed to contain sufficient information, the Planning Board shall consider the requested primary variance and alternative variance and make findings and forward a recommendation of approval, conditional approval, or denial to the Board of Commissioners. Any variance request shall be submitted and reviewed concurrently with all other subdivision application materials and preliminary plats.
    - c. A minor subdivision is not subject to the public hearing requirement of this section.
  2. Conditions. In granting variances, the Board of Commissioners may impose reasonable conditions to ensure the objectives of these regulations.
  3. Statement of Facts. When a variance is granted, the motion to approve the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.
- B. Amendment of Regulations. Before the Board of Commissioners amends these regulations, it shall hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general

circulation in the county not less than 15 days or more than 30 days before the date of the hearing.

- C. Enforcement. Except as provided in Section 76-3-303, MCA, and these regulations, every final subdivision plat must be filed for record with the County Clerk and Recorder's Office before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the county attorney's Office shall commence action to enjoin further sales or transfers and compel compliance with all provisions of MSPA and these regulations. The cost of this action shall be imposed against the non-prevailing party.
- D. Violation and Penalties. Any person, firm, corporation, or other entity that violates any of the provisions of the Montana Subdivision and Platting Act (MSPA) or these regulations shall be subject to the violation and penalty provisions of Section 76-3-105, MCA.
- E.  Third-Party Reviews. The County may require third-party technical review of any subdivision application materials when specialized expertise is needed to evaluate compliance with these regulations, the Montana Subdivision and Platting Act, or other applicable laws.
  - 1. Scope. Third-party review may be required for, but is not limited to, the following topics:
    - a. water supply, groundwater, surface water, or water rights;
    - b. wastewater treatment and disposal;
    - c. stormwater management and drainage;
    - d. transportation, access, and traffic impacts;
    - e. geotechnical hazards, flooding, slope stability, and wildfire risk;
    - f. environmental resources; and
    - g. engineering plans and construction standards.
  - 2. Qualifications. Third-party reviews shall be prepared by a qualified professional with expertise relevant to the subject of the review.
  - 3. Cost Responsibility. When third-party review is required, all costs associated with the review shall be paid by the applicant. The County may require payment of estimated review costs prior to initiating the third-party review.
  - 4. Use of Review. Third-party review findings may be used by the County in evaluating the subdivision application and determining whether the application complies with applicable regulations and approval criteria.
- F. Appeals.
  - 1. A person who has filed with the Board of Commissioners an application for a subdivision under MSPA and these regulations may bring an action in district court to

- sue the Board of Commissioners to recover actual damages caused by a final action, decision, or order of the Board of Commissioners or a regulation adopted pursuant to MSPA that is arbitrary or capricious.
2. A party identified in paragraph (4) below who is aggrieved by a decision of the Board of Commissioners to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
  3. For the purposes of this section, “aggrieved” means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.
  4. The following parties may appeal under the provisions of paragraph (2) above:
    - a. The applicant;
    - b. A landowner with a property boundary contiguous to the proposed subdivision or a private Landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
    - c. The county commissioners of the county where the subdivision is proposed; and
    - d. One of the following municipalities:
      - i. A first-class municipality as described in Section 7-1-4111, MCA, if a subdivision is proposed within three miles of its limits; or
      - ii. A second-class municipality, as described in Section 7-1-4111, MCA, if a subdivision is proposed within two miles of its limits;
      - iii. A third-class municipality, as described in Section 7-1-4111, MCA, if a subdivision is proposed within one mile of its limits.
- G. Restrictive Covenants and Property Owners Associations. If common property is to be deeded to a property owners" association, the Covenants and by-laws which govern the association must, at a minimum, provide for the:
1. Formation of a property owners" association concurrently with the filing of the final subdivision plat. Articles of Incorporation shall be filed with the Secretary of State's office;
  2. Mandatory membership for each property owner. Purchasers of property shall be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements; The infrastructure to which the waiver applies needs to be specified, and the waiver is limited to 20 years from the date of filing the final plat.

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3. Perpetual reservation of the common property when required under Section 76-3-621(6)(a), MCA;
  4. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
  5. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
  6. Adjustment of assessments to meet changing needs;
  7. Means of enforcing the Covenants, and of receiving and processing complaints;
  8. Transition of control of the association from the declarant to the homeowners;
  9. Dissolution of the association and modification of the covenants and restrictions after obtaining the Board of Commissioner's approval of the change; and
  10. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.
- H. Subdivision Improvement Guarantees.
1. Subdivision Improvements Agreement. Only those improvements not essential to human habitation can be completed under a Subdivision Improvements Agreement.
    - a. Essential health and safety improvements include, but are not limited to, road access to the subdivision, road access to each lot, sewage disposal and water supply facilities, fire protection facilities, intersection improvements, retaining walls and other slope stabilization measures, and traffic safety signage.
    - b. Non-Essential improvements include, but are not limited to, road paving, noxious weed management practices, landscaping, road name signs, and park and recreation facilities.
    - c. Individual Sanitary System: Where each lot in a subdivision is being served by an individual sanitary system it shall not be necessary to install the system before final plat approval is given. However, appropriate permits must be obtained from the Environmental Health Department before the individual sanitary system can be installed.
    - d. Alternative Fire Protection Features and Systems [see Appendix A of these regulations]: Approved alternative fire protection features and systems may be completed through a SIA only when a SIA is required as a condition of final plat approval.
    - e. As a condition of final plat approval, the applicant must have installed all required improvements or have entered into a SIA guaranteeing the construction, installation, and maintenance of all required improvements in conformance with all policies, standards and resolutions adopted by the County. (Section 76-3-507, MCA).

- f. Structures may not be constructed or placed on the parcels until Improvements set forth in subsection (1)(a) related to public health and safety have been installed and engineering plans have been filed.
- g. The Board may require an applicant (see note below) to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. The Board may not require an applicant to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education. (Section 76-3-510, MCA). All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required
- h. **Security Guarantee.** If the applicant chooses to enter into a SIA guaranteeing the Non-Essential improvements as identified in subsection (1)(b), the applicant must have an acceptable monetary security guarantee in the form of a bond, escrow account, surety performance bond, irrevocable letter of credit, or other acceptable guarantee accepted by the Commission. Three bids for the cost of installation of the public improvements shall be obtained by the applicant. The amount of the guarantee shall be calculated by multiplying 125% by the highest bid. The Board of Commissioners shall be the final decision authority regarding all bids related to a SIA.
- i. **Phased Development.** Where a subdivision is to be developed in phases, a phase plan shall be prepared by the applicant, and reviewed and approved by the Board of Commissioners, or its designated agent. The phase plan shall be submitted with the preliminary plat. The phase plan shall be included in the SIA and shall describe which parcels are included in each phase, what improvements shall be completed with each phase, and the approximate completion date of each phase.
  - i. Improvements included in the first phase shall be constructed or guaranteed using one of the acceptable monetary security guarantees prior to final plat approval by the Board.
  - ii. The plat approval for each succeeding phase will be contingent upon completion of all improvements in each preceding phase and acceptance of those improvements by the Board.
  - iii. If all improvements in each phase are not completed, parcels within subsequent phases shall be restricted from being transferred, sold or developed.

- iv. The restriction on transferring, selling, and development is released and filed with the Clerk & Recorder's office only after the necessary improvements for each particular phase are constructed, reviewed, and accepted by the Board, or guaranteed using one of the acceptable monetary security guarantees.
  - j. Reduction of Guarantees. In those cases where monetary security guarantees have been made, the amount of the guarantee may be reduced upon installation and acceptance by the Board of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made of all originally required improvements.
  - k. Completion of Improvements; Certification. As the Public Improvements are installed, the applicant shall provide a letter to the Board indicating such, including a copy of the engineered plans.
  - l. The Board-designated agent or consulting engineer designated by the Board shall review and certify that all Public Improvements have been installed in conformance with the plans and specifications.
  - m. If the Board determines that a consulting engineer is needed to review and certify the Public Improvements, the applicant shall pay for the cost of the engineering services.
  - n. Prior to the release of the guarantee a copy of the plans, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed in the Clerk and Recorder's Office with reference to the final subdivision plat.
- 2. Improvement Guarantee. The applicant shall provide a guarantee that the improvements will be satisfactorily completed and are guaranteed for 12 months.
  - a. Release of Guarantee. Upon completion of required improvements by the applicant and acceptance of them by the Board, the applicant may request that the Board authorize the release of any remaining portion of the improvement guarantee up to 90% of the original amount. The remaining 10% will be released after any deficiencies are corrected after the one-year warranty inspection. The request and release shall both be in writing.
  - b. Rural and Special Improvement Districts. The Board may enter into an agreement with the applicant, and the owners of the property proposed to be subdivided if other than the applicant, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Parts 12 and 41, MCA. This agreement must provide that no parcels within the subdivision will be sold, rented or leased, and no contract for the sale of parcels can be executed before the improvement district has been created.

- c. The applicant, or other owners of the property other than the applicant, must also petition the Board to create a rural improvement district, which constitutes a waiver by the applicant or the other owners of the property of the right to protest, or petition against the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the County Clerk and Recorder's Office and will be deemed to run with the land.

## VII. DEFINITIONS

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

1. **ACCESS (LEGAL AND PHYSICAL):**

- a. Legal Access means that each lot in a subdivision either abuts a public (city, county, state, or federal) street or road, or that the Applicant has obtained adequate and appropriate easements across all necessary properties, from a public road to each lot in the subdivision, whether or not a road has been constructed on that property, and has dedicated the easement or private road for public use.
- b. Physical Access means that a street or road conforming to the subdivision design standards provides vehicular access to each lot in the subdivision, either from a public street or road, from a road constructed to local road standards in the obtained easements for public use, or from a private road improved to local road standards which has been dedicated to public use.

2. **ADJOINING LANDOWNER (ADJACENT PROPERTY OWNER):** The owner

3. 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.

4. **AGRICULTURE:** Activities related to 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 on lands taxes as agricultural by the State of Montana.

5. **AGRICULTURAL COVENANT:** A covenant running with the land which restricts the land to agricultural uses only, as defined in Section 76-3-207(1)(c), MCA, and can only be removed pursuant to Section 76-3-211, MCA.

6. **AGRICULTURAL WATER USER FACILITIES:** Any part of an irrigation system historically used to produce an Agricultural product on property used for Agricultural purposes as defined in Section 15-7-202, MCA.
7. **APPLICANT:** Any person, firm or corporation, or other entity which causes land to be subdivided or which proposes a subdivision of land [Section 76-3-103 (15), MCA]. When used in these regulations, the term "Applicant" may also include the property purchaser on a contract for deed or its authorized agent, or the landowner's authorized agent, if the landowner has provided the subdivision Administrator written notification that the landowner's agent is authorized to act (notarized power of attorney) on the landowner's behalf and to receive notices regarding local government decisions concerning the subdivision.
8. **BENCHMARK:** A reference point for making measurements.
9. **BLOCK:** A group of lots, tracts or parcels within well-defined and fixed boundaries.
10. **BUILDING SETBACK LINE:** An imaginary line establishing the minimum distance that structures may be located from lot lines and street rights-of-way.
11. **CASH DONATION/CASH-IN-LIEU OF PARKLAND:** When it has been determined by the Board of Commissioners that an Applicant may replace park land with money paid to the county for obtaining Park Land this shall be referenced as a "cash donation" or as "Cash in lieu of Park Land". "Cash donation" is the fair market value of the unsubdivided, unimproved land; (MCA 76-3-621(9)(a)).
12. **CERTIFICATE OF SURVEY:** A drawing of a field survey prepared by a Professional Land Surveyor for the purpose of disclosing facts pertaining to boundary locations.
13. **CLUSTER DEVELOPMENT:** A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots while allowing other lands to remain undeveloped. [Section 76-3-103 (2), MCA].
14. **COMMERCIAL USE:** The purchase, sale, or transaction involving the disposition or storage of any article, substance, commodity, or service, maintenance or conduct of offices, professionals, or recreational or amusement enterprises conducted for profit and including renting of rooms, business offices, and sale display rooms, and premises, which includes mobile home and recreational vehicle parks.
15. **COMPREHENSIVE PLAN, MASTER PLAN, OR GROWTH POLICY:** means a Comprehensive Plan, Master Plan, or Comprehensive Plan that was adopted pursuant to Title 76, Chapter 1, MCA, before October 1, 1999, or a policy that was adopted pursuant to Title 76, Chapter 1, MCA, on or after October 1, 1999.
16. **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 other parts of the

project held in common ownership or use with owners of the other units, pursuant to Title 70, Chapter 23, MCA.

**17. CONSTRUCTION:**

- a. As it relates to roads, the cutting, moving and filling of earthen or other materials resulting in a travel-way for motorized and non-motorized vehicles or the site for a structure.
- b. As the word “construction” relates to buildings, the common and customary meaning applies.

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

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

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

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

**22. DRIVEWAY:** A privately owned and maintained vehicular access way located on private property that connects a public road or private road to a single parcel or building site

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

**24. EASEMENT:** Authorization by a property owner for another to use, or restriction on the right of the owner to use, all or a portion of the owner’s property for a specified purpose.

**25. ENGINEER (PROFESSIONAL ENGINEER):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act [Title 37, Chapter 67, MCA] to practice engineering in the State of Montana.

**26. ENVIRONMENTAL ASSESSMENT:** A component of a subdivision application for major subdivisions that provides information needed for the assessment of impacts from subdivision on agriculture, agricultural water users’ facilities, local services, national

- environment, wildlife, wildlife habitat, and public health and safety. The contents of an environmental assessment shall be pursuant to Section 76-3-603, MCA.
27. **FIRST MINOR SUBDIVISION:** A Minor Subdivision from a Tract of Record that has not been subdivided or created by a subdivision under the MSPA, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under Section 76-3-201 or Section 76-3-207, MCA, since July 1, 1973. [Section 76-3-609(2), MCA].
28. **FLOOD:** The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage [Section 76-5-103(8), MCA].
29. **FLOOD HAZARD AREA:** The land subject to flooding from the base flood.
30. **FLOOD OF 100 YEAR FREQUENCY:** A Flood magnitude which has a one percent chance of occurring in any given year , or is a Flood magnitude which is expected to recur on the average of once every 100 years [Section 76-5-103(9), MCA].
31. **FLOODPLAIN:** The area adjoining the watercourse or drainage that would be covered by the floodwater of a Flood of 100 Year Frequency [Section 76-5-103(10), MCA].
32. **FLOODWAY:** The channel of a watercourse or drainage and those portions of the Floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage [Section 76-5-103(11), MCA].
33. **BOARD OF COMMISSIONERS:** Board governing authority of a county. For Park County the governing board is the Board of Commissioners.
34. **GUEST HOUSE:** An accessory structure that is used for temporary and periodic quarters for guests. The structure is not used for a permanent residence and may not be leased or rented to the general public.
35. **HILLTOP INTERSECTION:** Hilltop Intersections will be defined on a case by case base by the Board, using the following criteria:
- a. Visibility
  - b. Gradient
  - c. Slope
  - d. Public Health and Safety
36. **IMMEDIATE FAMILY:** A spouse, child by blood or adoption, and parents.
37. **IMPROVEMENT AGREEMENT:** A contractual agreement that may be required by the Board of Commissioners to ensure the construction of such improvements as required by these regulations. The Improvement Agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.

38. **LANDOWNER:** All individuals, groups, or parties with a title interest in the property. For purposes of these regulations, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner,” and “owner” mean the seller of the parcel under the contract-for-deed (24.183.1104 ARM). For all other purposes of these regulations, the terms “property owner,” “landowner,” and “owner” may mean both the seller and the purchaser under a contract for deed and can be used interchangeably.
39. **LOCAL FIRE AUTHORITY:** A local fire district, fire service area, the county fire marshal, or an independent contractor who performs fire review on contract with the County or a local fire district or fire service area.
40. **LOCAL SERVICES:** Any and all services or facilities local government is authorized to provide, such as water supply, sewage disposal, law enforcement, fire protection, emergency services, transportation system, educational system, noxious weed control, as well as services that local government does not provide such as power, telephone, state highways, etc.
41. **LOCATION MAP:** A small map showing the location of a tract of land in relation to a larger land area.
42. **LOT:** A parcel, plot, or other land area created by subdivision for sale, rent, or lease.
43. **LOT MEASUREMENT:**
- a. Lot Depth: The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
  - b. Lot Width: The average width of the lot.
  - c. Lot Frontage: The width of the front lot line.
  - d. Lot Area: The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way or access easements.
44. **LOT TYPES:**
- a. Corner Lot: A lot located at the intersection of two streets.
  - b. Interior Lot: A lot with frontage on only one street.
  - c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
  - d. Flag Lot: A lot of irregular shape, the bulk of which is normally situated to the rear of other lots, having as its frontage and access a drive connecting it to a street.
45. **MAJOR SUBDIVISION:** A subdivision that creates six or more lots.
46. **MINOR SUBDIVISION:** A subdivision that creates five or fewer lots.

47. **MOBILE (MANUFACTURED) HOME:** A detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, “trailer homes,” “house trailers,” and “manufactured homes” whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include “modular” or “factory- built buildings” that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.
48. **MOBILE (MANUFACTURED) HOME SPACE:** A designated portion of a parcel of land designed for the accommodation of one Mobile Home and its accessory buildings or structures for the exclusive use of the occupants.
49. **MOBILE (MANUFACTURED) HOME PARK:** A tract of land that provides or will provide spaces for two or more Mobile Homes.
50. **MOBILE (MANUFACTURED) HOME PAD:** That area of a Mobile Home space which has been prepared for the placement of a Mobile Home.
51. **MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS:** Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.
52. **MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a Monument to a survey point, expressly placed for surveying reference.
53. **MSPA:** Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.
54. **NATURAL ENVIRONMENT:** Existing physical conditions relating to land, water, air, plant and animal life of an area and the interrelationship of those elements, such as soils, geology, topography, vegetation, surface water and drainage, floodplains, and ground water and aquifers.
55. **OPEN SPACE:** Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.
56. **ORIGINAL TRACT:** A tract of land created as of July 1, 1973.
57. **OVERALL DEVELOPMENT PLAN:** The plan of a subdivision design proposed to be subdivided in stages.
58. **PARK COUNTY:** A political subdivision at the State of Montana.

59. **PARK LAND:** An area of land and/or water with protected status and common use for recreational and/or educational purposes. Park Land cannot include topographical or physical hazards; to be determined by the Board of Commissioners.
60. **PLANNED UNIT DEVELOPMENT (P.U.D.):** A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use [Section 76-3-103(10), MCA].
61. **PLANNING BOARD:** A Planning Board formed pursuant to Title 76, Chapter 1, MCA.
62. **PLANNING DIVISION:** Division of Park County Planning Department.
63. **PLANNING STAFF:** The Park County Planning Staff.
64. **PLAT:** A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.
- a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a Board of Commissioners as more specifically set forth in these regulations and the MSPA.
  - 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 containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).
  - c. Amended Plat: The final drawing of any change to a filed platted subdivision, or any lots within a filed platted subdivision.
  - d. Vacated Plat: A plat which has been voided under the provisions of Section 76-3-305, MCA, Section 7-5-2501, MCA, Section 7-5-2502, MCA, Section 7-14-2616 (1) and/or (2), MCA, Section 7-14-2617, MCA, Section 7-14-4114 (1) and/or (2), MCA, and Section 7-14-3115, MCA.
65. **PRE-APPLICATION SKETCH (OR DRAWING):** A legible drawing showing approximate boundaries, dimensions, areas, distances and other pertinent information of a proposed subdivision, all as more particularly set forth in Section II-A.
66. **PRIVATE IMPROVEMENT:** Private Improvements are the same types of improvements as defined under Public Improvements, except the structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.
67. **PRIVATE ROAD:** A road is private if its right-of-way has neither been dedicated nor acquired for public use.

68. **PUBLIC HEALTH AND SAFETY:** A condition of optimal wellbeing, free from danger, risk, or injury for a community at large, or for all people, as well as for the welfare of a specific individual or a small class of persons.
69. **PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve more than one lot in a subdivision that is dedicated to the public or otherwise acquired by a government entity for public use. Typical public improvements include, but are not limited to, parks, streets or roads, trails, sidewalks, curbs, gutters, and street lighting, utilities, and systems for water supply, sewage disposal, drainage, or fire protection.
70. **PUBLIC ROAD OR STREET:** A road or street is public if its right-of-way has been dedicated or acquired for public use.
71. **PUBLIC UTILITY:** A Public Utility has the meaning provided in Section 69-3-101, MCA, and the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, Chapter 13, parts 22 and 23. [SB 116, Section 1, 76-3-103(13)]
72. **RECREATIONAL CAMPING VEHICLE:** A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.
73. **RECREATIONAL VEHICLE PARK:** A tract of land available to and principally used by the public for camping, where persons can park Recreational Vehicles for camping and sleeping purposes.
74. **RECREATIONAL VEHICLE SPACE:** A designated portion of a Recreational Vehicle Park designed for the placement of a single Recreational Vehicle and the exclusive use of its occupants.
75. **REMAINDER:** No remainders exist under these regulations. All lots and tracts on a survey shall be reviewed under these regulations.
76. **RESIDENTIAL USE:** A dwelling unit designed for permanent occupancy by a single-family, two-family, or multifamily containing facilities for cooking, living, and sleeping. These units include boarding or rooming houses. Residential use does not include transient accommodations, such as: hotels, motels, dormitories, fraternity or sorority houses, or tourist cabins.
77. **REVIEWING AUTHORITY:** The DEQ or local Board of Health or Sanitarian as authorized under Title 76, Chapter 4, MCA.
78. **RIGHTS-OF-WAY:** A linear public way established or dedicated for public purposes by a duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority or by operation of law, intended to be occupied by a street or road, non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, or other similar uses.

79. **RIVER:** A river, stream, creek, or other naturally occurring body of flowing water with a bed and well-defined banks.
80. **ROAD INSPECTION:** A Road Inspection includes the preliminary review and one final review. Review of variances or re-inspections constitutes a separate Road Inspection and a separate Road Inspection fee.
81. **ROADWAY TYPES:** For purposes of these regulations, Roadway Types are defined as follows:
- a. Alley: A public or private way reserved as a secondary means of access to the rear or side of lots which abut on and are served by Public Roads or Streets.
  - b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and should provide only limited access to abutting property.
  - c. Collector: A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets or roads have two moving traffic lanes and up to two parking lanes.
  - d. Local Roads: A street / road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets / roads have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.
  - e. Dead-End Road: A street or road having only one outlet for vehicular traffic.
  - f. Half-Road: A portion of the width of a road or street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street or road is to be fully constructed.
  - g. Cul-de-sac: A street or road having only one outlet for vehicular traffic and terminating in a turn-around area.
  - h. Loop: A road or street which begins and ends on the same street, generally used for access to properties and not as a primary or secondary access.
  - i. Frontage Access: Access Service Road: A local or collector road or street, usually parallel and adjacent to an Arterial or Collector, which provides access to abutting properties and controls traffic access to Arterials or Collectors.
82. **SECONDARY ACCESS:** A street / road which meets the definition of Legal and Physical Access and provides an additional means to access the subdivision. Internal loop roads are not considered a form of secondary access.
83. **SLASH:** The accumulation of any burnable, organic material that has been severed/removed from its natural state.

84. **STATE:** The State of Montana.
85. **SUBDIVISION:** A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and a condominium.
86. **SUBDIVISION ADMINISTRATOR:** The Planning Department is designated by the Board of Commissioners to perform the duties of review and administration set forth in these regulations, and to act as the Board of Commissioners' authorized agent.
87. **SUBSEQUENT MINOR SUBDIVISION:** Any subdivision of five or fewer parcels that is not a First Minor Subdivision.
88. **SURVEYOR (PROFESSIONAL LAND SURVEYOR):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.
89. **SWALE:** A drainage channel or depression designed to direct surface water flow.
90. **TITLE REPORT (ABSTRACT OF TITLE, SUBDIVISION GUARANTEE, OR PLATTING REPORT):** A report from a title service company on the condition of title to the property proposed for subdivision, which identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter.
91. **TOPOGRAPHY:** General term to include characteristics of the ground surface such as plains, hills, mountains, slopes, and other physiographic features.
92. **TOWNHOUSE LOT:** Arrangement under which units share a common wall, and individuals own their own units and hold separate title to the land beneath the unit.
93. **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- 3-103(17)(a), MCA].
94. **TRAIL:** Route on land or water with protected status and public access for recreation or transportation purposes such as walking, jogging, hiking, bicycling, horseback riding, mountain biking, motorized wheelchairs, canoeing, kayaking, and backpacking.
95. **VICINITY SKETCH:** A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

## Park County-Specific Provisions

### State-Required Provisions

96. **WATERCOURSE:** Any naturally occurring stream or river. It does not include ditches, culverts, or other constructed waterways.
97. **WILDLIFE:** Wildlife are animals (e.g. mammals, birds, reptiles, fish) that are neither human nor domesticated, existing in their natural environment.
98. **WILDLIFE FENCING:** A wildlife friendly fencing type approved or recommended by Montana Fish, Wildlife and Parks.
99. **WILDLIFE HABITAT:** Wildlife habitats are geographic areas containing physical or biological features essential to wildlife for breeding, rearing, nesting, and/or winter feeding and forage, or important for migratory patterns; and/or essential to the conservation of listed endangered and threatened species under the Endangered Species Act.