Cascade County Public Works

"WORKING TOGETHER TO PROVIDE EFFICIENT AND EFFECTIVE PUBLIC SERVICE"

Cascade County Subdivision Regulations

ADOPTED: October 22, 2013
RESOLUTION: #13-82
CASCADE COUNTY COMMISSIONERS
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RETURN TO COMMISSION

Resolution #13-82

Resolution to Adopt the Amended Subdivision Regulations of Cascade County

WHEREAS, under the provisions of Title 76, Chapter 3, Montana Code Annotated, the Board of County Commissioners of Cascade County is authorized to adopt and amend local subdivision regulations; and,

WHEREAS, the Cascade County Planning Board and the Cascade County Board of County Commissioners have reviewed the proposed amended local subdivision regulations and deemed them to be proper and needed; and

WHEREAS, public notice of the Cascade County Planning Board's intent to adopt and amend local subdivision regulations and of the public hearing was published on Sunday October 6, 2013 and Sunday October 13, 2013 in the Great Falls Tribune; and

WHEREAS, a public hearing was held by the Cascade County Planning Board on Tuesday, October 15, 2013 in the Courthouse Annex; and

WHEREAS, the Cascade County Planning Board recommended adoption of the revised Subdivision Regulations for Cascade County on October 15, 2013; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Cascade County, Montana that the Resolution to adopt the attached Amended Subdivision Regulations of Cascade County is hereby approved.

Passed by the Board of County Commissioners of Cascade County on this 22nd day of October, 2013.

BOARD OF COUNTY COMMISSIONERS
CASCADE COUNTY, MONTANA

Joe Briggs, Chairman

Bill Salina, Commissioner

Jane Weber, Commissioner

R0286533 CRS
Total Pages 1 R 0 00 By mejohnson 02/04/2014 10 59 37 AM
Cascade County, Rina Ft Moore - Clerk & Recorder

Attest: Rina Ft Moore by deputy M Johnson

Rina Fontana Moore,
Cascade County Clerk & Recorder

Refers to Recording R0286338
recorded on January 29, 2014 M Johnson

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SECTION 1. DEFINITIONS

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular, unless otherwise specifically defined in a particular section, includes the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions. The term "may not" is prohibitive. In addition to the definitions in this chapter, terms specific to a section of these regulations may be defined within that particular section. Words and phrases not specifically defined in these regulations or the Cascade County Zoning Regulations shall have their usual and customary meaning in the context of land use planning.

A

ABSTRACT OF TITLE: See also TITLE REPORT.

ACCIDENT POTENTIAL ZONE (APZs): The area of land, as defined by the Department of Defense, located near military and civilian airfields in which if a problem developed, an aircraft mishap would likely occur. There are three (3) accident potential zones. The Clear Zone (CZ), the Accident Potential Zone 1 (APZ1), and the Accident Potential Zone 2 (APZ2).

ADJACENT LANDOWNER: The landowner of a tract of record within 300 feet, at any point, of a proposed subdivision.

ADJOIN: To physically touch or border upon; to share a common property boundary (land that is separated from a parcel by an easement, a right-of-way or a watercourse qualifies as adjoining for notification purposes).

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

AGRICULTURAL COVENANT: A covenant running with the land which restricts that land to agricultural uses only.

AGRICULTURAL WATER USER FACILITIES: Those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.

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

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

authorized to act on the landowner's behalf. [Same as definition of "subdivider" in 76-3-103(14), MCA]

APPLICATION: The submittal to the Planning Department of completed and signed materials, including applicable fees, required to initiate review under these regulations.

B

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries. Land surrounded on all sides by streets or other transportation or utility rights-of-way, or by physical barriers such as bodies of water or public open spaces.

BUILDING: A structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. Except as provided in the definition of SUBDIVISION (76-3-103(15), MCA), the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

BUFFER: A strip of land, vegetation, etc. designed to separate one use from another use. Examples include but are not limited to: adjoining prime agricultural farmland and a residential subdivision; bodies of water and locations of structures.

C

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

CAMPSITE: That part of a campground where a cabin is located or that is designated for a tent or trailer space.

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

CLEAR ZONE (CZ): The accident potential zone which has the greatest accident potential and is an area where no structures except navigational aids and airfield lighting are allowed.

CLUSTER DEVELOPMENT: A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots while allowing other lands to remain undeveloped.

COMBUSTIBLE: Any material that, in the form in which it is used and under the conditions anticipated will ignite and burn. (See also NONCUMBUSTIBLE)

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

CONDOMINIUM: Ownership of single units with common elements located on property submitted to the provisions of this chapter. The term does not include a townhome or townhouse. [70-23-102(5), MCA]

COUNTY: Cascade County, Montana

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

CRITICAL WILDLIFE HABITAT: Part or all of an area occupied by a wildlife species or a population of such species and recognized as being essential for the maintenance of the population. Habitat that is vital to the health and maintenance of one or a variety of species based on habitat features such as nesting sites, denning sites, food sources, breeding grounds etc.

D

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

DEFENSIBLE SPACE: An area as defined by the Vegetation Management Plan, between an improved property and a potential wild land fire where the combustibles have been removed or modified with the intent of protecting life and property from wild land fire, reduce the potential for fire on improved property spreading to wild land fuels, and provide a safe working area for fire fighters protecting life and improved property.

DEQ: The Montana Department of Environmental Quality.

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 a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to 76-3, MCA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land. [76-3-103(4), MCA].

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

DRIVEWAY: An access that provides legal access and physical access to only one lot and lies solely on the lot for which it is providing access. (See also COMMON DRIVEWAY; contrast with ROADWAY)

DRY HYDRANT: An arrangement of pipe permanently connected to a year around water source other than a piped, pressurized water supply system that provides a ready means of water supply for firefighting purposes and that utilizes the drafting (suction) capability of fire department pumpers.

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

E

EASEMENT: Authorization by a property owner for another to use, or restriction on the right of the owner to use, all or a portion of the owner's property for a specified purpose, including but not limited to driveways, roadways, irrigation facilities and utilities.

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

F

FAMILY: An individual or two or more individuals related by blood, marriage or adoption or other legal means, or a group of not more than five individuals who are not related by blood, marriage or adoption, living together as a single housekeeping unit within a dwelling unit.

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

FIRE HYDRANT: A valved connection on a piped year around pressured water supply system having one or more outlets that is used to supply hose and fire department pumpers with water.

FIRE PROTECTION AUTHORITY HAVING JURISDICTION (FPAHJ): The organization, office, or individual responsible for approving equipment, an installation, or a procedure.

FIRE RESISTANT LANDSCAPING: Vegetation management which removes flammable fuels from around a structure to reduce exposure to radiant heat. The flammable fuels maybe replaced with green lawn; gardens; certain individually spaced, green, ornamental shrubs; individually spaced and pruned trees; decorative rock or stone; or other non-flammable or flame resistant materials.

FIRE RESISTIVE or FIRE RESISTIVE CONSTRUCTION: Construction to resist the spread of fire, details of which are usually found in a Building Code.

FIRST MINOR SUBDIVISION: A proposed minor subdivision from a tract of record that has not been subdivided or created by a subdivision under the MSPA, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA, since July 1, 1973. [76-3-609(2), MCA]

FLOOD: The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage. [76-5-103 (8), MCA]

FLOOD OF 100 YEAR FREQUENCY (100-YEAR FLOOD): A flood magnitude which has a one percent chance of occurring in any given year , or is a flood magnitude which is expected to recur on the average of once every 100 years. [76-5-103 (9), MCA]

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100 year frequency. [76-5-103 (10), MCA]

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage. [76-5-103 (11), MCA]

FUEL: All combustible material within the wild land-urban interface, including vegetation and structures.

FUEL BREAK: An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting.

FUEL LOADING: The volume of fuel in a given area generally expressed in tons per acre.

FUEL MODIFICATION: Any manipulation or removal of fuels to reduce the likelihood of ignition or the resistance to fire control.

G

GREENBELT: An area with fire-resistive vegetation (planted or native), maintained to cause a reduction in fire intensity, and used for other than fire protection (golf course, cemetery, park, playground, mowed park, orchard, etc.).

GOVERNING BODY: The governing authority of a county (Cascade County Commissioners), city, town, or consolidated local government organized pursuant to law. [76-3-103 (7), MCA]

GROWTH POLICY: A policy that may be adopted pursuant to Title 76, Chapter 1, MCA, on or after October 1, 1999. In these regulations, unless context requires otherwise, the Growth Policy refers to the Cascade County Growth Policy.

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

GROUND FUELS: All combustible materials such as grass, duff, loose surface litter, tree or shrub roots, rotting wood, leaves, peat, or sawdust that typically support combustion.

H

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

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

I

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

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

IMPROVEMENT AGREEMENT: A contractual agreement that may be required by the Cascade County Commissioners to ensure the construction of such improvements as required by local subdivision regulations. The improvement agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.

INTERMITTENT STREAM: A watercourse that flows only at certain times of the year, conveying water from springs or surface sources; also, a watercourse that does not flow continuously, when water losses from evaporation or seepage exceed available stream flow. (See also STREAM)

L

LADDER FUELS: Fuels that provide vertical continuity allowing fire to carry from surface fuels into the crowns of trees or shrubs with relative ease.

LANDOWNER: All individuals, groups, or parties with a title interest in the property. For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner,” and “owner” mean the seller of the parcel under the contract-for-deed (24.183.1104 ARM). For all other purposes of these regulations, the terms “property owner,” “landowner,” and “owner” mean both the seller and the purchaser under a contract for deed.

LEGAL ACCESS: That each lot in a subdivision either abuts a public (city, county, state, or federal) street or roadway, or that the subdivider has obtained adequate and appropriate easements, at least sixty (60) feet in width, across all necessary properties, from a public road to each lot in the subdivision, whether or not a road has been constructed on that property, and has dedicated the easement or private roadway for public use.

LOCAL SERVICES: Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens.

LOT: An existing or proposed tract of record. For purposes of reviewing major/minor subdivisions and associated impacts, lots shall also include units within a subdivision for lease or rent.

M

MAJOR SUBDIVISION: A subdivision that creates six or more lots.

MCA: Montana Code Annotated.

MINOR SUBDIVISION: A subdivision that creates five or fewer lots from a tract of record.

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

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

MOBILE (MANUFACTURED) HOME PARK: A tract of land that provides or will provide spaces for two or more mobile homes that are intended for use as dwelling units.

MOBILE (MANUFACTURED) HOME SPACE: A designated portion of a parcel of land designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.

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

MSPA: Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.

N

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

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

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

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

NONCOMBUSTIBLE: A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire.

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

O

OPEN SPACE: Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

ORDINARY HIGH WATER MARK: The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to, deprivation of the sol of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water marks (§23-2-301 MCA).

OVERALL DEVELOPMENT PLAN: The plan of a subdivision design proposed to be subdivided in stages.

OWNER: Same as LANDOWNER

P

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

PHYSICAL ACCESS: A driveway or roadway conforming to the subdivision design standards in applicable law and regulation that provides unobstructed vehicular access year-round to each lot in the subdivision.

PLANNED UNIT DEVELOPMENT (PUD): A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use [76-3-103 (10), MCA].

PLANNING BOARD: A planning board formed pursuant to Title 76, Chapter 1, MCA.

PLANNING STAFF: The Cascade County Planning Division Staff.

PLAT: A clear scaled drawing of a division of land containing the information required by Montana law and these regulations.

PRELIMINARY PLAT: A plat of a proposed subdivision that furnishes the basis for review as more specifically set forth in the MSPA and these regulations.

PRELIMINARY PLAT APPROVAL (PPA): The written statement prepared by the Cascade County Commissioners following any decision to approve, conditionally approve, or deny a proposed subdivision. The PPD shall contain the information required by 76-3-620, MCA, and these regulations.

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

PROPERTY OWNER: Any person, firm, corporation, or other entity shown as being the legal owner of a tract, parcel, or lot in the records of the County Clerk & Recorder.

PUBLIC HEALTH AND SAFETY: The prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve more than one lot in a subdivision which is dedicated to the public or otherwise acquired by a government entity for public use. Examples of typical public improvements include parks, streets or roads, sidewalks, curbs, gutters, and street lighting, utilities, and systems for water supply, sewage disposal, drainage, or fire protection.

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

R

RATED ROOF: A roof constructed with a "roof covering assembly" that is listed as meeting the requirements for Class A, B, or C "roof covering assembly materials."

RECREATIONAL CAMPING VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE PARK: A tract of land available to and principally used by the public for camping, where persons can park recreational vehicles for camping and sleeping purposes.

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.

REVIEWING AUTHORITY: The DEQ or local Board of Health or Sanitarian as authorized under Title 76, Chapter 4, MCA and/or any of the following agencies or agencies authorized by the Board of Cascade County Commissioners including but not limited to the Cascade County Commissioners, County Planning Department Staff, Cascade County Surveyor, Cascade County Attorney's Office, Cascade County Clerk & Recorder's Office, and the Cascade City-County Health Department.

RIGHT-OF-WAY: A linear public way established or dedicated for public purposes by a duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority or by operation of law, intended to be occupied by a street, non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, or other similar uses.

ROADWAY: Portions of a highway, road, or street improved, designed, or ordinarily used for travel or parking of motor vehicles. Roadway shall include both the physical infrastructure and easement or right-of-way in which the infrastructure is situated.

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

S

SLOPE: Upward or downward incline or slant, usually calculated as a percent of slope [rise or fall per 100 ft (30.45 m) of horizontal distance].

STATE: The State of Montana.

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

STREAM: A natural body of running water flowing continuously in a channel on or below the surface of the ground. (See also INTERMITTENT STREAM)

STREET TYPES: For purposes of these regulations, street types are defined as follows:

Alley: A public or private way reserved as a secondary means of access to the rear or side of lots which abut on and are served by public roads.
Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and should provide only limited access to abutting property.
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.
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.

Half-Street: A portion of the width of a street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street is to be fully constructed.
Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
Loop: A local street which begins and ends on the same street, generally used for access to properties.
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.

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

SUBDIVIDER: Same as APPLICANT.

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

SUBDIVISION ADMINISTRATOR: The person or persons authorized by the Cascade County Commissioners to perform the duties of review and administration set forth in these regulations.

SUBSEQUENT MINOR SUBDIVISION: Any subdivision of five or fewer parcels that is not a first minor subdivision.

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

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

T

TITLE REPORT : A report from a title service company on the condition of title to the property proposed for subdivision, which identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter. (See also ABSTRACT OF TITLE)

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

TOWNHOME/TOWNHOUSE: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.[70-23-102(14), MCA].

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

TURNAROUND: A portion of a roadway, unobstructed by parking, that allows for a safe reversal of direction for emergency equipment.

TURNOUT: A widening in a travel way of sufficient length and width to allow vehicles to pass one another.

U

URBAN GROWTH AREA (UGA): An area delineated in an adopted growth policy regional or county comprehensive plan [in accordance with goals, policies, and guidelines], prepared pursuant to Montana Codes Annotated within which urban development is encouraged by delineation of the area, compatible future land-use designations, and implementing actions in a local growth policy, and outside of which urban development is discouraged. An urban growth area shall allow existing or proposed land uses at minimum densities and intensities sufficient to permit urban growth that is projected for the region or county for the succeeding 20-year period and existing or proposed urban services to adequately support that urban growth.

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

V

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

VEGETATION MANAGEMENT PLAN: A vegetation management plan reduces the amount of fuel available for wild land fires, reducing the probability of a rapidly spreading wild land fire. Elements of the plan include removal of slash, snags, other ground fuels, ladder fuels and dead trees, and thinning of live vegetation.

VICINITY SKETCH: A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

VIOLATION: The failure to comply with applicable regulations.

W

WATERCOURSE: Any natural stream, river, creek, drainage, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and has a definite channel, be, and banks, and includes any area adjacent thereto, subject to inundation, by reason of overflow. The term watercourse shall not be construed to mean any facility created exclusively for the conveyance of irrigation water.

WATER SUPPLY: A source of water for agricultural, domestic, commercial or industrial uses and for firefighting activities.

WILD LAND FIRE: An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving structures.

WILDLAND-URBAN INTERFACE: An area where improved property and wild land fuels meet.

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

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

SECTION 2. GENERAL PROVISIONS

2-1. SHORT TITLE

These regulations will be known and may be cited as “The Cascade County Subdivision Regulations” (CCSR); hereinafter referred to as “these regulations.”

2-2. AUTHORITY

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

2-3. PURPOSE

1. 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 promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA).

2. These regulations are intended to comply with Part 5 of the MSPA, and 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 improvement of roads.

    5. The provision of proper physical and legal access, including obtaining necessary easements.

    6. The provision of adequate open spaces for travel, light, air, and recreation.

    7. The provision of adequate transportation, water, drainage, and sanitary facilities.

    8. The avoidance or minimizing of congestion.

    9. The avoidance of subdivisions which would involve unnecessary environmental degradation.

10. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation, or other public improvements.

11. The avoidance of excessive expenditure of public funds for the supply of public improvements and services.

12. The manner and form of making and filing of any plat for subdivided lands.

13. 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.

2-4. JURISDICTION

1. These regulations govern the subdivision of land within the jurisdictional area of the Cascade County Commissioners of Cascade County.

2. 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 Cascade County Commissioners 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 the county governing bodies.

3. If a proposed subdivision is located in a rural school district, the Cascade County Commissioners shall provide a summary of the information contained in the subdivision application and preliminary plat to school district trustees.

4. When a proposed subdivision is also proposed to be annexed to a municipality, the Governing body of the municipality will combine public hearings and otherwise coordinate the subdivision review process and annexation procedures whenever possible.

2-5. RELATIONSHIP TO OTHER REGULATIONS

These regulations supplement other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply. Other regulations include, but are not limited to, zoning regulations, floodplain regulations, environmental health regulations, building codes, and fire codes.

2-6. APPLICABLE REGULATIONS

1. Review and approval, conditional approval, or denial of a proposed subdivision shall occur only under those regulations in effect at the time a preliminary plat application is deemed to contain sufficient information for public review as specified in Section 3 of these regulations.

2. If regulations change during the element or sufficiency review periods, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, must be based on the new regulations.

2-7. INTERNAL CONFLICTS

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

2-8. SEVERABILITY

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

2-9. AMENDMENT OF REGULATIONS

Before the Cascade County Commissioners amends these regulations it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than 15 days or more than 30 days before the date of the hearing.

2-10. RESPONSIBILITY FOR INTERPRETATION

1. In the event that any question arises concerning any provision or the application of any provision of these regulations, the Planning Director, in consultation with the County Attorney's Office as determined necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations for guidance. The Planning Director shall provide such interpretation in writing to the applicant upon request and keep a permanent record of said interpretations.

2. The responsibility for interpretation shall not be construed as overriding the responsibilities of any commission, board, or official named in other parts of these regulations.

2-11. VIOLATION AND PENALTIES

Any person, firm, corporation, or other entity that violates any of the provisions of the MSPA 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 MSPA or these regulations shall be deemed a separate and distinct offense.

2-12. PERMISSION TO ENTER

The Cascade County Commissioners or its designated agent(s) or affected federal, state, or county agencies identified during the pre-application meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is approved conditionally. The submission of a subdivision application constitutes a grant of permission by the subdivider for the Cascade County Commissioners, its agents, and affected agencies to enter the subject property. This

consent applies to members of the public attending a noticed public meeting for a site visit.

2-13. ENFORCEMENT

1. Prior to commencing any judicial enforcement, alleged violations of these regulations shall be investigated by the Planning Department. The Planning Department shall provide written notice to the individual(s) involved in the alleged violations by letter, and include within that letter a description of the alleged violation. The landowner(s) must also be notified, if different from the individuals involved. If the landowner consents, the Planning Department may visit the property to determine whether a violation exists. If a violation is determined to exist, the Planning Department will provide written notice to the violator explaining the violation and setting forth the procedure to cure the violation. If the violation is not cured via this administrative procedure, the Planning Department will schedule a meeting with the Cascade County Commissioners to determine whether the matter shall be referred to the Cascade County Attorney's Office, who may commence judicial enforcement action as described below.

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

2-14. APPEALS

1. A person who has filed with the Cascade County Commissioners an application for a subdivision under the MSPA and these regulations may bring an action in district court to sue the Cascade County Commissioners to recover actual damages caused by a final action, decision, or order of the Cascade County Commissioners or a regulation adopted pursuant to the MSPA that is arbitrary or capricious.

2. A party identified in subsection 4 below who is aggrieved by a decision of the Cascade County Commissioners to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within thirty (30) days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

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

4. The following parties may appeal under the provisions of subsection 2 above:

    1. the subdivider/applicant;

    2. a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the

subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;

3. the county commissioners of the county where the subdivision is proposed; and

4. one of the following municipalities:

    1. a first-class municipality as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;

    2. a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits;

    3. a third-class municipality, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

2-15. TRANSFERS OF TITLE

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

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

    1. under the terms of the contracts, the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State;

    2. under the terms of the contracts and the escrow agreement, the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the applicant until the final plat of the subdivision is filed with the Clerk & Recorder;

    3. the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the Clerk & Recorder within two (2) years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments the purchaser has made under the contract;

    4. the County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

    5. the contracts contain the following language conspicuously set out: “The real property that is the subject of this contract has not been finally platted, and until a final plat identifying the property has been filed with the Clerk & Recorder, title to the property may not be transferred in any manner.”

2-16. DELEGATION OF AUTHORITY

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

2-17. COMPUTATION OF TIME

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

2-18. FEES

Review of any application received in accordance with these regulations shall not commence until all review fees are received. All fees are nonrefundable, with the exception of those applications which are withdrawn prior to Planning Department review. Refunds shall be issued at the discretion of the Planning Director, unless otherwise authorized by State law. Fees are as follow:

- First Minor Subdivision - $600.00
- Major/Subsequent Minor Subdivision - $1,000.00 + $50 per lot
- Condominium/Townhouse – (Same as minor or major)
- Variance - $250
- Final Plat Review - $400
- Exemptions – No Charge

SECTION 3. GENERAL PROCEDURES – ALL SUBDIVISIONS

3-1. PRE-APPLICATION

1. Prior to submittal of a subdivision application, the applicant shall request a pre-application meeting with the subdivision administrator. The meeting shall occur within thirty (30) days of the written request.

2. At the time of the pre-application meeting request, the applicant shall provide to the subdivision administrator a sketch of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The site plan shall include the following:

3. Pre-application meeting:

    1. the subdivision administrator shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations, floodplain regulations, building codes and fire codes;

    2. the subdivision administrator shall provide the applicant with a list of public utilities, local, state and federal agencies, and any other entities that have an interest in the proposed subdivision and that may be contacted for comment by the subdivision administrator or planning board on the subdivision application. The subdivision administrator shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond; and

    3. the subdivision administrator shall identify particular additional information the subdivision administrator anticipates will be required for review of the subdivision application. This does not limit the ability of the subdivision administrator to request additional information at a later time.

    4. Unless the subdivider submits a subdivision application within 60 days of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

3-2. SUBDIVISION APPLICATION AND PRELIMINARY PLAT SUBMITTAL

The applicant shall submit to the Planning Department a preliminary plat application, including the elements and detailed supporting information listed in Appendix A – Part I of these regulations. Unless the subdivider submits a subdivision application within 60 days of the pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

3-3. PRELIMINARY PLAT APPLICATION REVIEW PROCESS

1. Element Review

    1. Within five (5) working days of receipt of a subdivision application and fee, the subdivision administrator shall determine whether the application contains all of

the applicable materials required by Appendix A – Part I and shall give written notice to the applicant of the subdivision administrator's determination.

2. If the subdivision administrator determines that elements are missing from the application, the subdivision administrator shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the subdivision administrator until the identified elements are submitted.

3. If the applicant corrects the deficiencies and resubmits the application the subdivision administrator shall have five (5) working days to notify the applicant whether the resubmitted application contains all of the elements required by Appendix A - Part I, of these regulations. The subdivision administrator's subsequent review(s) will not begin until all identified missing elements are submitted..

4. This process shall be repeated until the applicant submits an application containing all the materials required by Appendix A – Part I, or the application is withdrawn. Once the subdivision administrator notifies the applicant in writing that an application contains all required elements, the sufficiency review period shall commence.

2. Sufficiency Review

1. Within fifteen (15) working days after the subdivision administrator notifies the applicant that the application contains all of the required elements, the subdivision administrator shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations. The subdivision administrator shall notify the applicant of the subdivision administrator's determination via a written Sufficiency Letter. Sufficiency review shall include the review of the detailed information supporting the elements listed in Appendix A – Part I, of these regulations.

2. If the subdivision administrator determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the subdivision administrator shall identify specific required information in its notification and return the application to the applicant, and no further action shall be taken on the application by the subdivision administrator until the material is resubmitted.

3. If the applicant corrects the deficiencies and resubmits the application in accordance with the subdivision administrator's Sufficiency Letter, the subdivision administrator shall have fifteen (15) working days to notify the applicant whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations. The subdivision administrator's subsequent review(s) will not begin until all identified missing elements are submitted.

4. This process shall be repeated until the applicant submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of these regulations, or the application is withdrawn.

5. Once the application is found to contain all the necessary detailed supporting information that renders the subdivision sufficient for review, the Planning Department shall notify the applicant in writing of this determination, at which time the Cascade County Commission review period shall commence in accordance with Section 4 or Section 5 of these regulations, as applicable.

3. A determination that an application contains sufficient information for review as provided in this subsection 2 does not ensure that the proposed subdivision will be approved or conditionally approved by the Cascade County Commissioners and does not limit the ability of the subdivision administrator, planning board, or the Cascade County Commissioners to request additional information during the review process.

4. A determination of sufficiency by the subdivision administrator pursuant to this subsection does not limit the DEQ from requiring additional water and sanitation information as part of the DEQ review of water and sanitation information.

3-4. WATER AND SANITATION – SPECIAL RULES

1. Water and sanitation information provided in the application and public comment given about this information during the review process may be used as a basis for a conditional approval or denial of a subdivision only if the Cascade County Commissioners finds that information provided in the application or submitted during public comment indicates the proposal does not comply with previously adopted subdivision, zoning, floodplain or other regulations.

2. For a proposed subdivision that will create one or more parcels containing less than twenty (20) acres, the Cascade County Commissioners shall require approval by the DEQ as a condition of approval of the final plat. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.

3. For a proposed subdivision that will create one or more parcels containing twenty (20) acres or more, the Cascade County Commissioners shall condition approval of the final plat upon the applicant obtaining approval by the City-County Health Department for compliance with laws, rules and regulations in accordance with DEQ regulations for parcels containing less than twenty (20) acres. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are developed.

4. The Cascade County Commissioners shall collect public comments regarding water and sanitation information and shall make any comments submitted, or a summary of the comments submitted, available to the applicant within thirty (30) days after conditional approval or approval of the subdivision application and preliminary plat.

5. The applicant shall, as part of the applicant's application for sanitation approval, forward the comments or the summary provided by the Cascade County Commissioners to the:

    1. reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than twenty (20) acres; or

    2. local health department or board of health for proposed subdivisions that will create one or more parcels containing twenty (20) acres or more and less than one-hundred sixty (160) acres.

3-5. FINAL PLATS

The final plat submitted for approval must conform to the preliminary plat as previously reviewed and approved by the Cascade County Commissioners and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents must comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development shall be filed sequentially in accordance with the approval.

3-6. FINAL PLAT APPLICATION REVIEW PROCEDURE

1. The final plat approval application form and all supplementary documents must be submitted to the subdivision administrator at least thirty (30) working days prior to the expiration of preliminary plat approval. The submittal shall include, as applicable:

    1. the final plat application;

    2. the final plat review fee;

    3. a statement from the landowner, landowner's representative, project surveyor or engineer outlining how each condition of approval has been satisfied;

    4. a Title Report or updated Abstract dated no less than thirty (30) days prior to the date of submittal;

    5. the DEQ or local Environmental Health Department approval;

    6. the final Grading and Drainage Plan, including all road plans and profiles, state or local encroachment permits, and the Traffic Impact Analysis (if required);

    7. all engineering plans;

    8. any homeowner association documents, including bylaws, covenants, and/or declarations;

    9. two 24" x 36" mylar copies and three 24" x 36" paper copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats.

2. The subdivision administrator shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The subdivision administrator will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee, and copies of the final plat have been received. Final plat applications will not be considered complete by the subdivision administrator until all conditions of preliminary approval have been satisfied.

3. If the subdivision administrator determines that the final plat differs from the approved or conditionally approved preliminary plat, the applicant shall be required to submit an amended application pursuant to Section 3-9.

4. The subdivision administrator may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped signed certificate on the plat.

5. Once the subdivision administrator has determined that the final plat application is complete and that all conditions of the subdivision preliminary plat approval have been met, the administrator will schedule final plat approval before the Board of County Commissioners.

3-7. PUBLIC IMPROVEMENTS AGREEMENT

1. As a condition of approval of the final plat, the applicant must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. No construction or placement of structures on the lots may occur until improvements related to public health and safety, such as roads or fire fighting facilities, have been installed and engineering plans have been filed. A model subdivision improvements agreement and alternative methods of guaranteeing public improvements, the procedures and requirements for securing an agreement, and suggested conditions for maintenance are provided in Appendix C.

2. If the applicant chooses to enter into a subdivision improvements agreement, guaranteeing the public improvements through a bond or letter of credit, three bids for the cost of installation of the public improvements shall be obtained by the applicant. The amount of the guarantee shall be calculated by multiplying 125% by the highest bid. As the public improvements are installed, the applicant shall provide a letter to the Cascade County Commissioners indicating such, and including a copy of the engineered plans. The county engineer or consulting engineer designated by the Cascade County Commissioners shall review and certify all public improvements have been installed in conformance with the plans and specifications or the Cascade County Commissioners may require the developer to provide a Montana licensed professional engineer's certification that all public improvements have been installed in conformance with the plans and specifications. Prior to the release of the guarantee, a copy of the plans, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed in the clerk and recorder's office with reference to the final subdivision plat.

3-8. AMENDING APPROVED PRELIMINARY PLATS BEFORE FINAL PLAT APPROVAL

1. If the applicant proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the applicant shall submit the proposed changes to the subdivision administrator for review.

2. Within five (5) working days of receiving the proposed changes, the subdivision administrator shall determine whether the changes to the preliminary plat are material pursuant to subsection 7 below.

3. If the subdivision administrator determines the changes are material, the subdivision administrator shall determine whether the modification(s) are material based upon the extent to which the change(s) differs from the original approval and the extent to which the change(s) present impacts that were not previously considered and reviewed. The subdivision administrator shall than determine which of the following procedures apply to the impacts of the proposed changes and shall require the applicant to follow the appropriate course of action.

4. Non-material changes that require no additional public review. The applicant can make the changes to the plat and relevant application items and the subdivision administrator will present the changes to the Board of County Commissioners during final plat review.

5. Material changes that require additional public review but do not rise to the level of an entirely new application. The applicant will propose the changes to the plat and relevant application items and the subdivision administrator will present the changes to the Planning Board for re-review and recommendation to the commissioners.

6. Material changes that significantly alter the application. The applicant will re-apply beginning with the pre-application meeting and follow the process as a new subdivision application.

7. The following changes, although not an exhaustive list, may be considered material impacts:

    1. configuration or number of lots;

    2. road layout;

    3. water and/or septic proposals;

    4. configuration of park land or open spaces;

    5. easement provisions;

    6. designated access;

    7. changes to proposed covenants; or

    8. changes to conditions of approval.

8. A applicant whose proposed changes to the preliminary plat have been deemed material by the subdivision administrator may appeal the subdivision administrator's decision to the Cascade County Commissioners by written notice within 10 working days. The applicant may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

9. If the applicant and subdivision administrator determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the applicant's control, economic hardship notwithstanding, the condition may be reviewed by the Cascade County Commissioners through a properly noticed public hearing in order to determine if the condition may be waived or amended.

3-9. FINAL PLAT APPROVAL

1. The Cascade County Commissioners shall examine every final subdivision plat and shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations, or deny it pursuant to subsection 3, below.

2. If the final plat is approved, the Cascade County Commissioners shall certify its approval on the face of the final plat. When applicable, a certificate of the Cascade County Commissioners expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.

3. If the final plat is denied, the Cascade County Commissioners shall write a letter stating the reason for denial and forward a copy to the applicant. The Cascade County Commissioners will return the final plat to the applicant within ten (10) working days of the action. The applicant may then make any necessary corrections and resubmit the final plat for approval.

4. The Cascade County Commissioners may withdraw approval of a final plat if it determines that material information by the applicant is inaccurate.

3-10. FINAL PLAT FILING

After it is approved, the final plat may not be altered in any manner except as provided in Section 3-12. The county clerk and recorder may not accept any plat for filing that does not bear the Cascade County Commissioners approval in proper form or that has been altered. The clerk and recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats.

3-11. AMENDING FILED PLATS

1. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations unless exempt from the Subdivision and Platting Act per MCA Title 76. Any alteration which increases the number of lots or modifies six (6) or more lots (excepting aggregations), or abandons or alters a public road right-of-way or parkland dedication must be reviewed and approved by the Cascade County Commissioners.

2. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The Cascade County Commissioners may not approve an amended final plat without the written consent of the owners and lien holders of all lots which will be modified by the proposed amendment.

3. The Cascade County Commissioners may not approve an amendment that will place a lot in non-conformance with the standards contained in Section 10 of these regulations or with local zoning regulations unless the Cascade County Commissioners holds a public hearing on the amendment and issues a written variance from the standards pursuant to Section 11, Variances.

4. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats.

SECTION 4. MINOR SUBDIVISIONS - REVIEW PROCEDURES

This section applies to all minor subdivisions including proposals, regardless of size, that provide or will provide for up to five (5) recreational camping vehicles or mobile homes.

4-1. PRELIMINARY PLAT APPLICATION SUBMITTAL

Following a determination in accordance with Section 3-3 that an application for a first minor subdivision contains sufficient information for review, the applicant shall submit to the Planning Division the number of copies of the sufficient preliminary plat application, including all supporting documentation, requested by the Planning Division.

4-2. EXCEPTIONS

The following do not apply to first minor subdivisions:

1. preparation of an environmental assessment;

2. parkland dedication;

3. public hearing requirements; and

4. review of the preliminary plat application for the impact on the primary subdivision review criteria, if the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address impacts on the primary review criteria specified in 76-3-608(3), MCA.

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

1. Within thirty five (35) working days of an application being deemed sufficient for review, the Cascade County Commissioners, at a properly noticed public meeting, shall approve, conditionally approve or deny the proposed subdivision according to Section 4-6 of these regulations, unless the applicant and the subdivision administrator agree to an extension or suspension of the review period, as outlined in subpart 2 below.

2. The applicant and the Planning Department may agree to an extension(s) or suspension(s) of the review period, not to exceed a total of one (1) year.

3. Review and comment by public agencies or utilities may not delay the Cascade County Commissioners action on the subdivision application beyond the thirty five (35) working day review period. The Cascade County Commissioners will make these comments available to the applicant and to the general public upon request. If, during the review of the application, the subdivision administrator or the planning board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the subdivision administrator shall notify the applicant of the contact and the timeframe for response.

4. If the Cascade County Commissioners fail to reach a decision within the time limits specified under subsection 1, above, the County shall pay the applicant a financial

penalty of $50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the review fee collected by the Planning Division for the preliminary plat application, until the Cascade County Commissioners approves, conditionally approves, or denies the subdivision. This provision does not apply if the review period is extended or suspended pursuant to subsection 2, above.

4-4. NOTIFICATION REQUIREMENTS

1. Notice is not required to be published in a newspaper of general circulation in the County for first minor subdivisions. However, notice of the Cascade County Commissioners public meeting (and Planning Board public meeting, if applicable) shall be noticed on the published agenda of the Cascade County Commissioners a minimum of 48 hours prior to the public meeting.

2. Notice of the Planning Board public meeting, if applicable, and the Cascade County Commissioners public meeting shall be sent by regular mail to the applicant, each adjacent landowner, and each purchaser under contract for deed of property adjoining and within three-hundred (300) feet of the subject property. Notice of the Planning Board public meeting, if applicable, shall be sent at least five (5) calendar-days prior to the date of the Planning Board public meeting. Notice of the Cascade County Commissioners public meeting shall be sent at least fifteen (15) calendar-days prior to the date of the Cascade County Commissioners public meeting. The notice shall be prepared and mailed by the Planning Division. The failure of any adjacent landowner required by this section to receive notice that is properly sent shall not invalidate or otherwise have any effect upon a public meeting or action taken on the application.

3. The Planning Division shall prepare and send a summary of the preliminary plat application and the date, time, and location of the Planning Board public meeting, if applicable, and the Cascade County Commissioners public meeting at least five (5) calendar-days prior to the Planning Board public meeting and at least fifteen (15) calendar-days prior to the date of the Cascade County Commissioners public meeting. The notice shall be sent by regular mail to each affected agency.

4. When the subdivision lies within one (1) mile of a city of the third class city, within two (2) miles of a city of the second class, or within three (3) miles of a city of the first class, the Planning Division shall send one copy of the application to the governing body of that city for review and comment at least five (5) calendar-days prior to the date of the Planning Board public meeting, if applicable, and at least fifteen (15) calendar-days prior to the date of the Cascade County Commissioners public meeting. Also refer to Section 2-4.

4-5. STAFF REPORT

The Planning Division shall publish a staff report based on the requirements in Sections 4-6 and 4-9. The staff report shall be made available to the public, sent to the applicant and the applicant's agent no later than five calendar-days prior to the Planning Board public meeting.

4-6. PLANNING BOARD REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS AND EVIDENCE

1. Prerequisites to Approval. The Planning Board may not recommend approval or conditional approval a subdivision application and preliminary plat unless the proposed subdivision:

    1. provides easements for the location and installation of any planned utilities, both on and off site;

    2. provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

    3. assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section 3-8 of these regulations; and

    4. assures that the requirements of 76-3-504 (1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Section 10-11 have been considered and will be accomplished before the final plat is submitted.

    5. assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements as set forth in Section 10-10 have been considered and will be accomplished before the final plat is submitted.

2. Consideration-Standards. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board shall base its recommendation on compliance of the subdivision application and preliminary plat with the following:

    1. these regulations, including but not limited to the standards set forth in Section 10;

    2. the Cascade County Zoning Regulations;

    3. the MSPA, including but not limited to 76-3-608(3), MCA; and

    4. all other applicable regulations.

3. Consideration-Evidence. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board may consider, without limitation, the following (as applicable):

    1. the subdivision application and preliminary plat;

    2. the summary of probable impacts and mitigation;

    3. an officially adopted growth policy;

    4. subdivision administrator's staff report and recommendation; and

5. any additional information authorized by law.

4-7. DOCUMENTATION OF PLANNING BOARD'S RECOMMENDATION

The Planning Division shall issue a written report detailing the Planning Board's findings of fact and conclusions of law utilized to support the Planning Board's recommendation to approve, conditionally approve, or deny the proposed subdivision. The written report shall include any minority opinions. The Planning Department shall make the written report available to the Cascade County Commissioners and the public within ten (10) calendar days of the Planning Board public meeting.

4-8. APPLICANT'S PREFERENCE FOR MITIGATION

No later than two (2) working days before the meeting at which the Cascade County Commissioners are to consider the subdivision application and preliminary plat, the applicant is encouraged to submit in writing to the subdivision administrator the applicant's comments on and responses to the planning board's recommendations as well as any proposed mitigation measures not already discussed with the planning board. The Cascade County Commissioners will consult with the applicant and will give due weight and consideration to the applicant's expressed preferences regarding mitigation.

4-9. CASCADE COUNTY COMMISSIONERSERS – CONSIDERATION OF PREREQUISITES, STANDARDS AND EVIDENCE

1. Prerequisites to Approval. The Cascade County Commissioners may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

    1. provides easements for the location and installation of any planned utilities, both on and off site;

    2. provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

    3. assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section 3-8 of these regulations; and

    4. assures that the requirements of 76-3-504 (1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Section 10-11 have been considered and will be accomplished before the final plat is submitted.

    5. assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements as set forth in Section 10-10 have been considered and will be accomplished before the final plat is submitted.

2. Consideration – Standards. In approving, conditionally approving, or denying a first minor subdivision application, the Cascade County Commissioners shall consider whether the proposed subdivision complies with:

    1. compliance with the prerequisites set forth in the above section 1;

    2. these regulations, including but not limited to, the standards set forth in Section 10;

    3. the Cascade County Zoning Regulations;

    4. all other applicable regulations;

    5. the MSPA, including but not limited to the following impacts:

        1. impact on agriculture;

        2. impact on agricultural water user facilities;

        3. impact on local services;

        4. impact on the natural environment;

        5. impact on wildlife

        6. impact on wildlife habitat; and

        7. impact on public health and safety.

    6. proposed mitigation.

3. Consideration – Evidence. In making its decision to approve, conditionally approve, or deny a proposed first minor subdivision the Cascade County Commissioners may consider and weigh the following, as applicable:

    1. the subdivision application and preliminary plat;

    2. the summary of probable impacts and mitigation;

    3. an officially adopted growth policy;

    4. subdivision administrator's staff report and recommendations;

    5. planning board recommendation; and

    6. any additional information authorized by law.

4-10. CASCADE COUNTY COMMISSIONERSERS DECISION

After considering the requirements of Section 4-9, above, the Cascade County Commissioners shall either:

1. Approve the subdivision;

2. Conditionally approve the subdivision;

3. Deny the subdivision, or

4. Postpone the decision on the subdivision, but not longer than the review timeline specified in Section 4-3 without the applicant's consent.

4-11. DOCUMENTATION OF DECISION - PPA

1. Following its decision to approve, conditionally approve, or deny the proposed subdivision the Cascade County Commissioners shall issue a written decision, herein known as a Preliminary Plat Approval (PPA), within thirty (30) working-days of the Cascade County Commissioners oral decision.

2. The PPA shall:

    1. contain information regarding the appeal process for the denial or imposition of conditions;

    2. identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;

    3. provide the facts and conclusions that the Cascade County Commissioners relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision; and

    4. provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

    5. set forth the time limit for approval, pursuant to 76-3-610, MCA, and Section 4-9 of these regulations..

3. Once the oral decision has been rendered and the PPA has been issued, the Cascade County Commissioners may not impose any additional conditions as a prerequisite to final plat approval.

4. The Cascade County Commissioners may withdraw approval or conditional approval of an application and preliminary plat if it determines that information provided by the applicant, and upon which the approval or conditional approval was based, is inaccurate.

4-12. APPROVAL PERIOD

1. If the Cascade County Commissioners approves or conditionally approves a preliminary plat, that approval shall be in force for thirty six (36) months from the date of the oral decision.

2. The Cascade County Commissioners may, at its discretion and at the written request of the applicant, extend its approval of the preliminary plat. The written request from the applicant shall detail all the actions the applicant has taken to complete the requirements and meet the conditions of preliminary plat approval as listed in the PPA.

    1. The request for an extension of the preliminary plat approval period must be submitted to the Planning Division at least thirty (30) working-days prior to the expiration of the PPA. The subdivision administrator will evaluate the request and provide a written recommendation to the Cascade County Commissioners.

    2. The Cascade County Commissioners shall evaluate the subdivision administrator's recommendation and the applicant's request for extension to determine whether the applicant has been working in good faith to complete the project. After review, the Cascade County Commissioners shall grant or deny the request.

    3. The decision to grant or deny the extension request shall be provided to the applicant in writing and shall be signed by the Cascade County Commissioners.

4-13. PHASING

1. The applicant, as part of the preliminary plat application, may propose to delineate on the preliminary plat two or more final plat filing phases and a proposed schedule for the phased final plat application review. Final plats of minor subdivisions approved for phased development shall be filed sequentially in accordance with the preliminary plat approval. By submitting a phasing plan and schedule, the applicant consents to allow the Cascade County Commissioners to impose additional conditions as a prerequisite to final plat approval of any phase of the subdivision. Any additional conditions that are imposed shall address public health and safety issues that exist at the time each phase is brought before the Cascade County Commissioners for final plat review. The Cascade County Commissioners shall review the final plat of each phase at a public meeting before the approval period for each phase expires.

2. The plat of each phase shall be filed with the Clerk & Recorder in accordance with the accepted phasing schedule.

3. A phased project may be extended in accordance with Section 4-12.2. Extensions granted by the Cascade County Commissioners may extend one or more phases of the preliminarily approved project.

4. Each phase must be fully capable of functioning with all the required improvements in place in the event future phases are not completed as specified in the PPA.

5. In the event that a final plat of a phase is not filed within the required approval period, and an extension has not been granted by the Cascade County Commissioners, the final plat for that phase and any subsequent phases will expire. If the applicant wishes to file the remaining phases, they shall be required to start the process at the pre-application stage, including new fees.

6. A phasing plan and schedule shall be binding, unless specific changes are requested in writing and approved by the Cascade County Commissioners, pursuant to the procedures in Section 3-8.

4-14. FIRST MINOR SUBDIVISIONS – AMENDED APPLICATIONS

1. If the applicant changes the subdivision application or preliminary plat before the Cascade County Commissioners makes its decision, the applicant shall submit the amended application or preliminary plat to the subdivision administrator for review.

    1. Within five (5) working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material, as determined in subsection 3 below.

    2. The thirty five (35) working day review period is suspended while the subdivision administrator considers the amended application or preliminary plat.

    3. If the subdivision administrator determines the changes are not material, the thirty five (35) working day review period resumes when the subdivision administrator mails notice of the decision to the applicant.

2. If the subdivision administrator determines the changes are material, the subdivision administrator shall determine whether the modification(s) are material based upon the extent to which the change(s) differs from the original approval and the extent to which the change(s) present impacts that were not previously considered and reviewed. The subdivision administrator shall than determine which of the following procedures apply to the impacts of the proposed changes and shall require the applicant to follow the appropriate course of action.

    1. Non-material changes that require no additional public review. The applicant can make the changes to the plat and relevant application items and the subdivision administrator will present the changes to the Board of County Commissioners during final plat review.

    2. Material changes that require additional public review but do not rise to the level of an entirely new application. The applicant will propose the changes to the plat and relevant application items and the subdivision administrator will present the changes to the Planning Board for re-review and recommendation to the Commissioners.

    3. Material changes that significantly alter the application. The applicant will re-apply beginning with the pre-application meeting and follow the process as a new subdivision application.

3. By making changes to a pending subdivision application or preliminary plat, the applicant consents to suspension of the Review period as provided in subsection 1.2.

4. The following changes, although not an exhaustive list, may be considered material impacts:

    1. configuration or number of lots;

    2. road layout;

    3. water and/or septic proposals;

    4. configuration of park land or open spaces;

    5. easement provisions; and

    6. designated access.

5. A applicant whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the Cascade County Commissioners. The applicant may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

    1. The thirty five (35) working day review period is suspended until the Cascade County Commissioners decision on the appeal is made.

    2. If the Cascade County Commissioners concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the Cascade County Commissioners shall require the subdivision application and preliminary plat to be resubmitted pursuant to subsection 1.4.

    3. If the Cascade County Commissioners concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the thirty five (35) working day review period resumes as of the date of the decision.

    4. By appealing the decision of the subdivision administrator, the applicant agrees to suspension of the thirty five (35) working day review period provided in subsection 4.1.

4-15. FIRST MINOR SUBDIVISIONS – FINAL PLAT

The final plat must include the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section 3, General Procedures.

SECTION 5. MAJOR AND SUBSEQUENT MINOR SUBDIVISION - PUBLIC REVIEW PROCEDURE

This section applies to all major and subsequent minor subdivisions including proposals, regardless of size, that provide or will provide for six (6) or more recreational camping vehicles or mobile homes.

5-1. PRELIMINARY PLAT APPLICATION SUBMITTAL

Following a determination in accordance with Section 3-3 that an application for a major or subsequent minor subdivision contains sufficient information for review, the applicant shall submit to the Planning Division the number of copies of the sufficient preliminary plat application, including all supporting documentation, requested by the Planning Division.

5-2. EXCEPTIONS

1. Pursuant to 76-3-616, MCA, the requirement for preparing an Environmental Assessment in accordance with Parts II-IV of Appendix A does not apply, when:

    1. The proposed subdivision is entirely inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of 76-1-601(4)(c), MCA; and

    2. The proposed subdivision is entirely within an area subject to zoning adopted pursuant to 76-2-203 or 76-2-304, MCA that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4)(c), MCA; and

    3. The subdivision proposal includes a description of future public facilities and services, using maps and text that are necessary to efficiently serve the subdivision.

2. The park dedication requirement does not apply when exempted per the provisions of 76-3-621(3), MCA. (See also Section 10-12)

5-3. TIME PERIOD FOR APPROVAL, CONDITIONAL APPROVAL, OR DENIAL

1. Within sixty (60) working days for subsequent minor subdivisions and major subdivisions with less than fifty (50) lots and within eighty (80) working days for major subdivisions with fifty (50) or more lots, the Cascade County Commissioners shall approve, conditionally approve or deny the proposed subdivision according to Section 5-10 of these regulations, unless an extension or suspension is granted pursuant to subsection 2, below..

2. The applicant and the Planning Department may agree to an extension(s) or suspension(s) of the review period, not to exceed a total of one (1) year.

3. Review and comment by public agencies or utilities may not delay the Cascade County Commissioners action on the subdivision application beyond the sixty (60) or eighty (80) working day review period. The Cascade County Commissioners will make these comments available to the applicant and to the general public upon request. If, during the review of the application, the subdivision administrator or the planning board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the subdivision administrator shall notify the applicant of the contact and the timeframe for response.

4. If the Cascade County Commissioners fail to reach a decision within the time limits specified under subsection 1, above, the County shall pay the applicant a financial penalty of $50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the review fee collected by the Planning Division for the preliminary plat application, until the Cascade County Commissioners approves, conditionally approves, or denies the subdivision. This provision does not apply if the review period is extended or suspended pursuant to subsection 2, above.

5-4. NOTIFICATION REQUIREMENTS

1. Notices of the time, date, and location of the Planning Board public hearing and the Cascade County Commissioners public hearing shall be published by the Planning Division in a newspaper of general circulation in the County not less than fifteen (15) calendar-days prior to the date of each of the hearings.

2. Notice of the Planning Board public hearing and the Cascade County Commissioners public hearing shall be sent by regular mail to the applicant, each adjacent landowner, and each purchaser under contract for deed of property adjoining and within three-hundred (300) feet of the subject property at least fifteen (5) calendar-days prior to the date of the Planning Board public hearing. The notice shall be prepared and mailed by the Planning Division. The failure of any adjacent landowner required by this section to receive notice that is properly sent shall not invalidate or otherwise have any effect upon a public meeting or action taken on the application.

3. The Planning Division shall prepare and send a summary of the preliminary plat application and the date, time, and location of the Planning Board public hearing and the Cascade County Commissioners public hearing at least fifteen (15) calendar-days prior to the date of the Planning Board public hearing. The notice shall be sent by regular mail to each affected agency.

4. When the subdivision lies within one (1) mile of a city of the third class city, within two (2) miles of a city of the second class, or within three (3) miles of a city of the first class, the Planning Division shall send one copy of the application to the governing body of that city for review and comment at least five (5) calendar-days prior to the date of the Planning Board public meeting, if applicable, and at least fifteen (15) calendar-days prior to the date of the Cascade County Commissioners public meeting. Also refer to Section 2-4.

5-5. STAFF REPORT

The Planning Division shall publish a staff report based on the requirements in Sections 5-6 and 5-9. The staff report shall be made available to the public, sent to the applicant and the applicant's agent no later than five calendar-days prior to the Planning Board public hearing.

5-6. PLANNING BOARD REVIEW – CONSIDERATION OF PREREQUISITES, STANDARDS AND EVIDENCE

1. Prerequisites to Approval. The Planning Board may not recommend approval or conditional approval a subdivision application and preliminary plat unless the proposed subdivision:

    1. provides easements for the location and installation of any planned utilities, both on and off site;

    2. provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

    3. assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section 3-8 of these regulations; and

    4. assures that the requirements of 76-3-504 (1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Section 10-11 have been considered and will be accomplished before the final plat is submitted.

    5. assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements as set forth in Section 10-10 have been considered and will be accomplished before the final plat is submitted.

2. Consideration-Standards. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board shall base its recommendation on compliance of the subdivision application and preliminary plat with the following:

    1. these regulations, including but not limited to the standards set forth in Section 10;

    2. the Cascade County Zoning Regulations;

    3. The MSPA, including but not limited to 76-3-608(3); and

    4. all other applicable regulations.

3. Consideration-Evidence. In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board may consider, without limitation, the following (as applicable):

1. the subdivision application and preliminary plat;

2. the environmental assessment the summary of probable impacts and mitigation;

3. an officially adopted growth policy, which may be considered as one factor and shall not be the sole basis for any decision;

4. comments, credible evidence, and discussion at the public hearing;

5. subdivision administrator's staff report and recommendation; and

6. any additional information authorized by law.

5-7. DOCUMENTATION OF PLANNING BOARD'S RECOMMENDATION

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

5-8. APPLICANT'S PREFERENCE FOR MITIGATION

No later than two working days before the hearing at which the Cascade County Commissioners are to consider the subdivision application and preliminary plat, the applicant is encouraged to submit in writing to the subdivision administrator the applicant's comments on and responses to the planning board's recommendations as well as any proposed mitigation measures not already discussed with the planning board. The Cascade County Commissioners will consult with the applicant and will give due weight and consideration to the applicant's expressed preference regarding mitigation.

5-9. CASCADE COUNTY COMMISSIONERS -CONSIDERATION OF PREREQUISITES, STANDARDS AND EVIDENCE

1. Prerequisites to Approval. The Cascade County Commissioners may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

    1. provides easements for the location and installation of any planned utilities;

    2. provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

    3. assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by section 3-8 of these regulations; and

4. assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Section 10-11 have been considered and will be accomplished before the final plat is submitted.

5. assures that the requirements of 76-3-504(1)(k) regarding watercourse and irrigation easements as set forth in Section 10-10 have been considered and will be accomplished before the final plat is submitted.

6. Provides for the appropriate park dedication or cash-in-lieu.

2. Consideration – Standards. In approving, conditionally approving, or denying a first minor subdivision application, the Cascade County Commissioners shall consider whether the proposed subdivision complies with:

    1. compliance with the prerequisites set forth in the above section 1;

    2. compliance with these regulations, including but not limited to, the design standards set forth in Section 10;

    3. compliance with the Cascade County Zoning Regulations;

    4. compliance with all other applicable regulations

    5. compliance with the MSPA, including the subdivision's impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety (the "review" criteria" pursuant to 76-3-608(3)(a), MCA).

    The Cascade County Commissioners may require the subdivision to be designed to reasonably minimize potentially significant adverse impacts identified through the review of the subdivision proposal and may adopt conditions to ensure such impacts have been reasonably minimized in accordance with the MSPA and these regulations.

3. Consideration – Evidence. In making its decision to approve, conditionally approve, or deny a proposed first minor subdivision the Cascade County Commissioners may consider and weigh the following, as applicable:

    1. the subdivision application and preliminary plat;

    2. the environmental assessment;

    3. the summary of probable impacts and mitigation;

    4. an officially adopted growth policy;

    5. comments, evidence and discussions at the public hearing(s);

    6. subdivision administrator's staff report and recommendations;

    7. planning board recommendation; and

8. any additional information authorized by law.

4. Notwithstanding the foregoing, the Cascade County Commissioners may not consider any information regarding the subdivision application that is presented after the final public hearing (which may include a subsequent hearing if any) when making its decision to approve, conditionally approve, or deny the proposed subdivision.

5-10. CASCADE COUNTY COMMISSIONERS DECISION

After considering the requirements of Section 5-9, above, the Cascade County Commissioners shall either:

1. Approve the subdivision,

2. Conditionally approve the subdivision,

3. Deny the subdivision, or

4. Postpone the decision on the subdivision, but not longer than the review timeline specified in Section 5-3 without the applicant's consent.

5-11. DOCUMENTATION OF DECISION - PPA

1. Following its decision to approve, conditionally approve, or deny the proposed subdivision the Cascade County Commissioners shall issue a written decision, herein known as a Preliminary Plat Approval (PPA), within thirty (30) working days of the Cascade County Commissioners oral decision.

2. The PPA shall:

    1. contain information regarding the appeal process for the denial or imposition of conditions;

    2. identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;

    3. provide the facts and conclusions that the Cascade County Commissioners relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision; and

    4. provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

    5. set forth the time limit for approval, pursuant to 76-3-610, MCA, and Section 5-12 of these regulations..

3. Once the oral decision has been rendered and the PPA has been issued, the Cascade County Commissioners may not impose any additional conditions as a prerequisite to final plat approval.

4. The Cascade County Commissioners may withdraw approval or conditional approval of an application and preliminary plat if it determines that information provided by the applicant, and upon which the approval or conditional approval was based, is inaccurate.

5-12. APPROVAL PERIOD

1. If the Cascade County Commissioners approve or conditionally approve a preliminary plat, that approval shall be in force for thirty six (36) months from the date of the oral decision.

2. The Cascade County Commissioners may, at its discretion and at the written request of the applicant, extend its approval of the preliminary plat. The written request from the applicant shall detail all the actions the applicant has taken to complete the requirements and meet the conditions of preliminary plat approval as listed in the PPA.

    1. The request for an extension of the preliminary plat approval period must be submitted to the Planning Division at least thirty (30) working-days prior to the expiration of the PPA. The subdivision administrator will evaluate the request and provide a written recommendation to the Cascade County Commissioners.

    2. The Cascade County Commissioners shall evaluate the subdivision administrator's recommendation and the applicant's request for extension to determine whether the applicant has been working in good faith to complete the project. After review, the Cascade County Commissioners shall grant or deny the request.

    3. The decision to grant or deny the extension request shall be provided to the applicant in writing and shall be signed by the Cascade County Commissioners.

5-13. PHASING

1. The applicant, as part of the preliminary plat application, may propose to delineate on the preliminary plat two or more final plat filing phases and a proposed schedule for the phased final plat application review. Final plats of minor subdivisions approved for phased development shall be filed sequentially in accordance with the preliminary plat approval. By submitting a phasing plan and schedule, the applicant consents to allow the Cascade County Commissioners to impose additional conditions as a prerequisite to final plat approval of any phase of the subdivision. Any additional conditions that are imposed shall address public health and safety issues that exist at the time each phase is brought before the Cascade County Commissioners for final plat review. The Cascade County Commissioners shall review the final plat of each phase at a public meeting before the approval period for each phase expires.

2. The plat of each phase shall be filed with the Clerk & Recorder in accordance with the accepted phasing schedule.

3. A phased project may be extended in accordance with Section 5-12.2. Extensions granted by the Cascade County Commissioners may extend one or more phases of the preliminarily approved project.

4. Each phase must be fully capable of functioning with all the required improvements in place in the event future phases are not completed as specified in the PPA.

5. In the event that a final plat of a phase is not filed within the required approval period, and an extension has not been granted by the Cascade County Commissioners, the final plat for that phase and any subsequent phases will expire. If the applicant wishes to file the remaining phases, they shall be required to start the process at the pre-application stage, including new fees.

6. A phasing plan and schedule shall be binding, unless specific changes are requested in writing and approved by the Cascade County Commissioners, pursuant to the procedures in Section 3-8.

5-14. MAJOR SUBDIVISIONS – AMENDED APPLICATIONS

1. If the applicant changes the subdivision application or preliminary plat after the subdivision administrator makes a determination of sufficiency pursuant to Section 3-3 but before the Planning Board hearing, the applicant shall submit the amended application to the subdivision administrator for review.

    1. Within five (5) working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material, pursuant to subsection 4 below.

    2. The sixty (60) working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.

    3. If the subdivision administrator determines the changes are not material, the sixty (60) working day review period resumes when the subdivision administrator mails notice of the decision to the applicant.

    4. If the subdivision administrator determines the changes are material, the subdivision administrator shall either require the applicant to schedule a new pre-application meeting and resubmit the application as a new subdivision application or proceed with the sixty (60) working day review period upon certification from the subdivision administrator that the application is sufficient for review.

2. If the applicant changes the subdivision application or preliminary plat after the Planning Board hearing but before the Cascade County Commissioners hearing, the applicant shall submit the amended application or preliminary plat to the subdivision administrator for review.

    1. Within five (5) working days of receiving the amended application or preliminary plat, the subdivision administrator shall determine whether the changes to the subdivision application or preliminary plat are material pursuant to subsection 4 below.

2. The sixty (60) working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.

3. If the subdivision administrator determines the changes are not material, the sixty (60) working day review period resumes when the subdivision administrator mails notice of the decision to the applicant.

4. If the subdivision administrator determines the changes are material, the subdivision administrator shall determine whether the modification(s) are material based upon the extent to which the change(s) differs from the original approval and the extent to which the change(s) present impacts that were not previously considered and reviewed. The subdivision administrator shall than determine which of the following procedures apply to the impacts of the proposed changes and shall require the applicant to follow the appropriate course of action.

    1. Non-material changes that require no additional public review. The applicant can make the changes to the plat and relevant application items and the subdivision administrator will present the changes to the Board of County Commissioners during final plat review.

    2. Material changes that require additional public review but do not rise to the level of an entirely new application. The applicant will propose the changes to the plat and relevant application items and the subdivision administrator will present the changes to the Planning Board for re-review and recommendation to the commissioners.

    3. Material changes that significantly alter the application. The applicant will re-apply beginning with the pre-application meeting and follow the process as a new subdivision application.

5. If a new Planning Board hearing is held pursuant to subsection 2.4.2 above, the sixty (60) working day review period is suspended for the time period between notice of the subdivision administrator's determination and 10 working days after the date of the second Planning Board hearing.

3. By making changes to a pending subdivision application or preliminary plat, the applicant consents to suspension of the review period as provided in subsections 1.2 and 2.2.

4. The following changes, although not an exhaustive list, may be considered material impacts:

    1. configuration or number of lots;

    2. road layout;

    3. water and/or septic proposals;

    4. configuration of park land or open spaces;

    5. easement provisions; and

6. designated access.

5. A applicant whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the Cascade County Commissioners by written notice within ten (10) working days. The applicant may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

    1. The sixty (60) working day review period is suspended until the Cascade County Commissioners decision on the appeal is made.

    2. If the Cascade County Commissioners concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the Cascade County Commissioners shall determine whether the subdivision application should be resubmitted or scheduled for rehearing in front of the planning board pursuant to subsections 2.4.1 or 2.4.2.

    3. If the Cascade County Commissioners concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the sixty (60) working day review period resumes as of the date of the decision.

    4. By appealing the decision of the subdivision administrator, the applicant agrees to suspension of the sixty (60) working day review period provided in subsection 1 above.

5-15. MAJOR SUBDIVISIONS – FINAL PLAT

The final plat must include the contents, and be submitted and reviewed in accordance with the appropriate requirements contained in Section 3, General Procedures.

SECTION 6.

(RESERVED)

SECTION 7. CONDOMINIUMS & TOWNHOMES

7-1. REVIEW PROCEDURES

Unless exempted by section 76-3-203, MCA, all condominium and townhome developments are subdivisions subject to the terms of the MSPA and these regulations and must be reviewed under the procedures contained in Section 4 or Section 5, depending upon the number of proposed units.

7-2. DESIGN STANDARDS

Condominium and townhome developments must comply with applicable design standards contained in Section 10 and must also conform to the requirements of the Cascade County Zoning Regulations.

7-3. UNIT OWNERSHIP ACT

Condominium developments must comply with all provisions of the Unit Ownership Act, Title 70, Chapter 23, MCA.

SECTION 8. PLANNED UNIT DEVELOPMENTS

8-1. PURPOSE

The purpose of this section is to provide flexibility in applying certain subdivision standards, allowing the subdivider creativity in subdivision design. Section 76-3-103(10), MCA defines a planned unit development as “a land development project consisting of residential clusters, industrial parks, shopping centers or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.”

8-2. REVIEW PROCEDURES

If the Cascade County Commissioners designates a proposed development plan as a PUD, the preliminary plat may then be submitted for review. Submittal must comply with requirements and procedures contained in Section 3 and Section 5.

8-3. DESIGN STANDARDS

PUDs must comply with the standards contained in Section 10 Design and Improvement Standards. However, the Cascade County Commissioners may modify the design and improvement standards contained in Section 10-3 Lots and Blocks, Section 10-4 Streets and Roads, and Section 10-12 Park Land Dedication upon request of the subdivider when the plan for a PUD includes provisions for efficient traffic circulation, adequate light, air, and open space. In such cases, no application for a variance under Section 11 of these regulations is necessary.

8-4. Open Space

1. Each PUD must comply with the requirements of Section 10-12.4.1 of these regulations. The open space must be:

    1. Owned by a property owners’ association; or

    2. Dedicated to public use, if acceptable to the Cascade County Commissioners; or

    3. A combination of 1 and 2 above.

2. The Cascade County Commissioners may waive dedication or cash donation requirements when the subdivider agrees to create a property owners’ association for the proposed subdivision and deed to the association land to be held in perpetuity for use as parks or playgrounds.

SECTION 9. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

The MSPA provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the use of the exemption is an attempt to evade the MSPA. The exemptions are found in Part 2 of Title 76, Chapter 3, MCA.

9-1. GENERAL EVASION CRITERIA

1. The Cascade County Commissioners and Planning Division, when determining whether an exemption in Sections 9-2, 9-3 or 9-4 is claimed for the purpose of evading the MSPA, shall consider all of the surrounding circumstances, including the following:

    1. The prior history of the particular tract in question;

    2. The proposed configuration of the tracts if the proposed exempt transaction is completed;

    3. Any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review:

        1. <u>Original Tract Less Than Twenty Acres:</u> A pattern of development occurs whenever three or more parcels (i.e., two exempt parcels and a remaining parcel) have been divided from the original tract of less than twenty acres regardless of ownership by use of exemptions from the Act.

        2. <u>Original Tract Twenty Acres Or More:</u> A pattern of development occurs whenever more than four parcels under twenty acres (i.e., three exempt parcels and a remaining parcel) have been divided from the original tract of twenty acres or more, regardless of ownership, by use of exemptions from the Act.

        3. A pattern of development may be evidenced by the use of exemptions contiguous to platted lots where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.

    4. The use of the exemption would cause significant impacts to the criteria listed in Sections 4-9.2.5 and 5-9.2.5 that would likely lead to imposition of significant conditions of approval, or denial, of an equivalent preliminary plat application; and

    5. The subdivision evasion criteria for specific exemptions as outlined in the following sections of this chapter. The subdivision evasion criteria determine when a rebuttable presumption exists that the proposed use of an exemption, as allowable by State law, is being used to evade these regulations and the MSPA.

9-2. DIVISIONS OF LAND ENTIRELY EXEMPT FROM THE REQUIREMENTS OF THESE REGULATIONS AND THE MONTANA SUBDIVISION AND PLATTING ACT

The requirements of these regulations and the MSPA do not apply to the following divisions of land unless, after examination by the Planning Division, it is determined that the method of disposition is adopted for the purpose of evading these regulations or the MSPA. Subsections 1, 4 and 8 require a certificate of survey to be filed with the Clerk & Recorder. Certificates of survey shall be filed in accordance with ARM 24.183.1104, Uniform Standards for Certificates of Survey.

1. Court Ordered. A division of land is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in the state pursuant to the law of eminent domain, Title 70, Chapter 30, MCA. Before a court of record orders a division of land, the court shall notify the Cascade County Commissioners of the pending division and allow the Cascade County Commissioners, and its Planning Division, to present written comments on the subdivision.

2. Mortgage Security. A division of land is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.

    1. This Exemption Applies to a division of any size if the land that is divided is only conveyed to the financial or lending institution to which the mortgage, lien, or trust indenture was given, or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. A transfer of the divided land, by the owner of the property at the time the land was divided, to any party other than those identified in the preceding sentence subjects the division of land to the requirements of the MSPA and these regulations. This exemption applies to a parcel that is created to provide security as provided in this Section 2. The remainder of the tract of land is subject to the provisions of the MSPA if applicable. Note: No parcel is created unless and until foreclosure occurs.

    2. Required Materials that must submit to the subdivision administrator:

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

        2. the deed, trust indenture or mortgage for the exempted interest (which states that the interest is being created only to secure a construction mortgage, lien or trust indenture);

        3. a statement explaining who will have title to and possession of the balance of the original parcel after title to the exempted interest is conveyed; and

        4. a signed statement from a lending institution that the creation of the interest is necessary to secure a loan.

    3. The use of this exemption is presumed to have been adopted for the purpose of evading these regulations and the MSPA if:

1. it will create more than one new building site;

2. the financing is not for construction or improvements on the exempted parcel, or for re-financing;

3. 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;

4. title to the exempted interest will not be initially obtained by the lending institution if foreclosure occurs;

5. there exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract;

6. it appears that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose; or

7. the division of land is created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.

3. Mineral Lots. A division of land creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;

4. Cemetary Lots. A division of land creates cemetery lots;

5. Life Estate. A division of land is created by the reservation of a life estate;

6. Agricultural Lease or Rental. A division of land is created by lease or rental for farming and agricultural purposes;

7. Non-State Jurisdiction. A division of land is in a location over which the state does not have jurisdiction; or

8. Public Utility. A division of land is created for public rights-of-way or public utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of the MSPA and these regulations.

9-3. DIVISIONS OF LAND WHICH MAY BE EXEMPT FROM REVIEW AND SURVEYING

1. Condominiums and Townhomes. Generally condominiums and townhomes are subject to review as subdivisions, but under certain circumstances they may be exempt from review, provided they are constructed on land subdivided in compliance with these regulations and the MSPA, and:

1. The approval of the original subdivision of land expressly contemplated the construction of the condominiums or townhomes and 76-3-621, MCA, is complied with; or

2. The condominium or townhome proposal is in conformance with applicable zoning regulations when local zoning regulations are in effect.

2. Airport Division. A division of land created by lease or rental of contiguous airport related land owned by a city, county, the state, or a municipal or regional airport authority is not subject to the MSPA or these regulations, provided that the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier related activities.

3. State Land Division. A division of state-owned land is not subject to the MSPA or these regulations unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.

4. Pre-1974 Conveyance. The MSPA and these regulations do not apply to deeds, contracts, leases, or other conveyances which were executed prior to July 1, 1974.

5. Highway Division. Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209, MCA, and are exempted from the surveying and platting requirements of the MSPA and these regulations. A survey or plat for the recordation of an instrument transferring title to a remainder that was created when the state obtained property for a highway right-of-way is not required. [44 A.G. Op. 25 (1992)]. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

9-4. DIVISIONS OR AGGREGATIONS OF LAND EXEMPT FROM REVIEW BUT SUBJECT TO SURVEY REQUIREMENTS AND ZONING REGULATIONS

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

1. Relocation of Common Boundary (Outside a Platted Subdivision)

1. The intended purpose of this exemption is to allow a change in the location of a boundary line between adjoining properties outside of a platted subdivision and to effect that relocation without subdivision review.

2. Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and, in case of a relocation, the new boundary. This must be accomplished by representing the existing boundary with a dashed line and the new boundary, if applicable, with a solid line. The appropriate certification set forth in ARM 24.183.1104 (1)(f) must be included on the certificate of survey. Certificates of survey showing the relocation of common boundary lines must be accompanied by a quit claim or warranty deed or recordable agreement from adjoining property owners for the entire newly described parcel(s) or that portion of the tract(s) that is being affected.

3. The proper use of the exemption for relocating common boundary lines is to establish a new boundary between adjoining parcels of land outside of a platted subdivision, without creating an additional parcel. The exemption may not be used if the division of land would result in the permanent creation of one or more additional parcels of land.

4. The use of this exemption is presumed to have been adopted for the purpose of evading the MSPA if:

    1. the reviewing agent determines that the documentation submitted according to this section does not support the stated reason for relocation; or

    2. the proposed relocation creates a parcel of less than 160 acres which, prior to the relocation included more than 160 acres.

2. A Gift or Sale to a Member of the Immediate Family

1. The intent of this exemption is to allow a landowner to convey one parcel outside of a platted subdivision to each member of his or her immediate family, without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property. The term “immediate family” means the spouse, children (by blood or adoption), or parents of the grantor [76-3-103(8), MCA]. This exemption may be used only by grantors who are natural persons and not by non-corporal legal entities such as corporations, partnerships, and trusts. The use of the exemption may not create more than one new parcel per eligible family member.

2. A certificate of survey (or recording of an instrument of conveyance) that uses 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 [ARM 24.183.1104(1)(f)] found in Appendix A. Also, the certificate of survey or instrument of conveyance must be accompanied by a deed or other conveying document.

3. One conveyance of a parcel to each member of the landowner’s immediate family is eligible for exemption from subdivision review under the MSPA and these regulations. However, the use of the exemption may not create more than one new parcel per eligible family member.

4. The use of this exemption is presumed to have been adopted for the purpose of evading the MSPA if:

    1. The proposed use of the family gift or sale exemption is proposed to divide a tract that was previously created through the use of an exemption.

    2. The proposed use of the family gift or sale exemption is proposed 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.

    3. The proposed use of the family gift or sale exemption results in the creation of more than one additional or remaining parcel of less than 160 acres in size.

3. Divisions of Land Proposed for Agricultural Use Only

1. This exemption is intended to allow a landowner to create a parcel for gift, sale, or agreement to buy and sell, outside a platted subdivision, without local review if the parcel will be used solely for “agricultural purposes” and no residential, commercial or industrial buildings, which require water or sewer, will be built on it.

2. A certificate of survey that uses this exemption to create a parcel for agricultural use only requires a covenant running with the land in accordance with 76-3-207(1)(c), MCA, and a signed and acknowledged recitation of the covenant on the face of the survey. [ARM 24.183.1104(f)(iii). The certificate of survey must be accompanied by a separate, recordable, document reciting the covenant.

3. "Agricultural purpose,” for purposes of these evasion criteria, means the use of land for raising crops, livestock, or timber, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the DEQ, provided the applicable exemption under the Sanitation in Subdivisions Act is properly invoked by the property owner.

4. Residential, commercial, or industrial structures, including facilities for commercial processing of agricultural products, may not be utilized, constructed or erected on parcels created under this exemption unless the covenant is revoked.

5. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA:

    1. The parties to the transaction must enter into a covenant running with the land and revocable only by mutual consent of the Cascade County Commissioners and the property owner that the divided land will be used exclusively for agricultural purposes. The covenant must be signed by the property owner, the buyer, and the members of the Cascade County Commissioners.

2. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial, or industrial buildings have been or will be built on it.

3. The parcel must meet the criteria for an agricultural designation under section 15-7-202, MCA.

6. Revocation of an agricultural covenant subjects the parcel to review as a minor subject, unless the revocation is completed in conjunction with an aggregation in accordance with Section 9-4.5.

4. Relocation of Common Boundaries (Involving Platted Subdivisions)

1. The MSPA allows for the relocation of common boundaries of lots for five or fewer lots within a platted subdivision or the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision (but a restriction or requirement on either continues to apply), without review.

2. Relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision is allowed, because no additional parcels are created. Subdivision review is not necessary because the relocation does not create any additional division of land.

3. The use of this exemption is presumed to have been adopted for the purpose of evading the MSPA if:

    1. the resulting lots are inconsistent with the approved subdivision and the uses in it; or

    2. the resulting lots do not comply with existing zoning, covenants, and/or deed restrictions.

5. Aggregation of Lots

1. This exemption allows for the aggregation of lots either within or outside of a platted subdivision.

2. Aggregation of lots is allowed, because no additional parcels are created. Subdivision review is not necessary because the aggregation does not create any additional division of land.

4. The use of this exemption is presumed to have been adopted for the purpose of evading the MSPA if the resulting lots do not comply with existing zoning, covenants, and/or deed restrictions, the use of the exemption will be presumed to have been adopted for the purpose of evading the MSPA.

5. Cascade County allows for the aggregation of six (6) or more lots within a platted subdivision, so long as the proposed use of the exemption is not deemed an evasion of the MSPA as outlined within subsection 4, above.

9-5. PROCEDURES AND REVIEW OF SUBDIVISION EXEMPTIONS

1. Any person seeking exemption from the requirements of the MSPA shall submit to the Planning Division a completed Certificate of Survey or Amended Plat showing the correct use of the exemption.

2. When a division of land for which an exemption is claimed is submitted to the subdivision administrator, the subdivision administrator shall cause the documents to be reviewed by the designated agents of the Cascade County Commissioners (e.g., county attorney, sanitarian, treasurer, and clerk and recorder). The subdivision administrator and Cascade County Commissioners agents shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the MSPA, the Montana Sanitation in Subdivisions Act, and these regulations.

    1. Landowners or their agents are encouraged to meet with the subdivision administrator to discuss whether a proposed land division or use of an exemption is in compliance with the criteria in this Section.

    2. Cascade County will not allow to be filed any subdivision plats or certificates of survey that create lots that are not conforming to the zoning district in which those lots are located. Cascade County will not allow to be filed any subdivision plats or certificates of survey that further exacerbates an existing non-conforming parcel including but not limited to reducing the sizes of existing non-conforming parcels through boundary line changes, or creating parcels in which setbacks are in violation of the Cascade County Zoning Regulations.

    3. Cascade County will not allow to be filed any certificates of survey where legal access is not provided to each lot shown on the certificate of survey. If legal access, as defined by these regulations, is not physically possible, the Board of Cascade County Commissioners, may upon a showing of good cause, allow for an access of less than sixty (60) feet in width.

3. An approval of a subdivision exemption is valid for a period of one (1) year. Upon the written request of the applicant, the subdivision administrator may grant a one (1) year extension to the approval period if the request is submitted prior to the expiration of the original approval period.

4. If the subdivision administrator finds that the proposed use of the exemption complies with the statutes and the criteria set forth in this section, the subdivision administrator shall notify the Cascade County Commissioners and advise the clerk and recorder to file the certificate of survey or record the instrument of conveyance and accompanying documents. If the subdivision administrator finds that the proposed use of the exemption does not comply with the statutes and the criteria in this Section, the subdivision administrator shall advise the clerk and recorder not to file or record the documents, and the materials will be returned to the landowner.

5. The subdivision administrator shall consider all of the surrounding circumstances when determining whether an exemption is claimed for the purpose of evading the MSPA. 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 is completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

9-6. APPEALS

1. Any person whose proposed use of an exemption has been denied by the subdivision administrator because the proposed division of land has been deemed an attempt to evade the MSPA, and these regulations, may appeal the subdivision administrator's decision to the Cascade 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 MSPA or these regulations, and, thereby rebut a presumption.

2. If the Cascade County Commissioners concludes that the evidence and information overcome the presumption that the exemption is being invoked to evade the MSPA or these regulations, it may authorize the use of the exemption in writing. A certificate of survey claiming an exemption from subdivision review, which otherwise is in proper form, and which the Cascade County Commissioners has found not to be an attempt to evade the MSPA or these regulations, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the Cascade County Commissioners.

3. If the person proposing to use an exemption chooses not to rebut a presumption when the subdivision administrator deems the use of the exemption an attempt to evade the MSPA and these regulations, or if the Cascade County Commissioners determines that the proposed use of an exemption was for the purpose of evading the MSPA or these regulations, the landowner proposing to use the exemption may submit a subdivision application for the proposed land division.

SECTION 10. DESIGN AND IMPROVEMENT STANDARDS

All subdivisions approved by the Cascade County Commissioners must comply with the provisions of this section, except where granted a variance pursuant to Section 11, Variances. Certain types of subdivisions may have additional or alternative development and improvement standards set forth in these regulations.

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the Cascade County Commissioners must be prepared by a professional engineer or a professional land surveyor as their respective licensing laws allow in accordance with the MSPA and these regulations.

10-1. LANDS UNSUITABLE FOR SUBDIVISION

Land that the Cascade County Commissioners determines is unsuitable for subdivision because of natural or human caused hazards may not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques.

10-2. IMPACT CRITERIA STANDARDS

In addition to the design standards within this Section, the Cascade County Commissioners may adopt conditions to ensure the mitigation of any potentially significant adverse impacts identified through the review of the subdivision proposal have been reasonably minimized in accordance with the MSPA and these regulations.

The following subsections identify some of the mitigation techniques which may be utilized to minimize potentially significant adverse impacts caused by the subdivision proposal. These subsections are not intended to identify all impacts which may result from a subdivision proposal and additional mitigation techniques may be required. In some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

1. Impacts on Agriculture. Proposed subdivisions shall mitigate adverse impacts on agriculture by meeting or exceeding the following design standard:

    1. Prime agricultural lands on adjacent properties will be protected from adverse impacts by requiring that a 100 ft open space buffer be established between any structures and adjacent prime agricultural lands.

2. Impact on Agricultural Water User Facilities. Proposed subdivisions shall mitigate adverse impacts on agriculture water user facilities by meeting or exceeding the design standards within Sections 12-10 and 12-11 of these regulations.

3. Impact on Local Services. Proposed subdivisions shall mitigate adverse impacts on local services by meeting or exceeding the following design standards:

1. Whenever feasible, all streets and alleys shall connect to other streets within the neighborhood/development and connect to existing or projected through streets, as part of an interconnected street network, outside of the development;

2. All streets will be aligned in accordance with any officially adopted transportation plans and the developer will either develop planned arterials and collectors in accordance with transportation plans or donate right of way for arterials and collectors in accordance with transportation plans;

3. All developments shall waive their right to protest the creation of a special improvement district or road improvement district; and

4. All Developments shall have safe and adequate access on county roads or state or federal highways within the traffic impact area of the development. Safe and adequate access exists when traffic volumes do not exceed the capacity of the road; when operating conditions on the road and at intersections do not fall below the specified or existing level of service (LOS); and when paved and unpaved sections and structures can accommodate projected traffic. If a LOS is not specified for any road section within the traffic impact area and the proposed development indicates a projected increase in traffic being added is equal to or greater than 20%, then the applicant may be required to identify the existing LOS. Traffic impact area at a minimum must include:

    1. Internal roads;

    2. Adjacent roads;

    3. Off-site roads to the nearest county collector or arterial road or state or federal highway;

    4. Off-site roads where traffic from the development will account for at least ten percent of the average daily traffic on those roads; and

    5. Intersections where traffic from the proposed development will account for at least five percent of the traffic volume on any approach leg of the intersection.

    6. If safe and adequate access cannot be provided or maintained within the traffic impact area, as a result of the proposed development's projected traffic, then in order to mitigate those impacts the developer shall either construct the necessary improvements to ensure safe and adequate access.

4. Impact on Natural Environment. Proposed subdivisions shall mitigate adverse impacts on the natural environment by meeting or exceeding the following design standards:

1. All structures and roads shall have a fifty (50) foot setback standard (i.e., distance from the ordinary high water mark of the water body and any structures) and vegetated buffer standard, in which existing native species may not be removed. Setback distances shall be measured from the ordinary high water mark of the water body and no structure or non-native species of grasses, trees, shrubs, etc. shall be allowed within the setback area. If there is a regulated floodplain along the watercourse, the setback area shall be the regulated floodplain line or the required fifty (50) foot setback, whichever is greater. If the regulated floodplain line is used as the setback, the buffer area shall also be the floodplain line.

2. The following minimum buffer areas must be established from the boundary of a wetland identified by the County, the Army Corps of Engineers, U.S. Fish and Wildlife Service, DNRC, or FWP. If the subdivision application reveals a potential wetland on the site then the applicant is responsible for delineating the wetland's boundaries on maps, plats, and site plans submitted as part of the subdivision application. Buffers from wetland boundaries within which structures and improvements may not be built, except for those for educational or scientific purposes, include:

    1. Wetlands of one acre or less - 50 ft;

    2. Wetlands of more than one acre - 100 feet

    3. Provide documentation of a waiver or permit from the USACE to fill, excavate, or an exemption from the requirement.

5. Impacts on Wildlife and Wildlife Habitat. Proposed subdivisions shall mitigate adverse impacts on wildlife and wildlife habitat by meeting or exceeding the following design standards:

    1. Critical wildlife habitat and corridors will be protected from adverse impacts by requiring that a 200 ft open space buffer be established between any structures and any critical wildlife habitat and corridors;

    2. Open space will be protected in perpetuity via deed restriction or irrevocable covenant; and

    3. Protected lands will be clustered so that they abut neighboring open lands;

6. Impacts on Public Health and Safety. Proposed subdivisions shall mitigate adverse impacts on public health and safety by meeting or exceeding the following design standards:

    1. No structure shall be located within the 100-year floodplain, or any accident potential zones located around airports and military bases.

    2. Structures shall not be permitted in high fire hazard areas, or on 25% slopes or at the apex of "fire chimneys;"

7. The Cascade County Commissioners may impose additional conditions to mitigate adverse impacts on any of the above criteria that may result from the proposed subdivision or associated improvements.

10-3. LOTS AND BLOCKS

Each lot must contain a satisfactory building site and conform to health department regulations, applicable zoning regulations and these regulations.

1. Lot Types:

    1. Corner Lot: A lot located at the intersection of two streets.

    2. Interior Lot: A lot with frontage on only one street.

    3. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

    4. Flag Lot: A lot of irregular shape, the bulk of which is normally situated to the rear of other lots, having as its frontage and access a drive connecting it to a street.

2. Lot Measurements:

    1. Lot Depth: The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.

    2. Lot Width: The average width of the lot.

    3. Lot Frontage: The width of the front lot line.

    4. Lot Area: The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way or access easements.

3. Lot Lines:

    1. Front Lot Line: A lot line described for each of the following lot types:

        1. On an interior lot, the lot line abutting a road.

        2. On a corner lot, the shorter lot line abutting a road.

        3. On a through lot, the lot line abutting the road providing primary access to the lot.

        4. On a flag lot, the interior lot line most paralleled to and nearest the road from which access is obtained.

    2. Rear Lot Line: A lot line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line.

3. Side Lot Line: A lot line that is not a front or rear lot line.

4. Lot Standards:

    1. No lot may be divided by a municipal or county boundary line.

    2. No lot may be divided by a public road or alley right-of-way or easement.

    3. Each lot must abut and have access to a public or private street or road. Alleys may not be used to provide the primary access to a lot.

    4. Corner lots must have driveway access to the same street or road that provides access to interior lots.

    5. Corner lots must be designed to provide acceptable sight distances for safe vehicular movement.

    6. No lot may have an average depth greater than three times its average width.

    7. Flag lots must have a minimum road frontage consistent with applicable zoning requirements and the stem may not exceed one-thousand (1,000) feet in length.

    8. Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.

    9. Through lots are prohibited except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

5. Block Standards:

    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 unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation, or unless the Cascade County Commissioners approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.

4. Rights-of-way for adequate and safe pedestrian access, at least ten (10) feet wide, must be provided where deemed essential to provide circulation to schools, playgrounds, shopping, transportation, and other community facilities.

10-4. STREETS AND ROADS

1. General Road Design Standards

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

    2. Roads must meet the design specifications in Table 1.

    3. 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 in Table 1.

    4. All streets must either be dedicated to the public or be private streets to be owned and maintained by an approved property owners’ association.

    5. Residential driveways must not have direct access to primary highways. Any vehicular access onto a state highway must be approved by the Montana Department of Transportation. Any vehicular access onto a county maintained road must be approved by the Road Division of the Cascade County Public Works Department.

    6. Local streets must be designed so as to discourage through traffic.

    7. Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the Cascade County Commissioners may require frontage roads or other treatment as may be necessary to adequately protect residential properties and to separate arterial and local traffic.

    8. Half streets are prohibited except when they are essential to the development of the subdivision and when the Cascade County Commissioners is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.

    9. Roadway sub grades must be free of topsoil, sod, vegetation or organic matter, soft clay, and other substandard materials. Sub grades must be properly rolled, shaped, and compacted, and must be approved by the Cascade County Commissioners.

10. Streets and roads must be designed to ensure proper drainage. This may require surface crowning, culverts, curbs and gutters, drainage swales and storm drains.

11. Existing trees and other vegetation must be preserved whenever appropriate. Plantings may be required for buffering, screening, or prevention of soil erosion and are subject to approval by the Cascade County Commissioners.

12. The alignment of all streets and roads must provide adequate sight distances.

13. Intersections. The following requirements apply to intersections:

    1. streets must intersect at 90 degree angles except when topography prohibits this alignment. In no case may the angle of an intersection be less than 60 degrees to the center line of the roadway being intersected.

    2. two streets meeting a third street from opposite sides must be offset at least 125 feet for local roads and 300 feet for arterials or collectors.

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

    4. intersections of local streets with major arterials or highways must be avoided.

    5. intersections must be designed to provide adequate visibility for traffic safety based on the designed operating speeds of the intersecting roadways.

    6. hilltop intersections are prohibited, unless no alternatives exist. Intersections on local roads within 100 feet of a hilltop are prohibited. Intersections on arterial and collector roads within 200 feet of a hilltop are prohibited. If no alternative to a hilltop intersection exists, additional traffic control devices will be required.

    7. the grade of approaches to major highways may not exceed five percent.

14. Where access from a public road to the subdivision will cross properties not owned by the applicant, the applicant must obtain proper easements of sufficient width to satisfy the requirements of Table 1.

    1. Easements must be granted by each property owner in a signed and notarized document.

    2. The location of any road easement must be shown on the plat or on a supplemental map. 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.

15. Names of new streets or roads aligned with existing streets must be the same as those of the existing streets. Proposed street names may not duplicate or cause confusion with existing street names.

16. Proposed road plans and profiles as required by Section 3-2 are subject to approval by the Public Works director or Road Department Superintendent.

2. Improvements – On-Site

    1. All streets and roads must be designed, inspected, and certified that they comply with the Cascade County Road Standards by a Montana Licensed Professional Engineer.

    2. All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage must be constructed in accordance with the specifications and standards prescribed in these regulations using materials approved by the Cascade County Commissioners.

    3. Street lights will be required in subdivisions proposed within or adjacent to areas with existing street lighting. Street lighting may be required in other areas when necessary to protect public safety.

    4. Street or road signs and traffic control devices of the size, shape, and height approved by the Cascade County Commissioners must be placed at all intersections. Traffic control devices must conform to the standards contained in the *Manual on Uniform Control Devices* available from the Montana Department of Transportation.

    5. When required by the United States Postal Service, the developer must provide an off-street area for mail delivery.

TABLE 1: Road Design Standards for Subdivisions

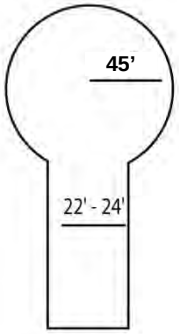
Minimum Design Standards	Minor Collector	Local Road
1. Minimum right-of-way width	80 ft.	
a. level terrain		60 ft.
b hilly terrain		60 ft.
2. Minimum roadway width [1]	26 ft.	24 ft.
3. Minimum curb radius or edge of pavement at intersections	25 ft.	15 ft.
4. Maximum grades	8%	9%
5. Approaches onto Public Roads		
a. minimum sight distance	200 ft.	150 ft.
b. minimum width	35 ft.	30 ft.
c. maximum grade for 20’	5%	5%
6. Curvature [2]		
a. design speed	30 mph	20 mph
b. maximum curve	23°	53.5°
c. minimum radius	249 ft.	107 ft.
7. Cul-de-sacs/Turnarounds		
a. maximum road length	-	1000 ft.
b. cul-de-sac: minimum outside right-of-way radius	-	40 ft.
c. cul-de-sac: minimum outside roadway radius	-	45 ft.
d. “T” turnaround: backup lengths (2 required)	-	60 ft. each
8. New bridges		
a. curb-to-curb widths [3]	26 ft.	24 ft.
b. design load capacity	40 tons	40 tons
c. vertical clearance	14.5 ft.	14.5 ft.

[1] Where parking will be permitted add eight feet on each side. If guardrail installation is required or a shoulder is desired, add two feet to each side of roadway.

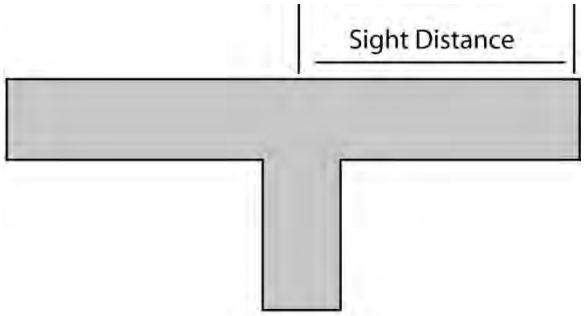
[2] Curvature is based on a super-elevation of .08/ft.

[3] Width of the bridge roadway surface should match the width of the roadway system it joins.

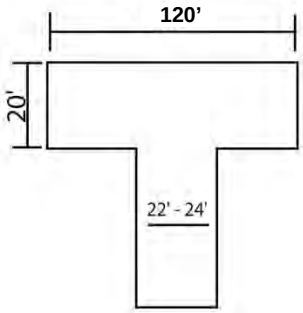
CASCADE COUNTY ROAD DESIGN STANDARDS

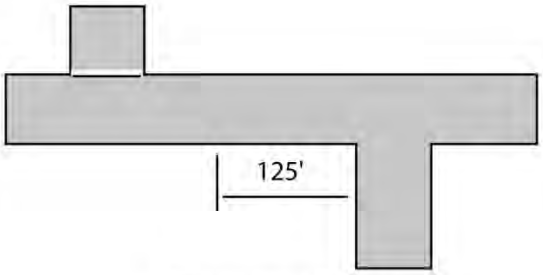


Cul-de-sac

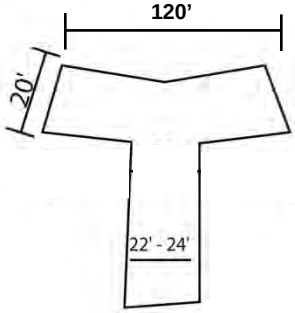


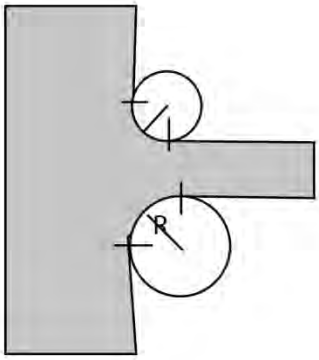
Sight Distance





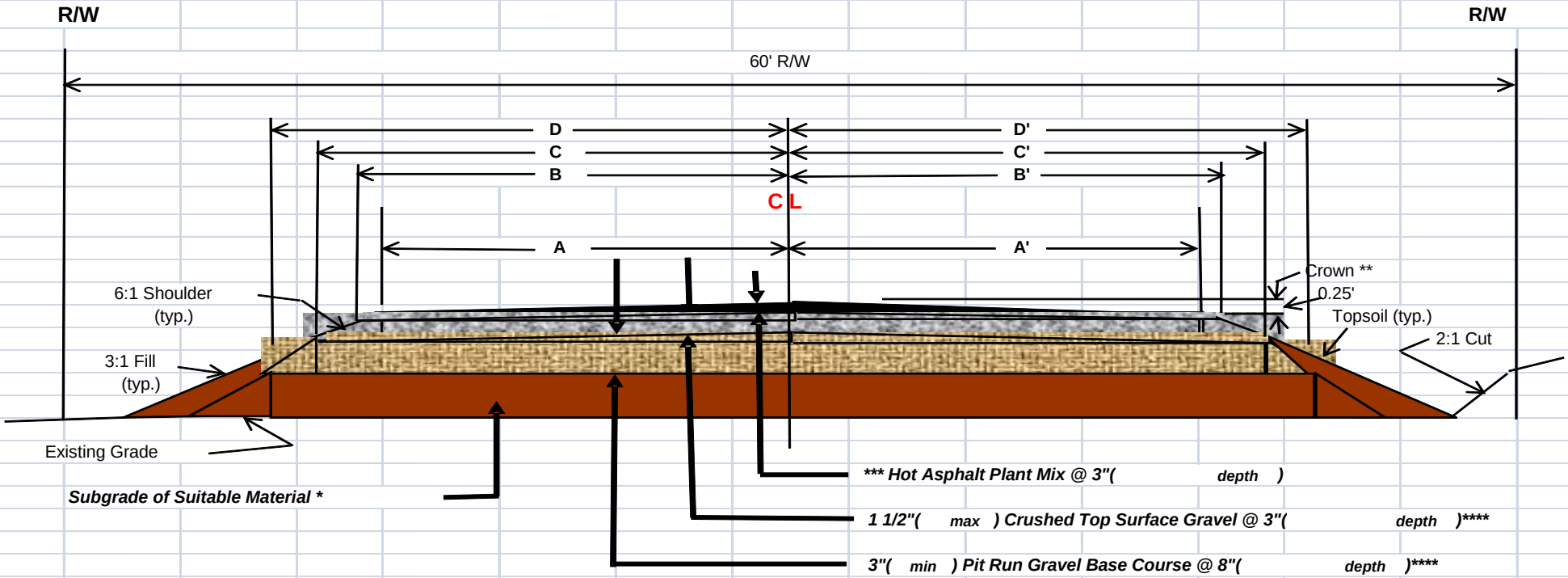
Intersection Offset





Curb Radius

PAVED ROAD STANDARDS

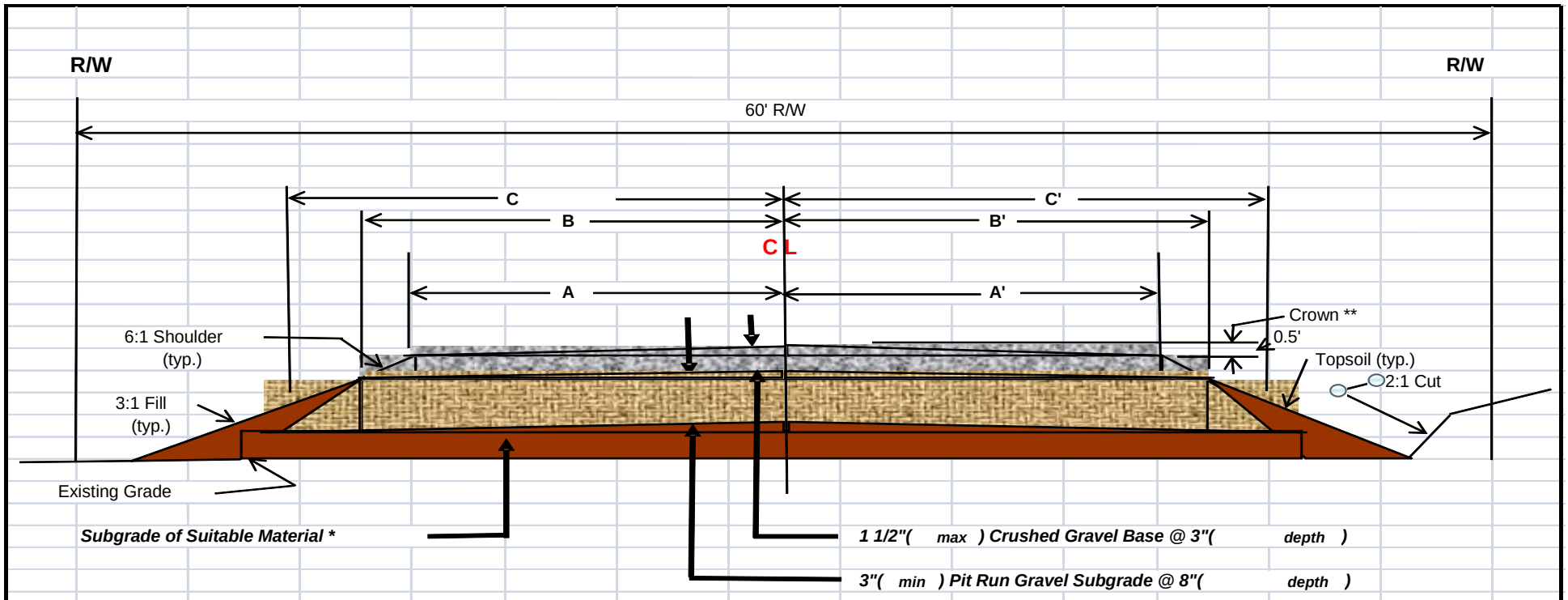


Section Widths											
Hot Asphalt Plant Mix			Crushed Top Surface			Pit Run Gravel Base Course			Subgrade		
A - A'	=	24'	B - B'	=	26.5'	C - C'	=	29.5'	D - D'	=	33.5'

Notes			
*Base Depth May Vary with Soil Type Should unsuitable soil be encountered construction fabric may be required	**Crown may vary in radius sections, transitions, and supers	*** Hot Mix may be of MDT Grade B, C, or D type of mix depends upon design loads	****Alternate Gravel Course 8" - 1 1/2" Crushed Gravel (All depths are Compacted)

CASCADE COUNTY, MONTANA	< MINIMUM > **PAVED ROADWAY SECTION**	DAVE SUTTON, ROAD DEPT. SUPERVISOR Revised Jan. 18, 2006

GRAVEL ROAD STANDARDS



Section Widths								
Top Surface			Base Course Gravel			Subgrade		
A - A'	=	24'	B - B'	=	28'	C - C'	=	32'

Notes					
*Base Depth May Vary with Soil Type Should unsuitable soil be encountered construction fabric may be required	**	Crown may vary in radius sections, transitions, and supers	***	Alternate Road Surface 8" - 1 1/2" Crushed Gravel (All depths are Compacted)	

CASCADE COUNTY, MONTANA	< MINIMUM > **GRAVEL ROADWAY SECTION**	DAVE SUTTON, ROAD DEPT. SUPERVISOR Revised Jan. 18, 2006

10-5. DRAINAGE FACILITIES

1. The drainage system and facilities required for any surface run-off affecting the subdivision are subject to approval by the Cascade County Commissioners. Subdivisions containing lots less than 20 acres in size must also be reviewed and approved under Title 76, Chapter 4, MCA, by the DEQ.

2. A grading and drainage plan as required by Section 3-2 is subject to approval by the Public Works Director or Road Department Superintendent.

3. Curbs and gutters or swales will be required based on the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended in conformance with current specifications of local and state authorities.

4. Culverts and bridges of adequate size must be provided and installed by the applicant where drainage channels intersect any street or road right-of-way or easement. All culverts and bridges must be constructed and installed according to applicable local and state standards. Culverts and other drainage facilities must be large enough to accommodate potential run-off from upstream drainage areas.

5. The applicant 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.

6. Drainage systems must not discharge into any sanitary sewer facility.

7. Drainage systems must be designed and certified by a professional engineer.

8. The Cascade County Commissioners may require the applicant to grant easements to prevent encroachment or disruption of drainage ways or facilities. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat.

10-6. WATER SUPPLY SYSTEMS

1. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of supplying domestic water to each lot in the subdivision must comply with the design standards adopted by the Montana DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.303, and 17.36.305. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.

2. The Cascade County Commissioners may not approve the final plat of a subdivision containing lots of less than 20 acres in size, unless the subdivision has been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA.

3. Any central water supply system must provide adequate and accessible water for fire protection.

4. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the Cascade County Commissioners shall condition approval of the final plat upon the applicant obtaining approval by the City-County Health Department for compliance with laws, rules and regulations in accordance with DEQ regulations for parcels containing less than 20 acres. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.

10-7. SEWAGE TREATMENT SYSTEMS

1. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of disposing of sewage from each lot in the subdivision must comply with the design standards adopted by the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.312, and 17.36.320 through 17.36.326. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.

2. For subdivisions that will create one or more parcels containing less than 20 acres, the subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA before the Cascade County Commissioners can approve the final plat.

3. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the Cascade County Commissioners shall condition approval of the final plat upon the applicant obtaining approval by the City-County Health Department for compliance with laws, rules and regulations in accordance with DEQ regulations for parcels containing less than 20 acres. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.

10-8. SOLID WASTE

1. For subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of must comply with the standards adopted by the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.309. By this reference this DEQ standard is incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.

2. Before the Cascade County Commissioners will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by the DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act sections 76-4-101, *et seq*., MCA.

3. For subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres, the proposed method of storing and disposing of solid waste generated within the subdivision in the subdivision must comply with the local environmental health department regulations.

10-9. UTILITIES

1. The applicant must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. The applicant must obtain any easements necessary to extend utilities to the subdivision.

2. Utilities must be placed underground, wherever practical. Underground utilities, if placed in a street right-of-way, must be located between the roadway and the right-of-way line to simplify location and repair of lines. Underground facilities must be installed after the street has been brought to grade and before it is surfaced.

3. Where practical, overhead utility lines must be located at the rear property line.

4. Utility facilities must be designed by utility firms in cooperation with the applicant. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.

5. Utility easements located between adjoining lots must be centered on lot lines. If easements are placed in the street, they must be located between the roadway and the right-of-way line.

6. Utility easements must be 15 feet wide unless otherwise specified by a utility company or Cascade County Commissioners.

7. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the Cascade County Commissioners, or local or state highway department.

8. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear on the final plat:

   "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, 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."

10-10. WATER COURSE AND IRRIGATION EASEMENTS

1. Except as noted in subsection 2, below, the applicant 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 for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

   2. are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

3. prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

2. The applicant 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 applicant provides for disclosure, in a manner acceptable to the Cascade County Commissioners, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or

    2. the water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and

    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 applicant shall provide written notification to prospective buyers of the applicant's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

3. The applicant shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and 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 lands 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.

10-11. DISPOSITION OF WATER RIGHTS

1. If a subdivision will create lots averaging less than five acres in size, the applicant shall submit evidence with the final plat that the applicant has:

    1. reserved all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;

    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, established a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

    3. reserved and severed all surface water rights from the land proposed for subdivision.

10-12. PARK LAND DEDICATION

1. Except as provided in subsection 12-2.B below, the final plat of a residential subdivision must show that the applicant has dedicated to the Cascade County Commissioners a cash or land donation equal to:

    1. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

    2. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre;

    3. 5% of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres; and

    4. 2.5% of the area of the land proposed to be subdivided into parcels larger than three acres and not larger than five acres.

2. A park dedication is not required for:

    1. Subdivisions where all newly created lots are larger than five acres;

    2. Subdivisions where lots are created for non-residential purposes;

    3. Subdivisions in which parcels of land will not be created, other than subdivisions that will provide permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums;

    4. Minor Subdivisions; or

    5. Subsequent minor subdivisions that, when including the number of lots originally created through minor subdivision, do not create more than five parcels.

3. The Cascade County Commissioners, in consultation with the applicant 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 applicant, 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. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision.

4. The Cascade County Commissioners will waive the park dedication requirement if it determines that:

    1. 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 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 10-12.1; or

2. The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under subsection 10-12.1 above; or

3. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections D.1 and D.2 above, is reduced by an amount equal to or exceeding the area of the dedication required under subsection 10-12.1 or

4. the applicant provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection 10-12.1.

5. The Cascade County Commissioners may waive the park dedication requirement if the applicant provides land outside the subdivision that affords long-term protections of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and the area of land to be subject to long-term protection, as provided in subsection (e)(i), equals or exceeds the area of dedication required under subsection 10-12.1.

6. Subject to the approval of the Cascade County Commissioners and acceptance by the school district trustees, a applicant may dedicate a land donation provided under subsection 10-12.1 to a school district, adequate to be used for school facilities or buildings.

7. The Cascade County Commissioners will administer funds dedicated to the public under this section in accordance with 76-3-621(5), MCA.

8. For the purposes of this section “cash donation” means the fair market value of the unsubdivided, unimproved land; and

10-13. NOXIOUS WEEDS

A weed control plan shall be developed and implemented for every new subdivision. An agreement with the Cascade County Weed Control Board shall be signed and notarized by the applicant, and a covenant shall run with the property requiring compliance with the approved weed control plan. The weed control plans shall be approved by the Cascade County Weed Supervisor for the first minor subdivision from a tract of record and by the Cascade County Weed Control Board for all major subdivisions and the second and any subsequent minor subdivisions from a tract of record.

10-14. FLOODPLAIN PROVISIONS

1. All portions of a proposed subdivision that are located in a regulated floodplain of a perennial stream as defined in the Cascade County Floodplain Regulations and/or identified as such by adopted Flood Insurance Rate Maps (FIRM), shall not be subdivided for any non-agricultural or non-open space uses, structures, or activities. These areas shall be designated as individual lots and shall require a re-zone as Open Space.

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 applicant shall, through the appropriate local, state, and federal agencies, conduct a flood hazard evaluation, including the calculated 100 year frequency water surface elevations and the 100 year floodplain boundaries. This detailed evaluation must be performed by a licensed professional engineer experienced in this field of work.

3. Boat docks, boat landings, and pump houses may be installed, unless prohibited in the subdivision process and only if the proper 310 or 440, and/or any other necessary permits are obtained before the time of installation.

10-15. FIRE PROTECTION

1. Fire Protection. Every subdivision shall be provided with fire protection through a rural fire district, fire service area, or other means, of fire protection services adequate to respond to emergency incidents that may occur within a subdivision.

2. Fire Protection Plan. A Fire Protection Plan must accompany the submission of any application for a Major Subdivision, prior to the subdivision application being considered complete by the Cascade County Planning Department. The Fire Protection Plan must address all requirements of the Fire Protection Design Standards of the Cascade County Subdivision Regulations and must include the following:

    1. An analysis of the wild land fire hazards (Table 2 - Wildland Fire Risk and Hazard Severity Assessment Form) on the site, as influenced by existing vegetation and topography. The analysis shall, as a minimum, include the following:

        1. Identification and documentation of wild land fire risk and hazard areas;
        2. Establishment of priorities relative to mitigating the dangers from wild land fire; and
        3. Determination of mitigation measures for vegetation, other combustibles and construction criteria.

    2. The plan shall address the hazards identified and include, but not be limited to, the following:

        1. Access, ingress, egress, and evacuation;
        2. Fuel modification;
        3. Water Supply;
        4. Construction, location, and design of structures;
        5. Ignition potential of structures;
        6. Asset Protection Zones (Defensible Space);
        7. Adequate fire protection facilities for the project;
        8. Adequate signage for location by fire personnel; and
        9. Response agency and approximate response time.

    3. The FPAHJ shall review and make recommendations to the mitigating measures relative to access, defensible space, water supply, and construction based upon the relative risk and hazard rating established in the analysis of the hazards.

4. Maps of the proposed subdivision shall be provided to the FPAHJ and the Cascade County Planning Department indicating the streets, street names, addresses, fire protection features, vegetation, proposed fuel treatment areas, lot lines, property lines, building envelopes, utilities, easements, etc;

5. Slopes of all roads and driveways must be provided.

3. Fire Plan Completion. The Fire Protection Plan must be implemented before the Cascade County Commissioners will approve the final plat, and will be considered part of the applicant's obligations for land development. The local fire chief, or designee, will inspect and approve the implementation of the Fire Protection Plan. The Plan will not be considered fully implemented until the fire chief has given written notice to the planning board or subdivision administrator that the Plan has been completed as approved by the Cascade County Planning Board. The fire chief or designee shall have ten (10) working days, from the date of inspection request, in writing, received by the fire chief or designee, to inspect and approve or list in writing to the applicant and planning department, the required corrections to be made in order for the Fire Protection Plan to be approved. If the fire chief or designee does not provide written notice of review and approval, or corrections to be made, the plan shall be deemed implemented and complete.

4. Fire Plan Maintenance. Provisions for the maintenance of the Fire Protection Plan shall be included in the covenants, conditions, and restrictions for the development. A property owners' association must be formed and designated to enforce the covenants, conditions, and restrictions.

5. Water Supply for Fire Protection. At a minimum, every subdivision which creates at least four (4) lots or is a subsequent subdivision of three (3) or more lots shall be provided with a water supply of sufficient volume and a water distribution system for the purpose of fire fighting, meeting the requirements outlined below:

	OPTION I	**OPTION II**
Density	Gallons Per Minute/Duration	Minimum Gallons + Gallons Per Lot for On-Site Storage
1 dwelling per 20-160 acres or greater[1]	500 gpm/2 hours	40,000 gal
1 dwelling per 1- 19.99 acres[2]	750 gpm/2 hours	10,000 gal + 500 gal/lot
1 dwelling per less than 1 acre[3]	1000 gpm/2 hours	10,000 gal + 750 gal/lot

1. One- and Two-family Dwellings. A water supply of sufficient volume and water distribution system to fight fires on site shall be provided in accordance with the following requirements:

[1]Water supply may be provided by a water supply point. If an existing water supply point is within acceptable travel distances (1 mile) and the owner/operator of the water supply point agrees to access and use of the water supply point, the developer may be required to up-grade the existing water supply point
[2]Water supply distribution systems shall be designed by a Montana registered engineer, and meet the state fire code requirements.
[3]For minor subdivisions, water supply may be provided by a water supply point.

2. Multi-Family Dwellings (3 units or more). For multi-family dwellings, a fire protection plan must be submitted in accordance with section 10-14.2 above and provide for an adequate water supply consisting of at a minimum a supply of fifteen hundred (1500) gallons per minute for a two (2) hour minimum.

3. Water supplied via an on-site storage system must be contained in structures of fiberglass, polyvinyl or other approved polymer, concrete, or another approved material. These tanks must be protected from freezing, crushing, and being rendered unusable. These tanks must be marked with easily identifiable markings for emergency personnel and equipped with a working visual or audible volume indication system. These tanks can be no deeper than twelve (12) feet from the bottom of the tank to the suction point and require no more than twelve (12) feet of vertical lift by any pump provided by the fire department personnel. These tanks must be located no further than 1000 feet from any portion of a subdivision lot less than 20 acres in size.

4. Water supply by an alternative means, including but not limited to rivers, streams, lakes, ponds, may be proposed but must meet all of the requirements in section 3 for size, markings, depths of the dry hydrants, and distances from subdivision lots. An alternative water supply plan must be submitted which demonstrates that the supply is protected from freezing, will be maintained, and will always be capable of providing the required volumes of water.

5. Provisions must be incorporated in the plat documents describing how water supply systems are to be maintained by the homeowners association or some other approved personnel currently and in the future, and how the local fire protection authority can be assured that the water supply will function appropriately. An easement for unrestricted use by the fire department, in perpetuity, of the water supply system shall be recorded and noted on the plat.

6. Access, Ingress, Egress & Evacuation. Access for emergency responders and evacuation of residents shall be provided for all buildings in accordance with the following:

    1. Legal and Physical Access - Access to the property in all major subdivisions and some minor subdivisions shall be provided by a minimum of two approaches, located as remotely from each other as possible to assure more than one ingress/egress route for residents and emergency service providers.

    2. Dead Ends - Every dead-end roadway more than 300 ft (92 m) in length shall be provided at the closed end with a turnaround having a radius of 45 feet.

    3. Bridges – All bridges shall be designed and constructed to be non-combustible and be in compliance with the standards of the Cascade County Subdivision Regulations and be certified by a licensed professional engineer of the State of Montana.

7. Wildland Urban Interface. For areas identified as wildland urban interface as recognized by Cascade County or by the United States Forest Service, Montana Department of Natural Resources and Conservation, a local FPAHJ, or a local growth policy, special standards are required. For designated wildland urban interface risk areas, see the *Community Fire Plan Widland-Urban Interface for Cascade County and the Dearborn Fire District* Map provided by the Natural Resource Information System in Appendix D.

1. For subdivisions proposed in areas that are classified as High or Extreme Hazard Areas the following standards shall apply:

    1. Water Supply - An additional 500 gallons per minute or an additional 5,000 gallons of on-site storage shall be included in the base fire flow requirement.

    2. Access and Evacuation :

        1. Road rights-of-way shall be cleared of construction slash. The required clearance of the right-of-way shall be maintained, in perpetuity, in a fire-resistive state.

        2. All bridges and cattle guards shall be constructed of noncombustible materials.

        3. Subdivisions shall be designed to allow emergency vehicle access to wild land areas behind structures by:

            1. Providing a perimeter roadway approved by FPAHJ along the entire wild land side of a development; or

            2. Providing a fuel break, designed by a by a recognized fire or fuels management specialist and approved by the FPAHJ, and accessible to fire apparatus.

2. Building Density Requirements - Densities in areas of steep slopes and/or dense forest growth shall be reduced through minimum lot standards as follows:

Minimum Lot Size (Acres)		
% Slope	Open Grass	Forest & Brush
0 – 10	1	2
11- 20	2	3
21 - 25	3	4
Over 25	Not permitted[4]	Not permitted[4]

3. Vegetation Management - When a subdivision is in a High or Extreme Hazard Area, a vegetation management plan shall be prepared by a recognized fire or fuels management specialist approved by the FPAHJ. The intent of the vegetation management plan is to reduce fuel loading and hazard rating and provide continuous maintenance of the fuel load:

    1. To protect life and property.

[4] Building sites shall be prohibited on slopes greater than 25 percent and at the apex of “fire chimneys” (topographic features, usually drainage way or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).

2. To reduce the potential for a fire on improved property from spreading to wild land fuels and from a fire in wild land fuels from spreading to the structures.

3. To provide a safe working area for emergency responders.

4. Vegetation Management Plan – Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the development. A vegetation management plan shall include at least the following information:

    1. A copy of the site plan for the development.

    2. Methods and timetables for controlling, changing or modifying areas on the property. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, ladder fuels, and dead trees, and the thinning of live trees.

    3. A plan for continuously maintaining the proposed fuel-reduction measures.

5. Defensible Space - Provisions of this section are intended to modify the fuel load in areas adjacent to structures to create a defensible space.

    1. Fuel Load Reduction - The dimensions of the defensible space shall be based upon the requirements established in the Vegetation Management Plan.

    2. Ground Fuel - Ground fuel within the defined defensible space, shall be treated (mowed, mulched, converted to compost, etc.) or removed annually or more frequently as directed by the FPAHJ.

    3. Thinning and Pruning - Live vegetation within the defensible space shall have all dead material removed and shall be thinned and pruned to reduce fire intensity and rate of spread.

    4. Dead Trees - Dead trees within the defensible space of buildings shall be removed.

    5. Ladder Fuels - Vegetation under trees, within the defined defensible space, shall be maintained at a height that will preclude its functioning as a "ladder" for fire to travel from ground vegetation into the tree crown.

    6. Fire Resistant Landscaping - Where landscaping is desired, the proposed vegetation type and/or management practices shall be approved by the FPAHJ and be in compliance with fire resistant landscaping guidelines.

    7. Defensible Space Maintenance - The defensible space plan shall include a maintenance element with the responsibility for maintenance defined.

6. Fuel Breaks & Greenbelts - Open space, park land and recreation areas (including greenbelts, riding or hiking trails) should be located, where appropriate, to separate communities, groups of structures, or residences and

other buildings from densely forested areas. These breaks can slow or stop the spread of an oncoming wild land fire.

1. Fuel Breaks & Greenbelts Required - If the FPAHJ determines it is necessary to reduce the threat of wild land fires to life or improved property, fuel modification outside of the defensible space shall be required.

2. Fuel Breaks & Greenbelt Maintenance - The vegetation management plan shall include a maintenance element with the responsibility for maintenance of the fuel breaks and greenbelts defined.

7. Fire Protection Covenants. All covenants required to meet the fire protection requirements shall be recorded consistent with the subdivision regulations. The County Commission shall consult the FPAHJ prior to adoption or amendment of the fire protection covenants. The FPAHJ shall have ten (10) working days to make comments regarding the covenants. The FPAHJ is granted standing in the covenants of the subdivision for the purposes of enforcing all fire protection requirements. A fire protection note calling attention to the fire protection requirements shall be placed on the final plat.

    1. The following covenants may be included as a requirement of the Fire Protection Plan to mitigate potential threats from fire:

        1. Maintenance of Fire Protection Water Supply (for example: water systems, draft sites, fill sites, buried tanks or open ponds) – Fire protection water supplies must be maintained to their original performance capability in perpetuity by the property owners.

        2. Maintenance of Fire Protection Features (for example: defensible spaces, Driveway routes, fuel breaks, fuel modification plan, greenbelts, etc.) - Fire protection features must be maintained to their original performance capability in perpetuity by the property owners.

        3. In the event that automatic sprinkler systems are an acceptable alternative for fire protection, the requirements of installation shall be included in an agreement with the local fire protection authority which shall be filed with the plat.

8. Alternative Fire Protection Features or Systems. Alternative fire protection technologies, means, features or systems may be approved where they provide fire protection equivalent to or greater than required in these regulations.

Table 2 - WILD LAND FIRE RISK AND HAZARD SEVERITY ASSESSMENT FORM

Assign a value to the most appropriate element in each category and place the number of points in the column on the right.

	Element	Points	
A.	**Means of Access**		
	1. Ingress and Egress		
	a. Two or more roads in/out	0	_____
	b. One road in/out	7	_____
	2. Road Width		
	a. ≥7.3 m (24 ft.)	0	_____
	b. ≥6.1 m (20 ft) and <7.3 m (24 ft).	2	_____
	c. <6.1 m (20 ft)	4	_____
	3. All-Season Road Condition		
	a. Surfaced road, grade <5%	0	_____
	b. Surfaced road, grade >5%	2	_____
	c. Non-surfaced road, grade <5%	2	_____
	d. Non-surfaced road, grade >5%	5	_____
	e. Other than all-season	7	_____
	4. Fire Service Access		
	a. ≤91.4 m (300 ft.) with turnaround	0	_____
	b. >91.4 m (300 ft) with turnaround	2	_____
	c. <91.4 m (300 ft) with no turnaround	4	_____
	d. ≥91.4 m (300 ft) with no turnaround	5	_____
	5. Street Signs		
	a. Present {10.2 cm (4 in.) in size and reflectorized}	0	_____
	b. Not present	5	_____
B.	**Vegetation (Fuel Models)**		
	1. Characteristics of Predominate Vegetation Within 91.4 m (300 ft.)		
	a. Light (e.g., grasses, forbs, saw grasses, and tundra) NFDRS Fuel Models A, C, L, N, S, and T	5	_____
	b. Medium (e.g., light brush and small trees) NFDRS Fuel Models D, E, F, H, P, Q, and U	10	_____
	c. Heavy (e.g., dense brush, timber, and hardwoods) NFDRS Fuel Models B, G, and O	20	_____
	d. Slash (e.g., timber harvesting residue) NFDRS Fuel Models J, K, and L	25	_____
	2. Defensible Space		
	a. More than 30.48 m (100 ft) of vegetation treatment from the structure(s)	1	_____
	b. 21.6 m to 30.48 m (71 ft. to 100 ft.) of vegetation treatment from the structure(s)	3	_____
	c. 9.14 m to 21.3 m (30 ft. to 70 ft.) of vegetation treatment from the structure(s)	10	_____
	d. <9.14 m (30 ft.) of vegetation treatment from the structure(s)	25	_____
C.	**Topography Within 91.4 m (300 ft.) of Structure(s)**		
	1. Slope <9%	1	_____
	2. Slope 10% to 20%	4	_____
	3. Slope 21% to 30%	7	_____
	4. Slope 31% to 40%	8	_____
	5. Slope >41%	10	_____

Table 2 - WILD LAND FIRE RISK AND HAZARD SEVERITY ASSESSMENT FORM (continued)

	Element	Points	
D.	**Additional Rating Factors (rate all that apply)**		
1.	Topographical features that adversely affect wild land fire behavior	0-5	_____
2.	Areas with a history of higher fire occurrence than surrounding area due to special situations (e.g., heavy lightning, railroads, escaped debris burning, and arson)	0-5	_____
3.	Areas that are periodically exposed to unusually severe fire weather and strong dry winds	0-5	_____
4.	Separation of adjacent structures that can contribute to fire spread	0-5	_____
E.	**Roofing Assembly**		
1.	Class A Roof	0	_____
2.	Class B Roof	3	_____
3.	Class C Roof	15	_____
4.	Non-rated	25	_____
F.	**Building Construction**		
1.	Materials (predominate)		
	a. Noncombustible/fire-resistive siding, eaves, and deck (see Chapter 8)	0	_____
	b. Noncombustible/fire-resistive siding and combustible deck	5	_____
	c. Combustible siding and deck	10	_____
2.	Building Setback Relative to Slopes of 30% or More		
	a. >9.14 m (30 ft.) to slope	1	_____
	c. <9.14 m (30 ft) to slope	5	_____
G.	**Available Fire Protection**		
1.	Water Source Availability		
	a. Pressurized water source availability		
	1892.7 L /min (500 gpm) hydrants ≤304.8 m (1000 ft) apart	0	_____
	946.4 L/min (250 gpm) hydrants ≤304.8 m (1000 ft.) apart	7	_____
	b. Non-pressurized water source availability (off site)		
	≥946.4 L/min (250 gpm) continuous for 2 hours	3	_____
	<946.4 L/min (250 gpm) continuous for 2 hours	5	_____
	c. Water Unavailable	10	_____
2.	Organized Response Resources		
	a. Station ≤8 km (5 mi.) from structure	1	_____
	b. Station >8 km (5 mi.) from structure	3	_____
3.	Fixed Fire Protection		
	a. NFPA 13, 13R, 13D sprinkler system	0	_____
1.	None	5	_____
H.	**Placement of Gas and Electric Utilities**		
1.	Both underground	0	_____
2.	One underground, one above ground	3	_____
3.	Both above ground	5	_____
I.	**Totals for Home or Subdivision (Total of all points)**		

Hazard Assessment	Total Points
Low Hazard	<40
Moderate Hazard	40 – 69
High Hazard	70 -112
Extreme Hazard	>112

10-16. CLUSTER DEVELOPMENT - STANDARDS

1. If a proposed subdivision meets the following cluster development standards then there is a rebuttable presumption that the development will not have an adverse impact on the 76-3-608(3)(a) criteria and therefore the subdivision application does not need to complete an environmental assessment. Cluster development standards:

    1. The proposed subdivision clusters structures together and away from open space;

    2. Open space abuts neighboring open space and protects the most important and critical agricultural lands and wildlife habitat and corridors on the property;

    3. Open space constitutes at least 50% of the development's property including all past and proposed future phases of the development;

    4. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development;

    5. There is no minimum lot size other than those authorized under administrative rules adopted by the DEQ under Title 76, Chapter 4, MCA;

    6. The maximum size of parcels, not designated as open space, allowed within a cluster development is five acres;

    7. The development complies with all applicable zoning, subdivision, and building code regulations and state laws; and

    8. Open space may contain dedicated parkland, wildlife, river, and stream buffers, and up to 1/3 of open space areas may be used for community water and community wastewater systems. 100-year floodplains and hillsides with slopes greater than 25% must be subtracted from the total amount of required open space.

2. A cluster development receives the following incentives:

    1. If a proposed subdivision meets the cluster development standards under (a) then there is a rebuttable presumption that the development will not have an adverse impact on the 76-3-608(3)(a) criteria and therefore the subdivision application does not need to complete an EA.

    2. Park dedication requirements for clustered subdivision created under this section are waived if the cluster development is adopted pursuant to 76-3-509 MCA.

10-17. MOBILE/MANUFACTURED HOME PARK - STANDARDS

1. Mobile/Manufactured Home Spaces

    1. Mobile/manufactured home spaces must be arranged to permit the safe and practical placement and removal of mobile homes.

    2. All mobile/manufactured 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/manufactured home pad must be located at least 10 feet from the street that serves it.

    4. The size of the mobile/manufactured home pad must be suitable for the general market to be served and must fit the dimensions of mobile/manufactured homes anticipated.

    5. A mobile/manufactured home pad may not occupy more than one-third (1/3) of the area of its space. 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 space.

    6. The Cascade County Commissioners may require that the mobile/manufactured home pad be improved to provide adequate support for the placement and tie-down of the mobile home.

    7. No mobile/manufactured home or its attached structures, such as awnings and 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/manufactured home or its attached structures.

    9. A minimum of two off-street parking spaces must be provided on or adjacent to each mobile/manufactured home space. The driveway must be located to allow for convenient access to the mobile/manufactured home, and be a minimum of 10 feet wide.

    10. One guest parking space must be provided for each 10 mobile/manufactured home spaces. Group parking may be provided.

    11. The limits of each mobile/manufactured home space must be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of space limits on the ground must be approximately the same as those shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground.

    12. Each mobile/manufactured home must be skirted within 30 days after it is moved to a space within the mobile/manufactured home park. The skirting must be of a fire-resistant material similar to that of the mobile/manufactured home exterior.

2. Streets. Streets within a mobile/manufactured home park must meet the standards specified in Section 10-4 Streets and Roads. Streets must be designed to allow safe placement and removal of mobile homes.

    1. Streets must be designed to provide safe access to public roads.

    2. Roads within the mobile/manufactured home park must be designed to provide safe traffic circulation and parking.

    3. One-way roads must be at least 15 feet wide; two-way roads must be at least 24 feet wide.

3. Electrical Systems. Electrical systems must be designed and installed 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.

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 applicable 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 valve 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/manufactured home lot must have an accessible, listed gas shutoff installed. This valve must not be located under a mobile home. Whenever the mobile home lot gas outlet is not in use, the shutoff valve must be plugged to prevent accidental discharge.

10-18. Recreational Vehicle Park Standards

1. Recreational Vehicle Spaces

    1. Spaces in recreational vehicle parks must be arranged to allow for the safe movement of traffic and access to spaces.

    2. Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking.

    3. 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.

4. No recreational vehicle space may be located less than 25 feet from any public street or highway right-of-way.

2. Density. The density of a recreational vehicle park must not exceed 25 recreational vehicle spaces per acre of gross site area.

SECTION 11. VARIANCES

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

11-1. VARIANCES AUTHORIZED

1. The Cascade County Commissioners may grant variances from Chapter 12, Design and Improvement Standards. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations.

2. The Cascade County Commissioners will not by variance permit subdivision for building purposes in areas located within the floodway of a one-percent chance flood frequency as defined by Title 76, Chapter 5, MCA.

11-2. VARIANCE APPLICATION

The applicant shall include with the submission of the preliminary plat a written statement describing and justifying the requested variance. The planning board will consider the requested variance and recommend its approval or denial to the Cascade County Commissioners.

11-3. VARIANCE REVIEW CRITERIA

1. The Cascade County Commissioners may grant a variance only when strict compliance would result in undue hardship and when it is not essential to the public welfare.

    1. To determine whether the variance request would result in an undue hardship, the applicant shall provide sufficient evidence to support a positive finding on the following criteria:

        1. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not generally applicable to other properties.

        2. Physical conditions, such as parcel shape or topography, prevent the applicant from meeting the strict letter of these regulations.

    2. If, utilizing the above review criteria, it is determined that strict compliance would result in undue hardship, the Cascade County Commissioners shall then determine whether strict compliance is essential to the public welfare. To determine whether the granting of the variance is not essential to the public welfare, the applicant shall provide sufficient evidence to support positive findings on each of the below criteria. If the Cascade County Commissioners does not find that the following criteria are met, or if the applicant has supplied insufficient information for a positive finding, the variance shall be denied.

        1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

2. The variance will not cause a substantial increase in public costs; and

3. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

11-4. IMPOSITION OF CONDITIONS

In granting variances, the Cascade County Commissioners may impose reasonable conditions to secure the objectives of these regulations.

11-5. DOCUMENTATION OF DECISION

1. Following a decision to approve, conditionally approve, or deny a variance request, the Cascade County Commissioners shall issue written findings of fact that evaluate the variance request relative to the variance review criteria in Section 11-3 above. The variance decision shall:

    1. Contain information regarding the appeal process for the denial or imposition of conditions;

    2. Identify the regulations and statutes that are used in reaching the decision;

    3. Provide the findings and conclusion that the Cascade County Commissioners relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;

    4. Describe any conditions that apply to the variance approval; and

    5. Set forth the time limit for approval, pursuant to Section 11-6 below.

11-6. Duration of Variance Approval

An approved variance shall run with the land and shall expire at such time as the preliminary plat approval for the accompanying subdivision expires. In the event that the final plat of the subdivision is filed, the variance shall continue to run with the land in perpetuity.

APPENDIX A

PART I PRELIMINARY PLAT SUBMITTAL REQUIREMENTS

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

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

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

1. Completed and signed Preliminary Plat Subdivision Application Form;

2. Preliminary Plat Review Fee;

3. Preliminary Plat: The following information must be provided on one 11” x 17” and one 24” x 36” copy of the preliminary plat or in supplements to the preliminary plat:

    1. The subdivision or development name (the title must contain the words “plat” and/or “subdivision”)
    2. The legal description, including Section, Township, and Range, and any underlying survey data;
    3. A north arrow;
    4. The scale used on the plat;
    5. The certification of a professional land surveyor;
    6. The certification of a professional engineer (if the preliminary plat application or data includes engineering plans or specifications);
    7. The names of all owners of record and the subdivider [if different from the owner(s)];
    8. The date the preliminary plat is completed;
    9. Proposed lot layout with approximate dimensions and sizes;
    10. Lots and blocks identified by number or letter;
    11. The use of each lot, if other than for single-family residential;
    12. The exterior boundaries of the parcel proposed for subdivision with bearings, distances, and curve data indicated outside of the boundary lines. When the plat is bounded by an irregular shoreline or body of water, the bearings and distances of a closing meander traverse shall be given;
    13. All existing streets, roads, highways, avenues, alleys, and/or access easements within or adjacent to the subject property;
    14. All proposed streets, roads, alleys, avenues, and easements; the width of the easement or right-of-way, grades, curvature of each;
    15. Existing and proposed road and street names;
    16. Proposed location of intersections for any subdivision requiring access to state or local streets, roads, avenues, alleys, or highways;
    17. The names of adjoining platted subdivisions and recording information from adjoining subdivisions, certificates of survey, or unplatted lands;
    18. The approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary;
    19. Approximate area, location, boundaries, and dimensions of all parks, common grounds, and other grounds dedicated for public use;

20. The total gross area of the subdivision and the total net area, exclusive of public areas and rights-of-way;
21. Existing and proposed infrastructure and proposed utilities including:

    1. The approximate location, size, and depth of existing and proposed sanitary and storm sewers;
    2. The approximate location, size, and depth of existing and proposed water mains, lines, wells, and facilities; and
    3. The approximate locations of gas lines, fire hydrants or firefighting water storage facilities, electric and telephone lines, and street lights.

4. A vicinity sketch showing:

    1. The subject property including property boundaries and the approximate locations of all existing buildings, structures, and other improvements;
    2. Ownership of lands within 300 feet of the subject property, and existing buildings, structures and other improvements on those lands;
    3. Location and names of adjacent roadways; and
    4. Existing zoning of the tract and adjacent lands, if applicable.

5. A topographic map showing:

    1. For any land area which will be subdivided or disturbed, contour intervals of 2' where the average slope is less than 10%; intervals of five feet where the average slope is greater than 10% and less than 15%; and intervals of ten feet where the average slope is 15% or greater.
    2. Slopes greater than 25% shall be shown as no-build zones.

6. A grading and drainage plan that includes:

    1. Proposed grades of all streets and roads;
    2. Proposed drainage facilities for all lots, blocks, and other areas displaying accurate dimensions, courses, and elevations;
    3. Existing and proposed contours, using the contour requirements of a topography map;
    4. Graded slopes;
    5. Calculations for a ten year frequency one-hour storm and a method to mitigate adverse impacts for a 100-year frequency one-hour storm; and
    6. Construction procedures, slope protection, or information describing the ultimate destinations of storm runoff used to minimize erosion; and
    7. Slope Stability Report shall be completed if the proposed subdivision includes areas with the potential for landsliding or slope instability. The report must be completed by a qualified soil or geotechnical engineer and indicate the locations, character, and extent of all areas of all slope stability, and these areas shall be shown on the plat.

7. Engineering plans for all public and private improvements;

8. Phasing Plan and schedule, including:

    1. A plat delineating each phase;
    2. Timing and schedule for filing of each phase;
    3. An improvements plan showing which improvements will be completed with each phase, and how those improvements will be staged to allow for efficient connection with future phases.

9. Abstract of Title (or Title Report) and copies of all covenants, deed restrictions and easements identified within report;

10. Lien holders' Acknowledgement of Subdivision for each lien holder identified on the Abstract of Title or Title Report;

11. Proposed easements other than those shown on the preliminary plat;

12. Proposed covenants;

13. Documentation of legal and physical access;

14. Existing water rights;

15. Proposed disposition of water rights, as required by Section 10-11 of the subdivision regulations;

16. Names and addresses of all adjacent property owners;

17. Proposed road plans and profiles that includes:

    1. Street names.
    2. Right-of-way or easement widths;
    3. Pavement widths;
    4. Street grades;
    5. Pavement and base thickness;
    6. Typical cross sections for each type of road;
    7. Road profiles and cross sections for all proposed streets and roads which have grades exceeding 5%, or cuts and fills exceeding 3'.
    8. The type and location of sidewalks and curbs (where required);
    9. The minimum site distances at corners;
    10. The minimum curb radiuses at corners;
    11. For cul-de-sac streets:
        1. widths of turnaround radiuses;
        2. minimum right-of-way widths at the turnarounds;
        3. minimum pavement or road surface width at the turnarounds;
        4. total lengths of the streets.
    12. The locations and characteristics of bridges and culverts;
    13. The locations and dimensions of adjoining lots and open spaces;
    14. The locations and widths of easements and dedicated land, which provide a buffer between the subdivision lots and streets;
    15. Typical grading and location of intersections with private driveways; and
    16. Description of how the roads will be maintained.

18. Encroachment permits from the Montana Department of Transportation or the Road Division of the Cascade County Public Works Department;

19. Parkland dedication calculations, including a property valuation assessment or appraisal if cash-in-lieu of parkland is proposed;

20. Environmental Assessment, Community Impact Report and/or Summary of Probable Impacts, completed to the standards set forth in Parts II-IV of this Appendix A;

21. Traffic Impact Analysis, prepared, signed, and stamped by an engineer with an expertise in transportation planning. At a minimum, the study shall include all of the following:

    1. A written narrative describing the purpose of the report, study objectives and goals;

    2. An executive summary including a brief description of: the subdivision location and study area, description of the proposed development, principal findings, principal conclusions, and recommendations;

    3. Description and analysis of proposed on-site development, including: proposed land use and intensity, location, site plan, zoning if applicable, and phasing and timing if applicable;

    4. Analysis and assessment of existing study area conditions, including:

        1. Area of influence,
        2. Area of significant transportation impact,
        3. Existing nearby land uses and intensity of nearby development,
        4. Existing zoning, if applicable,
        5. Anticipated future development,
        6. Geometric design, alignment, and conditions,
        7. Traffic control devices
        8. Crash analysis,
        9. Pavement or roadway surface conditions,
        10. Roadway structural design and capacity analysis,
        11. Site accessibility, current and future, including: traffic volumes and conditions, nearest transit service, pedestrian and bicycle traffic facilities, existing relevant transportation system management programs, and other applicable information;

    5. Traffic projections, including:

        1. Analysis of trip generation from the site, trip distribution, modal split and trip assignments,
        2. Analysis of through traffic including the method of projection and estimated volumes,
        3. Total traffic volumes

    6. Transportation analysis, including:

        1. Site access analysis,
        2. Capacity and level of service analysis for intersections and roadways;
        3. Transportation safety,
        4. Traffic signalization,
        5. Site circulation and parking,

    7. Findings, assessment and identification of potentially significant adverse impacts relating to the items listed in subparts 1-6;

    8. Recommendations for mitigation of the impacts identified in subpart 7. Mitigation recommendations identified in this part, if approved by the BCC following a public hearing, must be constructed prior to final plat approval;

22. A copy of all materials submitted to City County Health Department for water and sanitation information required per MCA 76-3-622.

23. Weed Management Plan and Re-vegetation Plan as required in Section 10-13;

24. FIRM or FEMA panel map and letter identifying floodplain status;

25. When required per Section 10-14, a flood hazard evaluation which contains the following detailed information [to be submitted to the Water Resources Division, Department of Natural Resources]:

    1. Certification by a registered professional engineer;
    2. An overall scaled plan view with identified scale for vertical and horizontal distance showing the following:
        1. Watercourse
        2. floodplain boundaries
        3. location of property
        4. contours
        5. cross-sections
        6. bridges or other contractions in the floodplains
        7. USGS gauging stations (if any);
    2. The location and elevation of a temporary benchmark(s) established within the subdivision and referenced to mean sea level with appropriate elevation adjustment.
    4. Cross-sectional information which contains the following information:
        1. Elevations and stations that are determined at points representing significant breaks in ground slope and at changes in the hydraulic characteristics of the floodplain (i.e., points where ground cover, soil, or rock conditions change). Elevations must be reported in NAVD 88 or NGVD 29 datum.
        2. Each cross-section must cross the entire floodplain. The cross-section alignment should be perpendicular to the general flow of the watercourse (approximately perpendicular to contour lines). Occasionally, wide floodplains require a dog-leg alignment to be perpendicular to the anticipated flow lines. Shots should be taken at the water's edge and measurements taken (if elevation shots cannot be taken) to determine the channel bottom shape. Cross sections must be accurately located on a USGS 7 ½ minute quad sheet.
        3. The number of cross-sections needed, and the distance between cross-sections, will vary depending on the site, the slope of the watercourse, the slope of the channel, and the hydraulic characteristics of the reach. A minimum of four cross sections are required over the entire reach with at least two cross-sections at the property where the elevations are desired. Additional cross-sections must be taken at bridges, control structures, or natural constrictions in topography. [Photogrammetric methods may be used in lieu of cross sections whenever appropriate and when reviewed and approved by the county.]
    5. A description and sketch of all bridges within the reach, showing unobstructed waterway openings and elevations.
    6. Elevation of the water surface is to be determined by survey as part of each valley cross section.
    7. Supporting Documentation, such as engineering reports of computer computations, calculations, and assumptions that may include:
        1. Hydrology (research of published hydrology or calculations showing how hydrology was derived)
        2. Input files (hardcopy and on diskette)
        3. Output files (diskette only)

26. Fire Risk Rating Analysis and Fire Prevention Plan as required in Section 10-15;

27. Preliminary Homeowners' Association Documents shall accompany the preliminary plat, and at a minimum shall provide the following information:

    1. Proposed Articles of Incorporation which will be filed with the Secretary of State's Office;
    2. Membership information;
    3. How common property will be perpetually reserved (e.g. restrictive covenant, conservation easement, etc.);
    4. How liens will be placed on property of lot owners who are delinquent in payment of association fees;
    5. Who is responsible for paying for liability insurance, local taxes and maintenance;
    6. How assessments will be adjusted to meet changing needs;
    7. Enforcement provisions;
    8. Responsibility for regular maintenance of roads, parks, buildings, drainage facilities, and all other facilities controlled by the association; and
    9. How transition of control of the association will occur between the Declarant and the homeowners.

28. Letter requesting a revocation of agricultural covenant;

29. Letter from the Montana State historic Preservation Office (SHPO) detailing evidence of any known locations of cultural or historic resources;

    1. If the response letter from SHPO indicates that cultural and/or historical resources have a potential to be located on the subject property, the applicant shall perform an archeological resources inventory which shall be submitted with the preliminary plat application. The inventory shall be prepared and completed by a qualified individual with a degree in archeology or very closely related field, and shall be prepared to comply with Class 3 of the Secretary of Interior standards.

30. Variance request(s) or approval(s);

31. Re-zoning application or approval;

32. Letter identifying and proposing mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials; and

33. Such additional relevant and reasonable information as identified by the Subdivision Administrator during the pre-application meeting that is pertinent to the required elements of this section.

PART II ENVIRONMENTAL ASSESSMENT

Information specified in this Part must be provided, unless the proposal qualifies as a first time minor subdivision.

Describe the following environmental features, provide responses to each of the following questions and provide reference materials as required.

1. Surface Water

Locate on a plat overlay or sketch map:

1. Any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicate the names and sizes of each).
2. Any artificial water systems such as canals, ditches, aqueducts, reservoirs, and irrigation systems (also indicate the names, sizes and present uses of each).
3. Time when water is present (seasonally or all year).
4. Any areas subject to flood hazard, or in delineated 100 year floodplain.
5. Describe any existing or proposed stream bank alteration from any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type and purpose of alteration, and permits applied for.

2. Groundwater

Using available data, provide the following information:

1. The minimum depth to water table and identify dates when depths were determined. What is the location and depth of all aquifers which may be affected by the proposed subdivision? Describe the location of known aquifer recharge areas which may be affected.
2. Describe any steps necessary to avoid depletion or degradation of groundwater recharge areas.

3. Topography, Geology and Soils

1. Provide a map of the topography of the area to be subdivided, and an evaluation of suitability for the proposed land uses. On the map identify any areas with highly erodible soils or slopes in excess of 15% grade. Identify the lots or areas affected. Address conditions such as:

    1. Shallow bedrock
    2. Unstable slopes
    3. Unstable or expansive soils
    4. Excessive slope

2. Locate on an overlay or sketch map any known hazards affecting the development which could result in property damage or personal injury due to:

    1. Falls, slides or slumps -- soil, rock, mud, snow.
    2. Rock outcroppings
    3. Seismic activity.
    4. High water table

3. Describe measures proposed to prevent or reduce these dangers.

4. Describe the location and amount of any cut or fill more than three feet in depth. Indicate these cuts or fills on a plat overlay or sketch map. Where cuts or fills are necessary, describe plans to prevent erosion and to promote vegetation such as replacement of topsoil and grading.

4. Vegetation

1. On a plat overlay or sketch map:

    1. Indicate the distribution of the major vegetation types, such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
    2. Identify the location of critical plant communities such as:

        1. Stream bank or shoreline vegetation
        2. Vegetation on steep, unstable slopes
        3. Vegetation on soils highly susceptible to wind or water erosion
        4. Type and extent of noxious weeds

2. Describe measures to:

    1. Preserve trees and other natural vegetation (e.g. locating roads and lot boundaries, planning construction to avoid damaging tree cover).
    2. Protect critical plant communities (e.g. keeping structural development away from these areas), setting areas aside for open space.
    3. Prevent and control grass, brush or forest fires (e.g. green strips, water supply, access.)
    4. Control and prevent growth of noxious weeds

5. Wildlife

1. Identify species of fish and wildlife use the area affected by the proposed subdivision.
2. On a copy of the preliminary plat or overlay, identify known critical wildlife areas, such as big game winter range, calving areas and migration routes; riparian habitat and waterfowl nesting areas; habitat for rare or endangered species and wetlands.
3. Describe proposed measures to protect or enhance wildlife habitat or to minimize degradation.

PART III COMMUNITY IMPACT REPORT

Provide a community impact report containing a statement of estimated number of people coming into the area as a result of the subdivision, anticipated needs of the proposed subdivision for public facilities and services, the increased capital and operating cost to each affected unit of local government. Provide responses to each of the following questions and provide reference materials as required.

1. Education and Busing

1. Describe the available educational facilities which would serve this subdivision.
2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the affected school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system. If not, estimate the increased expenditures that would be necessary to do so.

2. Roads and Maintenance

1. Estimate how much daily traffic the subdivision, when fully occupied, will generate on existing streets and arterials.
2. Describe the capability of existing and proposed roads to safely accommodate this increased traffic.
3. Describe increased maintenance problems and increased cost due to this increase in volume.
4. Describe proposed new public or private access roads including:

    1. Measures for disposing of storm run-off from streets and roads.
    2. Type of road surface and provisions to be made for dust.
    3. Facilities for streams or drainage crossing (e.g. culverts, bridges).
    4. Seeding of disturbed areas.

5. Describe the closing or modification of any existing roads.
6. Explain why road access was not provided within the subdivision, if access to any individual lot is directly from arterial streets or roads.
7. 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? Identify the owners of any private property over which access to the subdivision will be provided.
8. Estimate the cost and completion date of the system, and indicate who will pay the cost of installation, maintenance and snow removal.

3. Water, Sewage, and Solid Waste Facilities

1. Briefly describe the water supply and sewage treatment systems to be used in serving the proposed subdivision (e.g. methods, capacities, locations).
2. Provide information on estimated cost of the system, who will bear the costs, and how the system will be financed.
3. Where hook-up to an existing system is proposed, describe estimated impacts on the existing system, and show evidence that permission has been granted to hook up to the existing system.

4. All water supply and sewage treatment plans and specifications will be reviewed and approved by the Department of Environmental Quality (DEQ) and should be submitted using the appropriate DEQ application form.
5. Describe the proposed method of collecting and disposing of solid waste from the development.
6. If use of an existing collection system or disposal facility is proposed indicate the name and location of the facility.

4. Fire and Police Protection

1. Describe the fire and police protection services available to the residents of the proposed subdivision including number of personnel and number of vehicles or type of facilities for:

    1. Fire protection -- is the proposed subdivision in an existing fire district? If not, will one be formed or extended? Describe what fire protection procedures are planned?
    2. Law --Enforcement protection – Which of --is the proposed subdivision within the jurisdiction of a County Sheriff or municipal policy department

2. Can the fire and police protection service needs of the proposed subdivision be met by present personnel and facilities? If not, describe the additional expenses that would be necessary to make these services adequate, and who would pay the costs?

5. Payment for extension of Capital Facilities

Indicate how the subdivider will pay for the cost of extending capital facilities resulting from expected impacts directly attributable to the subdivision.

PART IV SUMMARY OF PROBABLE IMPACTS

The Summary of Probable Impacts is required to be submitted as a component of all subdivision applications.

Summarize the effects of the proposed subdivision on each topic below. Provide responses to the following questions and provide reference materials as required:

1. Effects on Agriculture

1. Is the proposed subdivision or associated improvements located on or near prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service? If so, identify each area on a copy of the preliminary plat.
2. Describe whether the subdivision would remove from production any agricultural or timber land.
3. Describe possible conflicts with nearby agricultural operations (e.g., residential development creating problems for moving livestock, operating farm machinery, maintaining water supplies, controlling weeds or applying pesticides; agricultural operations suffering from vandalism, uncontrolled pets or damaged fences).
4. Describe possible nuisance problems which may arise from locating a subdivision near agricultural or timber lands.
5. Describe effects the subdivision would have on the value of nearby agricultural lands.

2. Effects on Agricultural Water User Facilities

1. Describe conflicts the subdivision would create with agricultural water user facilities (e.g. residential development creating problems for operating and maintaining irrigation systems) and whether agricultural water user facilities would be more subject to vandalism or damage because of the subdivision.
2. Describe possible nuisance problems which the subdivision would generate with regard to agricultural water user facilities (e.g. safety hazards to residents or water problems from irrigation ditches, head gates, siphons, sprinkler systems, or other agricultural water user facilities).

3. Effects on Local Services

1. Indicate the proposed use and number of lots or spaces in each:

   _____ Residential, single family
   _____ Residential, multiple family
   _____ Types of multiple family structures and number of each (e.g. duplex, 4-plex)
   _____ Planned unit development (No. of units)
   _____ Condominium (No. of units)
   _____ Mobile Home Park
   _____ Recreational Vehicle Park
   _____ Commercial or Industrial
   _____ Other (Please describe _____)

2. Describe the additional or expanded public services and facilities that would be demanded of local government or special districts to serve the subdivision.

1. Describe additional costs which would result for services such as roads, bridges, law enforcement, parks and recreation, fire protection, water, sewer and solid waste systems, schools or busing, (including additional personnel, construction, and maintenance costs).
2. Who would bear these costs (e.g. all taxpayers within the jurisdiction, people within special taxing districts, or users of a service)?
3. Can the service providers meet the additional costs given legal or other constraints (e.g. statutory ceilings on mill levies or bonded indebtedness)?
4. Describe off-site costs or costs to other jurisdictions may be incurred (e.g. development of water sources or construction of a sewage treatment plant; costs borne by a nearby municipality).

3. Describe how the subdivision allows existing services, through expanded use, to operate more efficiently, or makes the installation or improvement of services feasible (e.g. allow installation of a central water system, or upgrading a country road).
4. What are the present tax revenues received from the unsubdivided land?

    1. By the County $_____
    2. By the municipality if applicable _____
    3. By the school(s) $_____

5. Provide the approximate revenues received by each above taxing authority if the lots are reclassified, and when the lots are all improved and built upon. Describe any other taxes that would be paid by the subdivision and into what funds (e.g. personal property taxes on mobile/manufactured homes are paid into the County general fund).
6. Would new taxes generated from the subdivision cover additional public costs?
7. How many special improvement districts would be created which would obligate local government fiscally or administratively? Are any boding plans proposed which would affect the local government's bonded indebtedness?

4. Effects on the Historic or Natural Environment

1. Describe and locate on a plat overlay or sketch map known or possible historic, paleontological, archaeological or cultural sites, structures, or objects which may be affected by the proposed subdivision.
2. How would the subdivision affect surface and groundwater, soils, slopes, vegetation, historical or archaeological features within the subdivision or on adjacent land? Describe plans to protect these sites.

    1. Would any stream banks or lake shorelines be altered, streams rechanneled or any surface water contaminated from sewage treatment systems, run-off carrying sedimentation, or concentration of pesticides or fertilizers?
    2. Would groundwater supplies likely be contaminated or depleted as a result of the subdivision?
    3. Would construction of roads or building sites require cuts and fills on steep slopes or cause erosion on unstable, readable soils? Would soils be contaminated by sewage treatment systems?

4. Describe the impacts that removal of vegetation would have on soil erosion, bank, or shoreline instability.
5. Would the value of significant historical, visual, or open space features be reduced or eliminated?
6. Describe possible natural hazards the subdivision be could be subject to (e.g., natural hazards such as flooding, rock, snow or land slides, high winds, severe wildfires, or difficulties such as shallow bedrock, high water table, unstable or expansive soils, or excessive slopes).

3. How would the subdivision affect visual features within the subdivision or on adjacent land? Describe efforts to visually blend the proposed development with the existing environment (e.g. use of appropriate building materials, colors, road design, underground utilities, and revegetation of earthworks).

5. Effects on Wildlife and Wildlife Habitat

1. Describe what impacts the subdivision or associated improvements would have on wildlife areas such as big game wintering range, migration routes, nesting areas, wetlands, or important habitat for rare or endangered species.
2. Describe the effect that pets or human activity would have on wildlife.

6. Effects on the Public Health and Safety

1. Describe any health or safety hazards on or near the subdivision, such as: natural hazards, lack of water, drainage problems, heavy traffic, dilapidated structures, high pressure gas lines, high voltage power lines, or irrigation ditches. These conditions, proposed or existing should be accurately described with their origin and location identified on a copy of the preliminary plat.
2. Describe how the subdivision would be subject to hazardous conditions due to high voltage lines, airports, highways, railroads, dilapidated structures, high pressure gas lines, irrigation ditches, and adjacent industrial or mining uses.
3. Describe land uses adjacent to the subdivision and how the subdivision will affect the adjacent land uses. Identify existing uses such as feed lots, processing plants, airports or industrial firms which could be subject to lawsuits or complaints from residents of the subdivision.
4. Describe public health or safety hazards, such as dangerous traffic, fire conditions, or contamination of water supplies which would be created by the subdivision.

APPENDIX B

SAMPLE CERTIFICATES

1. Certificate of Completion of Public Improvements
2. Certificate of Surveyor – Final Plat
3. Certificate of Dedication – Final Plat
4. Certificate of Consent to Dedication by Encumbrances
5. Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof
6. Certificate of Examining Land Surveyor Where Required – Final Plat
7. Certificate of County Treasurer
8. Certificate of Final Plat Approval – County
9. Certificate of Final Plat Approval – City
10. Certificate of Filing by Clerk and Recorder

1. **Certificate of Completion of Public Improvements Agreement**

(To be submitted with application for approval of final subdivision plat)

CERTIFICATE OF COMPLETION

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. _____

_____ (Engineers Seal)
Address

2. Certificate of Surveyor – Final Plat

STATE OF MONTANA)
) ss.
County of _____ _____)

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

Dated this _____ day of _____, 20 ___.

(Seal) (Signature of Surveyor)
Registration No. _____
(Address)

3. 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)

4. Consent to Dedication by Encumbrances, If Any

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

Dated this _____ day of _____, 20 ___.

(Acknowledged and notarized signatures of all encumbrancers of record)

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

I, (Name of City or Town Clerk), (County Clerk and Recorder) of (Name of City or County), Montana, do certify that the following order was made by the (Cascade County Commissioners) 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 for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (Name of Cascade County Commissioners) 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 _____, 20 ___.

(Seal) (Signature of Clerk)

6. 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 by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this _____ day of _____, 20 ___.

(Signature)
(Name of Surveyor)
Registration No. _____
(City or County)

7. Certificate of County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) have been paid:

(legal description of land)

Dated this _____ day of _____, 20 ___.

(seal) (Signature of County Treasurer) Treasurer,
_____ County, Montana

8. Certificate of Final Plat Approval – County

The County Commission of _____ County, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 20 ___.

(Signatures of Commissioners)

ATTEST:
(Signature of Clerk and Recorder)
_____, Montana

(Seal of County)

9. Certificate of Final Plat Approval – City

The (Commission) (Council) of the City (Town) of (Name of City or Town), Montana does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 20 ___.

by (Signature of City or Town Clerk)
Clerk

(Signature of Mayor)
Mayor

10. Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)
) ss.
County of _____)

Filed for record this _____ day of _____, 20 ___, at _____ o'clock.

(Signature of Clerk and Recorder)
County Clerk and Recorder, _____ County, Montana

APPENDIX C

PART I MODEL SUBDIVISION IMPROVEMENT AGREEMENT

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

WHEREAS, the subdivider desires to defer construction of improvements described in Attachment (__); and

WHEREAS, the purpose of this Agreement is to protect the City (or County) 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 this Agreement are authorized by state law and the City (or County) subdivision regulations.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Effective Date: The effective date of this Agreement is the date that final subdivision plat approval is granted by the City (or County).

2. Attachments: The Attachments cited herein are hereby made a part of this Agreement.

Subdivider's Obligations

3. Improvements: The Subdivider shall construct and install, at his own expense, those subdivision improvements listed in Attachment (__) of this Agreement. The Subdivider's obligation to complete the improvements arises upon approval of the final subdivision plat, is not conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and is independent of any obligations of the City (or County) contained in this Agreement.

4. Security: To secure the performance of his obligations under this Agreement, the Subdivider shall deposit with the City (or County) 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 City (or County) 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 City (or County) official stating that the Subdivider is in default under this Agreement; and (3) the original copy of the letter of credit.

5. Standards: The Subdivider shall construct the required improvements according to the standards and specifications required by the City (or County) as specified in Attachment (__) of this Agreement.

6. Warranty: The Subdivider warrants that each and every improvement shall be free from defects for a period of 1 year from the date that the City (or County) accepts the dedication of the last improvement completed by the Subdivider.

7. Commencement and Completion Periods: The Subdivider shall complete all of the required improvements within (2) years from the effective date of this Agreement.

8. Compliance with Law: The Subdivider 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.

City's (or County's) Obligations

9. Inspection and Certification:

   a. The City (or County) 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 (__) of this Agreement. The inspection and certification, shall occur within 14 days of notice by the Subdivider that the improvements are complete and that he desires City (or County) inspection and certification. Before requesting City (or County) certification of any improvement the Subdivider shall present to the City (or County) valid lien waivers from all persons providing materials or performing work on the improvement.

   b. Certification by the City (or County) does not constitute a waiver by the City (or County) 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 City (or County) shall provide timely notice to the Subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment (__), or is otherwise defective. The Subdivider shall have 30 days from the date the notice is issued to remedy the defect. The City (or County) may not declare a default under this Agreement during the 30 day remedy period unless the Subdivider clearly indicates he does not intend to correct the defect. The Subdivider shall have no right to correct the defect in, or failure of, any improvement found after the City (or County) accepts dedication of the improvements

11. Reduction of Security: After the acceptance of any improvement, the amount that the City (or County) 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 (__). At the request of the Subdivider, the City (or County) 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 City (or County) for the one year warranty period plus an additional 90 days.

12. Use of Proceeds: The City (or County) 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 constitute a default by the Subdivider during the completion period:

    a. failure to complete construction of the improvements within two years of final subdivision plat approval;

    b. failure to remedy the defective construction of any improvement within the remedy period;

    c. insolvency of the Subdivider 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 is the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment (__) is 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 Subdivider's liability. The City (or County) may 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 City (or County) 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 (__)] of all improvements previously certified by the City (or County). The City (or County) may complete improvements itself or contract with a third party for completion, or the City (or County) may assign the proceeds of the letter of credit to a subsequent subdivider who has acquired the Subdivision and who has the same rights of completion as the City (or County) if and only if the subsequent subdivider agrees in writing to complete the unfinished improvements.

    b. In addition, the City (or County) may suspend final plat approval. During this suspension the Subdivider may not sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the City (or County) until the improvements are completed and certified by the City (or County).

16. Indemnification: The Subdivider agrees to indemnify and hold the City (or County) 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 Subdivider is not an employee or agent of the City (or County).

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

18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, is entitled to costs, including reasonable attorney's fees and expert 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 has any right of action under this Agreement, except that if the City (or County) 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 City (or County) 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 is binding on the parties.

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

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

    The City (or County) shall release the original Subdivider's letter of credit if it accepts a new security from any subdivider or lender who obtains the property. However, no action by the City (or County) constitutes a release of the original subdivider 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___.

_____
City (or County) Official

_____
Subdivider

PART II ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider fail to install the required the improvements. A suggested irrevocable letter of credit and commentary are included as part of this Appendix. The other common guaranties are also explained below.

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.

1. Letter of Credit

   Subject to Cascade County Commissioners approval, the subdivider shall provide the Cascade County Commissioners a letter of credit from a bank or other reputable institution or individual certifying the following:

   1. That the creditor guarantees funds in an amount equal to 125% of the cost, as approved by the Cascade County Commissioners, of completing all required improvements.

   2. That if the subdivider fails to complete the specified improvements within the required period, the creditor shall immediately pay to the Cascade County Commissioners upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

   3. That this letter of credit may not be withdrawn, or reduced in amount, until released by the Cascade County Commissioners.

2. Escrow Account

   The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the Cascade County Commissioners 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 Cascade County Commissioners.

   Where an escrow account is to be used, the subdivider shall give the Cascade County Commissioners an agreement with the bank guaranteeing the following:

   1. That the funds in the escrow account are to be held in trust until released by the Cascade County Commissioners and may not be used or pledged by the subdivider as security for any obligation during that period.

   2. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the Cascade County Commissioners 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, must be established by a licensed real estate appraiser or securities broker, as applicable, at the subdivider's expense. The Cascade County Commissioners 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:

1. Enter an agreement with the escrow agent instructing the agent to release the property to the Cascade County Commissioners in the case of default. The agreement must be placed on file with the county clerk and recorder.

2. File with the Cascade County Commissioners 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.

3. Execute and file with the Cascade County Commissioners 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 Cascade County Commissioners.

4. Sequential Development

Where a subdivision is to be developed in phased portions, the Cascade County Commissioners 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 Cascade County Commissioners 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 Cascade County Commissioners. 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 must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the Cascade County Commissioners and countersigned by a Montana agent. The bond must be payable to the County (City) of _____. The bond must be in effect until the completed improvements are accepted by the Cascade County Commissioners.

6. Special Improvements District

The Cascade County Commissioners 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 shall 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 create a rural improvement district pursuant to Section 7-12-2102, MCA.

An agreement to finance improvements through the creation of 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 shall be deemed to run with the land.

PART III MODEL IRREVOCABLE LETTER OF CREDIT

Letter of Credit No. ___

Name of Local Government Date
___Address_____

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # ___ for the account of __(Subdivider)__, available by your drafts at sight up to an aggregate amount of $ _____. Should __(Subdivider___ default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for __(name of subdivision)__ we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to __expiration date__ and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

> "Drawn under __(lending institution)__, Letter of Credit # ___
> dated __(date of Letter of Credit)__," and the amount drawn endorsed on the reverse hereof by the lending institution.

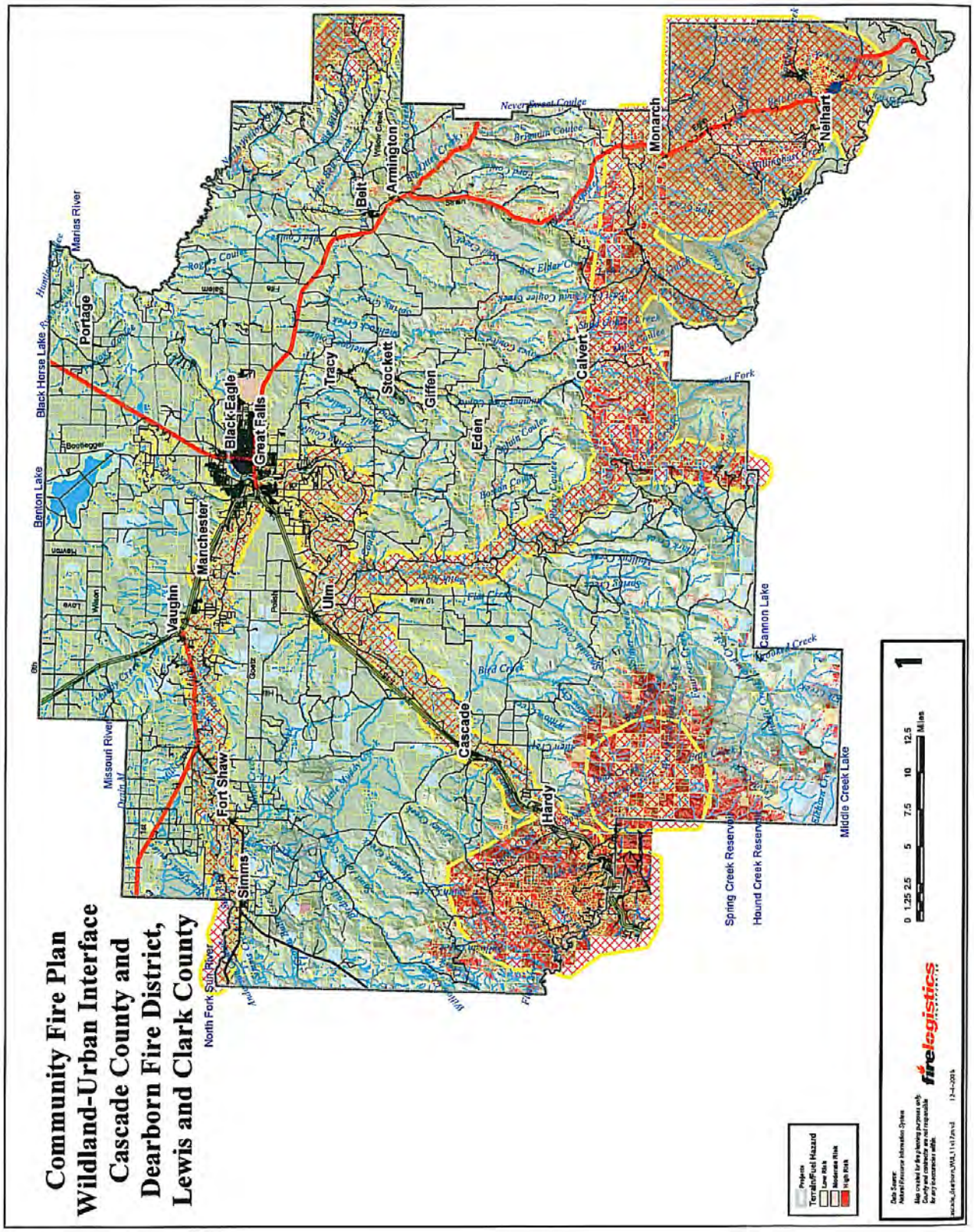
Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts shall be duly honored upon presentation to the drawee.

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

__(Lending Institution)__

__(Signature and Title of Official)

APPENDIX D


Community Fire Plan
Wildland-Urban Interface
Cascade County and
Dearborn Fire District,
Lewis and Clark County
Portage
Black Horse Lake
Marias River
Benton Lake
Bootlegger
Black Eagle
Great Falls
Belt
Armington
Monarch
Neihart
Tracy
Stockett
Giffen
Eden
Calvert
Manchester
Vaughn
Ulm
Cascade
Hardy
Fort Shaw
Simms
Missouri River
North Fork Sun River
Cannon Lake
Middle Creek Lake
Spring Creek Reservoir
Hound Creek Reservoir
Never Sweat Coulee
Bird Creek
Terrain/Fuel Hazard
Low Risk
Moderate Risk
High Risk
0 1.25 2.5 5 7.5 10 12.5
Miles
1
firelogistics