

I. GENERAL PROVISIONS

A. Title

These regulations shall be known and may be cited as "The Subdivision Regulation of Lake County;" hereinafter referred to as "these regulations".

B. Authority

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (MSPA) [Title 76, Chapter 3, MCA].

C. Purposes

The purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to protect the rights of property owners and to require uniform documentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey (76-3-102, MCA).

Further, to support the purposes of 76-3-102, MCA, these regulations are intended to promote:

1. The orderly development of the jurisdictional area.
2. The coordination of roads within subdivided land with other roads, both existing and planned.
3. The dedication of land for roadways and for public utility easements.
4. The provision of proper physical and legal road access, including obtaining of necessary easements.
5. The provision of adequate open spaces for travel, light, air and recreation.
6. The provision of adequate transportation, water, drainage, and sanitary facilities.
7. The avoidance or minimization of congestion.
8. The avoidance of subdivision which would involve unnecessary environmental degradation.
9. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation or other public services.
10. The avoidance of excessive expenditure of public funds for the supply of public services.

11. The manner and form of making and filing of any plat for subdivided lands.
12. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all plats of subdivisions covered by these provisions.

D. Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Lake County.

If a proposed subdivision lies within one mile of a third class city or town or within two miles of a second class city or within three miles of a first class city, the Lake County must submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat must be submitted to, and approved by, both the city or town and Lake County.

When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review process and annexation procedures whenever possible.

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

E. Severability

Where any word, phrase, clause, sentence, paragraph, section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

II. GENERAL PROCEDURES

A. Subdivision Review and Approval Procedures

1. Construction Timing

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

2. Transfers of Title

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

- a. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana.
- b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder.
- c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract, and
- d. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."
- e. A copy of the contracts and escrow agreement described above must be submitted to the subdivision administrator.

3. Pre-application Procedures

The subdivider shall obtain a pre-application questionnaire (See Appendix D) from Lake County Land Services and submit the completed questionnaire for the proposed division. The subdivider shall provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan shall be legibly drawn showing in simple form the layout of proposed features in relation to existing site condition. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions must be noted. The sketch plan shall include pertinent information such as: approximate tract and lot boundaries, location description of general terrain, natural features, existing structures and improvements, and proposed public improvements. The subdivision administrator will review the application and submit a letter to the developer listing the materials required for the preliminary review and outlining any apparent potential problems that may be encountered. Based on the information outlined in the letter, the subdivider may want to contact the subdivision administrator and discuss any problems prior to the submission of the preliminary plat materials.

4. Permission to Enter

The governing body or its designated agent(s) or agency may conduct such investigations, examination, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations. The submission of pre-application materials or a preliminary plat for review shall constitute a grant of permission to enter the subject property.

B. Preliminary Plats

1. Preliminary Plat Submittal

- a. The subdivider shall submit for review and approval a preliminary plat of the proposed subdivision which conforms to the requirements of these regulations, unless exempted under section II-D, Minor Subdivisions. The preliminary plat shall be prepared in form and with contents and supplements as required by Appendix B, and conform to the Design and Improvement Standards set forth in Section IV.
2. The subdivider shall submit the following application information to the subdivision administrator:
 - a. A completed copy of the Application for Public Review, (see Appendix A), and the State Subdivision Application (see Appendix C)
 - b. Environmental assessment (see Appendix C), unless exempt;
 - c. The required review fee as stated in Appendix N;
 - d. Three (3) copies of the preliminary plat and plat supplements; and
 - e. Any additional information as required during the pre-application process.
3. Review by public agencies or utilities shall not delay the governing body's action on the preliminary plat beyond the 60 working day review period. Any review comments must be made available to the subdivider and to the general public upon request.
4. The application materials and fee shall be submitted to the subdivision administrator 28 days prior to a regular meeting of the planning board. The subdivision administrator will review the information to determine whether or not the application is complete. If the application is complete, the administrator will publish a notice of a public hearing to review the application at the next regular meeting, in accordance with Sections II-B-2 and II-B-3. The 60 working day review period shall commence on the date that the subdivision administrator accepts the application.
5. If the subdivision administrator determines that the application is incomplete, the subdivider (or subdivider's agent) shall be notified, in writing, of the deficiencies at least seventeen (17) days prior to the planning board meeting. The subdivider may then correct the deficiencies and present the corrections to the subdivision administrator no later than ten (10) days prior to the planning board meeting. If the application is complete, the proposal will be scheduled for the current planning board meeting.

II-B-2 Public Hearing

After accepting a preliminary plat application as complete, the planning board shall hold a public hearing on the preliminary plat. When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on

the preliminary plat and annexation whenever possible. Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the plat shall be notified of the hearing by certified mail not less than 15 days prior to the date of the hearing. The planning board may require the posting of the notice of the hearing at conspicuous places on the proposed site.

II-B-3 Planning Board Recommendation

1. The planning board shall:
 - a. consider the following:
 - 1) relevant evidence relating to the public health, safety, and welfare;
 - 2) the environmental assessment;
 - 3) any officially adopted growth policy plan for the area involved;
 - 4) review criteria specified in Section II-B-4. of these regulations;
 - 5) whether the preliminary plat conforms to the provisions of:
 - a) the Montana Subdivision and Platting Act;
 - b) these regulations;
 - c) applicable zoning regulations;
 - d) any adopted comprehensive plan for the area involved; and
 - e) other regulations in effect in the area of the proposed subdivision; and
 - b. within 10 days after the public hearing, submit in writing the following to the governing body:
 - 1) its findings regarding the items under Section a, above;
 - 2) recommended Findings of Fact that weigh the review criteria (pursuant to 76-3-608, MCA ; and
 - 3) a recommendation for approval, conditional approval, or disapproval of the plat.

II-B-4 Preliminary Plat Approval

1. The governing body shall approve, conditionally approve, or disapprove the preliminary plat within 60 working days of determination of completeness, unless the subdivider consents to an extension of the review period. If the governing body disapproves or conditionally approves the preliminary plat, it shall forward one copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for disapproval or enumerating the conditions which must be met to assure approval of the final plat.

- a) The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the following demonstrate that development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, these regulations, any officially adopted growth policy, and applicable zoning regulations:
 - 1) the preliminary plat;
 - 2) environmental assessment;
 - 3) planning board recommendations; and
 - 4) additional information.
- b) The governing body shall issue a written Findings of Fact that discusses and weighs the following criteria (pursuant to 76-3-608, MCA):
 - 1) Effect on agriculture, agricultural water users facilities, local services, the natural environment, wildlife and wildlife habitat, and the public health and safety;
 - 2) Compliance with the survey requirements of the MSPA, and the regulations and review procedures of these local subdivision regulations;
 - 3) The provision of easements for the location and installation of any necessary utilities;
 - 4) The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
- c) The governing body may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the required review. The governing body shall issue written findings to justify the reasonable mitigation required.
- d) In reviewing a subdivision, and when requiring mitigation:
 - 1) The governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat;
 - 2) The governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
- e)
 - 1) When a minor subdivision is proposed in an area where a growth policy has been adopted and the proposed subdivision will comply with the policy, the subdivision is exempt from the review criteria contained in subsection (b) (1) but is subject to applicable zoning regulations.
 - 2) In order for a growth policy to serve as a basis for the exemption provided

by this subsection (e), the plan must, at a minimum meet requirements of 76-1-601:

- a) community goals and objectives;
 - b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, to include land uses, population, housing needs, economic conditions, local services, public facilities, natural resources, and other characteristics and features proposed by the planning board and adopted by the governing bodies;
 - c) projected trends for the life of the growth policy for each of the following elements: land use, population, housing needs, economic conditions, local services, natural resources, and other elements proposed by the planning board and adopted by the governing bodies;
 - d) a description of policies, regulations, and other measures to be implemented in order to achieve the community goals and objectives;
 - e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
 - f) an implementation strategy that includes: a timetable for implementing the growth policy; a list of conditions that will lead to a revision of the growth policy; a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
 - g) a statement of how the governing bodies will coordinate the cooperate with other jurisdictions that explains how the governing body will coordinate and cooperate with cities and towns located within the county=s boundaries on matters related to the growth policy;
 - h) a statement explaining how the governing bodies will define the criteria in 76-3-608 (3)(a) MCA, evaluate and make decisions regarding proposed subdivisions with respect to these criteria, and how public hearings regarding proposed subdivisions will be conducted.
- f) The governing body may exempt subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in Section II-B-4 (1) (b) if all of the following requirements have been met:
- 1) the governing body has adopted a growth policy that addresses the review criteria, evaluates the effect of subdivision on the review criteria, describes zoning regulations that will be implemented to address the review criteria, identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria, and
 - 2) the governing body has adopted zoning regulations pursuant to Chapter 2, part 2 or 3, MCA that: apply to the entire area subject to the exemption

and addresses the review criteria as described in the growth policy.

2. The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

II-B-5 Preliminary Plat Approval Period

Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than three calendar years or less than one calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval, for no more than 1 calendar year, except that the governing body may extend its approval for a period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider, provided for in Section II-C-5, page 10.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above.

TABLE 1: OVERVIEW: PRELIMINARY PLAT REVIEW PROCESS

1. Initial contact with planning board or subdivision administrator: Applicant obtains guidelines, forms, and regulations.
2. Pre-application review: Applicant completes the pre-application questionnaire with sketch plan and submits to the subdivision administrator with appropriate fees. Administrator responds in writing, outlining any potential problems, and materials required for review process.
3. Submittal of formal application: The developer shall provide a completed subdivision application to the subdivision administrator 21 days prior to a regular meeting of the planning board. If the subdivision administrator determines that the application is complete, the planning board, at its meeting, shall authorize publication of notice of a public hearing to be held at its next regular meeting. The 60 working day review period begins on the date that the subdivision administrator determines the application to be complete.
4. 15 days prior to public hearing, notice of hearing published and certified letters mailed to adjacent property owners and subdividers.
5. On-site investigation and administrative review by subdivision administrator or plat review committee.
6. Planning board meeting: public hearing conducted and subdivision reviewed.
7. Planning board recommendation for approval, conditional approval or disapproval of plat submitted in writing to the governing body and subdivider within 10 days of public hearing.
8. Governing body grants preliminary approval or conditional approval by the end of the 60 working day review period.

Note: Applicant may request an extension of the review period at any stage during the 60 working days.

II-B-6. Exemptions From Environmental Assessment

1. The requirement for preparing an environmental assessment pursuant to Section 76-3-504(1), MCA, shall be waived when:
 - a.
 - 1) The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to Section 76-1-606, MCA; and
 - 2) Municipal zoning regulations have been adopted pursuant to Sections 76-2-301 through 76-2-328, MCA; or county zoning pursuant to a growth policy has been adopted pursuant to Sections 76-2-201 through 76-2-228, MCA; and
 - 3) A strategy for development, maintenance, and replacement of public infrastructure pursuant to 76-1-601 MCA: or
 - b. The proposed subdivision is the first minor subdivision from a tract of record.
2. A planning board may exempt a proposed subdivision within its jurisdictional area from the requirement for completion of any portion of the environmental assessment if :
 - a. The proposed subdivision is in an area covered by a growth policy adopted pursuant to Sections 76-1-101 through 76-1-606, MCA and the proposed subdivision will be in compliance with the policy; or
 - b. The subdivision will contain fewer than 10 parcels and less than 20 acres, or
 - c. The subdivision qualifies for summary review pursuant to Section 76-3-505 MCA
3. When such an exemption is granted, the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted for review.

II-C. Final Plats

II-C-1. Final Plat Submittal

The final plat must be submitted to the subdivision administrator before the expiration of the preliminary plat approval period as explained in Section II-B-5.

The final plat, two blue-line copies of the final plat, appropriate review fees, and other required documents shall be submitted to the subdivision administrator.

II-C-2. Final Plat Contents

The final plat submitted for approval shall conform to the preliminary plat as previously reviewed and approved by the governing body and shall incorporate all required modifications. The final plat shall comply with the Montana Uniform Standards for Final Subdivision Plats (Appendix K). The final plat may constitute only that portion of the approved preliminary plat the subdivider wishes to file, provided that such portion conforms to all requirements of these regulations and is approved by the governing body in writing.

II-C-3. Final Plat Review

1. The final plat will be reviewed, provided that all requirements for the form and content and its supplements are met, to assure that it conforms to the approved preliminary plat. Any significant change may require the holding of a public hearing for review.
2. The governing body may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. When the survey data shown on the plat meets the conditions set forth by the Montana Subdivision and Platting Act and the Montana Uniform Standards for Documentation and Final Subdivision Plats (Appendix K), the examining land surveyor shall so certify on the plat. No land surveyor having a financial or personal interest in a plat shall act as an examining land surveyor in regard to that plat.
3. The subdivider shall submit with the final plat a certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land if other than the subdivider, and any lienholder or claimants of record against the land.
4. The governing body may provide for the review of the abstract or certificate of title of the land in question by the county attorney where the land lies in an unincorporated area or by the city or town attorney when the land lies within the limits of a city or town.

II-C-4. Restrictive Covenants - Approval and Enforcement by Governing Body

1. The governing body may require that every restrictive covenant shall contain the following language: This (These) covenant(s) may not be repealed or amended without the prior written consent of the Lake County Board of County Commissioners.
2. The governing body may require that in addition to the language specified in paragraph 1 certain restrictive covenants contain the following language: The Lake County Board of County Commissioners is a party to this restrictive covenant and may enforce the provisions hereof."

II-C-5. Public Improvements Agreement: Guaranty

1. As a condition of approval of the final plat, the subdivider shall have installed all required improvements or shall enter into a subdivision improvements agreement guaranteeing the construction installation, and maintenance of all such improvements. A model improvements agreement and alternative methods of guaranteeing public improvements, the procedures and requirements for securing the agreements, and suggested conditions for maintenance are provided in Appendix I.
2. If common property is to be deeded to a property owners' association, the covenants and restrictions which govern the association shall, at a minimum, provide for:
 - a. Formation of property owners' association before any property is sold;

- b. Mandatory membership for each property buyer and any subsequent buyer;(buyers may be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements.)
- c. Perpetual reservation of the common property;
- d. The association's responsibility for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- e. Property owners paying their pro-rate share of the cost and that the assessment charged by the association can become a lien on the property;
- f. The association adjusting assessments to meet changing needs;
- g. Means of enforcement and of receiving and processing complaints;
- h. Required permission of the governing body before the association can be dissolved or the restrictions can be modified; and
- i. A regular maintenance program for roads, parks, buildings, drainage facilities and other mutually controlled facilities.

II-C-6. Final Plat Approval

1. The governing body shall approve or disapprove the final plat within 45 days of its presentation to the subdivision administrator. The subdivision administrator shall examine the final subdivision plat and shall recommend approval only when it conforms to the conditions of approval set forth on the preliminary plat and to the terms of the Montana Subdivision and Platting Act and these regulations.
2. The governing body shall examine every final subdivision plat and shall approve it when and only when it conforms to the conditions of approval set forth for the preliminary plat and to the terms of the Montana Subdivision and Platting Act and these regulations.
3. If the final plat is disapproved, the reasons for disapproval shall be stated in the records of the governing body and a copy forwarded to the applicant. The governing body shall return the final plat to the subdivider within ten days of the action. The applicant may then make the necessary corrections and resubmit the final plat for approval. Approval shall be certified by the governing body on the face of the final plat, and the county treasurer shall certify that all taxes have been paid on the land proposed for subdivision. The acceptance of land dedications shall be made by specific resolution of the governing body and noted on the final plat.
4. The governing body may withdraw approval of a plat if it determines that such information provided by the subdivider, and upon which such decision was made, is inaccurate.

II-C-7. Final Plat Filing

Within 10 days of the approval of the final plat or minor subdivision plat, the subdivider shall submit for filing the approved final plat and supplementary documents with the county clerk and recorder. After approval, the plat shall not be altered in any manner, either before or

after filing. The county clerk and recorder shall refuse to accept any plat for filing that fails to have approval in proper form or has been altered, and shall file the approved plat only if it is accompanied by the documents specified in Uniform Standards for Final Subdivision Plats.

II-D. Correcting or Amending Filed Final Plats

II-D-1. Correcting Filed Final Plats

Corrections of drafting or surveying errors that in the governing body's opinion will not materially alter the plat may be made by the submission of a corrected final plat for the governing body's approval. The plat shall be entitled "Corrected Plat of the (name of subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat. The plat may be filed under the procedures for minor subdivision plats, Section II-D, of these regulations.

II-D-2. Amending Final Plats

1. Material Alterations

- a. Changes that materially alter any portion of the filed final plat, its land divisions, or improvements shall be made by the filing of an amended plat showing all alterations. Within a platted subdivision, any division of lots which results in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder.
- b. The amended plat shall be subject to procedures for major or minor subdivisions, as is appropriate.
- c. The governing body may not approve an amendment which will place the plat in non-conformance with the standards contained herein unless a public hearing is held on the plat and a written variance from the standards issued pursuant to Section VIII-B, Variances.
- d. The governing body may not approve an amendment unless it is consented to in writing by all affected property owners.
- e. The final amended plat submitted for approval shall comply with the Montana Uniform Standards for Final Subdivision Plats (Appendix K), with the exception that the title shall include the word "Amended." ("Amended plat of the (name) Subdivision" or (name) Subdivision, Amended.")

2. Exemptions from Amended Plat Review

- a. Amended subdivision plats that show the relocation of common boundaries and the aggregation of lots within platted subdivisions where five or fewer of the original lots are affected within a platted subdivision filed with the county clerk and recorder are exempt from approval as a subdivision. An amended plat must be prepared following the requirements of the Montana Uniform Standards for Final Subdivision Plats (Appendix K) except that in place of the governing body's approval the landowner must certify that the approval of the governing body is not required pursuant to Section 76-3-207 (1), MCA.

III. MINOR SUBDIVISIONS

Minor subdivisions, those subdivisions containing five or fewer lots where proper access to all lots is provided shall be reviewed under the procedures set forth on the following pages.

III-A. General Requirements for Minor Subdivisions

III-A-1. Construction Timing

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

III-A-2. Transfers of Title

1. Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:
 - a. That under the terms of the contracts, the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana.
 - b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder.
 - c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract, and
 - d. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."
 - e. A copy of the contracts and escrow agreement described above shall be submitted to the subdivision administrator.

III-A-3. Pre-application Procedures (See Appendix D)

The subdivider shall obtain a pre-application questionnaire from Lake County Land Services and submit the completed questionnaire for the proposed division. The subdivider shall provide a sketch plan of the proposed subdivision for review and discussion. The sketch

plan shall be legibly drawn showing in simple form the layout of proposed features in relation to existing site condition. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions must be noted. The sketch plan shall include pertinent information such as: approximate tract and lot boundaries, location description of general terrain, natural features, existing structures and improvements, and proposed public improvements. The subdivision administrator will review the application and submit a letter to the developer listing the materials required for the preliminary review and outlining any apparent potential problems that may be encountered. Based on the information outlined in the letter, the subdivider may want to contact the subdivision administrator and discuss any problems prior to the submission of the preliminary plat materials.

III-A-4. Permission to Enter

The governing body or its designated agent(s) or agency may conduct such investigations, examination, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations. The submission of pre-application materials or a preliminary plat for review shall constitute a grant of permission to enter the subject property.

III-B. Minor Subdivision Plats

III-B-1. Minor Subdivision Plat Submittal

1. The subdivider shall submit the following application information to the subdivision administrator:
 - a. Application for public review with supplements as required in Section II-B-1, Preliminary Plat Submittal and a completed State Subdivision Application;
 - b. the required review fee as stated in the Fee Schedule from Appendix N.
 - c. three (3) copies of the minor subdivision plat and any supplements.
 - d. For a second or subsequent minor subdivision from a tract of record, additional reasonable requirements (authorized by 76-3-505, MCA.).
2. The application materials and fee shall be submitted to the subdivision administrator 28 days prior to a regular meeting of the planning board. The subdivision administrator will review the information to determine whether or not the application is complete. If the application is complete, the planning board shall review the proposed subdivision in accordance with procedures set forth in Section III-B-6, Minor Subdivision Plat Approval, of these regulations. The 35 working day review period shall begin on the date that the subdivision administrator determines that the application is complete.
3. If the subdivision administrator determines that the application is incomplete, the subdivider (or subdivider's agent) shall be notified, in writing, of the deficiencies in at least three (3) working days, or seventeen (17) days prior to the planning board meeting. The subdivider may then correct the deficiencies and present the corrections to the subdivision administrator no later than ten (10) days prior to the planning board meeting. If the application is complete, the proposal will be scheduled for the current planning board meeting.

III-B-2 Minor Subdivision Plat Form and Contents

The subdivider may submit either a preliminary plat or a final plat that conforms to the Montana Uniform Standards for Subdivision Plats (Appendix K) for a minor subdivision. With either form of plat, the subdivider must also submit the supplements required for preliminary plats identified in Appendix B of these regulations. The minor subdivision plat shall conform to the design standards as set forth in Section IV of these regulations.

III-B-3 Exemptions from Environmental Assessment

For the first minor subdivision created from a tract of record the requirement for submitting an environmental assessment shall not apply. For the second or subsequent minor subdivisions from a tract of record the planning board may require preparation of all or part of the environmental assessment. When an environmental assessment is required, the subdivider shall submit the information requested in Appendix C.

III-B-4. Public Hearing

For the first minor subdivision created from a tract of record, the requirement for holding a public hearing shall not apply. For the second or subsequent minor subdivision from a tract of record, the planning board shall require a public hearing. When a public hearing is held, the requirements in Section II-B-1 and II-B-2 of these regulations shall be followed.

III-B-5. Planning Board Recommendation

1. The planning board shall:
 - a. consider the following:
 - 1) relevant evidence relating to the public health, safety, and welfare;
 - 2) any officially adopted comprehensive plan for the area involved;
 - 3) review criteria specified in Section II-B-6, Minor Subdivision Plat Approval, below.
 - 4) whether the preliminary plat conforms to the provisions of:
 - a) the Montana Subdivision and Platting Act;
 - b) these regulations;
 - c) applicable zoning regulations;
 - d) any officially adopted comprehensive plan for the area involved; and
 - e) other regulations in effect in the area of the proposed subdivision; and
 - b. within 10 days after the public hearing, submit in writing the following to the governing body:
 - 1) its findings regarding the items under subsection a, above;

- 2) recommended Findings of Fact that weigh the review criteria pursuant to 76-3-608, MCA; and
- 3) a recommendation for approval, conditional approval, or disapproval of the plat.

III-B-6. Minor Subdivision Plat Approval

1. The governing body shall approve, conditionally approve, or disapprove the preliminary plat within 35 working days of determination of completeness, unless the subdivider consents to an extension of the review period. If the governing body disapproves or conditionally approves the preliminary plat, it shall forward one copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for disapproval or enumerating the conditions which must be met to assure approval of the final plat.
2. The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the following demonstrate that development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, these regulations, an adopted growth policy, and any applicable zoning regulations:
 - a. the preliminary plat;
 - b. environmental assessment;
 - c. planning board recommendations; and
 - d. additional information.
3. The governing body shall issue a written Findings of Fact that discusses and weighs the following criteria (pursuant to 76-3-608, MCA):
 - a. Effect on agriculture, agricultural water users facilities, local services, the natural environment, wildlife and wildlife habitat, and the public health and safety;
 - b. Compliance with the survey requirements of the MSPA, and the regulations and review procedures of these local subdivision regulations;
 - c. The provision of easements for the location and installation of any necessary utilities; and
 - d. The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
 - e. The governing body may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the required review. The governing body shall issue written findings to justify the reasonable mitigation required.
 - f. In reviewing a subdivision, and when requiring mitigation:

- 1) The governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat;
 - 2) The governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
- g. When a minor subdivision is proposed in an area where a growth policy has been adopted and the proposed subdivision will comply with the policy:
- 1) The subdivision is exempt from the review criteria contained in Chapter two and the proposed subdivision will comply with the plan, the subdivision is exempt from the review criteria contained in subsection (2)(a) but is subject to applicable zoning regulations.
 - 2) In order for a growth policy to serve as a basis for the exemption provided, the plan must meet requirements of 76-1-601 as cited in Section II-B-4 (e) (2)
- h) The governing body may exempt subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in Section II-B-4 (1) (b) if all of the following requirements have been met:
- 1) the governing body has adopted a growth policy that addresses the review criteria, evaluates the effect of subdivision on the review criteria, describes zoning regulations that will be implemented to address the review criteria, identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria, and
 - 2) the governing body has adopted zoning regulations pursuant to Chapter 2, part 2 or 3, MCA that: apply to the entire area subject to the exemption and addresses the review criteria as described in the growth policy.
- 4) The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

III-B-7. Minor Subdivision Plat Approval Period

Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than three calendar years or less than one calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a period for no more than 1 calendar year, except that the governing body may extend its approval for a period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider, provided for in Section II-C-5.

After the preliminary plat is approved, the governing body may not impose any additional

conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above.

III-B-8. Minor Subdivision Final Plat

The final plat shall be drawn in accordance with the appropriate procedural requirements contained in Section II-C, Final Plat.

TABLE 2. OVERVIEW: MINOR SUBDIVISION PLAT REVIEW PROCESS

1. Initial contact with subdivision administrator: Applicant obtains guidelines, forms, and regulations.
2. Pre-application review: Applicant completes the pre-application questionnaire with sketch plan and submits to the subdivision administrator with the appropriate fees. Administrator responds in writing, outlining any potential problems, and materials required for review process.
3. Submittal of formal application and planning board review to the subdivision administrator 21 days prior to a regular meeting of the planning board. If application is complete, planning board reviews the subdivision at that meeting. The 35 working day review period begins on the date that the subdivision administrator determines that the application is complete.
4. On-site investigation and administrative review by subdivision administrator.
5. Subdivision administrator prepares written report and draft Findings of Fact.
6. Planning board recommendation for approval, conditional approval or disapproval of minor subdivision submitted in writing to the governing body and subdivider within ten days of planning board meeting.
7. Governing body action to approve, conditionally approve or disapprove minor subdivision must be completed within the 35 working day time limit.

NOTE: Applicant may request an extension of the review time limit at any stage.

III-C. "Low Impact" Minor Subdivisions

III-C-1. Criteria Defining "Low Impact" Minor Subdivisions

1. "Low impact" subdivisions are those subdivisions where:
 - a. Only one additional lot would be created,
 - b. The proposed subdivision is the first division of land from a tract of a record,
 - c. The family conveyance exemption has not been previously used to create the subject property or adjacent parcels, and
 - d. The proposed subdivision is not located on land:
 - 1) unsuitable for development, as defined by local subdivision regulations
 - 2) subject to natural or man-made hazards, or
 - 3) where significant adverse effects on wildlife, the natural environment or public health or safety would occur.

III-C-2. Review Procedures for "Low Impact" Minor Subdivisions

1. The subdivider shall obtain a pre-application questionnaire (Appendix D) from Lake County Land Services and submit the completed questionnaire for the proposed division. The subdivider shall provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan shall be legibly drawn showing in simple form the layout of proposed features in relation to existing site condition. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions must be noted. The sketch plan shall include pertinent information such as: approximate tract and lot boundaries, location, description of general terrain, natural features, existing structures and improvements, and proposed public improvements. The subdivision administrator will review the application and submit a letter to the developer listing the materials required for the preliminary review and outlining any apparent potential problems that may be encountered. Based on the information outlined in the letter, the subdivider may want to contact the subdivision administrator and discuss any problems prior to the submission of the preliminary plat materials.
2. Subdivider or agent submits plat and application to subdivision administrator (See Appendix B). Application includes:
 - a. Three (3) paper copies of Plat that conform to the local requirements for Preliminary Plats, except that (c) below can substitute for the required contour maps and drainage plan
 - b. Plat's title block includes "Subdivision Plat No. _____";
 - c. USGS topographic map showing location of subdivision and road access;
 - d. Evidence of a suitable building site, suitable drainfield site, and adequate water supply;
 - e. Evidence of legal and physical access, including adequate and appropriate easements if necessary, and necessary utility easements;

- f. Names of property owners adjacent to subdivision;
 - g. An improvements agreement and financial guaranty, if applicable; and
3. When the administrator accepts the application as complete, the action triggers the statutory 35 working day review period.
 4. The subdivision administrator reviews the subdivision plat and application for compliance with:
 - a. survey requirements,
 - b. local design standards,
 - c. provision of legal and physical access, including adequate and appropriate easements, if necessary,
 - d. utility easements,
 - e. primary review criteria of 76-3-608, MCA, and
 - f. an acceptable improvements agreement with financial guaranty, if applicable.

III-C-3. Planning Board Recommendation

1. The planning board shall:
 - a. consider the following:
 - 1) relevant evidence relating to the public health, safety, and welfare;
 - 2) any officially adopted growth policy for the area involved;
 - 3) review criteria specified in Section III-B-6, Minor Subdivision Plat Approval, below.
 - 4) whether the preliminary plat conforms to the provisions of:
 - a) the Montana Subdivision and Platting Act;
 - b) these regulations;
 - c) applicable zoning regulations;
 - d) any officially adopted growth policy for the area involved; and
 - e) other regulations in effect in the area of the proposed subdivision; and
 - b. within 10 days after the public hearing, submit in writing the following to the governing body:
 - 1) its findings regarding the items under subsection a, above;
 - 2) recommended Findings of Fact that weigh the review criteria pursuant to 76-3-608, MCA; and
 - 3) a recommendation for approval, conditional approval, or disapproval of the plat.

III-C-4. "Low Impact" Minor Subdivision Plat Approval

1. The governing body shall approve, conditionally approve, or disapprove the preliminary plat within 35 working days of determination of completeness, unless the subdivider

consents to an extension of the review period. If the governing body disapproves or conditionally approves the preliminary plat, it shall forward one copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for disapproval or enumerating the conditions which must be met to assure approval of the final plat.

2. The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the following demonstrate that development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, these regulations, an adopted growth policy, and any applicable zoning regulations:
 - a. the preliminary plat;
 - b. environmental assessment;
 - c. planning board recommendations; and
 - d. additional information.
3. The governing body shall issue a written Findings of Fact that discusses and weighs the following criteria (pursuant to 76-3-608, MCA):
 - a. Effect on agriculture, agricultural water users facilities, local services, the natural environment, wildlife and wildlife habitat, and the public health and safety;
 - b. Compliance with the survey requirements of the MSPA, and the regulations and review procedures of these local subdivision regulations;
 - c. The provision of easements for the location and installation of any necessary utilities; and
 - d. The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
 - e. The governing body may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the required review. The governing body shall issue written findings to justify the reasonable mitigation required.
 - f. In reviewing a subdivision, and when requiring mitigation:
 - 1) The governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat;
 - 2) The governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
 - g. When a minor subdivision is proposed in an area where a growth policy has been

adopted and the proposed subdivision will comply with the plan:

- 1) The subdivision is exempt from the review criteria contained in Chapter one and the proposed subdivision will comply with the plan, the subdivision is exempt from the review criteria contained in subsection (2)(a) but is subject to applicable zoning regulations.
 - 2) In order for a growth policy to serve as a basis for the exemption provided, the plan must meet the requirements of 76-1-601 as cited in Section II-B-4 (e) (2).
- h) The governing body may exempt subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in Section II-B-4 (1) (b) if all of the following requirements have been met:
- 1) the governing body has adopted a growth policy that addresses the review criteria, evaluates the effect of subdivision on the review criteria, describes zoning regulations that will be implemented to address the review criteria, identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria, and
 - 2) the governing body has adopted zoning regulations pursuant to Chapter 2, part 2 or 3, MCA that: apply to the entire area subject to the exemption and addresses the review criteria as described in the growth policy.
4. The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

III-C-5. "Low Impact" Minor Subdivision Plat Approval Period

Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than three calendar years or less than one calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a period for no more than 1 calendar year, except that the governing body may extend its approval for a period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider, provided for in Section II-C-5, page 11.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above.

III-C-6 Final Plat

1. The subdivider:
 - a. completes any required surveying functions and prepares a final plat that complies with the Uniform Standards for Surveying and Documentation,

- b. meets any conditions specified by governing body,
- c. submits final plat, any supplements, cash donation in lieu of park land if required to the administrator for a final check, and
- d. submits final plat and required documents to the county clerk and recorder for filing.

TABLE 3: CHART OF STEPS AND TIME PERIODS FOR REVIEW OF PRELIMINARY PLATS

DAY	"LOW IMPACT" MINOR AND MINOR SUBDIVISIONS	MAJOR SUBDIVISIONS
	Initial contact; obtain local regulations	Initial contact; obtain local regulations
	Pre-application questionnaire	Pre-application questionnaire
	Submit preliminary plat application; 21 days before planning board meeting; when complete, review period begins	Submit preliminary plat application; 28 days before planning board meeting; when complete, review period begins
1	On-site visit and review of application by subdivision administrator	
5		Subdivision Administrator schedules hearing for planning board meeting; publishes and mails notice of hearing
10	Subdivision administrator prepares written report and draft Findings of Fact	
15		Subdivision administrator makes on-site visit; reviews application; makes staff report; drafts Findings of Fact
20	Planning board reviews, makes recommendation	
25	Governing body acts to approve, deny or conditionally approve subdivision	
35	Deadline: Preliminary review of minor subdivisions	Planning board holds public hearing; board makes recommendation regarding approval; drafts Findings of Fact
40		Governing body acts to approve, deny or conditionally approve subdivision.
60		Deadline: Preliminary Plat Review

IV. DESIGN AND IMPROVEMENT STANDARDS

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

IV-A. General Standards

IV-A-1. Conformance

The design and development of a subdivision must conform with any adopted growth policy, zoning ordinance, health department and other resolutions and regulations. Where no zoning regulations are in effect, maximum density and minimum lot size must be established in consultation with local and state health authorities.

IV-A-2. Natural Environment

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

IV-A-3. Lands Unsuitable for Subdivision

The governing body may find land to be unsuitable for subdivision because of potential hazards such as flooding, snow avalanches, rock falls, land slides, steep slopes in excess of 25 percent slope, high potential for wildfire, subsidence, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, aircraft or vehicular traffic hazards or congestion, or severe toxic or hazardous waste exposure; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation; or other features which may be detrimental to the health, safety, or general welfare of existing or future residents. These lands must not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction plans.

IV-A-4. Floodplain Provisions

1. Land located in the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA, or land deemed subject to flooding as determined by the governing body shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate flood hazards to life, health, or property.
2. If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a live stream draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider must furnish survey data to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation. Survey data must comply with the Standards for Flood Hazard Evaluations as contained in Appendix G of these regulations. After the Floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the subdivider must submit it to the subdivision administrator along with the Environmental Assessment required for the preliminary plat.

3. The governing body must waive this requirement where the subdivider contacts the Water Resources Division and that agency states in writing that available data indicated that the proposed subdivision is not in a flood hazard area.

IV-A-5 Improvement Design

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

IV-A-6. Lots

1. Each lot must contain a satisfactory building site which is properly located to topography and conforms to health department regulations, zoning regulations, and these regulations.
 - a. No single lot must be divided by a municipal or county boundary line.
 - b. No single lot must be divided by a public road, alley or utility right-of-way or easement.
 - c. Each lot must abut and have access to a public or private street or road. Alleys may not be used to provide the primary means of access to a lot.
 - d. Corner lots must have driveway access to the same street or road as interior lots.
 - e. Corner lots must be of sufficient area to provide acceptable visibility for traffic safety.
 - f. No lot must have an average depth greater than four times its average width.
 - g. Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.
 - h. Through lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.
 - i. Flag lots are prohibited. A flag lot, for purpose of these regulations, is a lot with a narrow extension whose only purpose is providing access to the main body of the lot and avoidance of road construction requirements.

IV-A-7. Blocks

1. 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.
2. Unless impractical, block length must not be more than 1,600 feet.
3. Blocks must be wide enough to allow for two tiers of lots except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation or unless the governing body approves the design of irregularly

shaped blocks indented by cul-de-sacs.

4. Rights-of-way for pedestrian walks, not less than ten feet wide, must be required where deemed essential to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities.

IV-A-8. Streets and Roads

1. Design All roads must meet the specifications contained in these regulations.
 - a. The arrangement, type, extent, width, grade and location of all streets must be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety, and in their relation to the proposed uses of the land to be served by them.
 - b. All streets and easements within Lake County must be dedicated to the public.
 - c. An access permit must be obtained from either the County Road Department or the State Department of Transportation for all approaches to County or State roads.
 - d. Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the governing body may require frontage roads, with a reservation prohibiting access along the property line, or other treatment as may be necessary for adequate protection of residential properties and to separate arterial and local traffic.
 - e. Half streets are prohibited except where essential to the development of the subdivision and where the governing body is assured that it will be possible to require the dedication of the other half of the street when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within such tract.
 - f. Streets and roads shall be designed to ensure proper drainage, including but not limited to surface crown, culverts, drainage swales and storm drains.
 - g. Names of new streets aligned with existing streets must be the same as those of the existing streets. Proposed street names must not duplicate or cause confusion with existing street names.
 - h. Where limits imposed for fire protection allow, existing trees and other vegetation should be preserved whenever possible. Plantings may be required for buffering, screening, or soil erosion protection.
 - i. Where streets terminate, either a cul-de-sac or "T" turnaround must be provided at the terminus. Cul-de-sacs and "T" turnarounds must conform to the design specifications set forth in these regulations.
 - j. Cul-de-sac roads which exceed the maximum length established in these regulations may be allowed, provided that said cul-de-sac road shall not serve more than 15 dwelling units. The length of the cul-de-sac shall be measured along the centerline of the Cul-de-sac road. The measurement shall begin at the center of the turnaround and terminate at the

centerline of the intersected street.

2. Improvements All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage must meet or exceed the minimum design and construction specifications and standards prescribed in these regulations.
 - a. Street lighting may be required by the governing body on all streets within a development or may be included as part of a public improvements agreement.
 - b. Signs, striping and other traffic control devices of the size, shape and height as approved by the governing body must be placed at all intersections by the developer or included as part of the public improvements agreement. Traffic control devices must be consistent with the "Manual on Uniform Traffic Control Devices" available from the Montana Department of Transportation.
 - c. If mail delivery will not be to each individual lot within a development, the developer shall provide an off-street area for mail delivery in accordance with the design criteria provided by the United State Postal Service. Responsibility for maintenance of the site may be included as part of the public improvements agreement.

3. Easements
 - a. Where access from a public road to the development will cross properties not owned by the developer, the developer must obtain proper easements from each property owner or the appropriate administrator of public lands. The easement must be at least 60 feet wide and allow for the construction and perpetual maintenance of a road across the property and allow vehicular travel on the road.
 - b. Adequate and appropriate easements must be granted by each property owner through a signed and notarized document that grants the easement in conformance with 3A above.
 - c. The location of any road easement must be shown on the plat or Certificate of Survey. The existence of easements must be noted on the face of the final plat and on any deeds or other instruments conveying lots within the subdivision.

4. Intersections The following apply to intersections:
 - a. Streets must intersect at 90 degree angles, except when topography precludes, and in no case must the angle of intersection be less than 60 degrees to the center line of the roadway being intersected.
 - b. Two non-aligning streets meeting a third street from opposite sides must be offset at least 125 feet for local roads and 300 feet for arterial or collectors.
 - c. No more than two streets may intersect at one point.
 - d. Intersections of local streets with major arterial or highways must be kept to a minimum.
 - e. Intersection design must provide acceptable visibility for traffic safety as dictated by the

designed operating speeds on the individual roadways.

- f. Maximum grade of approach to major highways must not exceed five percent.

5. Minimum Construction Standards

- a. The road right-of-way shall be at least 60 feet. The governing body may require additional right-of-way when topography or road design or use dictate such. Variance may be granted for private roads, but in no case shall the right-of-way be less than 30 feet.
- b. All excavations shall be made to sub-grade elevations and shall be true to grade. Material below sub-grade elevations in cuts shall not be loosened during the progress of the work. No excavation shall be made below sub-grade elevation except to remove spongy material, vegetative matter, or other unsuitable material. Any excavation below sub-grade elevation, shall be replaced with satisfactory fill material or base course material and compacted in place.
- c. The developer shall take proper precautions to insure the protection of utility lines, culverts, irrigation systems and any other public or private facilities which may be encountered during construction of the road. The developer shall be financially responsible for the repair, replacement, restoration and loss of services which may result from damage caused during construction.
- d. The base shall consist of at least twelve (12) compacted inches of pit run a maximum of four inches in diameter.
- e. The surface shall consist of a minimum of four (4) compacted inches of three quarter (3/4) minus crushed gravel.
- f. Driveway and intersections shall be designed to drain water from the driving surfaces.
- g. Dust oiling, chip sealing or paving may be required by the governing body.

6. Minimum Design Standards

Number of Additional Lots	6 or more	2 to 5	1
A. Minimum right of way width			
1. Level terrain	60 ft.	60 ft.	30 ft.
2. Hilly terrain	60 ft.	60 ft.	40 ft.
B. Minimum roadway width¹	26 ft.	24 ft.	20 ft.
C. Minimum curb radius/flare on pavement at intersection	25ft.	25 ft.	15 ft.
D. Maximum grades²	8%	8%	9%
E. Approaches to Public Roads³			
1. Minimum sight distance	200 ft.	200 ft.	150 ft.
2. Minimum width for 20 feet	36 ft.	34 ft.	24 ft.
3. Maximum grade for 20 feet	5%	5%	5%
F. Curvature⁴			
1. Design speed	30 mph	30 mph	20 mph
2. Minimum radius	302 ft.	302 ft.	107 ft.
G. Cul-de-sacs/Turnarounds			
1. Maximum length	1500 ft.	1500 ft.	1500 ft.
2. Minimum improved driving surface radius	50 ft	50 ft.	40 ft.
3. "T" turnaround: minimum length	35 ft.	35 ft.	30 ft.
4. Inside turning radius "T" turnaround	25 ft.	25 ft.	25 ft.
H. New bridges or culverts			
1. Curb to curb width⁵	26 ft.	24 ft.	20 ft.
2. AASHO design load	H-20	H-15	H-15

¹ Where parking will be permitted add eight (8) feet on each side. If guardrail installation is required or a shoulder is desired, add two (2) feet to each side of the roadway.

²The preferred road grade is 6% or less.

³These standards are speed dependant and may be increased in accordance with the recommendation of the County Road Supervisor.

⁴Curvature is based on a super-elevation of .04 feet.

⁵ Width of the bridge roadway surface should match the width of the roadway system it joins.

3. Vertical clearance	14.5 ft.	14.5 ft.	14.5 ft.
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IV-A-9. Drainage Facilities

1. The drainage system and facilities required for any surface run-off affecting the subdivision is subject to approval by the governing body. Subdivisions containing lots less than 20 acres in size also must meet the minimum drainage standards of the Montana Department Environmental Quality.
2. Curbs and gutters or swales must be required as determined by the governing body according to the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended according to current specifications of local and state authorities.
3. Culverts or bridges of adequate size must be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. All culverts must extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity must be determined by a registered engineer. This must include arrangements for driveway culverts.
4. The subdivider must provide suitable drainage facilities for any surface run-off affecting the subdivision; these facilities must be located in street rights-of-way or in perpetual easements of appropriate widths and are subject to approval by the governing body.
5. Each culvert or other drainage facility must be large enough to accommodate potential run-off from upstream drainage areas.
6. Drainage systems must not discharge into any sanitary sewer facility.
7. The grading and drainage system must be designed and certified by a registered engineer.
8. The governing body may require the subdivider to grant easements to prevent encroachment or disruption of drainage ways or facilities. Drainage easements must be drawn on the plat and a signed statement granting the easements must appear on the plat.

IV-A-10. Water Supply Systems

1. All water supply systems must be subject to approval of the governing body. Subdivision lots less than 20 acres in size also must meet the minimum standards of the Montana Department of Environmental Quality.
2. The water supply system must be subject to approval by the governing body which may require that any proposed central system provide adequate and accessible water for fire protection.
3. Where the subdivision is within the service area of a public water supply system, the subdivider must install complete water system facilities in accordance with the requirements of the jurisdiction involved and the Montana Department of Environmental Quality. The subdivider must submit plans and specifications for the proposed facilities to the jurisdiction involved and to the Montana Department of Environmental Quality, and must obtain their approvals prior to undertaking any construction.

IV-A-11. Sewage Treatment Systems

1. All sewage treatment systems must be subject to the approval of the governing body. Subdivision lots less than 20 acres in size also must meet the minimum standards of the Montana State Department of Environmental Quality.
2. Where the subdivision is within the service area of a public sanitary sewer system, the subdivider must install complete sanitary sewer system facilities in accordance with the requirements of the jurisdiction involved and the Montana Department of Environmental Quality. The subdivider must submit plans and specifications for the proposed facilities to the jurisdiction involved and to the Montana Department of Environmental Quality, and must obtain their approvals prior to undertaking any construction.

IV-A-12. Payment for extension of capital facilities

1. The governing body may require a subdivider 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 local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.
2. The governing body will determine that:
 - a. The development in question will create a need for additional public facilities or improvements;
 - b. The fee imposed is intended to prevent or mitigate the types of impacts on public facilities or on the public health and safety that the development is expected to have;
 - c. The proposed fee is roughly proportionate to the need for additional public facilities or mitigating measures reasonably attributable to the development; and
 - d. The fee will actually be expended to mitigate the particular impact that the development is expected to have.

IV-A-13. Solid Waste

The subdivider must assure that provisions for collection and disposal of solid waste meet the regulations and minimum standards of the Montana Department of Environmental Quality. The means for solid waste collection and disposal must be subject to approval by the governing body.

IV-A-14. Utilities

1. Utilities shall be installed by the developer prior to final plat filing.
2. Utilities must be placed underground, wherever practical. Underground utilities, if placed in the street right-of-way, must be located between the roadway and the right-of-way line to simplify

location and repair of lines. Such underground facilities must be installed after the street has been brought to grade and before it is surfaced, to eliminate so far as practicable the necessity for disturbing such surfacing for the connection of individual services.

3. Overhead utility lines must be located at the rear property line, where practical.
4. Utility facilities must be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.
5. The subdivider must provide adequate and appropriate easements for the construction of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision.
6. Utility easements must be centered along side and rear lot lines wherever necessary, and, if placed in the street, be located between the roadway and the right-of-way line.
7. Utility easements must be 15 feet wide unless otherwise specified by a utility company or governing body.
8. Where a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body local or state highway department.
9. In addition to showing the location of the utility easement on the plat with dashed lines, the following statement must be on the final plat:

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

IV-A-15. Water Course Easements

Where a subdivision is traversed by a watercourse, drainage way, channel, ditch, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance. A minimum width of 10 feet is required on each side of irrigation canals for maintenance purposes.

IV-A-16. Park Land

1. Park dedication requirement
 - a. Except as provided in subsections (2), (3) and (6), a subdivider shall dedicate to the governing body a cash or land donation equal to:
 - 1) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - 2) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
 - 3) 5% of the area of the land proposed to be subdivided into parcels larger

than 1 acre and not larger than 3 acres; and

- 4) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.
- d. When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under Title 76, Chapter 1, or pursuant to zoning regulations under Title 76, Chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.
- c. A park dedication shall not be required for:
- 1) A minor subdivision;
 - 2) Land proposed for subdivision into parcels larger than 5 acres;
 - 3) Subdivision into parcels that are all nonresidential;
 - 4) A subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or
 - 5) A subdivision in which only one additional parcel is created.
- d. The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.
- e. The governing body:
- 1) Shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.
 - 2) May use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easement only if;
 - a) the park, recreational area, open space, or conservation easement is within a reasonable close proximity to the proposed subdivision; and
 - b) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.
 - 3) The governing body may not use more than 50% of the dedicated money for park maintenance.
- f. The local governing body shall waive the park dedication requirement if:

- 1)
 - a) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and
 - b) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);
 - 2)
 - a) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic value; and
 - b) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(1), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or
 - 3) The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1).
- g. For the purposes of this section:
- 1) "Dwelling unit" means a residential structure in which a person or persons reside; and
 - 2) "Cash donation" is the fair market value of the unsubdivided, unimproved land.
- h. Funds in a park fund that exceed \$10,000 as of October 1, 1995 must be used for park land acquisition and initial development. Funds in a park fund up to \$10,000 as of October 1, 1995 may be used for park maintenance in accordance with a formally adopted park plan.

IV-A-17. Fire Protection

1. All subdivisions must be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Measures must include:
 - a. The placement of structures in such a manner so as to minimize the potential for flame spread and to permit efficient access for fire fighting equipment.
 - b. The presence of adequate fire fighting facilities on site, when required by the governing body.
 - c. An adequate water supply and water distribution system to fight fires on site, when required by the governing body.
 - d. The availability, through a fire protection district or other means, of fire protection services adequate to respond to fires that may occur within a subdivision.

IV-A-18. Special Standards for Subdivisions Proposed in Areas of High Fire Hazard

1. High fire hazard areas include heads of draws, excessive slopes, dense forest growth or other hazardous wildfire components. For subdivisions proposed in areas subject to high wildfire hazard as determined by the U.S. Forest Service or the Forestry Division of the Montana Department of Lands, the following standards must apply:
 - a. At least two entrance-exit roads must be provided to assure more than one escape route for residents and access routes by fire fighting vehicles.
 - b. Road right-of-way must be cleared of slash.
 - c. Bridges must be built to a design load of 20 tons, and constructed of non-flammable materials.
 - d. Building sites must be prohibited on slopes greater than 25 percent and at the apex of "fire chimneys" (topographic features, usually drainageways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).
 - e. Densities in areas of steep slopes or dense forest growth must be reduced through minimum lot standards as follows:

Minimum lot size (acres)

% Slope	Open Grass	Forest/Brush
0-10	1	2
10-20	2	3
20-25	3	4
over 25	5	not permitted

- f. Open space, park land and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.
 - g. A water supply of sufficient volume for effective fire control must be provided in accordance with standards set by (the appropriate local fire protection authority).*
2. In absence of such standards, a water supply of sufficient volume for effective fire control must at a minimum provide as follows:
 - a. A minimum of 500 gallons per minute for lots of one acre or larger.

- b. A minimum of 750 gallons per minute for lots of less than one acre.
- c. Where no central water system exists, cisterns of minimum capacity of 500 gallons per dwelling unit must be provided at appropriate locations.

IV-A-19 Irrigation

1. Water Course and Irrigation Easements

- a. Except as noted in b., below, the subdivider shall establish within the subdivision ditch easements that:
 - (1) 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 under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (2) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance and inspection of the ditch; and
 - (3) prohibit the placement of structures or the permitting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
- b. The subdivider need not establish irrigation easements as provided above if:
 - (1) the average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or
 - (2) the water rights have been removed from the land within the subdivision or the process has been initiated to remove the water right from the subdivided land; and
 - (3) 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 subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
- c. The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, under file and record with the county clerk and recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. A minimum width of 10 feet is required on each side of irrigation canals and ditches for maintenance purposes. Historic ditch easements may already be established on Flathead Irrigation Project canals and the subdivider is required to provide a letter or review regarding easements from the Project with the preliminary plat submittal.

2. Disposition of Water Rights

- a. If a subdivision will create lots averaging less than five acres in size, the subdivider shall

submit evidence with the final plat that the subdivider has:

- (1) reserved all or a portion of the appropriation of 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; and
- (2) 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, establish a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
- (3) reserved and severed all surface water rights from the land proposed for subdivision.

3. Irrigation Master Plan

- a. When irrigation water rights are to be transferred to one or more of the lots within a subdivision, the subdivider must design an irrigation delivery system. A master irrigation plan, as described in this section, shall be prepared and submitted along with the preliminary plat application. All improvements specified in the approved master plan shall be installed prior to final plat filing.
- b. The plan and support documentation shall be prepared by a person with a working knowledge of irrigation water delivery systems and approved by the Board of Lake County Commissioners or their designated agents. In addition, the proposed plan shall be prepared in consultation with any of the following: The Flathead Irrigation Project (FIP), Joint Board of Control, Montana Department of Natural Resources and Conservation, the U.S.D.A. Natural Resources Conservation Service or a similar agency.
- c. The plan shall be prepared according to the following format:
 - (1) The page size shall be the same as required for a preliminary plat;
 - (2) The plan shall be legible and show all of the required information;
 - (3) The plan shall be prepared at the same scale as the preliminary plat.
- d. The plan shall include the following elements:
 - (1) The location of all existing and new diversion points, delivery points, easements, ditches, pipes, pumps, heads, and associated easements.
 - (2) The means to share in the cost of operating, managing, and maintaining those elements of the delivery system held in common, such as an irrigators association.
 - (3) The amount of water allocated to each lot in the division.
 - (4) The specific area under the FIP.
 - (5) How wastewater (tailings) will be collected.
 - (6) How drainfields and homesites will be avoided.
 - (7) A statement that all FIP ditches may be maintained by personnel from the FIP.
 - (8) Any lot less than 20 acres in size (1/2 of a ¼ of a ¼ section) in total size must have a piped, pressurized system capable of sprinkler application of the irrigation water.
 - (9) A statement from the FIP that they will provide water to the designated delivery point.
- e. The approved master irrigation plan shall be filed with the FIP as well as the Lake County Clerk & Recorder (prior to or concurrent with the filing of the final plat) as a single document and shall include and shall include only provisions related to irrigation.

IV-A-20. Weed Control Management

When submitting required information for review, the developer must present a letter of review from the Lake County Weed Control Department. If it is determined weed control measures are necessary, the developer must enter into a weed control management plan with the Department prior to final plat approval.

IV-A-21. Buffer Strips Along Waterways

The subdivider will define buffer strips along streams, rivers, or lakes by identifying buffer strip width and a plan for protection of vegetation within the buffer strip. The plan shall promote infiltration of runoff and wildlife habitat. The buffer strip plan will be included in the required information for review and be incorporated in the covenants for the proposed division.

V. SUBDIVISIONS CREATED BY RENT OR LEASE

V-A. Procedures for Review

V-A-1. Definition

A subdivision created by rent or lease, including a mobile home or recreational vehicle park, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership (which can include a number of persons owning property in common).

V-A-2. Review and Approval

Subdivisions created by rent or lease are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the governing body before portions thereof may be rented or leased. The subdivider shall submit a completed application form and a preliminary plat of the proposed development. Approval will be based upon the primary review criteria in Section II-B-4 Preliminary Plat Approval of these regulations.

Subdivisions created by rent or lease shall be reviewed under preliminary plat procedures contained in Sections II-A and II-B of these regulations.

V-A-3. Improvements

Before any portion of a rental or lease subdivision may be rented or leased, the subdivider shall install all required improvements. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

V-A-4. Summary Review

Where a rental or lease subdivision qualifies as a minor subdivision, it may receive summary review as provided for in Section III-A Minor Subdivisions of these regulations.

V-A-5. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a plan conforming to the requirements for preliminary plats contained in Appendix B, Preliminary Plat Form, Contents, and Supplements. The plan shall show the lot layout and the typical location of the mobile home, recreational vehicle, or other unit on the lot. The subdivider shall submit the plan to the subdivision administrator. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the (office of the city clerk or county clerk and recorder).

V-A-6. DEQ License

Mobile home and recreational vehicle parks are required to be licensed by the Montana Department of Environmental Quality under the provision of Title 50, Chapter 52, MCA.

V-B. Design Standards for Subdivisions Lots Created by Rent or Lease

V-B-1. Design Standards

Subdivisions created by rent or lease of lots for conventional housing must comply with the provisions of Section IV, Design and Improvements Standards.

V-B-2. Additional Provisions

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

V-C. Mobile Home Park Standards

V-C-1 Mobile Home Lots

1. Mobile home lots must be arranged to permit the safe and practical placement and removal of mobile homes.
2. All mobile homes must be located at least 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park.
3. The mobile home pad must be located at least ten feet from the street that serves it.

4. The size of the mobile home pad must be suitable for the general market to be served and must fit the dimensions of mobile homes anticipated.
5. A mobile home pad may not occupy more than one-third (1/3) of the area of its lot. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the area of a lot.
6. The governing body may require that the mobile home pad be improved to provide adequate support for the placement and tie-down of the mobile home.
7. No mobile home nor its attached structures, such as awning or carports, may be located within 20 feet of any other mobile home or its attached structures.
8. No detached structure, such as a storage shed, may be located within five feet of any mobile home or its attached structures.
9. A minimum of two off-street parking spaces must be provided on or adjacent to each mobile home lot. The driveway must be located to allow for convenient access to the mobile home. The minimum width must be ten feet.
10. One guest parking space for each ten mobile home lots must be provided. Group parking may be provided.
11. The limits of each mobile home lot must be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground must be approximately the same as shown on the acceptable plans. The degree of accuracy obtainable with an engineer's scale and a tape is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground.
12. Each mobile home must be skirted within 60 days after said mobile home is moved upon a lot within the mobile home park. Said skirting must be of a fire-resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home.

V-C-2. Streets

Refer to Section IV-A-8, Lake County Road Standards, or applicable city street standards (within incorporated cities)

V-C-3. Electrical Systems

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

V-C-4. Gas Systems

1. Gas equipment and installations must be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation must be designed and constructed in

accordance with the appropriate provisions of the "National Fuel Gas Code" (NFPA Pamphlet 54-1981) and the "Standard for the Storage and Handling of Liquefied Petroleum Gases" (NFPA Pamphlet 58-1981).

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

V-D. Recreational Vehicle Park Standards

V-D-1. Recreational Vehicle Spaces

1. Spaces in recreational vehicle parks must be arranged to permit safe parking and removal of recreational vehicles.
2. Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.
3. All recreational vehicle spaces must be located at least 25 feet from a public street or highway right-of-way.

V-D-2. Streets

1. Streets must be designed to provide safe access to public roads, including approaches with sufficient width to allow safe turning onto public roads.
2. Roads within the recreational vehicle park must be designed to provide safe parking and removal of recreational vehicles, and safe circulation within the park.
3. One-way roads must be at least 15 feet wide; two-way roads must be at least 24 feet wide.

V-D-3. Density

The density must not exceed 12 recreational vehicle spaces per acre of gross site area.

VI. PLANNED UNIT DEVELOPMENTS

VI-A. Intent

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design using a concept which clusters development to promote economies in providing services while preserving and enhancing open space and unique natural features. The Planned Unit Development (P.U.D.) concept promotes the planning of a tract of land to

allow for a single use such as residential or for a harmonious combination of uses, such as a mixture of residential and commercial.

VI-B. Designation as P.U.D.

VI-B-1. Obtain Designation

1. The development must be in compliance with P.U.D. provisions in local zoning regulations. Where such provisions do not exist, the proposed subdivision must be designated as a P.U.D. by the planning board before being reviewed under this Section. To obtain designation of a subdivision as a P.U.D., the subdivider, before submitting a preliminary plat application, shall submit to the subdivision administrator the following:
 - a. A written request that the plan of the proposed subdivision is to be reviewed as a P.U.D.
 - b. A layout plan showing the proposed location and use of lots and structures, and the location and number of parking spaces, if appropriate.
 - c. A sketch plan of the proposed subdivision, containing all information requested in Section II-A-3., Pre-application Procedures.
 - d. A description of open space, recreational facilities, roads and other facilities proposed to be under common ownership.
 - e. Proposed restrictive covenants, if any.
 - f. A description of proposed forms for property ownership within the development.
 - g. A statement describing measures to be taken to assure permanence and maintenance of open space and other facilities to be held in common ownership.
 - h. A schedule showing street and utility improvement completion dates.
 - i. A description of all proposed modifications from the Design and improvement Standards, Section IV.
 - j. Any additional reasonable information that the planning board may require.

VI-B-2. Criteria for Designation

1. The planning board shall review the information and proposed plan and, before designating the subdivision a P.U.D., shall determine that the development plan promotes the clustering of individual building sites, conforms to the definition and intent of this section, and does one or more of the following:
 - a. Preserves to the maximum extent possible the natural characteristics of the land including topography, vegetation, streams and other bodies of water.
 - b. Provides economies in the provision of roads and other public improvements.
 - c. Preserves productive agricultural land, open space, or riparian areas.

- d. Protects areas of important wildlife habitat or important historic sites or structures.
- e. Provides developed facilities for recreational purposes.

VI-B-3. Notification of Subdivider

The subdivision administrator shall review the plan and within 10 days of the planning board meeting, write a letter to the subdivider stating that the plan has or has not been designated a P.U.D. If designation as a P.U.D. is disapproved the reasons for disapproval shall be stated in the letter.

VI-B-4. Designation is not Approval

Designation as a P.U.D. does not constitute approval of the specific details or modifications proposed by the plan.

VI-C. Procedures

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

II-A. Subdivision Review and Approval Procedures

II-B. Preliminary Plats

II-C. Final Plats

VI-D. Standards

VI-D-1. Design Standards

P.U.D.'s must comply with the standards contained in Section IV-A Design and Improvement Standards, except that the governing body may modify the design and improvement standards contained in Section IV-A-6 Lots, Section IV-A-7 Blocks, Section IV-A-8 Streets and Roads, and Section IV-A-15 Park Requirements upon request of the subdivider where the plan for a P.U.D. includes provisions for efficient traffic circulation, adequate light, air and open space where such standards are not practical or reasonable in respect to the overall P.U.D. subdivision design. In such cases, no application for a variance under Section VIII-B Variances of these regulations is necessary.

VI-D-2. Determining Overall Density

In those areas where no zoning exists, the planning board shall determine, in consultation with the subdivider, the overall dwelling unit density.

VI-D-3. Streets

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

VI-D-4. Open Space

1. Each planned unit residential development must provide at least one-ninth (1/9) of the platted area, exclusive of all other dedications, for common open space. The open space must be:
 - a. Held in common ownership by a property owners' association; or
 - b. Dedicated to public use, if acceptable to the governing body; or
 - c. A combination of "a" or "b" above.
2. The governing body may waive dedication and cash donation requirements when the subdivider agrees to create a property owner's association for the proposed subdivision and the deed to the association land to be held in perpetuity for use as parks or playgrounds.

VII. CONDOMINIUMS

VII-A. Procedures

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act as follows:

VII-A-1. Exemption from Review

The construction of condominium buildings or installation of related public improvements is not subject to subdivision review and approval procedures if the condominiums or improvements are to be constructed in a subdivision approved and filed after July 1, 1973, and if the approval of the subdivision was based on the anticipated construction of the condominiums and improvements.

VII-A-2. Review Where No Division

Where no division of land is created by a condominium subdivision, the subdivision must be reviewed under the procedures contained in Chapter V, Procedures for Subdivisions Created by Rent or Lease, with the following exception: In lieu of the completion of all required improvements before final approval is given, the subdivider may enter into a subdivision improvements agreement pursuant to Section II-C-5 Guaranty of Public Improvements.

VII-A-3. Land Divisions in Condominium Subdivisions

Where divisions of land take place in a condominium subdivision, the subdivision must be reviewed under the procedures contained in Sections:

- II-A Subdivision Review and Approval Procedures
- II-B Preliminary Plats
- II-C Final Plats.

VII-B. Standards

VII-B-1. Design Standards

Condominium developments must comply with those standards contained in Section IV, Design and Improvement Standards, which the governing body deems applicable.

VII-B-2. DEQ Compliance

Condominium developments must meet the minimum standards of the Montana Department of Environmental Quality.

VII-B-3. Unit Ownership Act

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

VIII. ADMINISTRATIVE PROVISIONS

VIII-A. Fee Schedule (See Appendix N)

VIII-A-1 Pre-Application Review

To cover costs of processing the application, reviewing plans, and an on-site inspection, the subdivider shall pay a non-refundable fee at the time the pre-application is submitted. The fees, payable to Lake County Land Services, are as outlined in Appendix N.

VIII-A-2 Preliminary Plat Review

To cover costs of reviewing plans, advertising, holding public hearings, or other expenses incidental to the approval of a subdivision, the subdivider shall pay a non-refundable fee at the time of application for the approval of a preliminary subdivision plat. The fees, payable Lake County Land Services, are as outlined in Appendix N.

VIII-A-3. Examining Land Surveyor Errors and Omissions Review

To cover the cost of reviewing the subdivision plat for errors and omissions as required by the governing body, the subdivider shall pay a non-refundable fee to Lake County Land Services of thirty-five dollars (\$35.00) as outlined in Appendix N.

VIII-A-4 Final Plat Filing

To cover the cost of filing the final plat and supplementary documents such as restrictive covenants, deeds, etc., Sections 7-4-2632 and 7-4-2651, MCA, provide that the following fees must be paid by the subdivider to the county clerk and recorder:

- 1) \$5.0 plus \$.50 per lot, up to and including 100 lots; plus \$.25 per lot for each additional lot in excess of 100; plus \$2.00 per page.
- 2) \$5.00 FOR J-File
- 3) \$6.00 per page for Restrictive Covenants and supplementary documents (i.e. deeds ect.)

VIII-A-5. Final Plat Amendment or Correction

The property owners petitioning for the amendment or correction of a filed subdivision plat shall pay all related direct costs incurred by the governing body, including filing fees according to the above final plat filing fee schedule.

VIII-B. Variances

VIII-B-1. Variances Authorized

1. The governing body may grant variances from Chapter IV, Design and Improvement Standards, of these regulations when, because of the particular physical surroundings, shape, or topographical conditions of a specific property, strict compliance would result in undue hardship and when it would not be essential to the public welfare. Such variances must not have the effect of nullifying the intent and purpose of these regulations. The governing body shall not approve variances unless it makes findings based upon the evidence in each specific case 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. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced;
 - c. The variance will not cause a substantial increase in public costs; and
 - d. The variance will not in any manner place the subdivision in non-conformance with any adopted zoning regulations or growth policy.

VIII-B-2. Variances from Floodway Provisions Not Authorized

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

VIII-B-3. Variances for Innovative Energy Savings Authorized

An innovative energy saving proposal which does not circumvent the purpose of these regulations may be reason for granting of a variance by the governing body.

VIII-B-4. Procedure

The subdivider shall include with the submission of the preliminary plat a written statement describing the requested variance and the facts of hardship upon which the request is based. The planning board and governing body shall consider each requested variance at the public meeting or hearing on the preliminary plat.

VIII-B-5. Conditions

In granting variances, the governing body may impose such conditions as will, in its judgment, secure substantially the objectives of these regulations.

VIII-B-6. Statement of Facts

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

VIII-C. Amendment of Regulations

Before the governing body amends these regulations it shall hold a public hearing and shall give public notice of its intent to amend these regulations and of the public hearing by publishing notice of

the time and place of the hearing in a newspaper of general circulation in the county not less than 15 nor more than 30 days prior to the date of the hearing.

VIII-D. Administration

VIII-D-1. Enforcement

Every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of such action shall be imposed against the party not prevailing.

VIII-D-2. Violation and Penalties

Any person, firm, corporation, or other entity who violates any of the provisions of the Montana Subdivision and Platting Act or these regulations is guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the Montana Subdivision and Platting Act or these regulations shall be deemed a separate and distinct offense.

VIII-D-3. Appeals

A decision of the governing body approving or rejecting a proposed subdivision plat may be reviewed by the district court. The application must specify the grounds upon which it alleges the illegality of the action of the governing body.

VIII-D-4. Rural School District Notification

If the proposed subdivision is situated within a rural school district, as described in section 20-9-104, MCA, the county governing body shall provide an informational copy of the preliminary plat to school district trustees.

VIII-D-5. Review Requirements

If the developer requests a written statement in addition to the requirements of Section 76-3-604 MCA and Section 76-3-609 MCA, the governing body will, in accordance with Section 76-3-620 MCA provide evidence that justifies the denial or condition imposition and furnish information to the developer on the process for appeal.

VIII-D-6. Violations - Actions against governing body

1. A person who has filed an application for subdivision with the governing body may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.
2. A party identified in subsection (3) who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal to the district court in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

3. The following parties may appeal under the provisions of subsection 2 (above):
 - a. The subdivider;
 - b. A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
 - c. The county commissioners of the county where the subdivision is proposed; and
 - d.
 - 1) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits; and
 - 2) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and
 - 3) a third-class municipality, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits; and
4. 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.

APPENDIX A

APPLICATION FOR PUBLIC REVIEW

1. Name of subdivision: _____
2. Legal description: _____ Section: _____ Township: _____ Range: _____
3. Location: Distance to nearest town: _____
Name of nearest publicly maintained road: _____
4. Owner of record:

5. Name, address, and telephone number of subdivider:

6. Name, address, and telephone number of each person or firm providing professional services and information to the subdivider (i.e. attorneys, engineers and land surveyors):

7. Name, address, and telephone number of person or firm which prepared environmental assessment:

8. Descriptive data:
 - A. Gross area of subdivision in acres _____
 - B. Number of new lots _____
 - C. Average lot size _____
 - D. Minimum and maximum lot sizes _____
 - E. Lineal feet of internal roads _____
 - F. Existing zoning _____
 - G. Current use _____
 - H. Surrounding ownerships _____
 - I. Proposed use:

_____ Residential single family	_____ Mobile home park
_____ Residential multi-family	_____ Recreational vehicle park
_____ Planned unit development	_____ Rental or Lease Space
	_____ Commercial
9. Public review information:
 - A. How will this proposed subdivision affect agricultural lands? Is the property currently being used for agriculture? Will it continue to be used for agriculture?

 - B. How will this proposed subdivision affect local services? Please give the location of existing telephone and power in relationship to the subdivision?

C. How will this proposed subdivision affect agricultural water user facilities? Is the property under the jurisdiction of the Flathead Irrigation Project? Are there any existing irrigation systems on the property? If so, is the property flood of sprinkle irrigated? Is the property subject to tailing or wastewater irrigation from other properties?

D. How will this proposed subdivision effect wildlife and wildlife habitat? Is the property within or adjacent to any designated wildlife management areas? Is there a conservation easement on the property?

E. How will this proposed subdivision affect public health and safety? Is the property in a high fire hazard area? If so, explain what measures will be implemented to ensure public safety.

F. Describe the purpose of any easements that exist or are proposed on the property?

G. Explain how you intend to provide legal and physical access to the subdivision. If access is intended from an existing private road, please show evidence that all lots have legal and physical access.

10. List of materials submitted with this application:

- | | |
|----------|----------|
| A. _____ | E. _____ |
| B. _____ | F. _____ |
| C. _____ | G. _____ |
| D. _____ | H. _____ |

I hereby depose and say that all the statements and information contained in all exhibits transmitted herewith are true. I hereby apply to the Lake County Board of Commissioners for approval of the preliminary plat for _____ Subdivision.

Subdivider or Agent Signature
U/planning/subregs/appendix a

APPENDIX B

PLAT FOR PRELIMINARY FORM, CONTENTS AND SUPPLEMENTS

1. Preliminary Plat Form

A legible preliminary plat shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity, and shall be on one or more sheets either 18 x 24 (for a single lot division) or 24 x 36 inches in size (for a subdivision plat).

2. Preliminary Plat Contents

The preliminary plat submitted for approval shall show or contain on the face of the plat, or on separate sheets referenced on the face of the plat, the following information. A current topographic map, an aerial photograph or a location map of the largest scale available, with an outline of the subdivision clearly indicated thereon may be used to provide the information required below and in Preliminary Plat Supplements:

- a. Name and location of the subdivision, scale, scale bar, north arrow, and date of preparation.
- b. The approximate exterior boundaries of the tract and the approximate location of all section corners or legal subdivision corners of sections pertinent to the Subdivision boundary. If available, a metes and bounds or other legal description, or copy of previously recorded certificate of surveys or subdivision plats, would be submitted.
- c. All lots and blocks, designated by numbers, and the dimensions and area of each lot.
- d. All streets, alleys avenues, roads and highways, and the width of the right-of-way grades and curvature of each, existing and proposed street names, and proposed locations of intersections or other access points for any subdivision requiring access to arterial or collector highways.
- e. The approximate location, boundaries, dimensions and areas of any parks, common grounds, or other grounds dedicated for public or private use.
- f. Any existing and proposed utilities located on or adjacent to the tract including:
 - 1) The approximate location, size and depth of water mains, sanitary and storm sewers, and fire hydrants.

- 2) The approximate location of nearest water mains and sewer lines where none are located on or adjacent to the tract.
 - 3) The approximate location of gas, electric and telephone lines, and street lights.
- g. The approximate location of existing and/or proposed buildings, structures and improvements.
 - h. The approximate locations and identity of all existing easements and rights-of-way of record and proposed public and private easements and rights-of-ways, including descriptions of their width and purpose.
 - i. Ground contours shall be provided for the tract as required on the response to the pre-application review.

In addition to the above information, refer to the requirements for single lot, minor and major subdivisions.

Preliminary Plat Supplements

The following shall be supplied with the considered part of the preliminary plat:

- a. A vicinity sketch or sketches showing conditions on adjacent land including:
 - 1) The names of platted subdivisions and numbers of certificates of survey previously recorded.
 - 2) The ownership of lands adjacent to the exterior boundaries of the subdivision and to any access road leading from a present public right-of-way to the boundary of the proposed subdivision.
 - 3) Location of any buildings, railroads, power lines, towers, roads, and other land uses.
 - 4) Any existing or proposed zoning.
 - 5) Lands separated from the exterior boundary of the subdivision by public or private rights-of-way are deemed to be adjacent for the purpose of this requirement.
- b. Lists of the names and addresses of owners of record of adjacent property.
- c. Copies of easements or proposed easements to provide legal access to the subdivision.
- d. When a tract of land is to be subdivided in phases, the subdivider must provide an overall development plan indicating intent for the development of the remainder of the tract.
- e. Drafts of any covenants and restrictions to be included in deeds or contracts for sale.

- f. If common property is to be deeded to a property owners' association, the subdivider shall submit a draft of the covenants and restrictions which will govern the association. These covenants and restrictions shall be in accordance with the requirements contained in Section II-C-5, Guaranty of Public Improvements.
- g. A complete grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of streets and drainage improvements.
- h. Drafts of public improvements agreement and guaranty.

In addition to the above information, refer to the requirements for preliminary plat supplements for a "low impact" minor subdivision, minor subdivisions and major subdivisions.

INFORMATION REQUIRED FOR A "LOW IMPACT" MINOR SUBDIVISION

A. Show on Plat

- 1. All existing and proposed building(s) on each tract.
- 2. All existing and proposed primary and 100% replacement drainfields on the property or within 100 feet of the exterior boundaries of the subdivision.
- 3. All proposed or existing wells on the property or within 100 feet of the exterior boundaries of the subdivision.
- 4. Any surface waters, to include irrigation canals, on the property or within 100 feet of the exterior boundaries of the subdivision.
- 5. All existing and proposed roads on or adjacent to the property.
- 6. The exterior boundaries of the subdivision.
- 7. The location of any easements to proposed or existing utility services to the proposed tract.
- 8. The proposed lot boundaries.
- 9. The gross and net acreage of each lot.
- 10. A standard title block and development information.
- 11. The subdivision plat shall be entitled "Subdivision Plat _____".

Note: All of the above must be drawn to scale on an 18 inch by 24 inch sheet of paper and on an 8½ inch by 11 inch "letter size" sheet of paper.

B. Additional information required for review:

- 1. Results of a soils test pit (a minimum of 8 feet deep) on the undeveloped lot.
- 2. Results of a percolation test on the undeveloped lot.

3. A completed application for public review.
4. A well log from a well located within ¼ mile of the subdivision.
5. A valid approach permit for each tract from the Lake County Road Department.
6. Copies of any sewage disposal permits for existing septic systems.
7. The results of a bacteriological and a nitrate and specific conductance water samples from the existing well on the tract. The test cannot be over 30 days old.
8. A nitrate sensitivity analysis conducted by a qualified person to determine if the development of this tract will cause significant degradation to State waters, if the parcels are under twenty acres in size.
9. A completed State Subdivision Application.

Lastly, submit three (3) copies of **all** of the information in 'A' and 'B' above and a check in accordance with the fee schedule as outlined in Appendix N.

INFORMATION REQUIRED FOR A MINOR SUBDIVISION

A. Show on Plat

1. All existing and proposed building(s) on each tract.
2. All existing and proposed primary and 100% replacement drainfields on the property or within 100 feet of the exterior boundaries of the subdivision.
3. All proposed or existing wells on the property or within 100 feet of the exterior boundaries of the subdivision.
4. Any surface waters, to include irrigation canals, on the property or within 100 feet of the exterior boundaries of the subdivision.
5. All existing and proposed roads on or adjacent to the property.
6. The exterior boundaries of the subdivision.
7. The location of any easements to proposed or existing utility services to the proposed tract.
8. The proposed lot boundaries.
9. The gross and net acreage of each lot.
10. A standard title block and development information.
11. A name for the subdivision (names cannot be duplicated).

Note: All of the above must be drawn to scale on a 24 inch by 36 inch sheet of paper and on an 8½ inch by 11 inch "letter size" sheet of paper.

B. Preliminary Plat Supplements:

1. Results of a soils test pit (a minimum of 8 feet deep) on each undeveloped lot.
2. Results of percolation tests on each undeveloped lot under 20 acres in size.
3. A completed application for public review.
4. A well log from a well located within ¼ mile of the subdivision.
5. A valid approach permit for each tract from either the Lake County Road Department or the Montana Department of Transportation.
6. Copies of any sewage disposal permits for existing septic systems.

7. The results of a bacteriological and a nitrate and specific conductance water samples from the existing well on the tract (if applicable). The test cannot be over 30 days old.
8. Letter from the local school district.
9. Letter from the fire department in which the proposed subdivision is located.
10. Letters from the affected utility companies.
11. Letters from affected public and private service providers, i.e. police protection, doctor and hospital services, emergency services, and garbage disposal.
12. A nitrate sensitivity analysis conducted by a qualified person to determine if the development of this tract will cause significant degradation to State waters, if the parcels are under 20 acres.
13. A completed State Subdivision Application (enclosed).

Lastly, you will need to submit three (3) copies of **all** of the information in 'A' and 'B' above and a check in accordance with the fee schedule as outlined in Appendix M for the preliminary review fees.

INFORMATION REQUIRED FOR A MAJOR SUBDIVISION

A. Show on Plat

1. All existing and proposed building(s) on each tract.
2. All existing and proposed primary and 100% replacement drainfields on the property or within 100 feet of the exterior boundaries of the subdivision.
3. All proposed or existing wells on the property or within 100 feet of the exterior boundaries of the subdivision.
4. Any surface waters, to include irrigation canals, on the property or within 100 feet of the exterior boundaries of the subdivision.
5. All existing and proposed roads on or adjacent to the property.
6. The exterior boundaries of the subdivision.
7. The location of any easements to proposed or existing utility services to the proposed tract.
8. The proposed lot boundaries.
9. The gross and net acreage of each lot.
10. A standard title block and development information.
11. A name for the subdivision (names cannot be duplicated).

Note: All of the above must be drawn to scale on an 24 inch by 36 inch sheet of paper and on an 8½ inch by 11 inch "letter size" sheet of paper.

B. Preliminary Plat Supplements:

1. Results of a soils test pit (a minimum of 8 feet deep) on each undeveloped lot.
2. Results of percolation tests on each undeveloped lot under 20 acres in size.
3. A completed application for public review.
4. A well log from a well located within ¼ mile of the subdivision.
5. A valid approach permit for each tract from either the Lake County Road Department or the Montana Department of Transportation.
6. Copies of any sewage disposal permits for existing septic systems.
7. The results of a bacteriological and a nitrate and specific conductance water samples from the existing well on the tract (if applicable). The test can not be

- more than 30 days old.
8. Letter from the affected local school district.
 9. Letter from the fire department in which the proposed subdivision is located.
 10. Letters from the affected utility companies.
 11. Letters from affected public and private service providers, i.e. police protection, doctor and hospital services, emergency services, and garbage disposal.
 12. A nitrate sensitivity analysis conducted by a qualified person to determine if the development of this tract will cause significant degradation to State waters, if the parcels are under 20 acres.
 13. The proposal of how the parkland requirement is to be satisfied.
 14. A completed State Subdivision Application.
 15. Storm water management plan.
 16. Letter from the Lake County Weed Control Department.

Lastly, you will need to submit three (3) copies of **all** of the information in 'A' and 'B' above and a check in accordance with the fee schedule as outlined in Appendix N for the preliminary review fees.

APPENDIX C

**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY
LOCAL GOVERNMENT JOINT APPLICATION FORM**

No. _____

PART I. GENERAL DESCRIPTION AND INFORMATION

(Please type or print all information)

1. Name of proposed development _____

2. Location (City and/or County) _____

Legal description : ___¹/₄ ___¹/₄ Section _____ Township _____ Range _____

3. Is concurrent review by the local governing body and DEQ requested?

Yes _____ No _____

4. Type of Water Supply system:

_____ Individual or shared well

_____ Individual cistern

_____ Individual surface water supply or spring

_____ Multiple family water supply system (3-14 connections and fewer than 25 people)

_____ Service connection to multiple-family system

_____ Service connection to public system

_____ Extension of public main

_____ New public system

5. Type of wastewater treatment system:

_____ Individual or shared on-site septic system

_____ Multiple family on-site system (3-14 connections and fewer than 25 people)

_____ Service connection to multiple family system.

_____ Service connection to public system.

_____ Extension of public main

_____ New public system.

6. Name of solid waste (garbage) disposal site _____

7.

Is information included which substantiates that there will be no degradation of state waters or that degradation will be non-significant.? _____

If not, have you enclosed an Application to Degrade? _____

8. Descriptive Data:

a. Number of lots or rental spaces _____

b. Total acreage in lots being reviewed _____

- c. Total acreage in streets or roads _____
- d. Total acreage in parks, open space, and/or common facilities _____
- e. TOTAL gross acreage of subdivision _____
- f. Minimum size of lots or spaces _____
- g. Maximum size of lots or spaces _____

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

- _____ Residential, single family
- _____ Residential, multiple family
- _____ Types of multiple family structures and numbers of each (e.g.: duplex, 4-plex)
- _____ Planned Unit Development (No. of Units _____)
- _____ Condominiums (No. of Units _____)
- _____ Mobile Home Park _____
- _____ Recreational Vehicle Park _____
- _____ Commercial or Industrial _____
- _____ Other (please describe) _____

10. Provide the following information regarding the development:

- a. Current land use _____
- b. Existing zoning or other regulations _____
- c. _____
Depth to groundwater at the time of year when water table is nearest to the natural ground surface within the drainfield area _____
- d. Depth to bedrock or other impervious material in the drainfield area _____
- e. _____
An overall development plan indicating the intent for the development of the remainder of the tract, if a tract of land is to be subdivided in phases.
- f. _____
Drafts of any covenants and restrictions to be included in deeds or contracts for sale.
- g. _____
Drafts of homeowners' associations bylaws and articles of incorporation, if applicable. (Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DEQ to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DEQ can issue final approval.)

I understand that::

A person may not file a subdivision plat with a county clerk and recorder, make disposition of any lot [sell, rent, lease, or otherwise convey title to or possession of a lot], erect any facility for the supply of water or disposal of sewage or solid waste, or occupy a permanent building in a subdivision until the reviewing authority has indicated that the subdivision is subject to no sanitary restrictions (76-4-123, MCA) [Parenthetical text added for clarification].

I designate _____ as my representative for purposes of this application.

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

yor).

Name _____ Phone _____
Address _____ City _____ State _____ Zip Code _____

Signature of Owner _____
Print Name of Owner _____
Title, if corporate officer _____
Address _____ City _____ State _____ Zip Code _____
Date _____ Phone _____

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

PART II. REQUIRED INFORMATION FOR APPROVAL OF SUBDIVISIONS UNDER THE SANITATION IN SUBDIVISION ACT

All applications must include the information required in ARM 17.36.101-805 and the appropriate circulars. In order to facilitate review, the application should be organized in the same manner as this application form and follow closely the submittal requirements in the rules and circulars.

A. PHYSICAL CONDITIONS

1. Provide the following attachments:

a.

A vicinity map showing the location of the proposal relative to the nearest town, highway or street system.

b.

Map of soil types or soils survey, and if available, interpretation of soil suitability for the proposed land uses.

c.

Topographic map of the development with contour intervals meeting the preliminary plat requirements of the local subdivision regulations.

d.

On one or more copies of a preliminary plat* (a minor subdivision plat, if applicable) prepared in accordance with local subdivision regulations, or a final plat, show the location of:

1) any rock outcroppings.

2)

any areas subject to flood hazard, or if available, 100 year floodplain studies. (The local floodplain administrator or the Floodplain Management Section of the Water Resources Division of the Department of Natural Resources and Conservation may be contacted for assistance in determining flood hazard locations.)

3)

any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicated the names, sizes and present use of each).

4)

any man-made water systems such as canals, ditches, aqueducts,

reservoirs and irrigation systems (also indicate the names, sizes and present use of each).

5)

any existing or proposed utilities located within or adjacent to the subdivision, including: electrical power, natural gas, telephone service.

*Submitting a preliminary plat with complete and accurate legal description adequate for DEQ to initiate and complete its review of the subdivision.

B. WATER SUPPLY

1. Where an individual water supply system is proposed for each parcel:
 - a. Indicate the distance to the nearest public water system.
 - b. Provide all information required in ARM 17.36.303.
 - c. Attach three copies of the lot layout showing the proposed location of each spring, well, or cistern and indicating the distance to existing or proposed wastewater treatment systems.

2. Where a public or multiple-family water system is proposed:
 - a. Where an existing system is to be used:
 - 1) identify the system and the person, firm or agency responsible for its operation and maintenance.
 - 2) indicate the system's capacity to handle additional use and its distance from the development.
 - 3) provide evidence that permission to connect has been granted.
 - 4) provide two copies of the following attachments:
 - a) map or plat showing location and sizes of any existing water supply lines and facilities which may directly serve parcels within the proposed development.
 - b) plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.302 and W.B. 1 or W.B. 3.
 - b. Where a new system is to be used:
 - 1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
 - 2) provide plans and specification for all proposed extensions and additional lines and facilities as required by ARM 17.36.302 and W.B. 1 or W.B. 3.

3. For a proposed public water system:
 - a. Where an existing system is to be used:
 - 1) identify the system and the person, firm, or agency responsible for its operation and maintenance.
 - 2) indicate the system's capacity to handle additional use and its

distance from the development.

- 3) provide evidence that permission to connect has been granted.
- 4) provide two copies of the following attachments:
 - a) a map or plat showing the location, sizes, and depth of any existing water lines and facilities which will directly serve parcels within the proposed development.
 - b) plans and specifications for all proposed extensions and additional lines and facilities as required by ARM

17.36.302 and W.B. 1 or W.B. 3.

b. Where a new system is proposed:

- 1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
- 2) provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.302 and

W.B. 1 or W.B. 3.

C. WASTEWATER TREATMENT

1. Where individual wastewater treatment systems are proposed for each parcel:

- a. Indicate the distance to the nearest public wastewater treatment system.
- b.

Provide all information required in ARM 17.36.304 and in W.B. 6 for conventional systems or W.B. 5 for alternative systems.

2. For a proposed multiple-family wastewater treatment system:

a. Where an existing system is to be used:

- 1) identify the system and the person, firm or agency responsible for its operation and maintenance.
- 2) indicate the system's capacity to handle additional use and its distance from the development.
- 3) provide evidence that permission to connect has been granted.
- 4) provide two copies of the following attachments:
 - a) a map or plat showing the location, sizes and depth of any existing sewer lines and facilities which will directly serve parcels within the proposed development.
 - b)

provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36 and W.B. 4 or W.B. 5.

b. Where a new system is proposed:

- 1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
- 2) provide all information required in ARM 17.36.305 and W.B. 4 or W.B. 5.

3. For a proposed public wastewater treatment system:
 - a. Where an existing system is to be used:
 - 1) identify the system and the person, firm or agency responsible for its operation and maintenance.
 - 2) indicate the system's capacity to handle additional use and its distance from the development.
 - 3) provide evidence that permission to connect has been granted.
 - 4) provide two copies of the following attachments:
 - a) a map or plat showing the location, sizes and depth of any existing sewer lines and facilities which will directly serve parcels within the proposed development.
 - b) provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.302 and W.B. 2 or W.B. 4.
 - b. Where a new system is proposed:
 - 1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
 - 2) provide all information required in ARM 17.36.305 and W.B. 2 or W.B. 4.

D. SOLID WASTE

1. Describe the proposed method of collecting and disposing of solid waste.
2. If use of an existing collection system or disposal facility is proposed, indicate the name and location of the facility.
3. If on-site disposal of solid waste is proposed provide the information required in ARM 17.36.309 (2).

E. DRAINAGE

1. Streets and roads.
 - a. Describe measures for disposing of storm run-off from streets and roads within the subdivision or onto adjacent property.
 - b. Indicate type of road surface proposed.
 - c. Describe facilities for stream or drainage crossing (e.g.: culverts, bridges).
 - d. Describe how surface run-off will be drained or channeled from parcels.
 - e. Indicate if storm run-off will enter state waters and describe any proposed treatment measures. (A storm-water discharge permit may be required.)
 - f.

Describe any existing or proposed streambank or shoreline alteration, any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration.

PART III. INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE SUBDIVISION AND PLATTING

Information specified in this Part must be provided in addition to that required in Parts I and II of this application form, when the local subdivision regulations require that an environmental assessment be prepared for a subdivision.

A. GEOLOGY

1.

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

- a. Falls, slides or slumps - soil, rock, mud, snow.
- b. Seismic activity.

B. VEGETATION

1.

Locate on a copy of the preliminary plat or on a plat overlay, the location of the major vegetation types such as marsh, grassland, shrub, forest.

2.

Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, roads and open spaces).

C. WILDLIFE

1.

What major species of fish and wildlife use in the area to be affected by the proposed subdivision?

2.

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

3.

Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and roads away from shorelines or setting aside marshlands as undeveloped open space).

D. HISTORICAL FEATURES

1.

Describe and locate on a copy of the preliminary plat or on a plat overlay any known or possible historic, archaeological or cultural sites which may be affected by the proposed subdivision.

2. Describe any plans to protect such sites or properties.

E. ROADS

- 1.

Describe any required construction of new public or private access roads or substantial improvements to existing public or private access roads.

2. Describe the proposed closure or modification of any existing roads.

- 3.

Explain why access was not provided by means of a road within the subdivision, if access to any of the individual lots is directly from arterial streets or roads.

- 4.

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

- 5.

Estimate how much daily traffic the development, when fully developed, will generate on existing streets and arterial.

- a.

Discuss the capability of existing and proposed roads to safely accommodate this increased traffic.

- b.

Describe any increased maintenance problems and cost that will be caused by this increase in volume.

- 6.

Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision?

- 7.

Identify the owners of any private property over which access to the subdivision will be provided. Have easements for access been obtained from the affected landowners?

F. UTILITIES

- 1.

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

2. Has the preliminary plat been submitted for review?

3. Estimate the completion date of each utility installation.

G. EMERGENCY SERVICES

1. Describe the emergency services available to the residents of the proposed subdivision, including number of personnel and number of vehicles or type of facilities, and road distance to facilities for:
 - a. Fire protection-Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?
 - b. Police protection.
 - c. Ambulance service.
 - d. Medical services.
2. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?
 - a. If not, what additional expense would be necessary to make these services adequate?
 - b. At whose expense would the necessary improvements be made?

H. SCHOOLS

1. Describe the available public educational facilities which would serve this subdivision, and the road distance to each.
2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate public school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.

I. LAND USE

1. Describe land uses on lands adjacent to the subdivision.
2. Describe any comprehensive plan or other land use regulations covering the area proposed for subdivision or adjacent land. If located near an incorporated city or town, is annexation proposed?
3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands, e.g., grazing, logging, recreation. Describe how the subdivision will affect access to any public lands.

4.

Describe any health or safety hazards on or near the subdivision, such as : mining activity, high pressure gas lines, dilapidated structures, high voltage power lines or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.

5.

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

J. PARKS AND RECREATION FACILITIES

1.

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

APPENDIX D

PRE-APPLICATION QUESTIONNAIRE

Property Owner: _____

Mailing Address: _____

City/State/Zip: _____ Phone: _____

Local Agent (if applicable): _____

Agent's Mailing Address: _____

City/State/Zip: _____ Phone: _____

Applicant Signature: _____ Date: _____

Property Information

Legal Description: (attach tax notice record) _____

Physical Address of Subject Parcel: _____

Development Character (describe proposed number of lots, existing sewer and water systems, and existing structures): _____

Land Use

A.) Past and current land use and existing structures: _____

B.) Current use of surrounding property: _____

Attach a sketch showing the property boundaries of the proposed division on a U.S. Department of Interior topographical quadrangle.

Attach a separate sketch at a smaller scale that includes the following:

1. Scaled dimension.
2. Approximate lot boundaries.
3. Location of existing and proposed easements.
4. Existing and proposed utilities.
5. Existing and proposed rights-of-way.
6. Parks and open spaces.
7. General terrain and natural features (surface waters, general contour.)
8. Existing structures & improvements (sewage disposal, water system, etc.)
9. Proposed improvements.
10. Designate the limits of the 100 year flood event on property.
11. Photos of property.

**Attach application fee of \$100.00 and return to:
Lake County Land Services, 106 Fourth Avenue East, Polson, MT, 59860.**

PRE-APPLICATION WILL BE RETURNED IF IT IS NOT COMPLETE

APPENDIX E

INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE MONTANA SUBDIVISION AND PLATTING ACT

PART I. SANITATION FACILITIES

The subdivider shall provide the information required under Part II of the Joint Application.

PART II. ENVIRONMENTAL AND COMMUNITY INFORMATION

A. GEOLOGY

1. Locate on a copy of the preliminary plat or on a plat overlay any known hazards affecting the development which could result in property damage or personal injury due to:
 - a. Falls, slides or slumps - soil, rock, mud, snow.
 - b. Seismic activity.

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

2. Identify any geological conditions that might affect development, such as areas of bedrock, unsuitable soils, or high ground water. Describe any measures proposed to minimize the problems presented by the identified conditions.

B. VEGETATION

1. Locate on a copy of the preliminary plat or on a plat overlay the location of the major vegetation types such as: marsh, grassland, shrub, forest.
2. Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, roads and open spaces).
3. Identify areas containing noxious weed growth. Describe proposed means of weed control, especially to prevent weed growth on areas disturbed by construction.

C. FISH AND WILDLIFE

1. Identify major species of fish and wildlife using the area to be affected by the proposed subdivision.
2. Locate on a copy of the preliminary plat or on a plat overlay any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.

3. Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and roads away from shorelines or setting aside marshlands as undeveloped open space).

D. HISTORICAL FEATURES

1. Describe and locate on a copy of the preliminary plat or on a plat overlay any know or possible historic, archaeological or cultural sites which may be affected by the proposed subdivision.
2. Describe any plans to protect such sites or properties.

E. ROADS

1. Describe any required construction of new public or private access roads or substantial improvements to existing public or private access roads.
2. Describe the proposed closure or modification of any existing roads.
3. Explain why access was not provided by means of a road within the subdivision, if access to any of the individual lots is directly from arterial streets or roads.
4. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadway.
5. Estimate how much daily traffic the development, when fully developed, will generate on existing streets and arterial.
 - a. Discuss the capability of existing and proposed roads to safely accommodate this increased traffic.
 - b. Describe any increased maintenance problems and cost that will be caused by this increase in volume.
6. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision?
7. Identify the owners of any private property over which access to the subdivision will be provided. Have easements for access been obtained from the affected landowners?

F. UTILITIES

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

2. Identify on the preliminary plat or overlay the locations of any needed utility easements [as required by 76-3-608(c)].
3. Has the preliminary plat been submitted to affected utilities for review?
4. Estimate the completion date of each utility installation.

G. EMERGENCY SERVICES

1. Describe the emergency services available to the residents of the proposed subdivision, including number of personnel and number of vehicles or type of facilities, and road distance to facilities for:
 - a. Fire protection-Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?
 - b. Police protection.
 - c. Ambulance service.
 - d. Medical services.
2. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?
 - a. If not, what additional expense would be necessary to make these services adequate?
 - b. At whose expense would the necessary improvements be made?

H. SCHOOLS

1. Describe the available public educational facilities which would serve this subdivision, and the road distance to each.
2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate public school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.

I. LAND USE

1. Describe land uses on lands adjacent to the subdivision.
2. Describe any comprehensive plan or other land use regulations covering the area proposed for subdivision or adjacent land. If located near an incorporated city or town, is annexation proposed?
3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands, e.g., grazing, logging, recreation. Describe how the subdivision will affect access to

- any public lands.
4. Describe any health or safety hazards on or near the subdivision, such as: mining activity, high pressure gas lines, dilapidated structures, high voltage power lines or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.
 5. Describe any on-site uses creating a nuisance, such as unpleasant odor, unusual noises, dust or smoke. Any such conditions should be accurately described and their origin and location identified.

J. PARKS AND RECREATION FACILITIES

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

APPENDIX F

SUGGESTED FINDINGS OF FACT THAT WEIGH REVIEW CRITERIA

I. PRIMARY REVIEW CRITERIA

Effect on Agriculture

- 1 a. The subdivision will remove ____ acres from (livestock) (crop) production.
OR
b. The subdivision will have no effect on agricultural production because there is no present commercial raising of livestock or crops.
- 2 a. The subdivision will not interfere with any irrigation system or present any interference with agricultural operations in vicinity.
OR
b. The subdivision could interfere with an existing irrigation system. Conditions of approval should require fencing and restrictive covenants.

Effect on Agricultural Water User Facilities

1. The parcel does ____ does not ____ qualify as an agricultural tract under Section 15-7-202 M.C.A.
2. The tract is ____ is not ____ located within an Irrigation District.
3. The tract is ____ is not ____ affected by an Irrigation District.
4. Preliminary subdivision plans have ____ have not ____ been reviewed by the Irrigation District.
5. The tract has ____ acres under the Irrigation District.
6. Easements have ____ have not ____ been provided on the plat for the distribution of irrigation water.
7. Irrigation wells are ____ are not ____ located on the tract.

Effect on Local Services

- 1 a. The subdivision will connect to the municipal water and sewer systems. The cost of connecting will be paid by the subdivider or lot buyers, and the municip

ality should not experience an appreciable increase in maintenance and operating costs. The lot buyers will pay regular water and sewer charges.

OR

b. The subdivision will use on-site water supply and sewage disposal.

2. a.

The subdivision will receive law enforcement services from the (city police department) (county Sheriff's Department) and fire protection services from the _____ Fire Department. Providing these services to the subdivision is expected to be a negligible cost to the city (county) and fire department. Any increased costs likely will be covered by increased tax revenues from improved properties.

OR

b.

Providing these services to the subdivision is expected to create \$_____ in additional costs to the local government.

3. a.

No extension of public streets or roads will be needed, and the subdivision will have a negligible impact on cost of road maintenance.

OR

b.

An upgrade of _____ Street will be necessary to serve the subdivision, at an estimated cost of \$_____. Annual road maintenance is expected to cost \$_____.

4.

The land affected by the proposed subdivision currently pays an estimated \$_____ in local property taxes. After subdivision, the land and improvements are expected to pay approximately \$_____ in local property taxes, at current mill levies.

Effect on the Natural Environment

1.

The subdivision will use proper-sized culverts as part of constructing a private access road from the (_____ Road) (_____ Street), which will minimize problems of road drainage and erosion.

2. a.

The relatively level terrain is not expected to create significant surface run-off problems.

OR

b.

The steep terrain will require considerable cutting and filling, both for road construction and for grading and leveling a building site. Some surface run-off likely will occur but the grading and drainage plan is designed to prevent significant adverse impacts.

3.

The subdivision is not expected to adversely affect native vegetation, soils or the water quality or quantity of surface or ground waters. Areas disturbed by cutting and filling and grading will be reseeded in the same season to minimize erosion.

4.

Proposed weed control measures will prevent the proliferation of weed growth within the subdivision and on areas disturbed by construction.

Effect on Wildlife and Wildlife Habitat

1

a.

The subdivision will not be located in an area of significant wildlife habitat, nor in any critical wildlife areas. The expected effects of pets and human activity generated by the subdivision will not significantly affect wildlife.

OR

b.

The subdivision is located in excellent habitat for _____. The subdivision will have an effect on wildlife, and the expected effects of pets and human activity generated by the subdivision could have significantly affect wildlife.

OR

c.

The subdivision is located adjacent to _____ Creek, which has an excellent fishery. Development of the lots could have an impact on the fishery, but conditions of approval should require all structures to be set back at least 300 feet from the streambank to minimize the impacts.

2

a.

The subdivision will not result in closure of public access to hunting or fishing areas, nor to public lands.

OR

b.

A public trail is included in the plat to provide access to the stream or public lands.

Effect on Public Health and Safety

1

a.

Based on available information, the subdivision does not appear to be subject to potential natural hazards such as flooding, snow or rock slides, high winds, wildfire or excessive slopes, nor potential man-made hazards such as high voltage power lines, high pressure gas lines, nearby industrial or mining activity, or high traffic volumes.

OR

b.

The subdivision is subject to potential hazard from (flooding), (snow or rock slides), (high winds), (wildfire) or (excessive slopes), (high voltage power lines), (high pressure gas lines), (nearby industrial or mining activity), or (high traffic volume). The subdivider has committed to minimize the effect of the hazards by:

_____, and _____.

II.

REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR DOCUMENTATION, AND LOCAL SUBDIVISION REGULATIONS

The subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Documentation, and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local subdivision regulations.

III. EASEMENTS FOR UTILITIES

1 a.

No easements will be necessary to extend utilities to the subdivision. Utilities are currently adjacent to the property or can be extended within the public road right-of-way.

OR

b.

Easements to extend utilities across property(ies) owned by _____ are needed. Utility easements have been granted to the subdivider by those property owners, and the instruments of easement conveyance will be filed with the county clerk and recorder.

IV. LEGAL AND PHYSICAL ACCESS

1 a.

Legal access is provided by (_____ Road) (_____ Street), a public road that is adjacent to the lot(s).

OR

b.

Legal access is provided by a 60-foot wide road easement across properties belonging to _____, _____, and _____. The easements have been surveyed, and instruments of easement conveyance will be filed with the county clerk and recorder.

2 a.

Physical access is provided by (_____ Road) (_____ Street), a public road that is adjacent to the lot(s).

OR

b.

Physical access will be provided by a road with a _____-foot wide driving surface constructed in accordance with local road standards from (_____ Road) (_____ Street) to the subdivision.)

3.

The following statement will be written on the face of the subdivision plat and on any instruments of conveyance:

a.

"Legal and physical access is provided by (_____ Road) (_____ Street), a public road located adjacent to the property."

OR

b.

"Legal access is provided from (_____ Road) (_____ Street), a public road, by a 60 foot-wide easement across property owned by _____, _____, and _____. Physical access is provided by a road with a _____-foot wide driving surface.")

V. CONFORMANCE TO ADOPTED COMPREHENSIVE PLAN

1

a.

The subdivision plat conforms to the comprehensive plan adopted by _____ (local government).

OR

b.

The subdivision plat is not in conformance to the comprehensive plan adopted by _____ (local government) for the following reasons:

_____, and _____.

APPENDIX G

STANDARDS FOR FLOOD HAZARD EVALUATIONS

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

1. A copy of the plat showing contour intervals of no greater than five feet.
2. The location and elevation of a temporary bench mark established with the subdivision and referenced to mean sea level with appropriate elevation adjustment.
3. A minimum of four surveyed valley cross sections of the stream according to the following requirements:
 - a. Cross sections shall include the stream channel and floodplain on both banks and shall be normal to direction of flow.
 - b. At least one cross section shall be taken at a point on the stream from which it could be extended through the subdivision.
 - c. Three cross sections shall be taken downstream from the subdivision, no more than 1,000 feet apart, but in no case may vertical drop between cross sections exceed 5.0 feet. The cross section farthest downstream should be located at a natural constriction or bridge crossing if possible. Cross sections shall be taken at any location map.
 - d. Distances between cross sections are to be determined by stadia, and these distances and locations of cross sections shall be shown on the location map.
 - e. The overbank cross sections are to be extended to obtain a vertical rise of 15 feet above the water surface.
4. If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map.
5. Descriptions and sketches of all bridges within the reach, showing unobstructed waterway opening and elevations.
6. Color photographs clearly depicting the vegetation of both overbanks and the main channel.

terial composition of the banks and channel bottom shall be submitted for each cross section.

7.

Cross sections plotted on cross section paper of ten divisions to the inch using any convenient, identified scale for vertical and horizontal distance. The water surface at the time of survey shall be plotted on each cross section.

8.

A profile sheet prepared on cross section paper at ten divisions to the inch, showing the observed water surface profile, location of cross sections, subdivision boundaries, riverbank profile, and thalweg (lowest point of the channel bottom).

A location map, such as U.S. Geological Survey seven and one-half (7 1/2) minutes or similar map, showing the proposed subdivision, the locations of the valley cross sections, and any gauging stations.

9.

These requirements may vary, so the Supervisor of the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation should be contacted.

APPENDIX H

SAMPLE FORMS AND CERTIFICATES

Certificate of Completion of Public Improvements

Certificate of Surveyor - Final Plat

Certificate of Dedication - Final Plat

Certificate of Private Roadways

Certificate of Consent to Dedication by Encumbrances

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

Certificate of Examining Land Surveyor Where Required - Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval - County

Certificate of Final Plat Approval - City

Certificate of Filing by Clerk and Recorder

Certificate of Completion of Public Improvements Agreement
(To be submitted with application for approval of final subdivision plat).

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

Signature of Subdivider _____ Date _____

Signature of Professional Engineer _____ Date _____

Registration No. _____

Address _____ (Engineers Seal)

Certificate of Surveyor - Final Plat

State of Montana

ss.

County of)

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

Dated this _____ day of _____, 20____.

(Seal) _____ (Signature of Surveyor)

Registration No.

_____ (Address)

Certificate of Dedication - Final Plat

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

wit:

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

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

Dated this _____ day of _____, 20__ .

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

Certificate of Private Roadway(s)

We, the undersigned do hereby certify that the roadway(s) as shown on the enclosed plat (are/is) private in all respects. (It/they) are hereby dedicated to the sole use of the owner(s) and successors in interest of the lots included in this subdivision.

It is further understood that (this/these) roadway(s) will not be improved or maintained by any governmental agency or public authority.

Dated this _____ day of _____, 20__ .

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

Consent to Dedication by Encumbrancers, If Any

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

Dated this _____ day of _____, 20__ .

(Acknowledged and notarized signatures of all encumbrancers of record)

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

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

In witness whereof, I have hereunto affixed the seal of (Name of City or County), Montana this _____ day of _____ (Seal)

(Signature of Clerk)

Certificate of Examining Land Surveyor Where Required - Final Plat

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

Dated this _____ day of _____, 20 _____.

(Signature)

(Name of Surveyor)

Registration No.

(City or County)

Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)

) ss.

County of _____)

Filed for record this _____ day of _____, 20____.

(Signature of Clerk and Recorder)

County Clerk and Recorder, _____ County, Montana

APPENDIX I

SUBDIVISION IMPROVEMENTS AGREEMENT; GUARANTY

Model Subdivision Improvement Agreement

The parties to this Subdivision Improvements Agreement ("this agreement") are _____ ("the Developer") and _____ ("the County" or "the City").

WHEREAS, the Developer also desires to defer construction of improvements described in Attachment B;

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

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

NOW THEREFORE BE IT RESOLVED, The Parties hereby agree as follows:

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

DEVELOPER'S OBLIGATIONS

3. Improvements: The Developer shall construct and install, at his own expense, those subdivision improvements listed in Attachment B of this Agreement. The Developer's obligation to complete the improvements shall arise upon approval of the final subdivision plat, shall not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and shall be independent of any obligations of the County (or City) contained in this Agreement.
4. Security: To secure the performance of his obligations under this Agreement, the Developer shall deposit with the County (or City) on or before the effective date, an Irrevocable Letter of Credit (or other financial security acceptable to the local officials) in the amount of \$_____. The letter of credit shall be issued by _____ (lending institution), be payable at sight to the County (or City) and bear an expiration date not sooner than 4 years after the effective date of this Agreement. The letter of credit shall be payable to the County (or City) at any time upon presentation of (1) a sight draft drawn on the issuing lending institution in the amount up to \$_____, (2) a signed statement or affidavit executed by an authorized County (or City) official stating that the Developer is in default under this Agreement; and (3) the original copy of the letter of credit.
5. Standards: The Developer shall construct the required improvements according to the

standards and specifications required by the County (or City) as specified in Attachment D of this Agreement.

6. Warranty: The Developer warrants that each and every improvement shall be free from defects for a period of 1 year from the date that the County (or City) accepts the dedication of the last improvement completed by the Developer.
7. Commencement and Completion Periods: The Developer shall complete all of the required improvements within (2) years from the effective date of this Agreement.
8. Compliance with Law: The Developer shall comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.

COUNTY'S (OR CITY'S) OBLIGATIONS

9. Inspection and Certification:
 - A. The County (or City) shall provide for inspection of the improvements as they are completed and, where found acceptable, shall certify those improvements as complying with the standards and specifications set forth in Attachment D of this Agreement. The inspection and certification, shall occur within 14 days of notice by the Developer that the improvements are complete and he desires County (or City) inspection and certification. Before requesting County (or City) certification of any improvement the Developer shall present to the County (or City) valid lien waivers from all persons providing materials or performing work on the improvement.
 - B. Certification by the County (or City) does not constitute a waiver by the County (or City) of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.
10. Notice of Defect: The County (or City) shall provide timely notice to the Developer whenever Inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment D, or is otherwise defective. The Developer shall have 30 days from the date the notice is issued to remedy the defect. The County (or City) may not declare a default under this Agreement during the 30-day remedy period unless the Developer clearly indicates he does not intend to correct the defect. The Developer shall have no right to correct the defect in, or failure of, any improvement found after the County (or City) accepts dedication of the improvements.
11. Reduction of Security: After the acceptance of any improvement, the amount that the County (or City) is entitled to draw on the letter of credit shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment B. At the request of the Developer, the County (or City) shall execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all of the improvements the balance that may be drawn under the credit shall be available to the County (or City) for the one year warranty period plus an additional 90 days.
12. Use of Proceeds: The County (or City) shall use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of

the improvements.

OTHER PROVISIONS

13. Events of Default: The following conditions, occurrences or actions shall constitute a default by the Developer during the completion period:
 - A. failure to complete construction of the improvements within 2 years of final subdivision plat approval;
 - B. failure to remedy the defective construction of any improvement within the remedy period;
 - C. insolvency of the Developer or the filing of a petition for bankruptcy;
 - D. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.

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

15. Local Government Rights Upon Default:
 - A. Upon the occurrence of any event of default, the County (or City) may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost (as shown in Attachment B) of all improvements previously certified by the County (or City). The County (or City) shall have the right to complete improvements itself or contract with a third party for completion, or the County (or City) may assign the proceeds of the letter of credit to a subsequent developer who has acquired the Subdivision and who shall have the same rights of completion as the County (or City) if and only if the subsequent developer agrees in writing to complete the unfinished improvements.
 - B. In addition, the County (or City) may suspend final plat approval during which time the Developer shall have no right to sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the County (or City) or until the improvements are completed and certified by the County (or City).

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

17. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only be written instrument executed on behalf of the County (or City) and by the Developer.

18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or

mediation or expert awards relief to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each shall bear its own costs in their entirety.

19. Third Party Rights: No person or entity who is not party to this Agreement shall have any right of action under this Agreement, except that if the County (or City) does not exercise its rights within 60 days following an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the County (or City) to exercise its rights.

20. Scope: The Agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this Agreement shall be binding on the parties.

21. Time: For the purpose of computing the commencement and completion periods, and time periods for County (or City) action, times in which war, civil disasters, acts of God or extreme weather conditions occur shall not be included if the events prevent the Developer or the County (or City) from performing the obligations under this Agreement.

22. Assigns: The benefits of this Agreement to the Developer may not be assigned without the express written approval of the County (or City). Such approval may not be withheld unreasonable, but any unapproved assignment is void. There is no prohibition on the right of the County (or City) to assign its rights under this Agreement.

The County (or City) shall release the original Developer's letter of credit if it accepts new security from any developer or lender who obtains the property. However, no action by the County (or City) shall constitute a release of the original developer from his liability under this Agreement.

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

Dated this _____ day of _____, 20____.

County (or City) Official

Developer

ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125 percent of the estimated total cost of installing all required improvements. The governing body reserves the right to determine estimated cost of improvements and the time period in which the improvements(s) must be completed.

1. Certificate of Deposit

Subject to governing body approval, the subdivider shall provide the governing body with a certificate of deposit and complete an acknowledgment.

- A. The certificate of deposit shall be in the name of Lake County and shall be no less than 125% of the estimated cost of unfinished improvements.
- B. Maturation date of the certificate shall not exceed one year.
- C. The developer shall be required to sign an acknowledge at the time the certificate of deposit is received.
- D. The certificate of deposit shall be released to the developer after the maturation date if the required improvements are complete. If the improvements are not complete, the developer may secure a new certificate of deposit for the estimated cost of completing the improvements on that date.

2. Escrow Account

The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body.

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

- A. That the funds in the escrow account are to be held in trust until released by the

governing body and may not be used or pledged by the subdivider as security for any obligation during that period.

- B. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

3. Property Escrow

The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used accounting for the possibility of a decline in its value during the guarantee period shall be established by a licensed real estate appraiser at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

When property is offered as an improvement guarantee, the subdivider shall:

- A. Make an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement shall be placed on file with the county clerk and recorder.
- B. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.
- C. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

4. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion, and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

5. Surety Performance Bond

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond shall be payable to the County (City) of _____. The bond shall

be in effect until the completed improvements are accepted by the governing body. It is the subdivider's or surety company's responsibility to contact the governing body once improvements are complete.

6. Incremental Payment or Guarantee Plan

- A. Provision for bonding requirements to ensure construction of public improvements.
 - 1. The governing body shall require the subdivider to complete required improvements within the subdivision prior to the approval of the final plat.
- B. Local regulations may provide that:
 - 1. In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body subdivider shall require, provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to it the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond requirements commensurate with the completion of improvements.
 - 2. In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements, the governing body may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.
- C. Approval by the governing body of a final plat prior to the completion of required improvements and without the provision of the required security is not an act of a legislative body for the purposes of 2-9-111."

7. Special Improvements District

The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to created a rural improvement district pursuant to Section 7-12-2102, MCA. An agreement to finance improvements through creating a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

MODEL ACKNOWLEDGMENT
(To accompany certificate of deposit)

The undersigned developer hereby acknowledges and agrees that the certificate of deposit in the name of Lake County, a political division of the state of Montana (Lake County), identified as _____ located at _____ Bank, receipt of which is hereby acknowledged by Lake County, shall be come the property of Lake County if the improvement(s) identified as _____

_____ is/are not completed to the satisfaction of the Lake County Board of Commissioners by _____, 20__ and all right, title, and interest of the developer to said certificated shall thereafter be transferred to Lake County.

Dated this _____ day of _____, _____.

Developer

Chairman, Board of Commissioners

Member

Member

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

Notary Public for the State of
Residing at
My commission expires

APPENDIX J

GRANT OF ACCESS EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between _____, of _____, Montana, hereinafter referred to as the "Grantor", and _____ of _____, Montana, hereinafter referred to as the "Grantee."

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

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

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

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

Grantor

STATE OF MONTANA)
 : ss.
County of _____)

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

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

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

APPENDIX K

UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS (ARM 8.94.3003)

1.

A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:

a.

Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches overall to include a 1 1/2 inch margin on the binding side.

b.

One signed cloth-backed or opaque Mylar copy and one signed reproducible copy on a stable based polyester film or equivalent shall be submitted.

c.

Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

d.

Changes to a filed subdivision plat must be filed with the county clerk and recorder as an amended plat. An amended plat may not be filed unless it meets the filing requirements for a final subdivision plat specified in these rules, except that approval by the local governing body is not required where waived by Section 76-3-207 (1)(e), MCA, for relocation of common boundary lines or aggregation of five or fewer lots.

2.

The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat:

a.

A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision".

b.

Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.

c.

North point.

d.

Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing).

e.

All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.

- f. Witness monuments, basis for bearing, bearings and lengths of lines.
- g. The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.
- h. Data on all curves sufficient to enable the reestablishment of the curves on the ground.
- i. Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.
- j. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.
- k. All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat"; as appropriate, and the boundary completely indicated by bearings and distances.)
- l. All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways.
- m. The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use.
- n. Acreage of the subdivision, gross and net.
- o. A legal description of the perimeter boundary of the tract surveyed.
- p. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown.
- q. The signature and seal of the registered land surveyor responsible for the survey. The affixing of the seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto.
- r. Memorandum of oaths administered pursuant to Section 76-3-405, MCA.
- s. Certification by the governing body that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local government review under Section 76-3-207(1)(e), MCA. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207(1)(e), MCA, approval by local governing body is not

required for relocation of common boundary lines or aggregation of lots.

3.

The following documents shall accompany the approved final plat when filed with the county clerk and recorder:

- a. Certification of dedication of streets, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable.
- b. Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.
- c. Copies of any covenants or deed restrictions relating to public improvements.
- d. Certification by the Montana Department of Health and Environmental Sciences that it has approved the plans and specifications for sanitary facilities.
- e. Copies of articles of incorporation and by-laws for any property owners' association.
- f. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.
- g. Copies of final plans, profiles, grades and specifications for improvements including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.
- h. Certification by the governing body expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification.
- i. Certification of examining land surveyor where applicable.
- j. Copy of the state highway permit when a new street or road access will intersect with a state highway.

APPENDIX L

EVASION CRITERIA

A. PROCEDURES AND GENERAL REQUIREMENTS

1. Any person seeking exemption from the requirements of the Subdivision and Platting Act (76-3-101 et. seq., MCA) shall submit to the Clerk and Recorder (1) a certificate of survey or where a survey is not required an instrument of conveyance, and (2) evidence of, and an affidavit affirming, entitlement to the claimed exemption.
2. When a certificate of survey, instrument of conveyance or subsequent instrument of conveyance is submitted to the County Clerk and Recorder, the Clerk and Recorder shall cause the documents to be reviewed by the designated agents of the governing body: (County Planner, Sanitarian, County Attorney, and Clerk and Recorder). The agents shall review the proposed land division, in two (2) working days or less, to determine whether it complies with the requirements set forth in this Resolution, the Montana Subdivision and Platting Act, and the Montana Sanitation in Subdivisions Act.
3. After the review to evaluate compliance with the requirements contained in this Resolution, the agents shall submit a written determination whether the use of the exemption is intended to evade the purposes of the Act (Section 76-3-207) **which** the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;
4. If the designated agents find that the proposed use of the exemption complies with the statutes and these criteria, they shall advise the clerk and recorder to file the certificate of survey or record the instrument of conveyance and accompanying documents. If the agents find that the proposed use of the exemption does not comply with the statutes and these criteria, they shall advise the clerk and recorder to not file or record the documents, and the clerk shall return the materials to the landowner.
5. Any person whose proposed use of exemption has been denied by the designated agents because the use of the exemption raised a rebuttable presumption established by these guidelines may appeal the agents' decision to the County Commissioners. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the Act, and, thereby overcome the rebuttable presumption.

If the governing body concludes that the evidence and information overcomes the presumption that the exemption is being invoked to evade the Act, they may authorize the use of the exemption in writing. A certificate of survey claiming such an exemption from subdivision review, which otherwise is in proper form, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the governing body.

If the use of an exemption is determined to be an evasion of the Act, the landowner may submit a subdivision application for the proposed land division.

6. Advisory Examination. Landowners or their representatives are encouraged to meet with the County's designated agents to discuss whether a proposed land division or use of an exemption is in compliance with these criteria. The agents may issue an advisory opinion only, and the opinion creates no commitment on the local officials when the documents creating the proposed land division are submitted to the Clerk and Recorder.
7. The County Commission and its agents, when determining whether an exemption is claimed for the purpose of evading the Act, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction are completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review (State ex rel. Dreher v. Fuller, 50 St. Rpt. 454, 1993
8. To assist in the implementation of this review process and to monitor those parcels by exemption the clerk and recorder shall cause the following letter system to be added to the numbering of recorded certificates of survey filed after the effective date of this resolution.

CO ... Court order (76-3-201(1), MCA)

ME ... Mortgage Exemption (76-3-201(2), MCA)

LE ... Life Estate (76-3-201(5), MCA)

RB ... Relocation of Common Boundary (76-3-207(a), MCA)

FT ... Family Transfer (76-3-207(b), MCA)

AE ... Agricultural Exemption (76-3-207(c), MCA)

OS ... Occasional Sale (76-3-207(d), MCA) [used prior to April 6, 1993]

AL ... Aggregation of Lots (76-3-207(e), MCA)

9. Exempt divisions of land that would result in a pattern of development equivalent to a subdivision shall be presumed to be adopted for purposes of evading the Act. A "pattern of development" occurs whenever 3 or more parcels of less than 160 acres with common covenants or facilities have been divided from the original tract.

B. EXEMPTION AS A GIFT OR SALE TO A MEMBER OF THE IMMEDIATE FAMILY (76-3-207(1)(b), MCA)

1. Statement of Intent: The intention of this exemption is to allow a landowner to convey one parcel to each of member of the immediate family without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

2. The Attorney General has defined "immediate family" as the spouse, children or parents of the grantor.
3. Filing of any certificate of survey (or recording of an instrument of conveyance) that would use this exemption to create a parcel for conveyance to a family member must show the name of the grantee, relationship to the landowner, and the parcel to be conveyed under this exemption, and the landowner's certification of compliance. Also, the certificate of survey or instrument of conveyance shall be accompanied by a deed or other conveying document.
4. One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review under this Resolution. However, the use of the exemption may not create more than one remaining parcel of less than 160 acres.
5. Any proposed use of family conveyance exemption to divide a tract that was created through use of an exemption will be presumed to be adopted for purposes of evading the Act. This presumption is in effect regardless of previous ownership of the tracts and pertains to remaining tracts of less than 160 acres as well as to those tracts that were created through the exemptions.
6. The use of the family conveyance exemption to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space or common marketing or promotional plan shall constitute a rebuttable presumption that the use of the exemption is adopted for purposes of evading the Act.

C. EXEMPTION TO PROVIDE SECURITY FOR A CONSTRUCTION MORTGAGE, LIEN OR TRUST INDENTURE 976-3-201(2), MCA

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

This exemption is not available to simply create a parcel without review by claiming that the parcel will be used for security to finance construction of a home or other structure on the proposed lot. This exemption may not be properly invoked unless (1) the claimant is purchasing a larger tract through financing or a contract for deed (and thus does not hold title) and (2) a lending institution requires the landowner to hold title to a smaller parcel of the tract because the smaller tract is required as security for a building construction loan.

2. When this exemption is to be used, the landowner shall submit to the clerk and recorder:

- a. a statement of how many parcels within the original tract will be created by use of the exemption;
 - b. the deed, trust indenture or mortgage for the exempt parcel (which states that the tract of land is being created only to secure a construction mortgage, lien or trust indenture);
 - c. a statement explaining who will have title to and possession of the balance of the original parcel after title to the exempted parcel is conveyed; and
 - d. a signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.
3. The use of this exemption is presumed to have been adopted for the purpose of evading the Act if:
- a. it will create more than one building site;
 - b. the financing is not for construction on the exempted parcel;
 - c. the person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is anyone other than the borrower of funds for construction.
 - d. title to the exempted parcel will not be initially obtained by the lending institution if foreclosure occurs.
 - e. it appears that the principal reason the parcel is being created is to create a building site and using the parcel to secure a construction loan is a secondary purpose.

D. EXEMPTION FOR AGRICULTURAL PURPOSES (76-3-207[C], MCA)

- 1. Statement of Intent: The intention of the this exemption is to allow a landowner to create a parcel without local review where the parcel will be used only for production of livestock or agricultural crops and where no residential, commercial or industrial buildings will be built.
- 2. "Agricultural purpose," for purposes of these evasion criteria, means the use of land for raising crops or livestock, or for the preservation of open space, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the DEQ, provided the applicable exemption is properly invoked by the property owner.
- 3. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purposes of evading the Act:
 - a. The parties to the transaction must enter into a covenant running with the land and revocable only by mutual consent of the county commissioners and the property owner that the divided land will be used exclusively for

agricultural purposes or open space. The covenant must be signed by the property owner, the buyer or lessee and the county commissioners.

- b. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings will be built (e.g., a statement signed by the buyer).
- c. Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision.
- d. Residential, commercial and industrial structures, including facilities for commercial processing of agricultural products are excluded uses on parcels created under this exemption unless the covenant is revoked.

E. RELOCATION OF COMMON BOUNDARY (76-3-207[a],MCA)

1. Statement of Intent: The intended purpose of this exemption is to allow a change the location of a boundary line between two parcels and to allow a one-time transfer of a tract to effect that change in location without subdivision review.
2. Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and the new boundary. This shall be accomplished by showing both parcels on the certificate of survey and representing the existing boundary with a dashed line and the new relocated boundary with a solid line. The descriptions and area of both relocated parcels shall be shown on the certificate of survey. The appropriate certification must be included on the certificate of survey.
3. If the relocation of a common boundary would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision.

F. REMAINDER PARCELS

1. Statement of Intent: A "remainder" parcel is only that portion of the original tract that is left following the segregation of other parcels from the tract created by the following exemptions from the Montana Subdivision and Platting Act:
 - a. Divisions are made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member or the landowner's immediate family.
 - b. Divisions make outside of platted subdivisions by gift, sale or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes.

To exempt these remainder parcels from the requirements of Section 76-3-401 and Section 76-4-103 M.C.A., the parcels must be able to be described as a 1/32 or larger aliquot part of a United States Government section.

2. A landowner claiming that a parcel is a "remainder" must present evidence that the parcel is in fact intended to be retained and is not to be transferred. Examples of such evidence include the existence of the landowner's residence on the parcel;

building plans for a structure to be built by or for the landowner;

For the purpose of a remainder parcel created by a subdivision, only those parcels in excess of 160 acres remaining after the subdivision of a single undivided ownership of record would qualify as a remainder.

APPENDIX M

Definitions

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

1. **BLOCK:** A group of lots, tracts or parcels within well-defined and fixed boundaries.
2. **BUFFER STRIP:** Vegetated land area used to separate development from streams, rivers, or lakes in order to protect water quality and wildlife habitat.
3. **CERTIFICATE OF SURVEY:** A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.
4. **CONDOMINIUM:** A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.
5. **COVENANT:** An agreement, in writing, of two or more parties by which any of the parties pledges to the others that something is done or shall be done.
6. **DEDICATION:** The deliberate appropriation of land by an owner for any general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
7. **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 Montana Subdivision and Platting Act. Provided that where required by the Act the land upon which an improvement is situated has been subdivided in compliance with the Act, the sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of the Act.
8. **DWELLING UNIT:** Any building or portion thereof providing complete, independent and permanent living facilities for one family.
9. **EASEMENT:** A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner.
10. **ENGINEER (REGISTERED PROFESSIONAL ENGINEER):** A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

11. FLOOD: The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage.
12. FLOOD OF 100-YEAR FREQUENCY: A flood magnitude expected to recur on the average of one every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.
13. FLOODPLAIN: The area adjoining the watercourse or drainage which would be covered by the floodwater of a flood of 100-year frequency.
14. FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel which are reasonable required to carry and discharge the floodwater of any watercourse or drainage.
15. GOVERNING BODY: The Lake County Board of County Commissioners.
16. GROWTH POLICY: According to Section 76-1-103, MCA, means and is synonymous with, a comprehensive development plan, master plan, or comprehensive plan that meets the requirements of 76-1-601, MCA.
17. LOT: A parcel, plot, or other land area created by subdivision for sale, rent, or lease.
18. LOT MEASUREMENTS:
 - 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,
 - e.
 - f. road, or other rights-of-way.
19. 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.
20. MINOR SUBDIVISION: A subdivision containing five or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use for parks or playgrounds.
21. MOBILE HOME: A factory-assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit(s) without a permanent foundation.
22. MOBILE HOME LOT: A designated portion of a mobile home park designed for the

- accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.
23. MOBILE HOME PARK: A tract of land providing two or more mobile home lots for lease or rent to the general public.
 24. MOBILE HOME STAND: That area of a mobile home lot which has been prepared for the placement of a mobile home.
 25. MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards as set forth by the Division of Environmental Sciences of the Montana Department of Environmental Quality, adopted pursuant to Title 76, Chapter 4, Part I, MCA.
 26. MONUMENT (PERMANENT MONUMENT): Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
 27. OPEN SPACE: An undeveloped land or water area devoid of buildings except where accessory to the provision of recreation.
 28. OVERALL DEVELOPMENT PLAN: The plan of a subdivision design for a single tract proposed to be subdivided by stages.
 29. PLANNED UNIT DEVELOPMENT (P.U.D.): A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks, or any combination thereof which comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use.
 30. PLANNING BOARD: The (Lake County or Polson City-County) Planning Board formed pursuant to Title 76, Chapter 1, MCA.
 31. PLAT: A graphic representation of a subdivision showing the division of land into lots, parcels, blocks, streets, and 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 which furnish a basis for review by a governing body.
 - b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA.)
 - c. Amended Plat: The final drawing of any change to a platted subdivision filed with the county clerk and recorder required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in these regulations and the Subdivision and Platting Act. (Title 76, Chapter 3, MCA).

32. PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities and systems for water supply, sewage disposal and drainage.
33. PUBLIC ROAD OR STREET: A road or street for which a municipality, county or a state or federal agency has maintenance responsibility.
34. RECREATIONAL VEHICLE PARK: A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
35. 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.
36. RIGHT-OF-WAY: A strip of land dedicated or acquired for use as a public way.
37. STATE: State of Montana.
38. STREET TYPES: For purposes of these regulations, street types are defined as follows:
 - a. Alley: A street used primarily for vehicular access to the rear of properties which abut on and are served by public roads.
 - b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterial 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 have two moving traffic lanes and up to two parking lanes.
 - d. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.
 - f. Half-Street: A portion of the width of a street, usually along the outside perimeter of a subdivision, where the remaining portion of the street must be located on adjacent property.
 - g. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
 - h. Loop: A local street which begins and ends on the same street, generally used for access to properties.
 - i. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

39. SUBDIVIDER: Any person, firm or corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land.
40. SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 160 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and shall include any re-subdivision; and shall further include any condominium or area, regardless of its size, which provides or will provide multiple space for recreational camping vehicles, or mobile homes. A subdivision shall comprise only those parcels less than 160 acres which have been segregated from the original tract, and the plat thereof shall show all such parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with the Montana Subdivision and Platting Act are exempt from the provisions of the Act [76-3-103(14), MCA].
41. SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.
42. SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
43. SWALE: A drainage channel or depression designed to direct surface water flow.
44. TRACT: Land area proposed to be subdivided.
45. TRACT OF RECORD: A parcel of land 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 [76-3-103(15), MCA]. "Tract of Record" shall be determined by using the last legally filed document in the records of the county clerk and recorder's office.
46. VICINITY SKETCH: A map at a scale suitable to locate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

APPENDIX N

FEE SCHEDULE

Pre-application

Conference (optional)	No Charge
On-Site Evaluation (required)	\$100.00

Preliminary Review

Number of additional Building Sites/Units	
1	\$200.00
2	\$200.00
3-5	\$300.00
6-50	\$320.00
	+ \$20.00 each unit
51-100	\$1215.00
	+ \$15.00 each unit
101+	\$1960.00
	+ \$10.00 each unit

Final Review

Vacation of a Plat	\$250.00
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Floodplain Development

In-house flood determination	\$50.00
On-site Evaluation	\$75.00
Floodplain development permit	\$100.00

Zoning & Construction Related items

Building Notification Permit	\$50.00
Zoning Conformance Permit	\$50.00
Conditional Use Permit	\$200.00
Variance Permit	\$250.00
Zoning Amendments	\$250.00
Zoning Administrator Appeal	\$250.00
Lakeshore Const (w/in 20 ft)	\$100.00-\$500.00
1 Year Extension	\$25.00
All After-The-Fact Permits	2x Normal Fee Schedule

Examining Land Surveyor

C.O.S., Amended Plat or Subdivision	\$60.00
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County Health Review (Subdivision)

Lots 20 acres or larger	\$100.00/lot
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