



# *Missoula City Subdivision Regulations*

Adopted by City Council  
*July 18, 2022*

**Missoula City Subdivision Regulations**  
***As adopted on July 8, 1974 (Resolution #3353)***

And Amended:

April 27, 1981(Resolution #4142)  
June 13, 1983 (Resolution #4296)  
September 19, 1983 (Ordinance #2345)  
December 15, 1986 (Resolution #4608)  
September 27, 1993  
August 1, 1994  
October 1, 1995  
March 22, 1999  
July 26, 1999  
December 31, 2003 (Resolution #6697)  
March 7, 2005 (Resolution #6887)  
April 4, 2005 (Resolution #6901)  
June 27, 2005 (Resolution #6931) Articles 3-8  
April 10, 2006 (Resolution #7055) Article 8  
October 2, 2006 (Resolution #7163) Articles 1, 2, 4 8  
May 7, 2007 (Resolution #7226) Article 3-8  
August 6, 2007 (Resolution #7256) Article 9  
March 24, 2008 (Resolution #7322) Article 4-4  
March 9, 2009 (Resolution #7402) Articles 3-8  
June 28, 2010 (Resolution #7544) Articles 1-9  
March 28, 2011 (Resolution #7601) Article 9  
February 27, 2012 (Resolution #7677) Article 3  
March 26, 2012 (Resolution #7685) Article 4  
January 27, 2014 (Resolution #7846) Article 8  
February 24, 2014 (Resolution #7852) Article 8  
April 28, 2014 (Resolution #7871) Articles 2-5, 8  
May 19, 2014 (Resolution #7873) Articles 2-5  
May 10, 2021 (Resolution #8516)  
July 18, 2022 (Resolution #xxxx)

## Table of Contents:

<b>Article 1. Introductory Provisions</b>	<b><a href="#"><u>1-1</u></a></b>
<b>Article 2. Definitions</b>	<b><a href="#"><u>2-1</u></a></b>
<b>Article 3. Subdivision Design Standards</b>	<b><a href="#"><u>3-1</u></a></b>
<b>Article 4. Review and Approval Procedures</b>	<b><a href="#"><u>4-1</u></a></b>
<b>Article 5. Submittal Requirements</b>	<b><a href="#"><u>5-1</u></a></b>
<b>Article 6. Variances</b>	<b><a href="#"><u>6-1</u></a></b>
<b>Article 7. Errors, Corrections and Adjustments</b>	<b><a href="#"><u>7-1</u></a></b>
<b>Article 8. Exempt Land Divisions</b>	<b><a href="#"><u>8-1</u></a></b>
<b>Article 9. Public and Private Improvements</b>	<b><a href="#"><u>9-1</u></a></b>

### **Supplemental Administrative Materials (SAMS)**

- Exhibit 1 Riparian/Wetland Habitat and Community Types
- Exhibit 2 Wildland/Urban Interface Guidelines
- Exhibit 3 Final Plat and Treasurer's Checklist
- Exhibit 4 List of Acronyms used in Subdivision Regulations

## Article 1. Introductory Provisions

<a href="#">1-010</a>	Official Name (Title) .....	1-1
<a href="#">1-020</a>	Authority .....	1-1
<a href="#">1-030</a>	Purpose and Intent .....	1-1
<a href="#">1-040</a>	Jurisdiction .....	1-2
<a href="#">1-050</a>	Permission to Enter .....	1-3
<a href="#">1-060</a>	Construction Timing .....	1-3
<a href="#">1-070</a>	Transfers of Title .....	1-3
<a href="#">1-080</a>	Repeal .....	1-4
<a href="#">1-090</a>	Conflicting Provisions .....	1-4
<a href="#">1-100</a>	Severability .....	1-4
<a href="#">1-110</a>	Violations .....	1-4
<a href="#">1-120</a>	Appeals .....	1-4
<a href="#">1-130</a>	Amendments .....	1-5

### 1-010 Official Name (Title)

The official title of these regulations is the “Subdivision Regulations of the City of Missoula, Montana,” hereinafter referred to as “these regulations”.

### 1-020 Authority

Authorization for these subdivision regulations is contained in the *Montana Subdivision and Platting Act*, MCA Title 76, Chapter 3, as amended. These regulations are adopted in accordance with the *Missoula City Growth Policy*, pursuant to Montana State Law.

### 1-030 Purpose and Intent

- .1 Subdivision of land to accommodate community growth and development directly affects the government of the City of Missoula, the city’s residents, and the subdivider. Subdivision regulation is intended to set standards that reflect the best interests of city residents and the subdivider.
- .2 The purpose of these regulations is to promote public health, safety, and general welfare by regulating the subdivision of land, to prevent overcrowding of land, to lessen congestion in the streets and highways, to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements, to require development in harmony with the natural environment, to protect the rights of property owners, to require uniform monumentation of land subdivisions and transfer of interests in real property by reference to plat or Certificate of Survey, and to provide for phased developments as required by MCA 76-3-102, as amended.
- .3 To support the purposes of MCA 76-3-102, these regulations are also intended to promote:
  - A. The orderly development of the jurisdictional area.
  - B. The coordination of roads within subdivided land (including provision for non-motorized transportation) with other roads, both existing and planned.
  - C. The dedication of land for roadways and for public utility easements.
  - D. The provision of proper physical and legal road access, including obtaining necessary easements

- E. The provision of adequate open spaces for travel, light, air, recreation, plant and animal habitat, and scenic views.
  - F. The provision of adequate transportation, water, drainage, and sanitary facilities.
  - G. The avoidance or minimizing of congestion in the streets.
  - H. The avoidance of any subdivision that would involve unnecessary environmental degradation, pursuant to these regulations.
  - I. The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services.
  - J. The avoidance of excessive expenditure of public funds for the supply of public services.
  - K. The definition of the manner and form of making and filing any plat for subdivided lands.
  - L. The administration of these regulations by defining the powers and duties of approving authorities as well as procedures for review and approval of all plats of subdivision covered by these provisions.
  - M. Meeting minimum guidelines for provision of emergency services.
  - N. The reduction of risk of fire damage by reducing and managing the buildup of fuels, building and maintaining adequate road systems, providing adequate water to fire fighters, and using fire-resistant materials and designs for homes and outbuildings.
  - O. The diversity and originality in subdivision layout and individual building design to achieve the best possible relationship between development and the land and provide for a diversity of housing sizes and types, accommodating a variety of age and income groups.
  - P. The design of residential subdivisions that results in the creation of neighborhoods with distinct identities, a sense of community, and access to other neighborhoods, parks, common areas, open space, playgrounds, schools, transportation, bus stops, shopping and community facilities.
- .4 Review of subdivisions according to established standards and procedures benefits both the public and the subdivider. By incorporating standards in preparation for the review process, the subdivider can avoid excessive expenditures of time and money to rectify errors or omissions. The administration of these regulations as defined in the powers and duties of governing bodies assures the subdivider that treatment of the subdivision plat will be equitable, consistent, and expeditious.

#### **1-040 Jurisdiction**

- .1 These regulations govern the subdivision and platting of land within the City of Missoula, Montana.
- .2 If a proposed county subdivision lies within three miles of the city, the Board of County Commissioners must submit the preliminary plat to the City Council or their authorized agents for review and comment.

- .3 When a proposed subdivision is proposed for annexation to the city, the City Council must coordinate the subdivision review process and annexation procedures whenever possible.

#### **1-050 Permission to Enter**

The City Council or other agency authorized by the City Council may conduct such investigations, examinations, and site evaluation as they deem necessary to verify information supplied as a requirement of these regulations. The submission of pre-application materials or a preliminary plat for review constitutes a grant of permission to enter the subject property. The permission to enter does not include the right to enter any structures on the property. Failure to provide access to the property will result in rejection of the application for subdivision review.

#### **1-060 Construction Timing**

Subdividers may not proceed with any construction work on the proposed subdivision, including grading or excavation relating to improvements or the clearing, burning, or cutting of any riparian vegetation within a riparian resource area, until the subdivider has obtained City Council approval of the proposed preliminary plat. For the purpose of this section, a subdivision is considered proposed at the time a pre-application meeting is held.

#### **1-070 Transfers of Title**

- .1 Except as expressly stated below, every final subdivision plat must be filed for recording with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner, as required by MCA 76-3-301.
- .2 After the preliminary plat of the subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision, as stated in MCA 76-3-303, as amended, if all the following conditions are met:
  - A. That under the terms of the contracts, the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
  - B. That under the terms of the contracts and the escrow agreements, the payments made by the purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder;
  - C. That the contracts and escrow agreements provide that if the final plat approval of the subdivision is not filed with the County Clerk and Recorder within the period required for filing the final plat, the escrow agent must immediately refund to each purchaser any payments made under the contracts;
  - D. That the contracts contain the following language conspicuously set out therein:

*The real property that is the subject hereof has not been finally platted and until a final plat identifying the property has been filed with the County Clerk and Recorder title to the property cannot be transferred in any manner; and*

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

#### **1-080 Repeal**

The current subdivision regulations of the City of Missoula, Montana addressing the same provisions are amended and superseded by this subdivision resolution, upon the effective date of this subdivision resolution.

#### **1-090 Conflicting Provisions**

If the requirements of this subdivision resolution conflict with any other requirements, ordinances, regulations, restrictions, or limitations, the more restrictive requirements or those that impose the highest standard controls.

#### **1-100 Severability**

If any section, subsection, sentence, clause, phrase, or word of these regulations is for any reason held to be invalid or unconstitutional, such decision does not affect the validity of the remaining portions of these regulations. The City Council hereby declares that it would have passed these regulations and each section, sub-section, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, and if for any reason these regulations should be declared invalid or unconstitutional, then the remaining regulation provisions will be in full force and effect.

#### **1-110 Violations**

Any person who violates any of the provisions to the *Montana Subdivision and Platting Act* and these regulations is guilty of a misdemeanor and punishable by a fine of not less than \$100.00 or more than \$500.00 or by imprisonment in the county jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of the *Montana Subdivision and Platting Act* or these regulations is deemed a separate and distinct offense, as required by MCA 76-3-105, as amended.

#### **1-120 Appeals**

- .1 A decision of the City Council to approve, conditionally approve, or deny a preliminary plat application for a proposed subdivision may be appealed to the District Court within 30 days of the date that such decision is issued in writing. The application must specify the grounds to challenge the approval, imposition of conditions, or denial of the preliminary plat.
- .2 A party identified as aggrieved, in accordance with subsection 3 below, by any other final decision of the governing body regarding a subdivision may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located to challenge the decision.
- .3 An appeal may be made by the subdivider, a contiguous landowner, an owner of land within the City of Missoula who can establish a likelihood of material injury to property or its value, the City Council, or the County Commissioners. In order to file an appeal, the plaintiff must be aggrieved by the decision, demonstrating that a specific personal and legal interest, as opposed to a general interest has been or is likely to be specifically and injuriously affected by the decision.

**1-130 Amendments**

Before the City Council amends these regulations it must hold a public hearing and must give public notice of its intent to amend these regulations and of the public hearing by publishing notice of the time and place of the hearing in a newspaper of general circulation in the county not less than 15 nor more than 30 days prior to the date of the hearing.



## Article 2. Definitions

<a href="#">2-010</a>	General Interpretations .....	2-1
<a href="#">2-020</a>	Definitions .....	2-2

### 2-010 General Interpretations

#### .1 Meanings and Intent

The language of these regulations must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in other sections of this resolution have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined in these regulations have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

#### .2 Computation of Time

- A. References to “days” are to calendar days unless otherwise expressly stated. Reference to “business days” are references to regular working days of the City of Missoula, excluding Saturdays, Sundays and holidays observed by the City of Missoula.
- B. The time in which an act is required to be completed is computed by excluding the first day and including the last day. When counting calendar days, if the last day is a Saturday, Sunday, or holiday observed by the city, that day is excluded.
- C. Unless otherwise expressly stated, a day concludes at the close of business, and any materials received after that time will be considered to have been received the following day.

#### .3 Tenses and Usage

- A. Words used in the singular include the plural. The reverse is also true.
- B. Words used in the present tense include the future tense. The reverse is also true.
- C. The words “must,” “will,” “shall” and “may not” are mandatory.
- D. The word “may” is permissive, and “should” is advisory, not mandatory or required.
- E. When used with numbers, “up to x,” “not more than x” and “a maximum of x” all include “x”.

#### .4 Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- A. “and” indicates that all connected items or provisions apply; and

B. “or” indicates that the connected items or provisions may apply singularly or in combination.

**.5 Headings and Illustrations**

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of these regulations. In case of any difference of meaning or implication between the text of these regulations and any heading, drawing, table, figure, or illustration, the text controls.

**.6 Current Versions and Citations**

All references to other city, county, state, or federal regulations in these regulations refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, requirements for compliance are no longer in effect.

**.7 Lists and Examples**

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

**.8 Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of these regulations expressly prohibit such a delegation.

**.9 Public Officials and Agencies**

All employees, public officials, bodies and agencies to which references are made are those of the City of Missoula unless otherwise expressly stated.

**.10 Commentaries**

Commentaries are sometimes included in these regulations as a means of clarifying certain provisions or providing supplemental information thought to be useful for ordinance users. Text marked as “commentary” has no regulatory effect. It is intended solely as a guide for administrative officials and the public.

*Commentary: When commentaries are provided, they will appear in this manner.*

**2-020 Definitions**

When not defined herein, the words used in this resolution have their common and customary meanings. The following terms, phrases, words, and their derivations have the specific meanings assigned in this section except where otherwise specifically defined or unless the context or subject matter clearly requires:

**.1 Access**

**A. Legal Access**

That the subdivision abuts a public street or road under the jurisdiction of the city, the county, or the state. In the alternative, that the subdivider has

obtained adequate and appropriate easements from a public road to the subdivision across all intervening properties.

**B. Physical Access**

That a road or driveway conforming to the local subdivision standards provides vehicular access from a public or private road to the subdivision.

**.2 Access Control Line**

A line designated on a subdivision plat for the purpose of restricting or limiting vehicular access.

**.3 Accessory Use**

A use clearly incidental, customarily found with, and subordinate to the main use of the premises.

**.4 Adjoining Property Owners**

Those persons whom, at the time the subdivision proposal is submitted, are owners of record of properties adjoining the land being proposed for subdivision platting.

**.5 Agriculture**

Agriculture is defined as the use of the land for growing, raising, or marketing of plants or animals to produce food, feed, and fiber commodities. Examples of agricultural activities include, but are not limited to, cultivation and tillage of the soil, dairying, growing and harvesting of agricultural or horticultural commodities, and the raising of livestock, bees, fur-bearing animals, or poultry. Agriculture does not include gardening for personal use, keeping of house pets, kenneling, or landscaping for aesthetic purposes. Agricultural land includes land used for agriculture or having a soil type defined by the Natural Resources Conservation Service as having agricultural importance, including prime farmland, farmland of statewide importance, and farmland of local importance.

**.6 Agricultural Land**

Land used for agriculture or having a soil type defined by the Natural Resources Conservation Service as having agricultural importance, including prime farmland, farmland of statewide importance, and farmland of local importance.

**.7 Agricultural Water User Facilities**

Those facilities that 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.

**.8 Applicant**

The owner of land proposed for subdivision or the owner's legally designated representative. (See also "Subdivider".)

**.9 Best Management Practice (BMP)**

Products, techniques, or methods that have been shown to be the most reliable and effective way to minimize adverse impacts on natural resources, such as stormwater quality.

**.10 Biologically Sensitive Land**

Land containing state or federally listed rare, threatened, or endangered species; riparian areas; wetlands; and locally important wildlife habitat as identified in plans and maps adopted by the City Council.

**.11 Block**

A group of lots, tracts, or parcels within well-defined and fixed boundaries.

**.12 Body of Water, Other**

Ponds and reservoirs greater than 4,356 square feet in area that do not support fish, and drainage systems discharging directly into streams, pond or other surface water. Swimming pools and water bodies used solely for treating, transporting, or impounding pollutants are not considered surface water.

**.13 Boulevard**

An area of public right-of-way or private easement between the edge of the street or road, whether curbed or not, and the private property line. The boulevard is landscaped primarily with grass, trees, shrubs and other vegetation, which is intended to be kept as a park-like space and a sidewalk. A boulevard or parkway median is a landscaped area located in the middle of the street or road.

**.14 Boulevard Trees**

Any tree that exists in an area of public right-of-way or private easement between the edge of the street or road, whether curbed or not, and the private property line.

**.15 Building**

A structure having a roof supported by walls, when separated from an adjacent building by a party wall without openings, it is deemed a separate building.

**.16 Building, Accessory**

A detached subordinate building, excluding a guest house, mobile home, or trailer, the use of which is customarily incidental to that of the main building or to the main use of the premises, located on the same lot with the main building or use.

**.17 Building Code**

The International Building Code as adopted by the City of Missoula and as amended from time to time.

**.18 Building Setback Line**

A line establishing the minimum distance that structures may be located from lot lines and street rights-of-way.

**.19 Building Site**

Any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

**.20 Certificate of Survey**

A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations and monumentations, as required by MCA 76-3-103, as amended.

**.21 Cluster Development**

Subdivisions that comply with the “cluster development” parcel and building standards of [20.05.050](#) (Table 20.05-3) of the *Zoning Ordinance* and [3-180](#) of these regulations.

**.22 Comprehensive Plan, Master Plan, or Growth Policy**

A *Comprehensive Development Plan*, *Master Plan*, or *Comprehensive Plan* that was adopted pursuant to MCA Title 76, Chapter 1, before October 1, 1999, or a policy that was adopted pursuant to MCA Title 76, Chapter 1, on or after October 1, 1999.

**.23 Condominium**

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

**.24 Conservation Development**

Subdivisions that comply with the “conservation development” parcel and building standards of [20.05.050](#) (Table 20.05-3) of the *Zoning Ordinance* and [3-180](#) of these regulations.

**.25 Conservation Easement**

An easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction.

**.26 Construction**

Any grading, excavation, cutting or filling of material or other disturbance that results in a travel-way for motorized or non-motorized vehicles or the site for a building, structure or landscaping.

**.27 Contiguous Tract**

A parcel of land abutting another individual parcel of land; tracts separated only by a public right-of-way is to be construed as abutting and therefore contiguous.

**.28 Courtyard**

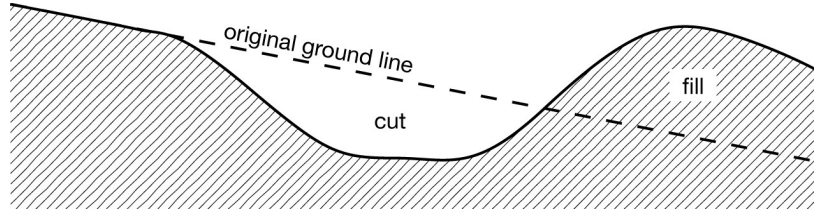
A common area landscaped outdoor living space surrounded by walls, fences, or structures.

**.29 Covenant (Restrictive)**

Written covenants, running with the land that restrict or regulate the use of the property or the kind, character, and location of buildings or other structures that may be located thereon.

**.30 Cut and Fill**

The excavating of material in one place and depositing of it as fill in an adjacent place.



**.31 Days**

Consecutive calendar days, unless otherwise specifically designated. Business days are working days, exclusive of weekends or legal holidays. (See also [2-010.2.](#))

**.32 Dedication**

The deliberate appropriation of land by an owner for 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, as required by MCA 76-3-103, as amended.

**.33 Defensible Space**

A natural or human-made area where material capable of allowing a fire to spread unchecked has been treated, removed, or modified to slow the rate and intensity of an advancing wildfire and to provide a safe working area for wildfire suppression operations to occur while protecting life and improved property.

**.34 Development**

Any human-made change to real estate or property, including buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling.

**.35 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 by properly filing a Certificate of Survey or subdivision plat establishing the identification of the segregated parcels pursuant to the *Montana Subdivision and Platting Act*, as required by MCA 76-3-103, as amended.

**.36 Drainage**

A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping.

**.37 Drainage System**

The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and the manufactured elements that includes culverts, ditches, channels, retention facilities, and the storm sewer system.

**.38 Driveway**

Access serving no more than two lots or dwelling units.

**.39 Dwelling Unit**

Any building or portion thereof providing complete, independent housekeeping facilities for one household only.

**.40 Easement**

A right required by a public or private authority to use or control property for a designated purpose.

**.41 Emergency and Service Vehicles**

Vehicles such as ambulances, police cars, or fire fighting apparatus used to respond to emergency situations and vehicles used to deliver or to pick up goods or to provide maintenance.

**.42 Engineer (Professional Engineer)**

A person licensed in conformance with MCA Title 37, Chapter 67, to practice engineering in the State of Montana.

**.43 Erosion**

The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as water, wind, ice and gravity.

**.44 Examining Land Surveyor**

The registered land surveyor duly appointed by the City Council to review surveys and plats submitted for filing, as required by MCA 76-3-103, as amended.

**.45 Fire Protection Jurisdiction**

An area within legally defined boundaries with fire protection responsibilities.

**.46 Flood**

The water of any watercourse or drainway that is above the banks or outside the channel and banks of such watercourse or drainway.

**.47 Floodfringe**

That portion of the floodplain outside the limits of a designated floodway.

**.48 Floodplain**

The area adjoining any watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency, as defined by the Federal Emergency Management Agency, except for sheetflood areas that receive less than one foot of water per occurrence and are considered "Shaded Zone-X" by the Federal Emergency Management Agency.

**.49 Floodplain Administrator**

The director of CPDI or an authorized designee.

**.50 Floodplain Regulations**

Ordinance No. 3267 of the City of Missoula, Montana, as amended.

**.51 Floodway**

The channel of any watercourse or drainway and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of the watercourse or drainway.

- .52 Fuelbreak**  
A strip of land where the natural fuels have been greatly reduced or thinned.
- .53 Grade, Existing**  
The grade or elevation of the ground surface at the time of the pre-application meeting required by [4-010.1](#) and before human alteration, such as grading, grubbing, filling, or excavating.
- .54 Grade, Finished**  
The grade of a site after grading and building construction, inclusive of any retaining walls, built up grade or other changes to existing grade.
- .55 Hazard**  
Any natural or human-created condition that presents danger to the public health, safety, or welfare.
- .56 Health Authorities**  
Montana Department of Environmental Quality and/or the Missoula City/County Health Department.
- .57 Hillside Land**  
Land that is subject to the hillside protection regulations of [3-140](#).
- .58 Hydrology**  
The properties of the water, including circulation and distribution, on and below the ground.
- .59 Impervious Surface**  
Any surface that either prevents or retards the entry of water into the soil profile, (the area from ground surface to parent material), as under natural conditions prior to development, and/or a surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Surfaces that impede the natural infiltration of surface and storm water runoff are impervious. Drainage swales are not considered impervious under this definition.
- .60 Improvement Agreement**  
A contractual agreement that may be required by the City Council to ensure the construction of such improvements as required by these regulations. The improvement agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.
- .61 Irrigation Ditch**  
A human-made feature that carries only irrigation water to or away from irrigated lands.
- .62 Legal Access**  
See [2-020.1](#).



**.63 Local Services**

Any and all services that local governments, public or private utilities are authorized to provide for the benefit of its citizens including but not limited to law enforcement, fire, emergency, and public health services, as well as schools, busing and roads.

**.64 Location Map**

A small-scale map showing the location of a tract in relation to a larger land area.

**.65 Lot**

A contiguous area of land with defined boundaries created by subdivision, subdivision exemption or their legal equivalent.

*Commentary: Subdivision "lots" are referred to as "parcels" under the zoning ordinance.*

**.66 Lot Measurements**

**A. Lot Depth**

The average depth of the lot.

**B. Lot Width**

The average width of the lot.

**C. Lot Frontage**

The width of the front lot line.

**D. Lot Area**

The area of a lot exclusive of street, highway, alley, road, or other rights-of-way, unless otherwise expressly stated.

**.67 Lot Types**

**A. Corner Lot**

A lot located at the intersection of two streets.

**B. Interior Lot**

A lot with frontage on only one street.

**C. Double Frontage or Through Lot**

A lot whose front and rear lot lines both abut on a street other than an alley.

**D. Flag Lot**

A lot of regular or irregular shape, normally situated to the rear of other lots, having as its frontage and access a drive connecting it to a street.

**.68 Low-Impact Development (LID)**

A site design strategy with the goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques to create a functionally equivalent hydrologic site design. Through the use of LID techniques, hydrologic functions of storage, infiltration and ground water recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed micro-scale stormwater retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow

time. Other strategies include the preservation/protection of environmentally sensitive site features such as riparian resource areas, wetlands, steep slopes, mature woodlands, floodplains, and highly permeable soils.

**.69 Low-Input Design**

Requiring no fertilization or irrigation and only minimal maintenance.

**.70 Mobile Home**

Factory-assembled structure equipped with necessary service connections, made so as to be readily movable as a unit on its own running gear, and designed to be used as a dwelling unit without a permanent foundation.

**.71 Mobile Home Lot**

A designated portion of a mobile home community designed to accommodate one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

**.72 Mobile Home Stand**

That area of a mobile home lot that has been prepared for the placement of a mobile home unit.

**.73 Mobile Home Community**

A tract of land providing two or more mobile home lots for lease or rent to the general public.

**.74 Monument (Permanent Monument)**

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

**.75 Natural Environment**

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

**.76 Non-Motorized Facilities**

Improvements designed for the use, safety and comfort of pedestrians, cyclists, equestrians and similar forms of non-motorized transportation. Examples include sidewalks, walkways, trails, bikeways and related appurtenances, such as signs and ramps.

**.77 Open Space Land**

Any land that is provided or preserved for: (a) park or recreational purposes; (b) conservation of land or other natural resources; or (c) historic or scenic purposes.

**.78 Ordinary High Water Mark**

The stage regularly reached by a body of water at the peak fluctuation in its water level. The ordinary high water mark is generally observable as a clear, natural line impressed on the land. It may be indicated by such characteristics as terracing, changes in soil characteristics, destruction of vegetation, absence or change of vegetation, presence or absence of litter or debris, or other similar characteristics.

**.79 Outcrop**

That part of a rock formation that is exposed at the earth's surface.

**.80 Overall Development Plan**

The master plan of a subdivision illustrating a single tract proposed to be subdivided in stages.

**.81 Parcel**

An area of land created by a division of land, or a space in an area used for recreational camping vehicles or trailers.

**.82 Person**

An individual, corporation, partnership, or any incorporated or unincorporated association of persons.

**.83 Phased Development**

A subdivision application and preliminary plat that at the time of submission consists of independently platted development phases that are reviewed on a schedule proposed by the subdivider.

**.84 Phasing Plan**

A detailed plan for final platting and development of a subdivision in two or more phases.

**.85 Planned Unit Development (PUD)**

A subdivision that is creatively designed to provide identified public benefits or to address the unique development challenges posed by a particular parcel. (See the PUD regulations of [3-120](#).)

**.86 Planning Board**

The Missoula Consolidated Planning Board formed pursuant to the Interlocal Agreement between the City of Missoula and the County of Missoula (dated September 17, 1982, and as subsequently amended) to cooperate in providing, planning and zoning services and floodplain administration to the residents of the City of Missoula and Missoula County.

**.87 Plat**

A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, or other divisions and dedications.

**A. Preliminary Plat**

A neat and scaled drawing of a proposed subdivision, showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision, which furnishes a basis for review by the City Council as required by the *Montana Subdivision and Platting Act* (MSPA).

**B. Final Plat**

The final drawing of the subdivision and dedication required by these regulations to be prepared for filing for record with the County Clerk and Recorder, containing all elements and requirements set forth in these regulations and in the MSPA.

**C. Vacated Plat**

A plat that has been removed from county record under the provisions of MCA 76-3-305, 7-5-2501, 7-5-2502, 7-14-2616(1), (2), 7-14-2617, 7-14-4114 (1), (2), and 7-14-4115.

**D. Amended Plat**

The final drawing of any change to a filed platted subdivision, or any lots within a filed platted subdivision.

**.88 Platting Report**

A report from a title service company on the condition of title to property proposed for subdivision that 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, issued within 30 days of the date of submission of the platting report to the City Attorney's Office, and accompanied by a guarantee of the accuracy of the report to the extent of \$5,000.00 from the title insurance agent or its underwriter.

**.89 Pond**

A body of water encircled by wetland vegetation and supportive of aquatic life. Wave action is minimal, allowing emergent vegetation to establish.

**.90 Primary Urban Growth Area**

Areas generally considered appropriate for immediate development if they are surrounded by, or contiguous to, existing urban development and served by existing urban services including sanitary sewer infrastructure. Also fitting this category are lands where the extension of sanitary sewer is planned, as reflected in the Capital Improvement Projects (CIP) one to five year budget that is adopted annually following a process of public involvement and hearings.

**.91 Private Improvements**

Private improvements are the same types of improvements as defined under public improvements, except that ownership and/or maintenance and repair is the responsibility of a private entity.

**.92 Public Health and Safety**

The prevailing healthful, sanitary condition of well being for the community at large.

**.93 Public Improvements**

Any structure or facility constructed to serve the residents of a subdivision or the general public, such as parks, streets or roads, sidewalks, curbs and gutters, street lighting, utilities, and systems for water supply, sewage disposal, and drainage.

**.94 Public Wastewater System**

A system for collection, transportation, treatment, or disposal of wastewater that serves 15 or more families or 25 or more persons daily for a period of at least 60 days in a calendar year.

**.95 Public Water Supply System**

A system for the provision of water for human consumption from a community well that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

**.96 Recreational Vehicle**

A camping vehicle designed to be towed or a motorized home or pickup coach designed and constructed for human habitation that can be operated independently or with utility connections and that is used as a temporary vacation dwelling.

**.97 Recreational Vehicle Park**

A place used for public camping where persons can rent space to park individual recreational vehicles or automobiles for transient dwelling purposes.

**.98 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.

**.99 Resting and Passing Space**

A turnout from the trail, with dimensions adequate to allow trail amenities such as seating, wheelchair rest spots (minimum 5 feet by 5 feet), trash containers, landscape and/or shelter facilities, interpretive displays, etc.

**.100 Ridgeline**

Lands containing protected ridge areas, as shown on the City of Missoula Ridgeline Map.

**.101 Rights-of-Way**

Land dedicated or acquired for use as a public way.

**.102 Riparian Buffer**

An area of varying width extending from the edge of a delineated riparian resource, where development may have a negative impact on wildlife habitat, water quality and quantity, fish, or other aquatic resources.

**.103 Riparian Resource**

A stream, wet meadow, woody draw, wetland or other body of water and land containing any of the habitat or community types listed in [Exhibit 1](#). An irrigation ditch that does not lie within a floodplain, and measures less than 3 feet in width at its widest point on the subject property, as measured from the high watermark of the ditch, is not considered a riparian resource for the purpose of these subdivision regulations.

**.104 Riparian Resource Area**

An area containing a riparian resource and its associated riparian buffer.

**.105 Road, Established**

An existing access or haul route for motorized vehicles that is passable under one or more of the following circumstances:

- A. as is;
- B. with clearing of windfall or small woody vegetation;
- C. with surface blading;
- D. with replacement of stream crossing structures and drainage structures that were removed to restrict access; or
- E. with removal of constructed access barriers.

**.106 Road and Street Types**

As used in these regulations, streets or street types are as follows:

**A. Alley**

Vehicular access to the rear of properties that abut on and are served by public roads.

**B. Arterial**

A street or road having the primary function of moving traffic and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Characteristics of an arterial are two to four lanes of traffic with limited access to abutting property. Classifications are determined by the Montana Department of Transportation or the City Engineering Division.

**C. Circle**

A local street or road that closes in on itself.

**D. Collector**

A street or road having the equally important functions of moving traffic and providing access to adjacent land. Characteristics of collector streets are two moving traffic lanes and two parking lanes. Residential collectors serve only residential neighborhoods; nonresidential collectors serve other land uses.

**E. Cul-De-Sac**

A street or road that terminates in a vehicular turnaround area.

**F. Dead-End Street or Road**

A street or road temporarily having only one outlet for vehicular traffic and intended to be extended in the future.

**G. Frontage Access (Service Road)**

A local or collector street or road, usually parallel and adjacent to an arterial or major collector street or road that provides access to abutting properties and control of traffic access to arterials or collectors.

**H. Half-Street or Road**

A portion of the width of a street or road, usually along the outside perimeter and adjacent to a subdivision, up to the right-of-way or road easement centerline.

**I. Local Streets**

A street or road having the primary function of serving abutting properties and the secondary function of moving traffic. Characteristics of local streets are moving traffic (travel) lanes, parking lanes, and access to abutting properties. Residential local streets serve individual residential areas; nonresidential local streets serve nonresidential land uses.

**J. Loop**

A local street or road that begins and ends on the same street, generally used for access to properties.

**K. Short Court**

A private road serving three to six lots or dwelling units within the Urban Growth Area (UGA).

**.107 Runoff**

That part of precipitation that flows off the land without filtering into the soil or being absorbed by plant material.

**.108 Sediment**

Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.

**.109 Sedimentation**

The process of depositing materials from a liquid, especially in bodies of water.

**.110 Sidecasting**

The act of moving excess earthen material over the sides of a road during road maintenance operations or excavation for structural improvements.

**.111 Slide**

The downhill mass movement of soil, rock, or snow resulting from failure of that material under stress.

**.112 Slope**

The inclination of the surface of the land from the horizontal, prior to development.

**.113 State**

The State of Montana.

**.114 Stream**

A natural watercourse of perceptible extent that has a generally sandy or rocky bottom of definite banks and that confines and conducts continuously or intermittently flowing water.

**.115 Subdivider**

A person, firm, corporation, or other entity who causes land to be subdivided, or who proposes a subdivision of land, as stated in MCA 76-3-103, as amended.

**.116 Subdivision**

- A.** The division of land, or land so divided, that 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; including 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 pursuant to MCA 76-3-103, as amended.
- B.** A subdivision comprises only those parcels containing less than 160 acres that cannot be described as one quarter aliquot parts of a United States Government section when the parcels have been segregated from the

original tract. The subdivision plat must show all the parcels whether contiguous or not, pursuant to MCA 76-3-104, as amended.

**.117 Subdivision Types**

As used in these regulations, subdivision types are as follows:

**A. Major Subdivision**

A subdivision of land in which six or more lots are created.

**B. Minor Subdivision**

A subdivision of land in which five or fewer lots are created.

**C. Urban-Suburban Subdivision**

A subdivision within which the density of development is greater than two dwelling units per acre, exclusive of public roadways, parks, or common areas.

**D. Mobile Home Community and Recreational Vehicle Park Subdivisions**

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

**.118 Subdivision Administrator**

The person or persons authorized by the City Council to perform the duties of the subdivision administrator set forth in these regulations.

**.119 Subsidence**

Gradual downward, local, mass movement of the earth's surface.

**.120 Subsidized**

Financing provided by the US Department of Housing and Urban Development (HUD) or the Montana Board of Housing (MBOH) for the express purpose of providing housing to low- to moderate-income households.

**.121 Surveyor (Registered Land Surveyor)**

A person licensed in conformance with MCA Title 37, Chapter 67, to practice surveying in the State of Montana.

**.122 Swale**

A drainage channel or depression designed to direct water flow.

**.123 Topography**

General term to include characteristics of the ground surface such as plains, hills, mountains, degree of relief, steepness of slope, and other physiographic features.

**.124 Townhouse**

Arrangement under which individuals own their own units and hold separate title to the land beneath the unit but jointly own the common areas and facilities.

**.125 Tract of Record**

A 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, as stated in MCA 76-3- 103, as amended.

**.126 Trail**

A path designed for non-motorized travel.

**.127 Urban Growth Area (UGA)**

An Urban Growth Area (UGA), as described within the *Missoula Urban Comprehensive Plan* (Chapter 6).

**.128 Vicinity Sketch**

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

**.129 Well Isolation Zone**

Well isolation zone means the area within a 100-foot radius of a water well.

**.130 Wet Meadow**

A herbaceous wetland on mineral soil. Generally, wet meadows occur in seasonally flooded basins and flats. Soils are usually dry for part of the growing season.

**.131 Wetlands**

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

**.132 Wildland/Urban Interface (WUI)**

That geographic area where structures and other human development meets or intermingles with wildland or vegetative fuels. Specific types include the following:

**A. Boundary WUI**

An area where a clearly defined, linear boundary of homes meets combustible wildland vegetation. Typically, this sort of interface is found on the fringe of large towns.

**B. Intermix WUI**

An area where structures are scattered among or mixed with wildland vegetation, without a clearly defined boundary. Typically, the intermix WUI is found in rural areas where people have subdivided wildlands into small parcels of one to 40 acres.

**.133 Wildlife**

Animals that are not domesticated or tame.

**.134 Wildlife and Wildlife Habitat**

A place or area where wildlife naturally lives or travels.

**.135 Woody Draw**

Areas that support woody vegetation, such as tall shrub and tree species, in small intermittent and ephemeral drainages. The vegetation is a result of higher moisture availability than the surrounding area. The duration of surface water, however, is shorter than that of other streamside riparian resource areas (e.g. cottonwood and dogwood communities).

**.136 Zoning Ordinance**

The *Zoning Ordinance of the City of Missoula* set forth in Title 20 of the Missoula Municipal Code, as amended.

## Article 3 Subdivision Design Standards

<a href="#">3-010</a>	General Standards .....	3-1
<a href="#">3-020</a>	Streets, Access, and Transportation .....	3-4
<a href="#">3-030</a>	Lots and Blocks .....	3-20
<a href="#">3-040</a>	Grading, Drainage, and Erosion Control .....	3-21
<a href="#">3-050</a>	Utilities .....	3-23
<a href="#">3-060</a>	Easements.....	3-24
<a href="#">3-070</a>	Water Supply, Sewage Disposal, and Solid Waste.....	3-25
<a href="#">3-080</a>	Parks and Open Space Requirements .....	3-26
<a href="#">3-090</a>	Condominiums.....	3-30
<a href="#">3-100</a>	Mobile Home Communities .....	3-30
<a href="#">3-110</a>	Recreational Vehicle Parks .....	3-33
<a href="#">3-120</a>	Planned Unit Developments (PUD).....	3-35
<a href="#">3-130</a>	Riparian Resource Areas .....	3-37
<a href="#">3-140</a>	Hillside Protection.....	3-41
<a href="#">3-150</a>	Agricultural Land Preservation .....	3-43
<a href="#">3-160</a>	Wildlife Habitat and Biologically Sensitive Land Protection.....	3-43
<a href="#">3-170</a>	Wildland Fire Protection .....	3-43
<a href="#">3-180</a>	Cluster and Conservation Development.....	3-43

### 3-010 General Standards

- .1 In addition to the requirements established herein, as required by MCA 76-3-504, as amended, all subdivision plats are subject to applicable laws, ordinances, and regulations, including but not limited to:
- A. All applicable provisions of the Montana Code Annotated, as amended.
  - B. The *Missoula City Zoning Ordinance*, where applicable; International Building Codes adopted by the City of Missoula or the State of Montana; *Missoula City Floodplain Ordinance*; Fire Code; the provisions of any agreement for the Transfer of Development Rights (TDRs), and all other applicable regulations of the City of Missoula.
  - C. Capital Improvements Program of the City of Missoula.
  - D. The Missoula City/County Health Code, Sections I-IX and Regulations 1 and 3, as amended.
  - E. The requirements of the Montana Department of Transportation if the subdivision or any lot contained therein abuts a State highway or connecting street. Any subdivision that abuts a city street must meet the city access requirement.
  - F. Any other regulations applicable to the land proposed for subdivision, including but not limited to irrigation district or Fire Department regulations.
  - G. The Missoula City/County Air Pollution Control Program.
  - H. The Aquifer Protection Ordinance, Chapter 13.26, Missoula Municipal Code.
  - I. *Missoula City Growth Policy* and its amendments.
  - J. *Transportation Plan*.

**K. *City of Missoula Storm Water Pollution Prevention Plan (SWPPP).***

**.2 Hazardous Lands**

Land on which there is evidence of hazards such as, but not limited to, flooding, swelling soils, subsidence, improper drainage, slopes of 25% or more, adverse geological formations or topography, utility easements, snow avalanches, rock falls, landslides, high potential for wildfire, high water table, polluted or non-potable water supply, high-voltage lines, high-pressure gas lines, aircraft or vehicular traffic hazards or congestion, severe toxic or hazardous waste exposure, or other features that will be harmful to the health, safety, and/or welfare of the present or future inhabitants of the subdivision or its environs; or that will impose unreasonable burdens upon the general public such as environmental degradation or requirements for the excessive expenditure of public funds may not be approved for subdividing until an engineering or other professional design sufficient to alleviate the foregoing hazard or unreasonable burdens has been submitted by the applicant and approved by the City Council, as required by MCA 76-3-504, as amended.

**A. Floodplains**

- (1) Land located within the floodway, as defined by MCA Title 76, Chapter 5, or other land determined by the City Council or their authorized agents, to be subject to flooding may not be subdivided for building or residential purposes unless the lot created provides for an adequate building site outside of the floodway; or other uses that may increase or aggravate flood hazards to life, health, or welfare, or that may be prohibited by state or local floodplain regulations.
- (2) If a proposed building site within a proposed subdivision is within 20 vertical feet and 1,000 horizontal feet of a stream draining an area of 15 square miles or more and in the same drainage basin, and no official floodway delineation or floodway studies of the stream have been made, the subdivider must provide in detail to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation, a flood hazard evaluation, including the calculated 100-year frequency water surface elevations and 100-year floodplain boundaries. This detailed evaluation must be performed by a licensed professional engineer experienced in this field of work. After the Floodplain Management Section of the Water Resources Division has prepared a report that is in agreement with the proposed flood hazard evaluation, the subdivider must submit the report with the subdivision application. Land identified within the floodplain is subject to floodplain regulations.
- (3) The above requirement is waived if the subdivider contacts the Water Resources Division and that agency states in writing that available data indicates that the proposed subdivision is not in a flood hazard area.

**B. Wildland/Urban Interface**

In areas of Wildland/Urban Interface (WUI) the subdivider must submit the covenants and agreements as are described in [Article 5](#). The fire chief must determine whether or not the proposed subdivision is within the WUI.

**.3 Developable Lots**

All subdivisions must result in the creation of lots that are represented by the subdivider as developable and intended to be built upon for the uses stated in the subdivision application. A subdivision may, however, also contain tracts that are not intended as building lots but are necessary for other purposes. All such tracts must be shown on the plat and designated as to their purposes. Approval of a subdivision does not constitute a warranty by the city as to the ability to develop the lot or the suitability for any particular use of any lot.

**.4 Design and Development**

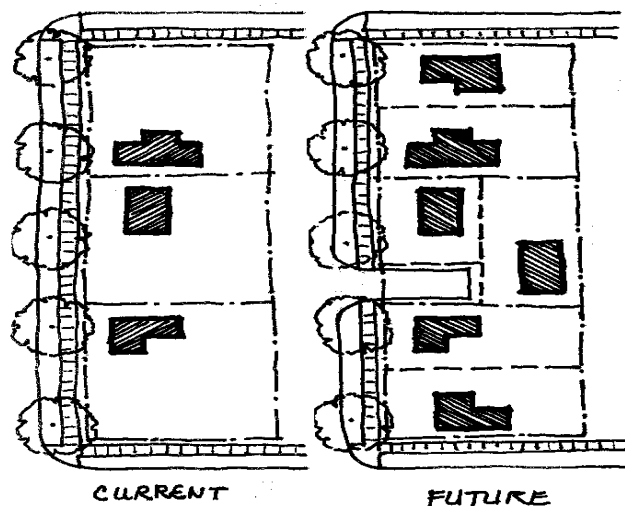
The design and development of subdivisions must substantially preserve or enhance the unique character of an area, the natural terrain, natural drainage, existing topsoil, trees, and natural vegetation to the maximum extent possible and must be arranged to minimize the increase of land area devoted to impervious surfaces.

**.5 Adequate Public Facilities**

The subdivision must be served by adequate public facilities and services such as transportation systems (including non-motorized), parking, police and fire protection, drainage structures, solid waste disposal, water supply, and sanitary sewage disposal; or the subdivider will provide adequately for such services. Adequate services levels are established within these regulations, in State and local regulations or at the discretion of the City Council based on the findings of fact.

**.6 Future Development**

Where the subdivision is located within the Urban Growth Area (UGA) or will create a lot one acre or larger outside of the UGA that is likely to be further divided in the future, the City Council may require that the plat show location of lot lines, buildable areas and other details of layout to allow for future divisions without interfering with the orderly extension or preservation of adjacent streets, sidewalks and non-motorized travel corridors.



**.7 Access**

The subdivision design must provide access to open space, other neighborhoods, parks, common areas, playgrounds, schools, transportation, bus stops, shopping and community facilities.

**.8 Natural, Scenic, Cultural, or Historic Features**

The subdivision may not result in the destruction, loss, or damage of significant natural, scenic, cultural, or historic features.

**.9 Environmental Impacts**

The subdivision must mitigate to established levels, adverse environmental impacts, including, but not limited to, the degradation of air and water quality and wildlife habitat. Established levels may be found within these regulations, in state and local regulations or at the discretion of the City Council based on the findings of fact.

**.10 Professional Plans**

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

**3-020 Streets, Sidewalks, and Trails**

**.1 Purpose**

The regulations of this section are intended to:

- A.** Provide minimum development standards to safeguard life, health and public safety as required in the Montana Subdivision and Platting Act.
- B.** Promote safe, efficient, and convenient transportation corridors for motorists, pedestrians, bicyclists, and bus riders of all ages and abilities as outlined in the Missoula Active Transportation Plan and Missoula Complete Streets Resolution while providing access for emergency and other urban service vehicles and equipment.
- C.** Provide regulations for the development of streets, roads, sidewalks and trails commensurate with anticipated increase in population, dwelling unit densities, and service requirements.
- D.** Provide a reasonable and comprehensive transportation system to ensure the development of a high quality environment.

**.2 Standards**

- A.** Plan specifications and reports required, in connection with public and private improvements, by the *Montana Subdivision and Platting Act* and these regulations must be prepared by appropriately qualified persons.
- B.** All public and private street and road improvements, including pavement, curbs, sidewalks, bike facilities, and drainage, must be in accordance with the Missoula

City Public Works Standards and Specifications and standards prescribed in Table .2 A. Where the specifications or standards conflict with other regulations, the regulations of 3-020 apply.

**Commentary Note: the reference to "*Missoula City Public Works Standards and Specifications*" refers to the street and road development standards used by the City of Missoula Public Works Department and will be used until an updated set of Missoula Street and Road Standards is completed and named. An updated set of standards is expected in 2012.**

- C. Street and road plans are subject to approval by the City Engineer and the City Council.
- D. Street plans must conform to Americans with Disabilities Act (ADA) requirements.

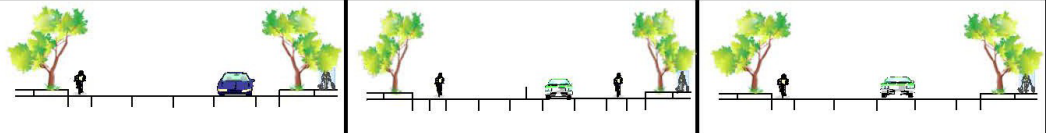
<b>Table .2 A Standards for Geometric Design of Roads and Streets</b>			
<a href="#">Roadway Designation</a> - City Functional Classification Map link	<b>Principal Arterial (without parking)</b>	<b>Principal Arterial (with parking)</b>	<b>Minor Arterial (without parking)</b>
<b>Functional Classification</b>	Principal Arterial	Principal Arterial	Minor Arterial
<b>Purpose</b>	Regional	Regional	Regional
<b>Daily Traffic Volumes</b>	15,000 - 35,000	15,000 - 35,000	3,500 - 15,000
<b>Roadway</b>			
<b>Right-of-way (Minimum)</b>	120'	120'-140'	100'
<b>Street Width (Back of Curb to Back of Curb) (minimum)</b>	63' with turn lane 53' without turn lane	79' with turn lane 69' without turn lane	41' with turn lane 31' without turn lane
<b>Number of Travel Lanes (typical)</b>	4 + center turn lane or 4 lanes	4 + center turn lane or 4 lanes	2+ center turn lane or 2 lanes
<b>Lane Width (minimum)</b>	10'	10'	10'
<b>Parking Lane Width (parallel)</b>	-	8'	-
<b>Street Side</b>			
<b>Sidewalk Width (minimum)</b>	6'	6'	6'
<b>Boulevard Width (minimum)</b>	10'	10'	10'
<b>Bike Lanes</b>	6'	6'	5'
<b>Trails</b>	Trails are considered alternatives to sidewalks in common areas and connectors between cul-de-sacs and may be located outside the established street and road right of way corridor if they satisfy the Parks and Open Space trails criteria in 3-080.		
<b>Buses</b>	When development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers are encouraged to consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.		
<b>Landscaping</b>	Streetside landscaping may include shrubs, ground cover, mulch, and irrigation and should incorporate xeriscape methods in accordance with <i>Title 12, Chapter 12.32 Comprehensive Tree and Shrub Planting, Pruning, and Maintenance Regulations</i> .		
<b>Streetside Accessories</b>	The City Engineer and subdivider will determine specific streetside accessory locations, types, and numbers during the design and permitting process.		
<b>Utilities</b>	Refer to Article 3, Section 3-050 for utility placement within right-of-way and easements.		
<b>Illustration (not to scale)</b>			



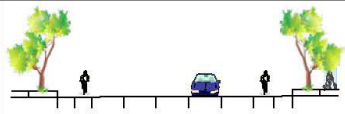
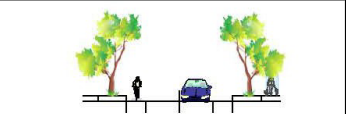
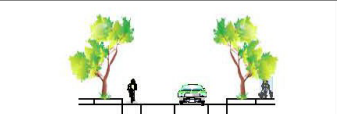
Table .2 A Standards for Geometric Design of Roads and Streets			
<a href="#">Roadway Designation</a> - City Functional Classification Map link	Minor Arterial (with parking)	Urban Collector (without parking)	Urban Collector (with parking)
Functional Classification	Minor Arterial	Collector	Collector
Purpose	Regional	Access	Access
Daily Traffic Volumes	3,500 - 15,000	1,000 - 7,500	1,000 - 7,500
Roadway			
Right-of-way (Minimum)	100'	80'	90'
Street Width (Back of Curb to Back of Curb) (minimum)	57' with turn lane 47' without turn lane	41' with turn lane 31' without turn lane	57' with turn lane 47' without turn lane
Number of Travel Lanes (typical)	2+ center turn lane or 2 lanes	2+ center turn lane or 2 lanes	2+ center turn lane or 2 lanes
Lane Width (minimum)	10'	10'	10'
Parking Lane Width (parallel)	8'	-	8'
Street Side			
Sidewalk Width (minimum)	6'	5'	5'
Boulevard Width (minimum)	10'	7'	7'
Bike Lanes	6'	5'	6'
Trails	Trails are considered alternatives to sidewalks in common areas and connectors between cul-de-sacs and may be located outside the established street and road right of way corridor if they satisfy the Parks and Open Space trails criteria in 3-080.		
Buses	When development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers are encouraged to consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.		
Landscaping	Streetside landscaping may include shrubs, ground cover, mulch, and irrigation and should incorporate xeriscape methods in accordance with Title 12, Chapter 12.32 Comprehensive Tree and Shrub Planting, Pruning, and Maintenance Regulations.		
Streetside Accessories	The City Engineer and subdivider will determine specific streetside accessory locations, types, and numbers during the design and permitting process.		
Utilities			
Refer to Article 3, Section 3-050 for utility placement within right-of-way and easements.			
Illustration (not to scale)			

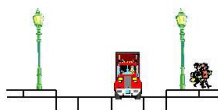
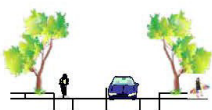




Table .2 A Standards for Geometric Design of Roads and Streets			
<a href="#">Roadway Designation</a> - City Functional Classification Map link	Urban Local Street Commercial/Industrial	Urban Local Street	Low Density Urban Local Street (less than 12 dwelling units /acre or greater than 80 feet average frontage)
Functional Classification	Local Street	Local Street	Local Street
Purpose	Access	Access	Access
Daily Traffic Volumes	0 - 3,500	0 - 2,500	0 - 2,500
Roadway			
Right-of-way (Minimum)	80'	80'	70'
Street Width (Back of Curb to Back of Curb) (minimum)	37'	47' with turn lane 37' without turn lane	35'
Number of Travel Lanes (typical)	2	2+optional left turn lane	2
Lane Width (minimum)	10'	10'	10'
Parking Lane Width (parallel)	8'	8'	7'
Street Side			
Sidewalk Width (minimum)	5'	5'	5'
Boulevard Width (minimum)	7'	7'	7'
Bike Lanes	-	-	-
Trails	Trails are considered alternatives to sidewalks in common areas and connectors between cul-de-sacs and may be located outside the established street and road right of way corridor if they satisfy the Parks and Open Space trails criteria in 3-080.		
Buses	When development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers are encouraged to consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.		
Landscaping	Streetside landscaping may include shrubs, ground cover, mulch, and irrigation and should incorporate xeriscape methods in accordance with <i>Title 12, Chapter 12.32 Comprehensive Tree and Shrub Planting, Pruning, and Maintenance Regulations</i> .		
Streetside Accessories	The City Engineer and subdivider will determine specific streetside accessory locations, types, and numbers during the design and permitting process.		
Utilities			
Refer to Article 3, Section 3-050 for utility placement within right-of-way and easements.			
Illustration (not to scale)			

Table .2 A Standards for Geometric Design of Roads and Streets			
<a href="#">Roadway Designation</a> - City Functional Classification Map link	Local Residential Street	Low Density Local Residential Street (less than 12 dwelling units /acre or greater than 80 feet average frontage)	Home Zones/Woonerf
Functional Classification	Local Street	Local Street	Local Street
Purpose	Access	Access	Access
Daily Traffic Volumes	0 - 250	0 - 250	0-250
Roadway			
Right-of-way (Minimum)	47'	45'	28'
Street Width (Back of Curb to Back of Curb) (minimum)	35'	33'	28'
Number of Travel Lanes (typical)	2	2	-
Lane Width (minimum)	10'	10'	12' - one way 16' - two way
Parking Lane Width (parallel)	7'	6'	-
Street Side			
Sidewalk Width (minimum)	5'	5'	-
Boulevard Width (minimum)	7	7	-
Bike Lanes	-	-	-
Trails	Trails are considered alternatives to sidewalks in common areas and connectors between cul-de-sacs and may be located outside the established street and road right of way corridor if they satisfy the Parks and Open Space trails criteria in 3-080.		
Buses	When development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers are encouraged to consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.		
Landscaping	Streetside landscaping may include shrubs, ground cover, mulch, and irrigation and should incorporate xeriscape methods in accordance with <i>Title 12, Chapter 12.32 Comprehensive Tree and Shrub Planting, Pruning, and Maintenance Regulations</i> .		
Streetside Accessories	The City Engineer and subdivider will determine specific streetside accessory locations, types, and numbers during the design and permitting process.		
Utilities			
Refer to Article 3, Section 3-050 for utility placement within right-of-way and easements.			
Illustration (not to scale)			

### **.3 Access, Rights-of-Ways, and Easements**

#### **A. Legal Access**

- (1) **Access.** Perpetual legal access to subdivisions must come from an established public road or by a public perpetual access easement or right-of-way adequate to serve the subdivision. Where access from a public road to the subdivision will cross properties not owned by the subdivider, the subdivider must obtain easements or rights-of-way (as described in Table .2 A) from each property owner or the appropriate administrator of public lands. Each easement or right-of-way must allow construction and perpetual maintenance of a road across the property and allow vehicular travel on the road.
- (2) **Documentation.** Adequate and appropriate easements or rights-of-way must be granted by each property owner through a document that grants the easement or right-of-way in a legally sufficient form acceptable to the City Attorney's Office. The location and existence of any easement or right-of-way must be noted on the face of the final plat and on any deeds or instruments conveying lots within the subdivision. Documentation of existing perpetual legal access must be included with the submittal.
- (3) **Timing.** When easements or rights-of-way are unavailable at the time of submittal, the application must include a description of how the perpetual, legal access will be obtained prior to the filing of the final plat.

- B. All streets within a subdivision must be dedicated public right-of-way or, at the City Engineer's discretion, may be a private street and public access with private maintenance easement.
- C. Public street and road rights-of-way must meet the standards in Table .2A.
- D. Increased street and road rights-of-way may be required by the City Council, upon recommendation of the City Engineer, where it has been determined that public need reasonably necessitates the increased rights-of-way in order to assure public safety.
- E. Street and road rights-of-way may be narrower than the standard if approved by the city Council as part of a PUD subdivision or in accordance with the variance procedures of [Article 6](#).
- F. Access must be adequate for emergency and service vehicles and approved by City Engineer and the Fire Chief.
- G. All major subdivisions within areas of WUI must have more than one improved access route unless it is not feasible because of topographic or other constraints. When multiple access routes are not provided, a Special Improvement District (SID) waiver statement is required stating that the acceptance of a deed for a lot within the subdivision constitutes the assent of the owners to any future SID for the construction of a second access route and may be used in lieu of their signature on an SID petition.

#### **H. Access Control**

- (1) When a residential subdivision contains lots that abut on more than one street, access to each lot must be provided on the street with the lowest classification unless the Director of CPDI and the City Engineer determine it is in the public good to provide access on the street with the higher classification.

- (2) Subdivisions abutting existing or proposed streets and roads must provide dedication of right-of-way to meet the requirements of Table .2 A measured from the existing center line and extending along the entire frontage of the proposed subdivision.
- (3) When a subdivision contains lots that require access to an existing or proposed principal arterial, minor arterial, or collector road or street (based on Table .2 A), the Missoula City Engineer may require limited access or frontage streets and an approach permit may be required by the Montana Department of Transportation.

#### **.4 Street Design and Improvements**

- A. All new subdivisions must have paved streets and roads and if the connecting public street or road is a City street or road, it must meet Missoula City Public Works Standards and Specifications.
- B. All roadway improvements, including but not limited to pavement, curbs, sidewalks, and drainage must meet Missoula City Public Works Standards and Specifications and the specifications and standards prescribed in these regulations (3-020 Streets, Sidewalks, and Trails); when the specifications or standards conflict, the regulations of 3-020 shall apply.
- C. Street and road widths may be narrower than the standard, if approved by the City Council in accordance with the variance procedures of [Article 6](#).
- D. Connectivity. Street connections must be provided to any existing or approved public street, road or right-of-way extension abutting the subdivision. Subdividers must incorporate connections to nearby destinations such as schools, parks, employment centers, and commercial areas as well as collector and arterial transportation corridors, non-motorized transportation corridors, and future phases of development.
- E. The circulation pattern for the subdivision must be designed to take advantage of the topography of the site to accommodate the circulation demands of the proposed development, adjacent transportation facilities, adjacent land uses, parcels of land in the immediate area, and be designed in accordance with area-wide transportation plans. The circulation system must provide for various modes of transportation such as automobiles, pedestrians, bicycles, buses, and emergency vehicles.
- F. Planned Unit Developments (PUDs) provide for flexibility in the standards and each PUD must be reviewed on a case by case basis for road standards, upon recommendation of the City Engineer and approval of the City Council.
- G. When development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers should consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.
- H. Street or road signs, traffic control devices, chip and seal, pullouts, traffic calming devices and pavement and curb markings must be:
  - (1) Installed by the developer or included as part of the public improvements agreement.

- (2) Approved by the City Engineer and consistent with the *Manual on Uniform Traffic Control Devices* adopted by the Montana Department of Transportation.
- I. The City Engineer and subdivider will determine specific accessory locations, types, and numbers during the design and permitting process. Street accessories may be included as part of the public improvements agreement.
- J. The City Engineer may require a traffic study for subdivisions that will generate 200 or more average daily trips based on the ITE trip generation manual.
- K. Bridges and drainage structures must be approved by the City Engineer and the Fire Chief.
- L. Within areas of WUI, the minimum unobstructed road or street surface width may not be less than 20 feet and there must be an unobstructed vertical clearance for roadways and bridges of 13.5 feet and the roadway must be reviewed by the fire chief for emergency access, and approved by the City Engineer and Fire Chief.
- M. Curbs, gutters, and storm drainage facilities are required on all public streets and roads within public rights-of-way and all private roads within public access easements within and fronting all subdivisions.
- N. A parking lane is required on both sides of local residential streets and cul-de-sacs.

**.5 Dead-End Streets, Cul-de-Sacs, and Circle and Loop Streets**

- A. Cul-de-sacs, loop and circle streets, and turnarounds, are prohibited. Dead-end streets are prohibited.
- B. If approved by variance, the following standards apply:
  - (1) Where additional future street extension is proposed, a temporary turn-around or cul-de-sac must be provided
  - (2) Cul-de-sacs and turnarounds must meet the requirements of the City Engineer and Fire Chief.
  - (3) Permanent cul-de-sac streets may not represent more than 15% of the total roadway miles in a subdivision unless the Director of CPDI, and the City Engineer determines that a practical difficulty exists due to the presence of streams, steep slopes, other natural resources or significant physical constraints. Connections must be made with existing roads or streets or planned roads or streets.
  - (4) The maximum length of a cul-de-sac street must not be more than 600 feet.
  - (5) The minimum right-of-way of the turn-around or cul-de-sac radius is 50 feet.
  - (6) The minimum pavement width of the turn-around or cul-de-sac radius is 45 feet.
  - (7) Cul-de-sacs over 45 feet in radius must include a water permeable center island.
  - (8) Developments with cul-de-sacs, circle and loop streets, or turnarounds must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonably expected future streets, schools, shopping, parks, trails, or open space, bus stops and community facilities.

**.6 Private Streets and Short Courts**

**A. Private Streets**

Private streets must be placed within a public access with private maintenance easement.

**B. Short Courts.**

Short courts are prohibited. If approved by variance, the following standards apply:

- (1) A short court may not be used where a through street is possible.
- (2) Short courts must be placed within a public access with private maintenance easement.
- (3) Short courts must have a minimum unobstructed width of not less than 21 feet.
- (4) Short courts must have a maximum length of 200 feet.
- (5) Submit a circulation plan showing pedestrian/vehicular movement system, overflow parking, pedestrian-scaled lighting, required off-street parking access, and multi-use zones. The circulation plan must be designed with street accessories, trees and bollards placed to reduce traffic speeds which are restricted to walking pace.
- (6) Short courts shall be surfaced with at least twenty-five percent (25%) scored, textured, or stamped and colored concrete, paving blocks or bricks or other similar materials approved by Missoula City Engineer.
- (7) Vehicle entrance points, intersecting with crosswalks shall be delineated with surfaces as described in (4) above.
- (8) Configure the lots to accommodate off-street parking for each residence. All driveways must be at least 20 feet long, measured from face of garage to back of curb or if there is a sidewalk, to the back of the sidewalk. There must be 26' of backing distance between the end of the driveway and any obstruction.
- (9) All dwelling units within a short court development must be within 150 feet of the entrance of the development.
- (10) No parking is allowed on the short court. Provide a common area or easement with defined maintenance for over-flow parking at the rate of .5 spaces per dwelling with a minimum of two spaces. For short court lots adjacent to the street, this amount may be reduced by the number of available on-street parking spaces adjacent to those lots. The subdivider must indicate the overflow parking showing the proposed locations and numbers of parking spaces on the circulation plan. Show parking locations on the plat.
- (11) In short court developments with front yard setbacks, curbs, ~~and~~ gutters are sidewalk on one side are also required. Sidewalks are to be located below the curb, at street level and stamped with a pattern that delineates it as a sidewalk.
- (12) In short court developments without front yard setbacks, curbs, gutters and marked sidewalks are not required.
- (13) Provide a snow removal maintenance plan that meets Missoula City sidewalk maintenance standards.



- (14) Include agreement that the property owners shall be responsible for the costs associated with the maintenance, repair and/or replacement of all surface infrastructure.
- (15) Appropriate signage is required on short courts and common area parking spaces.

.7 Homezones/Woonerfs are streets where pedestrians and bicycles have priority over vehicles. The techniques of shared spaces, traffic calming and low speed limits are intended to improve pedestrian, bicycle, and automobile safety. They are typically a joint pedestrian-vehicle travel-way that combines a reduced right-of-way with added amenities in the pedestrian realm to slow vehicular traffic and enhance the shared space environment. Woonerfs/Homezones must comply with the following minimum standards and the standards in [Table .2 A](#):

<b>Commentary Note:</b> Woonerfs/Homezones should be done in conjunction with development or building types that support reduced setbacks.
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- A. Homezones/Woonerfs must provide a connection between two sections of the road or vehicle access system and be 300 feet or less in length unless fire and emergency access is available for all of the dwelling units.
- B. A circulation plan showing pedestrian/vehicular movement system, parking, pedestrian scaled lighting, required off street parking access, and multi-use zones. The circulation plan must be designed with street accessories, trees and bollards placed to reduce traffic speeds which are reduced to a walking pace.
- C. Homezones/Woonerfs shall be surfaced with at least (twenty five) 25 % scored, textured, or colored concrete, paving blocks or bricks or other similar materials approved by Missoula City Engineer (Fifteen) 15% of the woonerf must be non-drivable landscape arranged to modulate the vehicle travel lane.
- D. Vehicle entrance and exit points intersecting with crosswalks shall be delineated with homezone/woonerf signs and surfaces as described in (2) above.
- E. Minimum unobstructed clear space (fire lane) - 16 feet for two-way, 12 feet for one-way.
- F. Configure the lots to accommodate off-street parking for each residence.
- G. Provide a common area for over-flow parking at the rate of .5 spaces per dwelling unit with a minimum of two spaces. For woonerf/homezone lots adjacent to the street, this amount may be reduced by the number of available on-street parking spaces adjacent to those lots.
- H. Provide a snow removal and maintenance plan that meets Missoula City sidewalk maintenance standards. Include agreement that the property owners shall be responsible for the costs associated with the maintenance, repair and /or replacement of all surface infrastructure.

**.8 Driveways**

- A. All driveways must be paved. Alternative paving materials and designs such as permeable pavement, pavers and ribbon driveways may be used as determined by City Engineer.



**B. Driveway width.**

- (1)** Driveways shall have a minimum width of 9 feet.
- (2)** Driveway curb cut and apron widths must be approved by the City Engineering Public Works Department.

**C. Additional Provisions for Driveways over 150 feet**

- (1)** Proposals for driveway designs over 150 feet in length must be approved and accompanied by written comments from the Fire Chief.
- (2)** Dead-end driveways in excess of 150 feet must have an approved fire apparatus turnaround located within 150 feet of the building.
- (3)** Driveways over 150 feet must have an unobstructed vertical clearance of 13.5 feet and an unobstructed width of not less than 20 feet.
- (4)** Subdividers that propose private driveways over 150 feet in length must provide a typical grading plan and location for each driveway.
- (5)** The City Council, basing its decision upon the subdivision review criteria and the public hearing process, may impose additional design standards for private driveways 150 feet in length or greater.

**.9 Intersections**

- A.** No more than two streets may intersect at one point.
- B.** Streets must intersect at right angles except when topography dictates otherwise, and in no case may the angle of intersection be less than 60 degrees.
- C.** Two streets meeting a third street from opposite sides must meet at the same point, or their centerlines must be offset at least 125 feet.
- D.** Intersection design must provide acceptable visibility for traffic safety as dictated by the designed operating speeds on the individual roadways.
- E.** Hilltop intersections must comply with AASHTO standards for sight distances. Such intersections must be reviewed and approved by the City Engineer.
- F.** Intersection curbs, gutters, and sidewalks must be designed to meet ADA maximum grades for access ramps.
- G.** Roundabouts. An applicant may propose, or the City Council may require, the construction of a roundabout instead of a conventional intersection. The roundabout must conform to the standards set by the Missoula City Engineering Public Works Department.

**.10 Alleys**

- A.** Alleys must be paved according to Missoula City Engineering Public Works standards.
- B.** Minimum pavement width is 12 feet.
- C.** The minimum right-of-way width is 20 feet.
- D.** Motor vehicle access to the lots and off-street parking must be from the rear yard when an alley exists or is planned.

- E. In areas where development patterns include alleys, the developer is required to continue the circulation pattern, inclusive of alley construction unless topographic constraints exist.
- F. Alleys must not dead end.

**.11 Half Streets**

- A. New half streets are not permitted.
- B. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within such tract.

**.12 Street Names**

- A. New streets that will align with existing streets must have the same name as the existing street.
- B. Street names for non-continuing streets may not duplicate nor be named so as to be confused with existing street names.
- C. Street names are subject to the approval of the City Council.

**.13 Off-Site Street and Road Standards**

Where primary access to the subdivision is to be provided by a road or roads not contained within the boundaries of the subdivision, access to the nearest publicly maintained paved road must meet the following standards:

- A. Rights-of-way must meet the standards of [3-020.3](#);
- B. Total improvements must meet the standards in [3-020](#) (Streets, Sidewalks, and Trails) and the Missoula City Public Works Standards and Specifications and [3-040](#) (Grading and Drainage) in the following cases:
  - (1) Off-site primary access roads that are 500 feet or less in length; and
  - (2) Off-site primary access roads greater than 500 feet in length that are specifically and uniquely attributable to the subdivision.

**Commentary Note: Off-site primary connecting street and road improvements mitigate the impacts of the subdivision and may be required at the discretion of Development Services and the City Engineer.**

- C. Other off-site access roads must meet the standards of [3-020](#) (Streets, Sidewalks and Trails) and [3-040](#) (Grading and Drainage) exclusive of the paving requirement.
  - (1) For divisions of land requiring a traffic study, off-site improvements must be based on the findings of a traffic study and the recommendation of the City Engineer.

**.14 Streets and Roads for Commercial and Industrial Subdivisions**

**A. Streets for Commercial Subdivisions**

- (1) Streets serving business developments and accessory parking areas must be connected with adjacent arterial or collector streets so that traffic is not generated on local streets.

- (2) Intersections of driveways from parking areas with arterials or collector streets must be designed to cause the least possible interference with traffic movement.
- (3) The City Council may require limited-access streets to provide maximum safety and convenience.

**B. Streets for Industrial Subdivisions**

- (1) Collector streets for industrial subdivisions must be planned to serve industrial areas exclusively and must connect to arterials or nonresidential collectors.
- (2) The intersections of service streets from parking areas with arterials or collector streets must be at least 125 feet apart.

**C. Service Access**

Provisions must be made for service access, such as off-street loading or unloading and parking that are adequate for the uses proposed.

**.15 Active Transportation Facilities**

Active transportation facilities typically include but are not limited to sidewalks, trails, and bike lanes.

**A. Purpose:** The regulations of this section are intended to:

- (1) Incorporate active transportation facilities within subdivision development per the subdivision review criteria in the Montana Subdivision and Platting Act and the requirements of [3-020](#).
- (2) Protect public health and safety as required in the Montana Subdivision and Platting Act.
- (3) Minimize impacts to local services as required in the Montana Subdivision and Platting Act.
- (4) Create a safe and efficient off-road method of travel for the bicycle and pedestrian community.
- (5) Reduce automobile emission pollutants by reducing vehicle miles traveled.

**B. Connectivity Standards**

- (1) Subdividers must provide active transportation facilities that provide:
  - (a) Continuous access to all lots within the subdivision and access to adjoining developments unless exempted by these regulations.
  - (b) Safe routes to schools, playgrounds, bus stops, and public parks and common areas.
  - (c) Safe, convenient access to services such as shopping, employment centers, and community facilities.
  - (d) Connections between the subdivision and adjacent community active transportation systems as depicted and described in the Missoula City Growth Policy, the Missoula Long Range Transportation Plan, the *Missoula Active Transportation Plan* and *Missoula Master parks and Recreation Plan*, or any adopted local or neighborhood plan.

- (e) Accessibility in accordance with the Americans with Disabilities Act (ADA).

**C. Rights of Way and Easements**

- (1) Active transportation facilities must be placed within public rights-of-ways or public access easements.
- (2) Additional easement may be required if existing easements or rights-of-way are insufficient to accommodate required active transportation facilities.
- (3) Where depicted or described by the Missoula City Growth Policy, the Missoula Long Range Transportation Plan, Missoula Active Transportation Plan, Missoula Master Parks and Recreation plan or any adopted local or neighborhood plan, City Council may require active transportation facilities be located outside the dedicated public road right-of-way or easement.

**D. Sidewalks and Boulevards**

- (1) Sidewalks and boulevards must be provided in all subdivisions and adjacent to all streets in accordance with [Table 2 A](#).
- (2) Sidewalks and boulevards must comply with the standards in [Table 2 A](#) and the following:
  - (a) If the City Council approves a variance to allow sidewalks combined with the curb, the minimum clear space for the sidewalk must be 7 feet on local streets and 9 feet on collectors and arterial streets, exclusive of the curb. Wider sidewalks may be required in commercial areas based on use as determined by City Engineering.
  - (b) Where active transportation facilities meet roadways, adequate sight distance must be maintained.
  - (c) In areas where sidewalks are required, mailboxes and utilities may not obstruct or be located on the sidewalk.
- (3) If the City Council approves a PUD Subdivision or a variance according to [Article 6](#) narrower boulevards to a minimum of 6 feet may be allowed in some cases including:
  - (a) When insufficient existing right-of-way or easement is available for boulevard sidewalks; or
  - (b) On hillsides; or
  - (c) When design provides for snow storage within the PUD boundaries and if the placement of trees is between the curb and the property line.
- (4) Where boulevard sidewalks and alleys are provided, parking pullouts may be required by the City Engineer.

**E. On-Street Bicycle Facilities**

Bicycle lanes or other on-street bicycle facilities as approved by the City Engineer must be provided on streets that are functionally classified as collector streets or greater in accordance with [Table 2 A](#).

**F. Trails**

- (1) New subdivisions must construct trails as depicted or described in the *Missoula Active Transportation Plan, Missoula Master Parks and Recreation Plan or any other local or neighborhood plan*. Should the governing bodies adopt a comprehensive trails plan; the subdivider must provide all on-site trails specified by the plan.
- (2) Trails must be constructed concurrently with other required transportation infrastructure.
- (3) New subdivisions shall provide connections between the subdivision and existing or proposed primary commuter or secondary commuter trail locations.
- (4) Trails may be used as alternatives to sidewalks in common areas and as connectors between cul-de-sacs except in locations adjacent to streets where sidewalks would normally be placed.
- (5) Trails are required in accordance with [3-080.8.C](#) and must be located within a non-motorized public access easement
- (6) Standards for trails are shown in Table .14 A.
  - (a) Additional trail pavement or public access easement width may be required in hillside areas to accommodate switchbacks for trails, etc.
  - (b) Rights-of-way and easements for trails may not be less than 10 feet wide if adjacent to a roadway.

**Commentary Note: Off-site active improvements mitigate the impacts of the subdivision and may be required at the discretion of Development Services and the City Engineer.**

**Table .14 A Standards for Trails**

Classification	Primary Commuter	Secondary Commuter	Neighborhood Connector	Recreational
<b>Use</b>	High Volume All Uses	Moderate Volume All Uses	Primarily Ped, Some Bike Use	Designed for all recreational uses
<b>Right-of-way Minimum Width</b> For trails not adjacent to a roadway	20 Feet	20 feet – May be less in some cases	12 feet	Variable
<b>Improved Surface Minimum Width</b>	10 feet	8 feet	6 feet	2 feet
<b>Surface - paving materials must be approved by Missoula Parks and Recreation and City Engineering</b>	Paved	Paved	Paved or accessible natural surface	Natural or imported materials

- (7) Trails located within or adjacent to sensitive natural resource and riparian resource areas must be designed and located to mitigate adverse impacts on those resources.
  - (8) Trails must remain clear and open and may not be obstructed with fences, structures, utility pedestals or other above-ground utilities that obstruct use.
  - (9) Trailhead parking, bike racks, landscaping, lighting, seating, and way finding signage are required where appropriate as determined by the Missoula City Engineer and Missoula Parks and Recreation Trails Development Manager.
- G. Trails must be constructed in accordance with the standards of this section and the Missoula City Public Works Standards and Specifications.
- H. When required by the City Engineer, active transportation facilities may either be raised a minimum of 6 inches, above the grade of streets, drives, parking lots, and other paved areas with the exception of driveways and intersections, or must be constructed of a material, striping or colors that are different from the adjacent pavement.
- I. Bridges for non-motorized transportation are subject to approval by the City Engineer.

### **3-030 Lots and Blocks**

#### **.1 Lots**

- A. Each lot that is intended to be built upon must contain a satisfactory building site that is properly related to topography and that conforms to these regulations and to Health Department, zoning, and floodplain regulations;
- B. Slopes in excess of 25% are deemed unsuitable for building sites and must be shown as such on the plat unless a certified engineering plan and geotechnical investigation is provided. All lots must have a minimum contiguous area of 2000 square feet at slopes less than 25%;
- C. The design of lots must meet the following standards:
  - (1) A single lot may not be divided by a municipal or county boundary line;
  - (2) A single lot may not be divided by a street, road, alley, road right-of-way or easement, or other lot;
  - (3) Each lot must abut on and have access to a public or private street or road;
  - (4) Corner lots must be of sufficient area to provide acceptable visibility for traffic safety conforming to the visibility triangle requirements per MMC 12.28; and
  - (5) Corner lots must be configured so that driveway approaches meet engineering standards for separation from a street intersection;
- D. Side lot lines must be at substantially right angles to the street or road; and
- E. Double frontage or through lots are prohibited unless the director of CPDI determines that such a design is warranted because of topography or other physical site constraints.

**.2 Blocks**

- A.** Blocks must be designed to assure traffic safety and ease of circulation, to accommodate the special needs of the use contemplated to accommodate pedestrians, bicyclists and transit users as well as motor vehicles, and to take advantage of the opportunities or to mitigate the limitations of the topography. Specifically:
- (1)** Streets must be laid out and designed to create rectilinear, curvilinear or other patterns of blocks.
  - (2)** Blocks may not exceed a maximum length of 480 feet in urban-suburban subdivisions.
  - (3)** Pedestrian access easements that create a break within a block are required where there is a special need to provide convenient pedestrian access to bus stops, schools, playgrounds, shopping, transportation, parks, common areas or open space, other lots, adjoining neighborhoods and community facilities.
- B.** Blocks may be wide enough to allow for only one tier of lots, if the topography or other factors require that design. All other blocks must be wide enough to allow for two tiers of lots.

**3-040 Grading, Drainage, and Erosion Control**

**.1 Purpose**

The objective of this section is to provide minimum standards for site grading and the control of storm water runoff, both quantity and quality. This section creates submittal and development standards for erosion and sedimentation control, preservation of natural drainage systems, flood mitigation, site grading, and protection of property.

**.2 Requirements**

The subdivider must provide:

- A.** A complete grading and drainage plan showing the proposed grades of streets, proposed drainage facilities, and *Storm Water Pollution Prevention Plan* (SWPPP) per the submittal requirements of [Article 5](#); and
- B.** Suitable drainage facilities for any surface run-off affecting the subdivision. These facilities must be located in the street rights-of-way, subject to the approval of the city engineer, or in perpetual easements of appropriate widths. Design of such drainage facilities must be based upon local soil factors, topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water. Drainage facilities must be designed to handle both upstream and local drainage.

**.3 Grading and Drainage Systems**

- A.** Major subdivisions that are located outside the designated drainage area must install storm drains or deliver storm water runoff to the nearest suitable drainage channel or storm drain main line. Rainfall intensity must be derived from the 24-hour storm duration. The plan must be approved by the city engineer.

- B.** Swales, storm sewers or some accepted method of storm water management are required, taking into account the character of the area, density of development, and adjoining properties. The subdivider must extend the storm drain if the subdivision is located within 500 feet of an existing storm drain facility.
- C.** Unless an adequate storm sewer exists or is provided, all surface run-off in addition to that normally present before subdivision must be retained on site or released from the site in a manner that will not substantially increase the peak run-off normally present before subdivision. In addition, peak run-off cannot overtop roadways or driveways during a 10-year storm event; or inundate any buildings or drain fields during a 100-year storm event. Restrictive covenants may be required to mitigate adverse effects of property drainage. Mitigation may involve the installation of drainage structures or the connection to an existing storm drainage system. Drainage easements across adjoining land to the nearest drainage way may be required.
- D.** Facilities for the collection of stormwater runoff must be installed prior to or concurrent with any other improvements and be designed to divert surface water away from cut faces or sloping surfaces of a fill. All storm water facilities must be protected from erosion or silt deposition during construction of both public and private improvements.
- E.** All drainage systems must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations per MMC Chapter 13.27 and Chapters 6 and 8 of the Missoula City Public Works Standards and Specifications.
- F.** All drainage structures must be designed by a licensed professional engineer and are subject to approval by the city engineer.
- G.** Storm water drainage systems may not discharge into any sanitary sewer facility.
- H.** Easements must be granted to prevent encroachment upon or disruption of drainage ways or drainage facilities. Drainage easements must be drawn on the plat, and a signed statement granting the easements must appear on the plat. Easements for surface storm drainage must remain clear and open and may not be obstructed with fences, structures, etc.
- I.** Where drainage swales are used to divert surface waters, they must be vegetated to control erosion and weed invasion. Drainage swales must be designed to minimize their visibility and be angled along the contours of a slope. Drainage swales must comply with state and local regulations. If located on common areas or on a lot, drainage swales must be maintained by a property-owner's association or by a maintenance agreement between the lot owner and the City Council.
- J.** Natural drainage ways must be preserved except for necessary crossings in which the capacity of existing drainage ways must be preserved. Drainage ways must remain clear and open and may not be obstructed with fences, structures, etc. Lots must be arranged to preserve and maintain these drainage channels.



- K.** All disturbed slopes must be graded or have retaining structures constructed according to an approved grading plan. The required grading plans must be designed to accomplish the following:

  - (1)** Cut-and-fill slopes, and intersections of manufactured and natural slopes, must have curved configurations that reflect the forms and shapes of surrounding topography.
  - (2)** Grading must incorporate elements to protect drainage systems and must integrate landscaping design to provide erosion protection to the site.
- L.** Graded slopes must be planted with a vegetative ground cover, and, if applicable, consistent with the Wildland Urban Interface (WUI) requirements. Landowners must replant areas of disturbance no later than the first growing season to prevent erosion and weed invasion, in consultation with the County Extension Office. Where site grading is necessary, topsoil must be salvaged or imported to redistribute on areas to be revegetated. Where drainage swales are used to divert surface waters, they must be vegetated or protected to minimize potential erosion.
- M.** Use of retaining structures within rights-of-way must be minimized unless it significantly reduces grading or eliminates long cuts or fills. Private use of retaining structures within a public right-of-way is prohibited.
- N.** Cluster development is encouraged to help reduce grading impacts and impervious surface coverage, and to protect visual qualities, natural resources, and open space.
- O.** The developer must establish that an access permit can be obtained from the city for a driveway location on each lot that meets the grade requirements of these regulations.
- P.** All cut and fill must be confined to stated right-of-way widths or roadway easement widths. All cut and fill for lot development may not impede the use or development of parks or trails for public use.
- Q.** In residential subdivisions with lot sizes one acre or smaller in size, if the total percentage of the impervious surface exceeds 35% of the lot size, additional drainage and erosion control considerations may be required. Cluster open space developments are exempt from this standard.

### **3-050 Utilities**

- .1** All public and private utilities must be placed underground when undergrounding is technically and economically feasible, as required by the Public Service Commission on regulated utilities or by State law.
- .2** As used in this section, “technically feasible” means that the trench through which the underground lines would run could be excavated by a conventional backhoe or trencher, with no blasting and with minimal use of jack hammers or like equipment required. As used in this section, “economically feasible” means that if the underground installation cost per unit does not exceed twice the overhead installation cost per unit, underground installation is feasible and must be constructed at the expense of the utility and/or subdivider.

- .3 Utility locations are subject to approval by the appropriate utility company and the City Council, upon recommendation of the city engineer. Any utility facilities installed under street pavement must be stubbed to the right-of-way line so as to minimize future disturbance of road pavement. In existing subdivisions where overhead lines are present, overhead lines are allowed.

### **3-060 Easements**

- .1 Easements must be provided for utilities, drainage, watercourse, channel, ditch, stream, vehicular, and pedestrian access. Easement locations and widths must be recommended by the appropriate utility or agency. Easements must be reviewed and approved by the City Engineering Division. Backslope easements must be provided where road construction may extend outside of the rights-of-way.
- .2 Any feature or improvement of a proposed subdivision encroaching onto adjoining private property, in a manner that is not otherwise provided for under MCA 76-3 or MCA 76-4, cannot be approved unless the owner of the adjoining private property authorizes the encroachment in the form of an easement.
- .3 Except as expressly stated in 3-060.3, the subdivider must establish within the subdivision watercourse and irrigation (ditch) easements that:
  - A. 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;
  - B. are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
  - C. prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
- .4 The subdivider need not establish irrigation easements if:
  - A. the average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the City Council; 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
  - B. 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
  - C. the fact that the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider must provide written notification to prospective buyers of the

subdivider's intention to remove the water right and must document that intent, when applicable, in agreements and legal documents for related sales transactions.

- .5 The subdivider must, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and dedicate on the final plat, 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.

### **3-070 Water Supply, Sewage Disposal, and Solid Waste**

- .1 Water supply, sewage disposal, and solid waste systems must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 76, Chapter 4 and 5, as amended, and all applicable state and local regulations specifically including the Missoula City/County Health Code, Section IX and regulation 1 and 3, as amended. Sewage disposal systems must be permitted, installed, operated and maintained in accordance with the Missoula City/County Health Code and regulation 1, as amended, and solid waste management must comply with the Missoula City/County Health Code and regulation 3, as amended. The means for water supply is subject to approval by the Missoula City/County Health Department, the appropriate Fire Department, and the City Council. The means for sewage and solid waste disposal is subject to the approval of the City Council. Water supply for fire protection purposes must be provided by one of the following and are subject to approval by the fire chief:
  - A. public or community water system with 1,000 gallons per minute (gpm) minimum; or
  - B. residential sprinkler systems.
- .2 In the event that residential sprinklers are an acceptable alternative for fire protection, as recommended by the fire chief and approved by the City Council, the requirements of installation must be included in an agreement with the City Council that must be filed with the plat. If no community or public water supply system with 1000 gpm minimum fire flow is provided, an SID waiver statement is required stating that at such time a community or public water supply system is available the property owner is required to participate in the SID and that the SID waiver statement may be used in lieu of their signature on an SID petition.
- .3 Any subdivision containing 15 or more lots of 20,000 square feet or less each must be served by a public wastewater system and a public water supply system.
- .4 Any subdivision containing 2 to 14 lots of 20,000 square feet or less each must be served by a public wastewater system and a public water supply system or multiple user water supply system, as defined by ARM 17.36-101. Multiple user water supply systems must be:
  - A. Designed by a professional engineer and certified as installed to comply with design and construction requirements for public water supply systems specified by rules adopted pursuant to MCA Title 75, Chapter 6;
  - B. Designed to be easily connected to a public system in the future, and;
  - C. Approved by City Engineering.

- .5 In addition, if planning a multiple user water supply system:
  - A. The plat must contain an SID waiver statement waiving the ability to protest an SID for the purpose of supplying public water to the subdivision and stating that the SID waiver statement may be used in lieu of their signature on an SID petition; and
  - B. The plat must contain language waiving the ability of the owners and users of the multiple user water supply system to protest or prevent connection of the shared system to a public water supply system.
- .6 All water mains must be placed in a public right-of-way or public utility easement.
- .7 Any proposed well isolation zone encroaching onto adjoining private property must have written authorization from the adjoining private property owner in accordance with [3-060.2](#).

### **3-080 Parks and Open Space Requirements**

#### **.1 Purpose**

The required parkland dedication includes the following objectives:

- A. Preserve and protect wildlife habitat, species of special concern and their habitat, agricultural uses, historical and cultural features, scenic views, natural drainage areas and systems, and other desirable features of the natural environment, such as healthy long-lived trees, topography, significant plant communities, ground and surface water, wetlands, and riparian resource areas.
- B. Provide open space areas for conservation or passive recreation.
- C. Provide active recreational areas for use by residents of the development and, where specified, the larger community.
- D. Meet the goals of the *Missoula Open Space Plan*, the *Non-motorized Transportation Plan*, the *Missoula County Parks and Conservation Plan* and the *Master Parks and Recreation Plan for the Great Missoula Area*.
- E. Provide areas for social interaction and livability.
- F. Arrange open space to be accessible and functional for use by the residents of the development and where specified, the larger community.
- G. Protect sensitive environmental features and natural areas by providing landscape buffers within open space areas.

#### **.2 Exemptions**

Parkland dedication is not required for the following subdivisions:

- A. Land proposed for subdivision into parcels larger than five acres;
- B. Subdivision into lots that are all nonresidential;
- C. A subdivision in which only one additional lot is created;
- D. A minor subdivision in which all lots created may be occupied by only one dwelling unit based on the applicable zoning classification; or

- E. A subdivision in which lots are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums. The park requirement is provided in the design standards ([Article 3](#)) for these types of developments.

**.3 Requirements for Park Dedication**

Parkland dedication must be based on the net lotted area of the subdivision. Land area must be either dedicated or set aside as open space lands for parks, open space lands as defined in these regulations, conservation easements, or common area held by the property owner where lots or dwelling units are leased or rented, a property owners association, a land conservation entity or City Council. Open space lands set aside as common area rather than dedicated to public use may not experience a change of use without the approval of the City Council and the property owner where lots or dwelling units are leased or rented or entities in whose name the title to the property is held. Except as provided in this section, a subdivider must dedicate to the city, land or cash equal to the following:

- A. Eleven percent of the area of the land proposed to be subdivided into lots of .5 acre or smaller that will have one or two dwelling units on the lot or if three or more dwelling units will be placed on the lot, 0.02 acres per dwelling unit when net residential density of development is known at the time of preliminary plat, and if not known, then the subdivider must dedicate to the city, land or cash based upon the units per acre allowed by the applicable zoning multiplied by 0.02 acres;
  - B. Seven and one-half percent of the area of the land proposed to be subdivided into lots larger than .5 acre and not larger than one acre or if more than one dwelling unit will be placed on the lot, then 0.02 acres per dwelling unit when net residential density of development is known at the time of preliminary plat, and if not known, then the subdivider must dedicate to the city, land or cash based upon the units per acre allowed by the applicable zoning multiplied by 0.02 acres;
  - C. Five percent of the area of the land proposed to be subdivided into lots larger than one acre and not larger than three acres or if more than one dwelling unit will be placed on the lot, then 0.02 acres per dwelling unit when net residential density of development is known at the time of preliminary plat, and if not known, then the subdivider must dedicate to the city, land or cash based upon the units per acre allowed by the applicable zoning multiplied by 0.02 acres; and
  - D. Two and one-half percent of the area of the land proposed to be subdivided into lots larger than three acres and not larger than five acres or if more than one dwelling unit will be placed on the lot, then 0.02 acres per dwelling unit when net residential density of development is known at the time of preliminary plat, and if not known, then the subdivider must dedicate to the city, land or cash based upon the units per acre allowed by the applicable zoning multiplied by 0.02 acres.
- .4** The land area dedication or its cash equivalent is not required in excess of ten dwelling units per acre.

*Commentary: For example, if the applicant proposes 32 apartments on a two-acre lot, the parkland dedication would be calculated as follows: 0.02 acres X 10 dwelling units/acre X 2 acres = 0.40 acres dedication required (as opposed to 0.02 X 32 units).*

- .5** The City Council, in consultation with the subdivider, the Planning Board, or pursuant to the recommendations of the Park Board, may determine suitable locations for parks, play grounds, and trails.
- .6** Giving due weight to the expressed preference of the subdivider, the City Council may, in consultation with the Planning Board or the Park Board, determine whether the park dedication must be a land donation, a cash donation, or a combination of both. When the park requirement is satisfied using a combination of land dedication and cash donation, the amount of cash donated may not exceed the proportional amount of value in the land not covered by the land dedication.
- .7** Cash donation in-lieu of land dedication must be equal to the fair market value of the amount of land statutorily required to be dedicated. For the purpose of these regulations, the fair market value is the value of the unsubdivided, unimproved land based upon the zoning designation that will apply to the proposed subdivision at the time the final plat is submitted to the City for approval. Satisfactory evidence of fair market value shall be demonstrated by either of the following:

  - A.** An appraisal report prepared within six months of the date that a complete final plat application is submitted for approval, and conducted by a Montana State licensed general real estate appraiser (as provided under MCA 37-54-201-, et seq) chosen by the City. The City shall hire the appraiser, but the appraisal fee shall be the responsibility of the subdivider. Any appraisal fees paid by the City to hire an appraiser to determine fair market value shall be reimbursed by the subdivider prior to final plat approval; or
  - B.** The sale price of the property being subdivided, documented by a purchase and sell agreement or other executed contract, if it was purchased within one (1) year of the date of the final plat application submittal, provided the property's zoning designation remains unchanged and the sale was an arm's length transaction.
- .8** Parks and open space types and standards: parks, open space, and common area dedication must meet at least one of the following criteria:

  - A.** Provides for the preservation of a physical amenity such as a meadow, a stand of trees, significant wildlife habitat or a wildlife corridor, a scenic hillside with slopes less than 25%, a stream or other significant water body, a riparian resource area or some other natural feature that the City Council determines is significant enough for parkland dedication. Open space must be managed to remain in a near natural state when it has been dedicated for preservation or conservation purposes, and managed for noxious weeds and public safety concerns such as wildland fire and hazard trees. Public trail connections are permitted if deemed appropriate by the City Council; or
  - B.** Provides a site for active recreation and public gathering (neighborhood park), that must substantially conform to the following standards:

    - (1)** Five acres or greater in size unless the opportunity for this size is not feasible or required;

- (2) Centrally located within the proposed subdivision or adjacent to other planned or existing park or open space;
    - (3) Adjacent to public streets on at least 50% of the park's perimeter;
    - (4) Accessible to bicycle and pedestrian trails where possible; and
    - (5) At least 50% of the park must have 2% or less slope to accommodate playing fields.
  - C. Establishes a pedestrian/bicycle greenway corridor if such a corridor is determined by the parks department and approved by City Council to have a primarily recreational and/or commuter function; or
  - D. Creates a courtyard of less than .5 acre, provided the courtyard is part of a common area dedicated to a property owners' association; or
  - E. Provides for other parks, open space, or common area designs that meet the intent of this section and meet the goals of the *Master Parks and Recreation Plan for the Greater Missoula Area*, the *Missoula Urban Area Open Space Plan*, and other applicable area plans.
- .9 Unless the City Council determines otherwise, the following areas within a subdivision will not count toward the parkland dedication:
- A. Hillsides over 25% slope;
  - B. Riparian resource areas associated with irrigation or roadside ditches;
  - C. Monument entry areas and central landscaped boulevards;
  - D. Stormwater retention or detention ponds that are designed to hold stormwater runoff from less than 100-year events; and
  - E. Parking areas for more than five cars and road rights-of-way that are located within the parkland, open space, or common area, unless the parking is provided for the utilization of the parkland, open space, or common area.
- .10 Non-motorized access easements, 20 foot wide, must be provided where needed to connect parkland or common area to public streets. Pedestrian access easements on hillsides may require additional width to accommodate switchbacks for trails, etc. Setbacks for structures other than fences adjacent to the access easement must be a minimum of 10 feet. The City Council may require that the developer construct a trail leading into the park or common area.
- .11 The City Council must waive the park dedication requirement if it finds the following:
- A. The proposed plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses or common area, sufficient to meet the needs of the residents of the development provided that the area of land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication requirements under this section;
  - B. The proposed plat provides long-term protection of critical wildlife habitat, of cultural, historical, or natural resources, of agricultural resources, or of aesthetic values that also results in the reduction of the area proposed to be subdivided by an amount equal to or exceeding the area of dedication required by this section; or

- C. The combination of 3-080.11A and 3-080.11B results in the reduction of the area proposed to be subdivided by an amount equal to or exceeding the area of dedication required by these regulations.

### **3-090 Condominiums**

- .1 When condominium developments are subject to subdivision review, they must comply with those standards contained in Article 3 or may be submitted as a PUD subdivision (see [3-120](#)) in order to provide for flexibility in the design and placement of the condominiums.
- .2 Condominium developments must comply with all provisions of the Unit Ownership Act, MCA Sections 70-23-102 through 70-23-613.

### **3-100 Mobile Home Communities**

- .1 **Health Department Standards**  
Mobile home communities must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA 50, Chapter 60, as amended, and all applicable state and local regulations.
- .2 **Design Standards**  
Mobile home communities must comply with the following sections of Article 3:
  - A. [3-010](#) (General Standards);
  - B. 3-020 (Streets, Access, and Transportation), except right-of-way widths. (See [3-100.4](#) for road right-of-way widths.);
  - C. [3-040](#) (Grading and Drainage);
  - D. [3-050](#) (Utilities);
  - E. [3-130](#) (Riparian Resource Areas); and
  - F. [3-140](#) (Hillside Protection).
- .3 **Planned Unit Development**  
Mobile home communities may comply with the provisions of [3-120](#) (Planned Unit Developments) to allow the developer creativity in mobile home community design.
- .4 **Streets**
  - A. Right-of-way dedications are not required in mobile home communities.
  - B. Streets in mobile home communities must comply with the appropriate design standards for streets and roads specified in [3-020](#) except in regard to roadway widths. In all cases, streets must meet the following minimum width requirements:
    - (1) Collector street with parking allowances on both sides: 40-foot width;
    - (2) Collector street with parking allowance on one side: 32-foot width;
    - (3) Collector street with no parking allowance: 24-foot width;
    - (4) Local street with parking allowances on both sides: 40-foot width;
    - (5) Local street with parking allowance on one side: 32-foot width; and



(6) Local street with no parking allowance: 24-foot width.

- C. All streets within the mobile home community must be maintained by the park owner. All streets in mobile home communities must be paved.
- D. One guest parking space for every five mobile home lots must be provided. If no on street parking is provided, group parking must be provided.

**.5 Mobile home Lot**

- A. Mobile home lots must be arranged to permit the safe and practical placement and removal of mobile home units;
- B. The boundary limits of each mobile home lot must be marked on the ground by suitable means;
- C. An individual mobile home stand at least 14 feet wide and 70 feet long must be provided for each mobile home unit. These stands must be constructed of at least 6 inches of gravel over a stabilized sub-base;
- D. At least two on-site paved parking spaces must be provided for each individual mobile home lot when group parking has not been provided;
- E. The City Council may require that a common area be provided that may not be calculated as part of the required common area, for storage or parking of boats, trailers, or other recreational vehicles;
- F. Each mobile home stand must meet the regulations and minimum standards adopted by the Montana Department of Administration, Division of Architecture and Engineering, pursuant to MCA 50, Chapter 60, as amended;
- G. No detached structure, such as a storage shed, must be located within 5 feet of any mobile home unit or its attached structures; and
- H. Each mobile home unit must be skirted within 60 days after said mobile home unit is moved upon a lot within the mobile home community. Said skirting must be of a fire-resistant material similar to that of which the mobile home unit exterior is constructed and must be attached to the mobile home unit.

**.6 Water Supply, Sewage Disposal, and Solid Waste**

Mobile home communities must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 76, Chapters 4 and 5 as amended, and all applicable state and local regulations specifically including the Missoula City/County Health Code, Section I-IX and regulation 1 and 3, as amended. Sewage disposal systems must be permitted, installed, operated and maintained in accordance with the Missoula City/County Health Code and regulation 1, as amended, and solid waste management must comply with the Missoula City/County Health Code and regulation 3, as amended. The means for water supply is subject to approval by the Montana Department of Environmental Quality and the City Council. Sewage and solid waste disposal are subject to approval by the Health Authority and the City Council.

**.7 Required Buffer Strips and Screening**

- A. All mobile home units must be located at least 50 feet from the property line abutting upon a major arterial and at least 25 feet from all boundary lines and street rights-of way.

- B.** Mobile home communities located adjacent to industrial, commercial, or lower-density residential land uses must provide screening such as fences or natural growth along the property boundary line separating the community from such adjacent uses.

**.8 Landscaping**

The subdivider must submit a plan showing provisions for meeting the buffering requirements of these regulations. Provisions for vegetative coverage or landscaping of all unpaved areas must be included in this plan.

**.9 Setback and Bulk Requirements**

**A. Required Minimum Setbacks**

- (1)** Side-yard setback: 15 feet for principal buildings; 10 feet for accessory buildings;
    - (2)** Rear-yard setback: 10 feet; and
    - (3)** Front-yard setback: 10 feet.

**B. Bulk Requirements**

The accumulated area occupied by the mobile home units and its roofed accessory buildings and structures on the mobile home lot may not exceed 33% of the respective lot area.

**.10 Frontage Requirement**

Each mobile home lot must have at least 50 feet of frontage.

**.11 Recreation Area**

At least 1,000 square feet per dwelling unit or 1/9th of the total mobile home community area, whichever is greater, must be reserved for park or recreation area. That area must be located to conveniently serve residents of the entire mobile home community. Recreation areas may include space for community recreation buildings and facilities. Recreation areas must remain in private ownership and may not be dedicated to the public. Maintenance of recreation areas are the responsibility of the community owner.

**.12 Density**

The density of a mobile home community may not exceed seven dwelling units per net acre.

**.13 Mobile Home Community Inspection**

It is the responsibility of the community owner to maintain the community in a clean and sanitary manner, and the community is subject to inspection by the city officials at any time.

**.14 Ownership Responsibilities**

The subdivider must submit development covenants with the preliminary plat. Such covenants must include a set of community rules.

**.15 Licensing Requirement**

It is unlawful for any person to operate any mobile home community within the City of Missoula without holding a valid license issued by the Montana State Department of Environmental Quality, to be renewed annually.

**.16 Retail Uses**

Retail uses intended specifically for the convenience and service of the residents of the mobile home community must be designed and located in a manner to discourage use by nonresidents of the mobile home community.

**.17 Public Health and Safety**

Development of mobile home communities is prohibited in areas subject to conditions hazardous to the public health and safety.

**.18 Additional provisions: the City Council may require provision of:**

- A. Storage facilities on the lot or in compounds located within a reasonable distance;
- B. An off-street area for mail delivery; and
- C. Street lighting.

**3-110 Recreational Vehicle Parks**

**.1 General Standards and Utilities**

Recreational vehicle parks must comply with the provisions of [Article 4](#), and with the following sections of this article (Article 3):

- A. [3-010](#) (General Standards);
- B. [3-050](#) (Utilities);
- C. [3-130](#) (Riparian Resource Areas); and
- D. [3-140](#) (Hillside Protection).

**.2 Health Standards**

Recreational vehicle parks must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 50, Chapter 52, as amended, and all applicable state and local regulations.

**.3 Streets, Roads, and Recreational Vehicle Spaces**

- A. The arrangement, type, width, grade, and location of all streets must be considered in relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such streets;
- B. Streets and roads must be arranged to discourage through traffic;
- C. Horizontal alignment of streets must ensure adequate sight distance;
- D. Streets in recreational vehicle parks must be paved and are subject to the approval of the city engineer. Streets must be of adequate widths to accommodate the parking and traffic loads contemplated for the given type of street. In all cases each two-way street must have at least a 24-foot width, and each one-way street must have at least a 15-foot width. In no case may there be on-street parking. Adequate provisions for off-street parking spaces must be provided;
- E. Intersections of recreational vehicle park streets must comply with [3-020.9](#);
- F. All recreational vehicle spaces must be provided with safe and convenient vehicular access from abutting streets or roads. Surfacing is to be paved.

Exposed ground surfaces in all parts of every recreational vehicle space must be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of reducing dust; and

- G. Plantings required for buffering, screening, or soil erosion protection are subject to review by CPDI and the City Council. Existing trees and natural vegetation must be preserved to the maximum extent possible. A buffering screen must be placed along any perimeters of a recreational vehicle park that abut an arterial highway or access road.

#### **.4 Internal Design**

- A. Arrangement of recreational vehicle spaces must allow easy placing and removing of vehicles from individual spaces;
- B. Accessory facilities must be designed and located for safe and convenient use by occupants and to inhibit use of such facilities by non-occupants;
- C. Recreational vehicles must be separated from each other by at least 30 feet and from other structures by at least 50 feet. Any accessory structures such as an attached awning will, for purposes of this separation requirement, be considered part of the recreational vehicle;
- D. The density may not exceed 15 recreational vehicle spaces per acre of net site area;
- E. All recreational vehicle spaces must be located at least 50 feet from a public street or highway;
- F. Recreational vehicle parks located adjacent to industrial, commercial, or residential land uses must be screened with fences and natural growth along the property boundary line separating the park from such adjacent uses; and
- G. At least 1/9th of the total recreational vehicle park area must be reserved for park or recreational activity; this reserved area is to include any space intended or used for recreation buildings and facilities.

#### **.5 Grading and Drainage**

- A. All drainage systems must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 76, Chapter 4, as amended, and all applicable state and local regulations;
- B. The recreational vehicle park developer must provide suitable drainage facilities for any surface run-off affecting the park. These facilities are subject to approval by the city engineer;
- C. Each culvert or other drainage facility must be large enough to accommodate potential run-off from upstream drainage areas; and
- D. Drainage systems may not discharge into sanitary sewer facilities.

#### **.6 Water Supply, Sewage Disposal, and Solid Waste**

All water supply, sewage disposal, and solid waste systems must meet the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 76, Chapter 4, as amended, and all applicable state and

local

regulations. The means for water supply is subject to approval by the Health Authority, the appropriate Fire Department, and the City Council. The means for sewage and solid waste disposal are subject to the approval of the Health Authority and the City Council.

**.7 Additional provisions: the City Council may require provision of:**

- A.** Storage facilities on the lot or in compounds located within a reasonable distance;
- B.** An off-street area for mail delivery; and
- C.** Street lighting.

**3-120 Planned Unit Developments (PUD)**

**.1 Purpose**

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design. The PUD regulations are expressly intended to accommodate developments that may be difficult if not impossible to carry out under otherwise applicable subdivision and zoning regulations. Examples of the types of development that may benefit from the PUD regulations include the following:

**A. Enhanced Protection of Natural Resource Areas**

Developments that offer enhanced protection of natural resources and sensitive environmental features, including streams, water bodies, floodplains, wetlands, steep slopes, woodlands, wildlife habitats and native plant communities.

**B. Traditional Urban Development**

Developments characterized by parcel configurations, street patterns, streetscapes, and neighborhood amenities commonly found in urban neighborhoods platted or otherwise created before the 1950s.

**C. Mixed-Use Development**

Developments that contain a complementary mix of residential and nonresidential uses.

**D. Affordable Housing**

Developments in which at least 20% of the total number of dwelling units are subsidized or priced to be affordable to households earning 80% or less of the Missoula County median income, as determined by the U.S. Department of Housing and Urban Development (HUD).

**.2 Designation as PUD**

A PUD development must comply with PUD provisions in the zoning ordinance. If the area is unzoned, a PUD must meet the requirements of these regulations. To obtain designation of a subdivision as a PUD, the subdivider must submit to Development Services the following:

- A.** A written request that the plan of the proposed subdivision be reviewed as a PUD;
- B.** A layout plan showing the proposed location and use of lots and structures and, if appropriate, the location and number of parking spaces;

- C. A sketch plan of the proposed subdivision containing all information requested in [4-010.1](#) (Pre-application Meeting);
- D. A description of open space, recreational facilities, roads, and other facilities proposed to be under common ownership;
- E. Proposed restrictive covenants, if any;
- F. A description of proposed forms of property ownership within the development;
- G. A statement describing measures to be taken to assure permanence and maintenance of open space and other facilities to be held in common ownership;
- H. A schedule showing street and utility improvement completion dates;
- I. A description of all proposed variations from the requirements and provisions of this Article 3; and
- J. Any additional information that the Development Services may reasonably require.

**.3 Criteria for Designation**

Development Services must review the information and proposed plan and, before designating the subdivision a PUD, must determine that the development plan promotes the clustering of individual building sites, conforms to the definition and intent of this section, and does four or all of the following:

- A. Preserves, to the maximum extent possible, the natural characteristics of the land including topography, vegetation, and streams or other bodies of water;
- B. Provides for economical development of streets and other public improvements;
- C. Protects important wildlife habitat or important historic sites or structures and preserves productive agricultural land, open space, or riparian resource areas;
- D. Provides for dedication and development of common open space for recreational purposes; or
- E. Provides developed facilities for recreational purposes.

**.4 General Provisions**

A PUD must comply with the provisions of the following sections of Article 3:

- A. [3-010](#) (General Standards);
- B. [3-040](#) (Grading and Drainage);
- C. [3-050](#) (Utilities);
- D. [3-060](#) (Easements);
- E. [3-070](#) (Water Supply, Sewage Disposal and Solid Waste);
- F. [3-130](#) (Riparian Resource Areas); and
- G. [3-140](#) (Hillside Protection).

**.5 Waivers**

The sections in these regulations on lots, blocks, streets and roads, and park and open space requirements may be modified or waived by the City Council upon request of the subdivider when the plan for a PUD includes provisions for efficient traffic circulation and adequate light, air and open space and when such standards are not practical or reasonable in the overall PUD subdivision design.

**.6 Density**

In those areas where no zoning exists, the director of CPDI and local and state Health Authorities must recommend to the City Council, in consultation with the subdivider, the overall dwelling-unit density. The City Council must approve the overall density.

**.7 Park and Open Space Requirements**

Each PUD must provide at least 1/9 of the platted area, exclusive of all other dedications, for common open space. The open space must be either:

- A. Held in common ownership by the owners in the development area;
- B. Dedicated to public use, if this alternative is acceptable to the City Council; or
- C. A combination of 3-120.7A and 3-120.7B.

**.8 Phased PUD Development**

When the park dedication requirement is in other portions of the development that will be platted in the future, and since any portion of a PUD is tied to and dependent upon all other portions, the subdivider must commit to developing the land in the manner approved or else subject previously platted phases to being vacated by the City Council. If a plan calls for a development time of 18 months or more for improvements, the subdivider must provide a schedule showing the times when the improvements will be completed.

**3-130 Riparian Resource Areas**

*Commentary: The term “riparian resource area” includes the “riparian resource” and the “riparian buffer”. See also “riparian” definitions in [Article 2](#).*

**.1 Purpose**

- A. Riparian resources provide protection from river channel changes, protection of riparian habitat and associated fish and wildlife, protection of water quality and quantity, flood control, bio-diversity forage, recreational uses and a visually attractive environment. Educational opportunities in Missoula’s riparian resource areas may lead to a greater understanding, and thus, greater protection and enhancement of these valuable resources.
- B. These regulations apply to a functional district with standards that would trigger inquiries when a subdivision is proposed in or through what may be considered a riparian resource area. A functional definition for riparian resource areas will ensure protection of the resource, without unnecessarily impacting developable land. Functional standards are proposed. A map generally locating major riparian resource areas is available for viewing at CPDI. Not all riparian resource areas within the City of Missoula

are shown on this map. Riparian resource areas are typed by site-specific soil, habitat and community types. All other unmapped riparian resource areas that meet the definitions and criteria of these regulations are also subject to these standards.

- C. The intent of this section is to ensure that no subdivision is approved that is determined by the City Council to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, damaging to riparian resource areas, or any other feature likely to be harmful to the public health, safety and welfare of the future residents of the City of Missoula. More specifically, it is the intent of these regulations to ensure the following:
- (1) That riparian resource areas remain available to support diverse and productive aquatic and terrestrial riparian systems and habitats and protect water quality;
  - (2) That stream channels and banks are protected;
  - (3) That riparian resource areas are preserved to act as an effective sediment filter that help maintain water quality;
  - (4) That riparian resource areas must be protected to preserve large, woody debris that is eventually recruited into a stream to maintain riffles, pools and other elements of channel structure and further to provide shade to regulate stream temperature;
  - (5) That the riparian resource area must be preserved to promote floodplain stability;
  - (6) That the public interest in the quality and quantity of surface and ground waters must be protected;
  - (7) That standards for development of land in riparian resource areas are site-specific, allowing for flexibility for development while maintaining the integrity of these areas;
  - (8) That development within riparian buffers protects and maintains the integrity and function of riparian resources;
  - (9) That development may include educational, cultural and recreational facilities, where it conserves the riparian resource, and meets the goals of the *Growth Policy*; and
  - (10) That riparian resource areas be preserved to promote the high quality of life in the City of Missoula that depends in part on high quality of water, a healthy and visually attractive natural environment, and ample recreational opportunities in proximity to and within the City of Missoula. In general, the interest in resource conservation prevails.

## **.2 Designation of Riparian Resource Area**

Riparian resource areas, riparian resources and riparian buffers must be designated with bearings and distances.



**.3 Riparian Management Plan**

- A. In order to meet the purposes outlined in [3-130.1](#), a riparian management plan for riparian resource areas must be submitted with the development proposal. Plan guidelines and standards are included in [5-020.14L](#). The riparian management plan must include at least the following information:
- (1) Proposed access to and through the area;
  - (2) Proposed low-impact use of the area;
  - (3) Planned restoration of the area with native plant species;
  - (4) Planned mitigation of all development and use impacts; and
  - (5) Planned buffer to mitigate impacts of development adjacent to riparian resources.
- B. Approved riparian resource management plans must be implemented in perpetuity and may not be altered without City Council approval.
- C. The riparian management plan must include a provision stating that all owners are subject to and must abide by the riparian resource management plan.

**.4 Subdivision Prohibition**

- A. No subdivision may be approved that creates lots that are wholly or partially within riparian resource areas except for subdivisions in which the dedication of common area or parkland is not required, in which case lots may be located partially within riparian resource areas. Subdivisions with one or more lots that are partially within riparian resource areas must provide for protection of the resource specific to the area, as outlined in the management plan and as approved by the City Council; and
- B. No development of any kind or removal of vegetation may be approved within riparian resource areas, except as outlined in the riparian management plan approved by the City Council. Riparian resource areas may be counted in calculating allowed density of development and in meeting parkland and open space requirements.

**.5 Road Construction**

Road construction is prohibited within riparian resource areas except in cases when there is no other practical route to access the subdivision; when a road is necessary to provide emergency vehicle access to adjacent parcels or when the road is crossing only an irrigation ditch. Road construction for any other reason is prohibited in riparian resource areas unless a variance is approved in accordance with [3-130.7](#). If road construction is allowed in accordance with this section, the following regulations apply and must be addressed in the riparian resource management plan:

- A. All crossings of riparian resources must occur at a perpendicular angle and in such a manner as to minimize the number of crossings and minimize disturbance of the riparian resource area;
- B. The intentional sidecasting of road material into a riparian resource during road construction or maintenance is prohibited;
- C. Routes must be chosen based on the avoidance of negative impact to riparian vegetation and sensitive environmental conditions;

- D. Roads may not be constructed in areas where soils have a high susceptibility of erosion that would create sedimentation and pollution problems during and after construction;
- E. Roads may not intrude into areas adjacent to open exposures of water, and must avoid scenic intrusion by using the existing contours for the road alignment and minimizing the use of fill;
- F. Effective erosion and sedimentation control practices must be conducted during all clearing, construction or reconstruction operations; and
- G. Road fill material may not be deposited in the riparian resource area in such a location or manner as to cause adverse impacts to the riparian resource area.

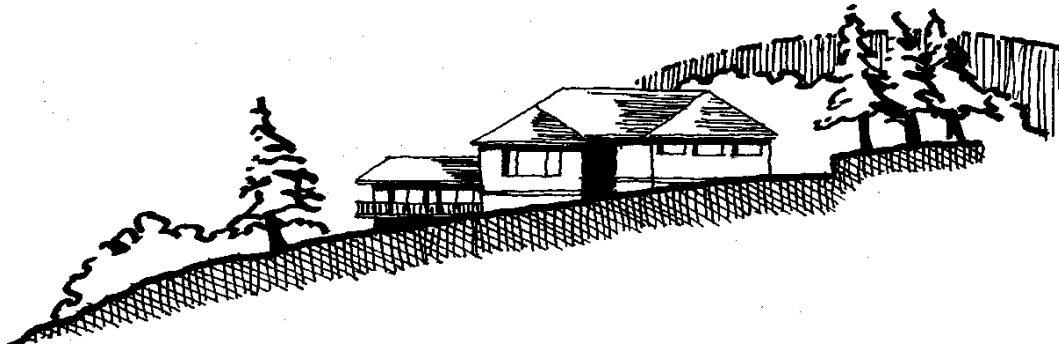
#### **.6 Trail Construction**

- A. Trail plans must be reviewed by the Parks Department and approved by the Parks Department and City Council.
- B. The following design standards apply to permitted trails:
  - (1) Opportunities for public or private access must be consolidated to protect riparian resource areas from excessive disturbance;
  - (2) Trails must be limited to the size and extent necessary to maintain linkages and provide for safe, non-motorized transportation, as described in the *Missoula Non-Motorized Transportation Plan*;
  - (3) The function of the proposed trail, the level of use, the potential impacts and the management strategy must mitigate any adverse effects on the riparian resource area;
  - (4) To serve safety and security, construction, landscaping, and signage must clearly define the trail and mark the transition from public to private space;
  - (5) A mechanism must be provided assuring continued maintenance of the trail;
  - (6) Removal or disturbance of riparian vegetation must be minimized. Existing landforms must be preserved, to the maximum extent possible, including following natural contours and minimizing grading;
  - (7) No motorized vehicles are allowed within riparian resource areas, except as necessary for maintenance, agricultural management, or safety;
  - (8) A buffer must be established between the trail and any adjacent water bodies; and
  - (9) Trails may not be located on steep stream banks.

#### **.7 Variance Procedure**

The City Council may grant variances from the requirements of this section only if it determines that the variance criteria of [6-010](#) are met and that strict compliance with the subject regulation is not essential to the public health, safety, and welfare. The City Council must consider the purpose of these riparian resource area regulations (see [3-130.1](#)) in deciding variance requests.

### 3-140 Hillside Protection



#### .1 Purpose

- A. Hillside areas of the City of Missoula are characterized by slope, vegetation, drainage, rock outcroppings, geologic hazards, and other physical factors which, if disturbed for the purposes of development, can cause physical damage to public and private property. Therefore, the development of such areas and adjacent land requires special care.
- B. The hillside protection regulations of this section are intended to supplement other standards within these regulations, in order to substantially accomplish the following objectives:
  - (1) the protection of hillside land and resources within the legitimate expectations of property owners and the city's overall goals;
  - (2) the protection of the public from natural hazards due to seismic activity, soil characteristics that are limiting, landslides, slope instability, sedimentation, stormwater runoff, sheet flooding on frozen surfaces, soil erosion, and groundwater;
  - (3) the preservation of natural features, wildlife habitat, and open space;
  - (4) the minimization of land disturbance and retention of natural topographic features, such as drainage channels, streams, ridge lines, rock outcroppings, vistas, trees and native vegetation;
  - (5) promote subdivision design sensitive to existing vistas;
  - (6) the preservation and enhancement of visual and environmental quality by use of natural vegetation and minimal excavation and terracing;
  - (7) the assurance of an adequate transportation system, including non-motorized transportation, for the total hillside area that considers densities and topography with minimal cuts, fills, and other visible scars;
  - (8) the establishment of on-site and off-site transportation systems that ensure ingress and egress for vehicles, including emergency vehicles, into all developed areas at all times;
  - (9) the encouragement of innovative planning, design, and construction techniques for development in environmentally sensitive areas; and
  - (10) the mitigation of adverse environmental impacts, including, but not limited to, erosion and the degradation of air and water quality.

**.2 Applicability**

The hillside protection regulations of this section apply to any existing slope of 15% or greater.

**.3 Minimum Building Site**

All lots must have a contiguous building site area of at least 2,000 square feet, none of which may contain slopes of greater than 25%.

- A.** Prior to development, the developer must provide a site plan of the entire subdivision showing areas of slope category between: 0—14.99%, 15 – 20%, 20.01—25%, and over 25%. Each slope category is allowed an adjusted density. The density may be used within that slope category or may be used in a lesser slope category.
- B.** In residential developments with lot sizes one acre or smaller, if the total percentage of the impervious surface exceeds 35% of the lot size, additional drainage and erosion control considerations may be required. Cluster and conservation developments are exempt from this standard.

**.4 Allowed Density by Slope**

The following maximum density limits (expressed as minimum lot area per unit requirements) apply:

<b>Slope of Subdivided Area (%)</b> <sup>[1]</sup>	<b>Minimum Lot Area per Dwelling Unit</b>
Less than 15	As allowed by underlying zoning or unzoned area regulations of the <i>Zoning Ordinance</i>
15–20	1.43 x zoning district's minimum area per unit requirement
20.01–25	2.0 x zoning district's minimum area per unit requirement
Greater than 25	Building is prohibited

<sup>[1]</sup> Areas of slope shall be calculated from the slope prior to development and measured in 5 feet contours for all slopes greater than 15%.

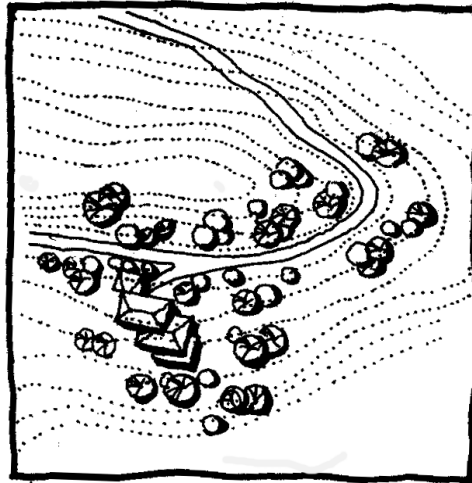
**.5 Maximum Buildable Slope**

Development is prohibited on slopes of greater than 25%.

**.6 Roads, Driveways, and Parking**

- A.** Road, driveway and parking standards are administered and enforced by the City Engineering Division and Fire Department.
- B.** Roads, driveways and parking areas must be designed to:
  - (1) reduce cut and fill;
  - (2) minimize site disturbance;
  - (3) provide year-round access; and
  - (4) accommodate emergency response equipment.
- C.** Roads and driveways must substantially follow natural contours within the slope limitations of the city road standards and not exceed a maximum grade of 8%. A maximum grade of up to 10% may be allowed for a length of up to 50 feet if approved by the Fire Department and city engineer. Adjoining property owners are encouraged to share driveway and parking areas, to minimize the need for driveways. Mutual easements for such purposes must be shown on the face of the plat.

- D. Road signs to restrict parking along hillside streets and roads in the winter months in order to allow for snow removal, may be required by the city engineer.
- E. All road construction must be confined to stated right-of-way widths or roadway easement widths. All private lot improvements must occur outside the right-of-way except for improvements for driveways and pedestrian connections.



**3-150 Agricultural Land Preservation**

RESERVED

**3-160 Wildlife Habitat and Biologically Sensitive Land Protection**

RESERVED

**3-170 Wildland Fire Protection**

RESERVED

**3-180 Cluster and Conservation Development**

**.1 Purpose/Description**

- A. The regulations of this section are intended to encourage subdivision designs that are more efficient and provide more open space and greater natural resource protection than conventional subdivision designs. Cluster and conservation subdivision designs allow more compact and less costly networks of roads and utilities. They can also help reduce stormwater runoff and non-point source pollutant loading rates and can be used to preserve an area's semi-rural character. Cluster and conservation subdivisions are intended to reduce stormwater runoff and flooding, preserve natural resources (including agricultural lands), protect water quality and encourage the provision of needed open space and recreational amenities for residents.
- B. The cluster and conservation subdivision standards of this section require that a specified portion of each subdivision be set aside and permanently preserved as open space. The primary difference between "cluster" subdivisions and "conservation" subdivisions is the amount of open space that must be preserved.

- C. The required open space area within cluster or conservation subdivisions can be set aside to conserve and protect significant natural resources, such as stream buffers, steep slopes and woodlands. It can be used to preserve agricultural lands or to provide passive or active recreational opportunities for the subdivision's residents and/or the general public.

**.2 Parcel and Building Standards**

Cluster and conservation subdivisions must comply with the parcel and building standards of [20.05.050](#) (Table 20.05-3) of the *Zoning Ordinance*, which also establish minimum open space requirements for cluster and conservation subdivisions.

**.3 Maximum Density**

- A. The maximum number of dwelling units allowed within a cluster subdivision or a conservation subdivision is computed by dividing the gross area of the proposed subdivision minus the area within existing rights-of-way by the applicable minimum-parcel-area-per unit standard of *Zoning Ordinance* section [20.05.050](#) (Table 20.05-3).
- B. If the cluster subdivision or conservation subdivision is located in more than one zoning district, the maximum number of dwelling units allowed must be determined separately for each portion of the subdivision lying within a different zoning district. Density may be transferred from one portion of the subdivision to another as long as the transfer does not result in an increase in the number of dwelling units allowed in the subdivision as a whole.

**.4 Open Space**

**A. General**

- (1) Open space provided to meet minimum open space requirements must be in one or more parcels dedicated or otherwise protected as permanent (active or passive) open space.
- (2) The following areas may not be counted towards meeting minimum open space requirements:
  - (a) floodways;
  - (b) jurisdictional (Army Corps of Engineers) wetlands and waterways;
  - (c) lands with a slope of greater than 25%; and
  - (d) water bodies with a contiguous area of more than 5,000 square feet.
- (3) Any city-accepted parkland or open space under the subdivision regulations (parkland dedication requirements) will be counted towards meeting minimum open space standards for cluster subdivisions and conservation subdivisions. Such parkland dedication will be governed wholly by the provisions of [3-080](#).

**B. Location and Design**

The location, size, character and shape of required open space must be appropriate for its intended use.

- (1) Open space proposed to be used for recreation, particularly active recreation, should be located and designed so that it can be accessed conveniently and safely by intended users, and open space to be used for ball fields, playing fields or other active recreational facilities should be located on land that is relatively flat and dry.
- (2) In the case of resource protection, open space must be designed to provide maximum protection for the subject resources, such as continuous blocks of wildlife habitat and corridors, plant habitat, agricultural lands (soils), or riparian resource areas.

**C. Use**

- (1) Open space set-asides that protect wildlife habitat areas and corridors or promote preservation of agricultural lands and sustainable food production activities are the highest priority for open space.
- (2) Open space may also be dedicated or reserved for one or more of the following uses:
  - (a) conservation of, and avoidance of development in, any readily identifiable natural hazard areas, i.e., areas that potentially pose a significant hazard to people or property (e.g., drainageways, wetlands, and lands whose slope and/or soils make them particularly susceptible to subsidence or erosion when disturbed by development activities);
  - (b) conservation and protection of riparian vegetation within riparian resource areas;
  - (c) conservation and protection of natural resources (e.g., rare plant communities and wildlife habitat) or other environmentally sensitive areas where development might threaten water quality or ecosystems;
  - (d) protection of hillsides with a slope of 25% or less and prominent viewsheds;
  - (e) conservation and protection of significant historic or cultural resources; or
  - (f) provision of active and/or passive outdoor recreation opportunities for the general public or for the subdivision's residents.
- (3) Open space may contain active recreation areas and only such buildings, structures, accessways and parking facilities as are necessary and accessory to its principal uses (e.g., pedestrian paths, recreational club houses, utility lines, driveways, parking areas). Unless otherwise approved by CPDI, all active recreation areas, permanent structures and impervious surfaces must be of a "low-impact" design, and management practices must be instituted to protect and enhance the natural character and function of the open space. Such development requires:
  - (a) a tree and native vegetation preservation plan that limits site disturbance to the minimum required for construction and protects mature vegetation areas from degradation;

- (b) landscape restoration using native plant species;
  - (c) low-input, natural vegetation management practices; and
  - (d) stormwater management best management practices.
- (4) Open space areas may be used for low-impact design stormwater management practices.
- (5) Open space areas may not be used for irrigation with treated sanitary sewage.
- (6) The area of stormwater retention/detention ponds that are designed to hold stormwater from less than 100-year storm events may not be counted toward satisfying minimum open space requirements.
- (7) Roadways and parking areas within open space areas may not be counted toward satisfying minimum open space requirements unless they provide public access to the open space area.

**D. Ownership and Management**

- (1) The applicant must identify the owner of the open space. The designated owner and the owner's successors are responsible for maintaining the open space and any associated facilities. If a property owners' association is the owner, membership in the association is mandatory and automatic for all property owners within the subdivision and their successors. If a property owners' association is the owner, the property owners' association must have lien authority to ensure collection of dues from all members.
- (2) The applicant must submit a management plan for the open space and all common areas. The management plan must:
  - (a) allocate responsibility and guidelines for the maintenance and operation of the open space and any associated facilities, including provisions for ongoing maintenance and for long-term capital improvements;
  - (b) address weed management;
  - (c) estimate the costs and staffing requirements needed for maintenance, operation and insurance and outline the means by which necessary funding will be obtained or provided;
  - (d) provide that any changes to the management plan be approved by the City Council; and
  - (e) provide for enforcement of the management plan.
- (3) In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, the city may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance, plus any administrative costs and penalties, may be charged to the owner, property owners' association, or to the individual property owners that make up the property owners' association. Unpaid costs will become a lien on all properties within the subdivision.



- (4) Construction fencing must be placed at the outer edge of any existing vegetation to be preserved in the permanent open space area. This fencing must be in place before receiving final city approval of plans for clearing, grading, or sediment and erosion control and must be maintained throughout the construction process.

## **.5 Permanent Protection of Open Space**

- A. The open space must be protected in perpetuity by dedication to the city, subject to the city's acceptance, or by a binding legal instrument that is recorded with the deed. The legal instrument must be one of the following:
  - (1) a permanent conservation easement in favor of either:
    - (a) a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization must be bona fide and in perpetual existence and the conveyance instruments must contain an appropriate provision for transfer in the event the organization becomes unable to carry out its functions; or
    - (b) a governmental entity (if the entity accepting the easement is not the city, then a third right of enforcement favoring the city must be included in the easement);
  - (2) a permanent restrictive covenant for conservation purposes in favor of a governmental entity; or
  - (3) an equivalent legal tool that provides permanent protection, as approved by the city attorney.
- B. The instrument for permanent protection must include clear restrictions on the use of the open space. These restrictions must include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the open space.

## **.6 Perimeter Treatment Abutting Conventional Developments**

### **A. Perimeter Treatment Options**

When a cluster or conservation subdivision is proposed abutting an existing or approved residential subdivision or other residential development that is not part of the cluster or conservation subdivision, one of the following options must be provided as part the cluster or conservation development:

- (1) All lots along the perimeter of the cluster or conservation development abutting the residential subdivision or residential development must be at least 80% of the area, width and depth of the abutting lots within the conventional subdivision; or
- (2) A natural or restored vegetative buffer must be provided between developed areas within the cluster and conservation subdivision and the abutting residential subdivision or development in accordance with [3-180.6B](#).

**B. Vegetative Buffer Option**

The following requirements apply to the vegetative buffer option:

(1) The minimum width of the vegetative buffer is as follows:

Abutting Zoning	Area of Perimeter Lots (square feet) within Cluster/Conservation Subdivision					
	80,000+	40,000–79,999	20,000–39,999	10,000–19,999	5,000–9,999	Less than 5,000
	Minimum Buffer Width (feet)					
<b>R215</b>	100	150	200	250	300	500
<b>R80</b>	None	50	100	150	200	250
<b>R40</b>	None	None	50	100	150	200
<b>R20</b>	None	None	None	50	100	150
<b>RT10</b>	None	None	None	None	50	100
<b>R8</b>	None	None	None	None	None	100
<b>R5.4</b>	None	None	None	None	None	50
<b>RT5.4</b>	None	None	None	None	None	None
<b>R3</b>	None	None	None	None	None	None
<b>RT2.7</b>	None	None	None	None	None	None
<b>RM2.7</b>	None	None	None	None	None	None
<b>RM1.5</b>	None	None	None	None	None	None
<b>RM1</b>	None	None	None	None	None	None
<b>RMH</b>	None	None	None	None	None	None
<b>RM0.5</b>	None	None	None	None	None	None

(2) The land area within the perimeter buffer may be used to satisfy minimum open space requirements of the cluster or conservation subdivision. The vegetative buffer area may not be included as a part of any platted residential lot within the cluster or conservation subdivision.

## Article 4. Review and Approval Procedures

<a href="#">4-010</a>	General Provisions for all Major and Minor Subdivisions .....	4-1
<a href="#">4-020</a>	Minor Subdivision Review Procedure .....	4-9
<a href="#">4-030</a>	Major Subdivision Review Procedure .....	4-10
<a href="#">4-040</a>	Review Procedure for Condominiums .....	4-13
<a href="#">4-050</a>	Removed - (2014 Legislative changes) .....	4-14
<a href="#">4-051</a>	Expedited Review Procedure .....	4-14
<a href="#">4-060</a>	Review Procedure for Mobile Home Community and Recreational Vehicle Park Subdivision .....	4-16
<a href="#">4-070</a>	Preliminary and Final Plats .....	4-17
<a href="#">4-080</a>	Vacating Recorded Plats .....	4-25

### 4-010 General Provisions for all Major and Minor Subdivisions

#### .1 Pre-application Meeting

The subdivider must attend a pre-application meeting for a proposed subdivision.

- A. A pre-application meeting must occur within 30 days after the subdivider submits a written request to Development Services.
- B. At the time of the written request for the pre-application meeting, the subdivider must provide Development Services with the following general information:
  - (1) A preliminary plat drawn to scale showing general information on the current status of the site; including:
    - (a) Location;
    - (b) Approximate tract and lot boundaries of existing tracts of record;
    - (c) Description of general terrain;
    - (d) Natural features, e.g., lakes, streams and riparian vegetation;
    - (e) Existing structures and improvements;
    - (f) Approximate location of existing utility lines and facilities;
    - (g) Approximate location of existing easements and rights-of-way; and
    - (h) Parks and open space.
  - (2) A preliminary plat drawn to scale showing general information on the proposed subdivision, including:
    - (a) Approximate location tract and lot boundaries;
    - (b) Building/lot layout;
    - (c) Proposed access;
    - (d) Proposed public improvements;
    - (e) General location of proposed utility lines and facilities;
    - (f) Approximate location of easements and rights-of-way; and

- (g) Parks and open space, if applicable.
    - (3) General maps and information including:
      - (a) A brief narrative of the project;
      - (b) Zoning map with site identified, if applicable;
      - (c) Comprehensive plan map with site identified;
      - (d) Floodplain map with site identified, if applicable;
      - (e) Vicinity sketch showing adjacent uses with site identified;
      - (f) Topographic map with site identified;
      - (g) Aerial photograph, if available, with site identified; and
      - (h) Slope category map, if applicable.
    - (4) A phasing plan diagram (if applicable) in the form of a preliminary plat of the full subdivision indicating all independent platted development phases, with a number or letter for each phase, and a legend that includes the deadline for submittal of the final plat for each phase for review.
  - C. At the pre-application meeting Development Services will identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process.
    - (1) Development Services will identify any additional information that will be required for review of the subdivision application. This does not limit the ability of Development Services to request additional information at a later time.
    - (2) Within five business days, Development Services will provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision and that may be required to be contacted for comment on the subdivision application. Development Services must also identify the timeframes that the public utilities, agencies and other entities are given to respond to the proposal.
    - (3) If the subdivision application is not submitted within one year of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application. If, in the determination by Development Services, the subdivision application reflects a substantial change in design or lot lay out or if significant land use changes have occurred near the proposed subdivision, Development Services may require a second pre-application meeting.

## **.2 Neighborhood Meeting**

- A. Before the application is submitted and after the pre-application meeting, the subdivider must meet with the appropriate registered neighborhood associations, neighborhood council, and any interested individuals. The subdivider may choose to meet with all groups at the same meeting at a location within the neighborhood. The applicant must post meeting notices within 300 feet of the property where the proposed project is to be located. The applicant must mail meeting notices, at least 15 business days in advance, to residents within 300 feet of the project, to City Council ward

representatives, Development Services, and the neighborhood council and neighborhood association. The subdivision application must include any written response from the neighborhood organization contacts and any written comments received from individuals, the neighborhood group and minutes from the meeting detailing comments and suggestions.

- B. Subdivision subject to Section 4-051, Expedited Review are exempt from the neighborhood meeting requirement.

**.3 Subdivision Application and Preliminary Plat Submittal**

One paper copy and a digital copy of the following information and documents, and the appropriate subdivision review fee, must be supplied by the subdivider to Development Services:

- A. The completed subdivision application.
- B. The preliminary plat of the proposed subdivision that contains the information and supplements required by [Article 5](#) and that conforms to the design and improvement standards established in Article 3.
- C. Any additional information as identified by the Development Services during the pre-application meeting.

**.4 Subdivision Application Review Process – Element Review**

A subdivision application is considered to be received on the date of delivery to Development Services when accompanied by the review fee. Within five business days of receiving the application and the review fee, Development Services must determine whether the application contains all of the elements required by [4-010.3](#).

- A. If Development Services determines there are items missing from the application, Development Services must identify those missing elements in a written notification to the subdivider. No further action may be taken on the application until the missing elements are submitted.
  - (1) Upon the re-submittal of the application, Development Services has five business days to notify the subdivider whether the resubmitted application contains all of the required elements.
  - (2) This process must be repeated until the subdivider submits an application containing all of the materials required by [4-010.3](#) as determined by Development Services.
- B. The five-business day review period will be considered met if the determination notice is postmarked within five business days of receiving the application and review fee.
- C. Upon receipt of the notice from Development Services indicating that all elements of the application are complete, the subdivider must provide one copy of the application, or the relevant portions of the application, to the reviewing agencies and homeowner or landowner associations, appropriate neighborhood councils, or other neighborhood organizations identified by Development Services.

**.5 Subdivision Application Review Process – Sufficiency Review**

- A.** Development Services will determine whether the application contains detailed supporting information sufficient to allow for the review of the proposed subdivision. Notice to the subdivider of the determination must be dated and in writing and must be provided by Development Services within 15 business days from the date of Development Services notice that all elements of the application are complete. The 15-business day review period will be considered met if the determination notice is postmarked within 15 business days of the date of element determination.
- B.** If Development Services determines that the information in the application is not sufficient to allow for review of the proposed subdivision, Development Services must identify the insufficient information in its notification and no further action may be taken on the application until the application is resubmitted.
  - (1)** If the subdivider corrects the deficiencies and resubmits the application, Development Services has 15 business days to notify the subdivider whether the resubmitted application and required elements contain detailed supporting information sufficient to allow for review of the proposed subdivision.
  - (2)** This process must be repeated until the application is deemed sufficient by Development Services.

**.6 Limitations on Sufficiency Determination**

A determination of sufficiency does not:

- A.** Ensure that the proposed subdivision will be approved or conditionally approved by the City Council;
- B.** Limit the ability of Development Services, the Planning Board or the City Council to request additional information during the review process;
- C.** Limit the Montana Department of Environmental Quality (DEQ), or authorized agents of the DEQ, from requiring additional water and sanitation information as part of the DEQ review of water and sanitation information.

**.7 Sufficiency Determination**

Upon receipt of a determination of sufficiency letter, the subdivider must provide to Development Services additional copies of the application and supporting materials in such numbers as required by Development Services. At this time, the subdivider must send a letter to appropriate property owners' associations, appropriate neighborhood councils, or other neighborhood organizations identified by Development Services, notifying them that the proposed subdivision has met the sufficiency requirements and is being scheduled for a hearing or meeting. The supporting materials must include agency comment letters received during the 15-business day review period and the subdivider's response to the agency comment letters.

*Commentary: The required number of copies of the application and supporting material varies for minor subdivisions and major subdivisions.*

**.8 Amended Applications**

If the subdivider changes the subdivision application or preliminary plat after Development Services makes a determination of sufficiency but before the City Council has rendered a decision, the subdivider must submit the amended application to Development Services for review. Changes made by the subdivider in response to Development Services, agencies or public comment will not force a suspension of the review period by more than ten business days.

- A. Within five business days of receiving the amended application or preliminary plat, Development Services must determine whether the changes to the subdivision application or preliminary plat are material.
- B. The review period is suspended while Development Services considers whether the changes to the subdivision application or preliminary plat are material.
- C. If Development Services determines the changes are not material, the review period resumes when Development Services mails notice of the decision to the subdivider.
- D. If Development Services determines the changes are material, it may either require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application or proceed with the review period.
- E. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period.
- F. The following changes, although not an exhaustive list, may be considered material:
  - (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.

**.9 Determination of Amended Applications – Appeal Process**

A subdivider whose subdivision application or preliminary plat has been deemed materially changed by Development Services may appeal the decision to the City Council by written notice within ten business days. The subdivider may request a hearing and may submit additional evidence to show that the changes to the preliminary plat are not material.

- A. The review period is suspended until the City Council decision on the appeal is made.
- B. If the City Council concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the City Council must determine whether the subdivision application should be resubmitted.

- C. If the City Council concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are not material, the review period resumes as of the date of the decision.
- D. By appealing the decision of Development Services, the subdivider agrees to suspension of the review period.

**.10 Applicable Regulations**

Subdivision review and approval, conditional approval or denial must be based on the regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, must be based on the new regulations.

**.11 Water and Sanitation – Special Rules**

- A. For a proposed subdivision that will create one or more parcels containing fewer than 20 acres, the City Council must require approval by the DEQ as a condition of approval of the final plat.
- B. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the City Council must condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drain-field for each lot.
- C. The City Council must collect public comments submitted regarding water and sanitation information and must make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after the conditional approval or approval of the subdivision application and preliminary plat.
- D. The subdivider must, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the City Council to the:
  - (1) Reviewing authority provided in MCA Title 76, Chapter 4, for subdivisions that will create one or more parcels containing fewer than 20 acres; and
  - (2) Local Health Department or Board of Health for proposed subdivisions that will create one or more parcels containing 20 acres or more and fewer than 160 acres.
- E. The City Council may approve, conditionally approve or deny a proposed subdivision application as a result of the water and sanitation information provided or public comment received regarding the water and sanitation information only if the conditional approval or denial is based on existing subdivision, zoning, floodplain or other regulations that the City Council has the authority to enforce.

**.12 Subdivider's Preference for Mitigation**

No later than ten days before the meeting or hearing at which the City Council is to consider the subdivision application and preliminary plat, the subdivider may



submit in writing to the City Council comments on and responses to the Planning Board's recommendations, in the case of a major subdivision, or staff recommendations in the case of a minor subdivision. This document may include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the recommendations. The City Council will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preference.

### **.13 Mitigation of Impacts**

- A.** The City Council may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review process of the subdivision application without unreasonably restricting a landowner's ability to develop the land, and may not require a set aside of land or monetary contribution for the loss of agricultural soils. Pursuant to 4-010.14D, the City Council must issue written findings to justify the reasonable mitigation required under this section.
- B.** The City Council must consider the following in determining the appropriate mitigation. The final decision on the weight to give the factors below lies solely with the City Council:
  - (1)** Whether impacts of a proposed development may be deemed unmitigable, precluding approval of the plat.
  - (2)** The expressed preference of the subdivider.
- C.** Although a City Council may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, it may require mitigation of impacts created by the subdivision.

### **.14 City Council Decision and Documentation**

#### **A. Prerequisites to Approval**

- (1)** The City Council may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:
  - (a)** Provides easements for the location and installation of any planned utilities;
  - (b)** 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;
  - (c)** Assures that all required public improvements will be installed before final plat approval, or that such installation after final plat approval will be guaranteed as provided by [Article 5](#); and
  - (d)** Will comply with the requirements of MCA 76-3-504 regarding the disclosure and disposition of water rights.
- (2)** The City Council may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security per MCA 76-3-507 for purposes of filing a final plat.
- (3)** Unless otherwise provided by law, the governing body may review but does not have approval authority of the development covenants

(governing documents) of the subdivision or amendments to the development covenants unless the development covenants directly and materially impact a condition of subdivision approval.

**B. Consideration – Standards**

In approving, conditionally approving or denying a subdivision application and preliminary plat, the City Council must consider whether the proposed subdivision complies with:

- (1) These regulations, including but not limited to the design standards set forth in [Article 3](#);
- (2) Applicable zoning regulations;
- (3) Any other applicable regulations; and
- (4) The *Montana Subdivision and Platting Act*, including but not limited to the specific, documentable, and clearly defined impacts on:
  - (a) agriculture, excluding any consideration of whether the proposed subdivision will result in the loss of agricultural soil;
  - (b) agricultural water user facilities;
  - (c) local services;
  - (d) natural environment;
  - (e) wildlife;
  - (f) wildlife habitat; and
  - (g) public health and safety.

**C. Consideration – Evidence**

In making its decision to approve, conditionally approve or deny a proposed subdivision, the City Council may consider the following, as applicable:

- (1) The subdivision application and preliminary plat;
- (2) The environmental assessment;
- (3) The summary of probable impacts and mitigation;
- (4) The *Missoula City Growth Policy*;
- (5) Comments, evidence and discussions at the public hearing;
- (6) The planning staff report and recommendation;
- (7) Planning Board recommendation; and
- (8) Any additional information authorized by law.

**D. Documentation of City Council Decision**

- (1) In rendering its decision to approve, conditionally approve or deny the proposed subdivision, the City Council must issue written findings of fact that discuss and weigh the proposed subdivision's compliance with [4-010.14B](#) and [4-010.14C](#).
- (2) City Council conditional approval of a proposed subdivision is approval of the applicant's preliminary plat packet as amended by conditions.

Any action that is not specifically prohibited in Council's conditional approval is specifically allowed.

- (3) Findings of fact must be based on the record as a whole.
- (4) Each condition required for subdivision approval must identify a specific, documentable, and clearly defined purpose or objective related to the primary criteria set forth in 4-010.14A and B that forms the basis for the condition.
- (5) Within 30 business days of the date that the City Council approves, denies or conditionally approves the proposed subdivision, it must send the subdivider a letter, with the appropriate signature, and make the letter available to the public. The letter must:
  - (a) Contain information regarding the appeal process for the denial or imposition of conditions;
  - (b) Identify the regulations and statutes that are used in reaching the decision and explains how they apply to the basis of the decision;
  - (c) Provide the facts and conclusions that the City Council relied on in making its decision and reference documents, testimony or other materials that form the basis of the decision;
  - (d) Identify the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved; and
  - (e) Include public comment relative to water and sanitation issues.
  - (f) Agency comment from Federal or State entities regarding wildlife, wildlife habitat, or the natural environment may be included in the government body's statement only if there is scientific information or a published study that supports the comment.

#### **4-020 Minor Subdivision Review Procedure**

##### **.1 Applicability**

Subdivisions that qualify for minor subdivision review are those divisions of land containing five or fewer lots. Montana law identifies "first minor" subdivisions and "subsequent minor" subdivisions, but for the purpose of these regulations all subdivisions creating five or fewer lots are considered to be and will be reviewed as minor subdivisions.

##### **.2 Minor Subdivision Exceptions**

The following do not apply to minor subdivisions:

- A. Preparation of an environmental assessment;
- B. Public hearing requirements;
- C. Parkland dedication in accordance with [3-080](#); and
- D. Review of the subdivision application for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, if the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those criteria.

**.3 Time Period for Approval, Conditional Approval, or Denial**

Within 35 business days of the date of the letter determining sufficiency, the City Council must approve, conditionally approve or deny the proposed subdivision and any variance requests, unless the subdivider and the subdivision administrator agree to an extension or suspension of the review period, not to exceed one year.

**STEPS REQUIRED FOR MINOR SUBDIVISION REVIEW PROCEDURE**

Step 1	Pre-application meeting between subdivider and Development Services staff.	
Step 2	Neighborhood meeting.	
Step 3	Element Review: subdivider submits entire subdivision application to Development Services staff for element review.	Maximum 5 business days.
Step 4	Sufficiency Review: after all elements of the application are complete, the subdivider submits the application for sufficiency review to the Development Services, reviewing agencies, appropriate neighborhood organizations, and other entities identified by Development Services.	Maximum 15 business days.

**STEPS REQUIRED FOR MINOR SUBDIVISION REVIEW PROCEDURE**

Step 5	After the subdivision application is deemed sufficient, the subdivider submits the required copies of the application and supporting materials to Development Services for City Council review. Development Services staff report.	Maximum 35 business days, statutory limit.
Step 6	Plat, Annexation and Zoning Committee public meeting.	
Step 7	City Council's public meeting and decision.	

**.4 Public Agency and Utility Review**

Review and comment by public agencies or utilities may not delay the City Council's action on the subdivision application beyond the required review period. If Development Services contacts an agency or utility other than those identified at the pre-application meeting, Development Services must advise the subdivider of the agency contacted and advise the subdivider of the estimated time period for a response from the agency.

**.5 Public Comment and Notice Provisions for Minor Subdivisions**

Upon determination of sufficiency of the application, notice of the proposed subdivision must be mailed to the subdivider and to each property owner of record whose property is immediately adjoining the land included in the preliminary plat, each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat, property owners' associations, appropriate neighborhood councils, or other neighborhood organizations. The notice must indicate the time frame for review and the date of the City Council public meeting and must direct public comment to Development Services.

**4-030 Major Subdivision Review Procedure**

Subdivisions of land that result in the creation of six or more lots are subject to the following additional review requirements:

**.1 Time Period for Approval, Conditional Approval or Denial****A. Fewer than 50 Lots**

Within 60 business days of the date of the notice of sufficiency, the governing board must approve, conditionally approve or deny proposed subdivisions

containing fewer than 50 lots unless the subdivider and the City Council agree to an extension or suspension of the review period not to exceed one year, or a subsequent public hearing is held pursuant to these regulations.

**B. Fifty Lots or More**

Within 80 business days of the date of the notice of sufficiency, the governing board must approve, conditionally approve or deny proposed subdivisions containing 50 lots or more unless the subdivider and the City Council agree to an extension or suspension of the review period not to exceed one year, or a subsequent public hearing is held pursuant to these regulations.

**STEPS REQUIRED FOR MAJOR SUBDIVISION REVIEW PROCEDURE**

Step 1	Pre-application meeting between subdivider and Development Services staff.	
Step 2	Neighborhood meeting.	
Step 3	Element Review: subdivider submits entire subdivision application to Development Services staff for element review.	Maximum 5 business days.
Step 4	Sufficiency Review: after all elements of the application are complete, the subdivider submits the application for Sufficiency Review to Development Services, reviewing agencies, appropriate neighborhood organizations, and other entities identified by Development Services.	Maximum 15 business days.
Step 5	After the subdivision application is deemed sufficient, the subdivider submits the required copies of the application and supporting materials to Development Services for City Council review. Development Services – staff report.	Maximum 60 business days, statutory limit. MCA 76-3-604(2).
Step 6	Planning Board – public hearing.	80 days for majors 50+.
Step 7	City Council – public hearing and decision.	

**.2 Public Agency and Utility Review**

Review and comment by public agencies or utilities may not delay the City Council's action on the subdivision application beyond the required review period. Development Services must notify the subdivider if it contacts a public agency or utility other than those identified at the pre-application meeting and estimate the time period for a response from the agency.

**.3 Public Hearing and Notices**

The Planning Board and the City Council must each hold a public hearing on major subdivision applications and any variance requests. Notice of the time, date and place of the Planning Board and City Council hearings must:

- A.** Be given by publication in a newspaper of general circulation in the city no fewer than 15 days prior to the dates of the hearings.
- B.** At least 15 days prior to the dates of the hearings, be given by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.

**.4 Planning Board Public Hearing, Consideration and Recommendation**

- A.** The Planning Board must consider each major subdivision application and any variance requests at a public meeting where public comment will be heard.
- B.** In recommending approval, conditional approval or denial of the subdivision application, the Planning Board must base its recommendation on compliance of the subdivision application with these regulations, any applicable zoning regulations and the *Montana Subdivision and Platting Act*.
- C.** In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the Planning Board may consider the subdivision application and preliminary plat, the environmental assessment, discussion of probable impacts, the *Missoula City Growth Policy*, information presented at the public hearing, the planning staff report and recommendation, and any additional information authorized by law.
- D.** Within ten business days of the public hearing, Development Services will submit the Planning Board's recommendation for approval, conditional approval (including any recommended conditions and/or mitigation measures) or denial of the subdivision application, preliminary plat, and requested variances to the subdivider and the City Council.

**.5 City Council Hearing**

After the Planning Board makes its recommendation, the City Council will hold a public hearing to consider the major subdivision application and any variance requests using the same notice and publication requirements as are identified in [4-030.3](#).

**.6 New Information**

If the public has had a reasonable opportunity to examine and comment on information heard by the City Council or if any new evidence presented is not relevant and credible, the City Council will decide whether to approve, conditionally approve or deny the proposed subdivision. If new information not previously submitted as evidence or considered by either the City Council or its authorized agents or agency at a hearing during which the subdivision application was considered, the City Council will determine whether the public comments or documents are relevant and credible based on the following:

- A.** New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the City Council will rely upon in making its final decisions on the proposed subdivision.
- B.** New information or analysis of information may be considered to be credible if it is based on physical facts or evidence.

**.7 Subsequent Public Hearing**

If a subsequent public hearing is held it must be held before the City Council within 45 days of the City Council's determination to schedule a subsequent hearing. Only the new information or analysis of information may be considered at the subsequent public hearing. Notice requirements for the subsequent public hearing are the same as are provided for in [4-030.3](#).

- A. If a subsequent public hearing is held, the required review period is suspended as of the date of the City Council's decision to schedule a subsequent hearing. The 60-day review period resumes on the date of the City Council's next scheduled public meeting for which proper notice of the public hearing on the subdivision application can be provided.
- B. The City Council may not consider any information regarding the subdivision application that is presented after the subsequent hearing when making its decision to approve, conditionally approve or deny the proposed subdivision.

#### **4-040 Review Procedure for Condominium or Townhouse Proposals**

- .1 When division of land takes place in a condominium or townhouse proposal, the subdivision must be reviewed under the procedures contained in this article. If a total of five or fewer lots and units are proposed, it must be reviewed as a minor subdivision. If a total of six or more lots and units are proposed, it must be reviewed as a major subdivision.
- .2 Where no division of land is created by a condominium proposal, the subdivision must be reviewed under the procedures as follow:
  - A. **Review and Approval**

Any condominium development must meet all the requirements described in this article and are exempt from the surveying and filing requirements of the *Montana Subdivision and Platting Act*. Proposals must be submitted for review and approved by the City Council before portions thereof may be conveyed. The developer must submit a completed application form and a preliminary plan of the proposed development. Approval will be based upon the primary review criteria in [4-010.14](#).
  - B. **Improvement**

Before any portion of a condominium development may be conveyed the developer must have installed all required improvements as per [Article 9](#). Preliminary plans, profiles, tentative grades and specifications for proposed improvements must be submitted to Development Services for its approval prior to the construction of improvements. Development Services may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.
  - C. **Final Plan Review**

In lieu of filing a final plat, the developer must submit a plan conforming to the requirements for preliminary plats specified in [5-010](#). The plan must show the lot layout and the typical location of the condominiums on the lot. The developer must submit the plan to Development Services. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan must be maintained in Development Services.
- .3 A condominium, townhouse or conversion proposal, if constructed on land subdivided in compliance with State law (MCA Title 76, Chapter 3, Parts 5 and 6) or on lots within incorporated cities and towns, is exempt from the provisions of the chapter if:
  - A. The proposal is a conversion of an existing rental-occupancy residential building or office building to individual condominium or townhouse ownership;

- B. The approval of the original subdivision of land where the condominium or townhouse proposal will be constructed expressly contemplated the construction of the condominiums or townhouse and included applicable park dedication as required by MCA 76-3-621; or
- C. The condominium or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.

Commentary: Missoula's zoning regulations contain provisions for nonconformities, which are parcels, uses and structures that were lawfully established but--because of annexation or the adoption of new or amended regulations--no longer comply with one or more requirements of this zoning ordinance. A condominium or townhouse proposal determined non-conforming under these provisions (MMC 20.80) shall be deemed in conformance with applicable local zoning regulations for the purpose of exemption from subdivision review under this section.

- .4 If a condominium or townhouse project meets the criteria of 4-040.3, the owner must file a Declaration of Condominium or Townhouse Unit Ownership in the Clerk and Recorder's Office and an exhibit containing certification from Development Services that the condominium or townhouse proposal is either exempt from review under MCA 76-3-203 or has been approved following either review under MCA Title 76, Chapter 3, Parts 5 and 6.

**4-050 Removed - (2014 Legislative changes)**

**4-051 Expedited Review Procedure**

**.1 Applicability**

- A. A subdivision qualifies for the expedited review process if the proposed subdivision:
  - (1) Is within the Missoula city limits;
  - (2) Complies with all adopted zoning, design standards and other adopted subdivision regulations without the need for variances or other deviations to adopted standards; and
  - (3) Includes plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.
- B. A subdivider may submit an application for an expedited review process that meets section 4-051.1A., regardless of the number of lots proposed.

**.2 Application Review**

- A. Upon submission the application must be reviewed for required elements and sufficiency of information. Neighborhood notice procedures included with element and sufficiency processes are not required by State Law during an expedited review.
- B. The subdivider is subject to the provisions for review of all major and minor subdivisions as described in Article 4-010 except those sections listed below:
  - (1) 4-010.2;
  - (2) 4-010.12;



- (3) 4-010.13.;
- (4) 4-010.14B.(4); and,
- (5) 4-010.14C.(2), (3) and (7).

- C. The subdivision is subject to the provisions described in Article 5-020, except subsection 5-020.6 – Primary Review Criteria Report and Summary of Probable Impacts.

### **.3 Public Hearing and Notice**

- A. The City Council shall hold a public hearing within 35 business days of a determination that the preliminary plat application is sufficient.
- B. Notice shall be provided as a legal ad publication in a newspaper of general circulation in the city no fewer than 15 days prior to the date of the hearing.

### **.4 City Council decision and documentation**

- A. The City Council must:
  - (1) Approve the application unless public comment or other information demonstrates the application does not comply with adopted zoning, design standards or other requirements of subdivision regulations without the need for variance or other deviations to adopted standards or does not comply with ordinances or regulations for the onsite development or extension to public infrastructure;
  - (2) Provide a written statement to the applicant and public of the decision to approve or deny a proposed subdivision for expedited review within 30 days of the decision. A written statement shall include facts and conclusions relied on in making its decisions to approve or deny the application; and
- B. The conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.
- C. City Council may:
  - (1) With the agreement of the applicant, grant one extension of the review period not exceeding 180 calendar days.
  - (2) Adopt conditions of approval only to ensure the approved subdivision is completed in accordance with the approved application and any applicable requirements pursuant to MCA Title 76, chapter 4.

**STEPS REQUIRED FOR EXPEDITED REVIEW PROCEDURE**

Step 1	Pre-application meeting between subdivider and CPDI staff.	
Step 2	Element Review: subdivider submits entire subdivision application to CPDI staff for element review.	Maximum 5 business days.
Step 3	Sufficiency Review: after all elements of the application are complete, the subdivider submits the application for Sufficiency Review to CPDI, reviewing agencies, and other entities identified by CPDI.	Maximum 15 business days.
Step 4	After the subdivision application is deemed sufficient, the subdivider submits a revised title page to CPDI for City Council review.	Maximum 35 business days, statutory limit. MCA76-3-604.
Step 5	CPDI – staff report.	
Step 6	City Council – public hearing.	
Step 7	LUP – post public hearing discussion.	
Step 8	City Council – Final Consideration.	

**4-060 Review Procedure for Mobile Home Community and Recreational Vehicle Park Subdivision****.1 Review and Approval**

Mobile home community and recreational vehicle park subdivision must meet all the requirements described in this article and are exempt from the surveying and filing requirements of the *Montana Subdivision and Platting Act*; however, the boundaries for individual mobile home spaces must be marked on the ground and shown on the plan. Proposals must be submitted for review and approved by the City Council before portions thereof may be rented or leased. The subdivider must submit a completed application form and a preliminary plan of the proposed development. Approval will be based upon the primary review criteria in [4-010.14](#).

**.2 Improvement**

Before any portion of a mobile home community or recreational vehicle park subdivision may be leased or rented the subdivider must have installed all required improvements. Preliminary plans, profiles, tentative grades and specifications for proposed improvements must be submitted to Development Services for its approval prior to the construction of improvements. Development Services may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

**.3 Minor and Major Subdivisions for Mobile Home Community or Recreational Vehicle Park**

If five or fewer lease or rent units or spaces are proposed, it must be reviewed as a minor subdivision. If six or more lease or rent units or spaces are proposed, it must be reviewed as a major subdivision.

**.4 Final Plan Review**

In lieu of filing a final plat, the subdivider must submit a plan conforming to the requirements for preliminary plats specified in [5-010](#). The plan must show the lot layout and the typical location of the mobile home unit, recreational vehicle or other

unit on the lot. The subdivider must submit the plan to Development Services. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan must be maintained in Development Services.

#### **4-070 Preliminary and Final Plats**

##### **.1 Non-Phased development**

###### **A. Effective Period of Preliminary Plat Approval**

The subdivider must submit the final plat for the entire area shown on the preliminary plat, or request an extension to the approval period by the City Council, prior to the submittal deadline. If the final plat has not been submitted or if no extension has been requested before the deadline, the preliminary plat is expired.

- (1) The City Council may withdraw approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is materially inaccurate.
- (2) A preliminary plat shall be in force for a period of three years unless the governing body has approved an extension per 4-070.1B.
- (3) After the application and preliminary plat are approved, the City Council may not impose any additional conditions as prerequisite to final plat approval.

###### **B. Preliminary Plat Approval Extension**

- (1) The City Council may extend a preliminary plat approval for an additional 2-year period. To be given consideration for an extension of the preliminary plat approval period, the subdivider shall submit a written request for a preliminary plat extension to Development Services prior to the expiration date. The request shall address sections 4-070.1B.(2)(a)-(c).
- (2) If a final plat has not been filed at the end of the additional 2-year period, the-subdivider may request one final extension not to exceed two years. To be given consideration for the second extension request of the preliminary plat approval periods, the subdivider shall provide a written request for a preliminary plat extension to Development Services prior to the expiration of the last extension. The request shall address sections 4-070.1B.(2)(a)-(e):
  - (a) Circumstances governing the timing of final plat review have changed beyond the control of the subdivider. List all such circumstances, and state how the new deadline can be met;
  - (b) The findings of fact regarding the primary review criteria will still be valid if the extension is granted;
  - (c) Planning and provision for public facilities and services in the area of the subdivision will not be disrupted by the extension of the deadline.

- (d) No significant changes in the area of the subdivision have occurred or are expected to occur within the extension period for final plat review that would change the evaluation of the proposal.
  - (e) The preliminary plat is not in conflict with recently changed subdivision regulations or policies or regulatory plans listed in [3-010.1](#)-A-K adopted by the City Council that would be undermined by the further time extension.
- (3) Failure to sufficiently document any of the applicable elements in 4-070.1B.(2). in each extension request shall constitute a sufficient reason to deny the extension request.
- (4) The City Council must act within 30 business days of receipt of the request for an extension. Extension approvals must be in writing. The City Council authorizes the mayor to sign the mutually agreed-upon extension on behalf of the members of governing body.

**.2 Phased Development - Submitted for Preliminary Plat Approval on or after May 8, 2017**

**A. Applicability:**

- (1) Major and Minor subdivisions proposing phased development must include the phasing information as part of a preliminary plat application submitted on or after May 8, 2017.
- (2) Proposed phased development is subject to Section 5-020.14.
- (3) At the time of the request for a preapplication meeting, the subdivider shall provide Development Services a preliminary plat of the full subdivision indicating all independent platted development phases in accordance with 4-010.1B(4). Phases are required to be submitted sequentially.

**B. Phased development Review for Each Phase:**

**(1) Application**

Written notice must be provided to Development Services expressing the desire of a subdivider to commence with a phase. Prior to submitting the final plat submittal packet for a particular phase, a public hearing will be held to determine whether any changed primary review criteria impacts, or new information exist, that create new potentially significant adverse impacts for the phase or phases commencing.

The written notice shall include an application packet with the following:

- (a) Cover letter stating the applicant's intent to commence with improvements prior to submitting the final plat submittal packet for a phase;
- (b) Final plat drawing for the particular phase;
- (c) Typical road sections for this phase;
- (d) Current approved Phasing Plan diagram and schedule;

- (e) A revised phasing plan diagram with a revised legend, showing the new schedule, for any proposed changes to the phasing plan layout or schedule; and,
- (f) A narrative addressing whether there is new information or new regulations that apply to the subdivision and whether the findings of fact and conclusions of law at the time of preliminary plat approval are still valid.

**C. Phased Development Deadlines:**

- (1) Proposed phase deadlines may extend beyond the standard preliminary plat approval deadline of three calendar years (MCA 76-3-610) for a time agreed upon between the developer and the governing body. Phase deadlines must be in writing and signed by the subdivider and governing body.
- (2) All phases must be submitted for review and approved, or denied, within 20 years of the preliminary plat approval of the phased development application.
- (3) The subdivider shall submit the final plat for each phase no later than the final plat submittal deadline in the approved phasing plan. Following the public hearing approval for that phase, the phase approval is good for up to three years.

**D. Public Hearing:**

- (1) The City Council must hold a public hearing for phased development review for each phase of a subdivision prior to submittal of a final plat application. Notice of the time, date and place of the City Council hearing must:
  - (a) Be given by publication in a newspaper of general circulation in the city no fewer than 15 days prior to the dates of the hearings.
  - (b) At least 15 days prior to the dates of the hearings, be given by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.
- (2) A public hearing shall be held within 30 business days after receipt of the written notice from the applicant. The governing body may approve or approve with additional conditions. Any additional conditions required must mitigate impacts based on changed primary review criteria or new information. Findings of Fact are required to support new conditions.
- (3) Within 20 days of the public hearing, the governing body shall issue a written statement of the decision which shall include supplemental findings of fact for any additional conditions imposed.

**.3 Phased Development – Submitted for Preliminary Plat approval prior to May 8, 2017**

**A. Applicability**

The following sections apply to phased development applications submitted prior to May 8, 2017.

**B. General**

- (1) The subdivider must submit the final plat or request a phasing plan extension/amendment to the approval period, prior to the submittal deadline of the City Council approved phasing plan. If an extension or amendment has not been requested prior to the deadline the preliminary plat approval is expired.
- (2) Final plats of subdivision approved for phased development must be filed sequentially in accordance with the approval.

**C. Phasing plan extension/amendment**

- (1) Written request for a phasing plan extension/amendment must be provided to CPDI. The request for extension/amendment will be reviewed to determine whether any changed primary review criteria impacts, or new information exist, that create new potentially significant adverse impacts for the remaining phases of the subdivision.
  - (2) The extension/amendment request shall include an application packet with the following:
    - (a) Cover letter stating the applicant's intent to commence with improvements prior to submitting the final plat submittal packet for a phase;
    - (b) Final plat drawing for the particular phase;
    - (c) Typical road sections for this phase;
    - (d) Current approved Phasing Plan diagram and schedule;
    - (e) A revised phasing plan diagram with a revised legend, showing the new schedule, for any proposed changes to the phasing plan layout or schedule; and,
    - (f) A narrative addressing whether there is new information or new regulations that apply to the subdivision and whether the findings of fact and conclusions of law at the time of preliminary plat approval are still valid.
- D.** All phases must be submitted for review and approved, or denied, within 20 years of the preliminary plat approval of the phased development application.
- E.** The governing body shall issue a written statement of the decision which shall include supplemental findings of fact for any additional conditions imposed.

**.4 Final Plat**

**A. Consistency with Preliminary Plat**

The final plat must incorporate all modifications required as a result of the preliminary plat review.

**B. Determination of Compliance**

- (1) The director of CPDI must review the final plat for substantive compliance with the approval, and conditions set forth with the approved preliminary plat, The terms of the *Montana Subdivision and Plating Act* and these regulations.

- (2) Within 20 business days of accepting the final plat, CPDI must determine whether the final plat meets all 4-070.4B(1), and shall notify the subdivider of the determination in writing.
- (3) If Development Services determines that there is a material change (4-010.8F) in the final plat from what was approved as a preliminary plat or determines that the application doesn't contain the information required in 4-070.4B.(1) including conditions that have not been met, Development Services must identify the missing items in a written notification to the subdivider, and may require that a new final plat application be submitted. No further action will be taken on the application until the missing items are submitted.
  - (a) Development Services may review subsequent submissions of the final plat only for information found to be deficient during the original review of the final plat under subsection 4-070.4B.(3).
  - (b) If Development Services determines that an examining land surveyor must review a final plat pursuant to MCA 76-3-611(2)(a), Development Services shall identify the requirement in its notification.
  - (c) The time limits provided in subsection 4-070.4B.(2) apply to each submission of the final plat until a written determination is made that the final plat contains the information required under subsections 4-070.4B.(1) and (3) and the subdivider or the applicant is notified.
- (4) The subdivider and Development Services may mutually agree to extend the review periods provided for in this section.
- (5) A determination of the director of CPDI may be appealed to the City Council.

**C. Application Acceptance Date**

The official application acceptance date of the final plat is the date on which the final plat, in the proper form, together with all the required supplemental material and appropriate fees, is received by Development Services.

**D. Review Fee**

Before the final plat will be officially accepted for review, the applicant must pay a review fee for the final plat as established by the City Council.

**E. City Council Review and Action on Final Plat**

- (1) If a determination is made under section 4-070.4B(1), that the final plat contains the information required, the City Council shall review and approve or deny the final plat within 20 working days.
- (2) The City Council must notify the subdivider of approval or disapproval within ten days of their action. Notification of final plat approval must contain the filing deadline date. The City Council must examine the final subdivision plat and approve it if it conforms to the conditions of approval set forth in the preliminary plat and to the terms of the

*Montana Subdivision and Platting Act* and these regulations, and if the city treasurer certifies that no real property taxes or special assessments, such as SIDs levied on the land to be subdivided are delinquent. The City Council may not disapprove a final plat if it conforms to the approved preliminary plat and if the subdivider has completed all required changes and met or exceeded all standards and requirements of these regulations. Approval must be certified by the City Council on the face of the final plat.

- (3) If the final plat is disapproved, the reasons for disapproval must be stated in the records of the City Council and a copy of the reasons forwarded to the applicant and to the Development. The statement must include:
  - (a) The reason for the denial or condition;
  - (b) The evidence that justifies the denial or the condition imposed; and
  - (c) Information regarding the appeal process for the denial or condition imposed.
- (4) The applicant may make the necessary corrections and then re-submit the final plat for approval. The City Council may withdraw approval or disapproval of a plat if it determines that information provided and upon which such decision was based is false or inaccurate.
- (5) Final plat approval does not constitute acceptance of dedicated lands. Land dedications must be accepted by specific resolution of the City Council and noted on the final plat. Failure to begin substantial construction of required public improvements within two years of final approval constitutes grounds for the City Council to act against the subdivider's improvements agreement and guarantee according to its provisions.

**F. Recordation**

It is the responsibility of the following departments to check final plats and accompanying documents, prior to signing the plats, for the elements enumerated here and to perform the actions similarly enumerated here:

- (1) The County Survey Office:
  - (a) That all errors and omissions in calculations and drafting in the survey have been corrected, pursuant to MCA 76-3-611, as amended; and
  - (b) That field documentation conforms to policy.
- (2) The City Engineering Office:
  - (a) That contents of the plat conform to [5-050.3](#).
  - (b) That a copy of the State Highway Access Permit, if required, accompanies the plat;
  - (c) That engineering, road and drainage plans conform to the standards set forth in these regulations for both private and public roads; and



- (d) Provide a cost estimate for all public and private improvements, including roads, drainage structures, curbs and gutters, sidewalks, bridges, deferred monumentation, and community sewer and water systems, for purposes of determining the amount of the improvements guarantee; or provide a letter certifying acceptance of the required public or private improvements if the subdivider chooses to install the improvements prior to the filing of the final plat.
- (3) The Health Authorities:
  - (a) That all local and State health requirements can or have been met; and
  - (b) That a certificate of approval from the Montana Department of Environmental Quality has been obtained and accompanies the plat.
- (4) The City Attorney Office:
  - (a) That the platting report shows that no liens or encumbrances remain on the land being platted or that written consent to plat the land has been provided by all owners of the land, lien holders, and/or claimants who have been identified in the platting report; and
  - (b) That, if the subdivider has not already installed the required improvements or if the improvements have not been approved and accepted by the city engineer prior to plat filing, the Improvements Guarantee is adequate in amount and reliability. The City Council may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security per MCA 76-3-507 for purposes of filing a final plat.
- (5) CPDI, Development Services:
  - (a) That all conditions for preliminary approval have been met;
  - (b) That original, executed covenants are ready for filing, if covenants were submitted as part of the plat application and were submitted for review;
  - (c) That the accompanying documents include copies of the Property Owners Association Articles of Incorporation and Bylaws, with proof of filing with the Secretary of State, if these articles and bylaws were part of the plat application and were approved in the review, that the articles and bylaws bear the certification of the attorney who prepared or reviewed them that such attorney is licensed to practice law in the State of Montana, that they contain the applicable provisions required by these regulations and any provisions upon which plat approval was based or conditioned, and that the provisions do not conflict;

- (d) That the park requirement is met by either:
    - i. Certificate of dedication of parkland to the public or common area to a property owners' association in perpetuity; or,
    - ii. Cash payment in lieu of dedication as noted on the face of the plat; or,
    - iii. An appropriate waiver (if one was granted);
  - (e) That, where applicable, a zoning change has been obtained and is certified on the face of the plat;
  - (f) That, where applicable, floodway and floodfringe designations are shown on the plat; and
  - (g) That the plat conforms to all applicable provisions of these regulations.
- (6) The County Treasurer must certify that no real property taxes or SIDs assessed and levied on the land to be subdivided are delinquent, pursuant to MCA 76-3-611, as amended.
  - (7) The City Council may not sign the plat until all department officials have signed the plat.
  - (8) The Clerk and Recorder may not accept a plat for filing unless:
    - (a) The city engineer, the health authorities, the city attorney, CPDI, and the Mayor have approved the plat in writing; and
    - (b) The plat is accompanied by the required documents and approvals as shown on the checklist by the filing office in accordance with ([Exhibit 3](#)) 4-070.4F(8)(a).

**G. Timeframe for Filing Final Plat**

- (1) Within 180 days of approval by the City Council, one signed copy of the final plat must be filed with the County Clerk and Recorder in the format prescribed by the filing office.
- (2) Except as provided for in [1-070](#), every final plat must be filed for record with the County Clerk and Recorder before title to the subdivided land may be sold or transferred.
- (3) After recording, the plat may not be altered in any manner, except as provided by these regulations.

**H. Final Plat Filing Extension**

- (1) To be considered for an extension of the filing date, the subdivider must submit a letter setting forth the reasons for the request. The established limits of 180 days should be adhered to and an extension granted only when circumstances beyond the control of the subdivider prevent him/her from filing the plat. Such circumstances may include:
  - (a) Delay in review by a government agency;
  - (b) Temporary physical constraints on installation of subdivision public improvements; or

- (c) Timing of SID or bonding requirements.
- (2) The City Council must act upon the request within 21 business days of receipt of the request for the extension. The extension period may be no more than an additional 180 days.
- (3) If the filing date is not met, and there has been no request for extension prior to the filing date, the final plat approval will be considered void. If the original deadline established for the duration of the preliminary approval period is still in effect, then the subdivider will have additional time in which to resubmit the final plat for approval.

#### **4-080 Vacating Recorded Plats**

To remove or vacate a plat from county records under the provisions of MCA Title 76-3-305, 7-5-2501, 7-5-2502, 7-14-2616(l), (2), 7-14-2617, 7-14-4114 (1), (2), and 7-14-4115, the following procedure must be followed:

- .1 A petition for vacating the plat must be presented to the City Council specifically identifying the plat and stating that petitioners are the owners of all the land described in the plat and that no rights of any person have intervened since the filing of plat that would be adversely affected by the cancellation or annulment of the plat;
- .2 The City Council must hold a public hearing on the plat vacation. Notice of the public hearing should be given by certified mail to the landowners and anyone else with an interest in the land (including mortgage holders);
- .3 Public notice of the hearing must be given by posting in three public places and publishing in a newspaper of general circulation in the county at least one week prior to the hearing on the petition; and
- .4 The determination of the City Council should be based on public interest factors, including those that would be relevant to vacating public roads. If the plat is to be vacated, the order of vacation must designate to which properties the title to the streets and alleys must revert and that interior streets may pass to the adjoining landowners, with each adjoining landowner taking title to the center of the street. The City Council must consider the following in making its determination:
  - A. Previous platting;
  - B. The manner in which the right-of-way was originally dedicated, granted or conveyed;
  - C. The reasons stated in the petition requesting the vacation; and
  - D. Any agreements between the adjacent property owners regarding the use of the vacated area.

## Article 5. Submittal Requirements

<a href="#">5-010</a>	Preliminary Plat Requirements .....	5-1
<a href="#">5-020</a>	Subdivision Application Form and Preliminary Plat Supplements .....	5-2
<a href="#">5-030</a>	Additional Requirements for Major Subdivisions .....	5-11
<a href="#">5-040</a>	Submittal Requirements for Mobile Home Community or Recreational Vehicle Park Subdivisions .....	5-11
<a href="#">5-050</a>	Final Plat Requirements .....	5-11

### 5-010 Preliminary Plat Requirements

#### .1 Preparation

The preliminary plat and accompanying documents must be prepared by a registered land surveyor licensed to practice in the State of Montana.

#### .2 Format

- A. All plats must be the standard size of 24 inches by 36 inches overall, including a 1.5 inch margin on the binding side, and should be folded to approximately 9 inches by 12 inches; and
- B. Each sheet must show the number of that sheet and the total number of sheets included.

#### .3 Identifying Information

The following information must be clearly indicated on the plat or on separate sheets referenced on the face of the plat:

- A. Subdivision or development name;
- B. Legal description;
- C. North arrow;
- D. Scale used on the plat;
- E. Name of owners of record and subdivider; and
- F. Date plat was drawn.

#### .4 Survey Information

The following information must be shown on the preliminary plat or must be contained in a written statement or supplementary drawing accompanying the plat, pursuant to MCA 76-3-504, as amended:

- A. The exterior boundaries of the platted tract;
- B. The approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundaries. Township, range, principal meridian, section and quarter section if portion of a section, or other general legal description;
- C. All lots and blocks designated by number and the area and approximate dimensions of each lot;
- D. All streets, alleys, avenues, roads, and highways and the proposed width of each, with existing street names and approval for new street names;

- E.** The area, location, boundaries, and dimensions of all parks, common areas, and other areas dedicated for public use;
- F.** The total gross area of the subdivision and the total net area, exclusive of public areas and rights-of-way;
- G.** Ground elevations of the tract: elevations and benchmarks. Contour intervals for the entire subdivision must be provided at vertical intervals of 2feet where the average slope of the subdivision is less than 15% and at intervals of 5 feet where the average slope of the subdivision is 15% or greater;
- H.** The approximate location and identification of all existing and proposed public and private easements and rights-of-way, including descriptions of their widths and purposes;
- I.** Existing and/or proposed irrigation ditch easements;
- J.** The proposed locations of intersections, other access points, and access control lines for any subdivision requiring access to highways under state jurisdiction;
- K.** Identified hazard areas must be prominently shown on the subdivision plat and in other records of conveyance;
- L.** Any proposed “no-build” or “no-build/no-alteration” areas; and
- M.** The area of the subdivision within the FEMA-designated floodway, and/or floodfringe, if applicable.

#### **5-020 Subdivision Application Form and Preliminary Plat Supplements**

A completed subdivision application must accompany the preliminary plat. See Fees, Forms and Applications on the City’s website. The subdivision application must be complete and contain:

**.1 Contact Information**

Contact information for the party or parties applying for the subdivision.

**.2 Ownership**

Certification that the applicant is also the owner of the property or, if the applicant is not the owner, certification that the owner is in concurrence with the subdivision application.

**.3 Location**

Information about the location of the property, as identified in detail in the subdivision application form.

**.4 Land use**

- A.** Information about the current and anticipated use of the land proposed to be subdivided; and
- B.** Information relating to the current land use designation of the property, including evidence demonstrating compliance with local zoning ordinances and growth policies, where applicable and as further described in the application.

**.5 Access**

Information pertaining to access to the property, including when applicable, copies of easements, agreements, and access permits or applications for permits sufficient to demonstrate the existence of perpetual, legal access. For major subdivisions, the information must be provided for any access routes required by [3-020](#). (See also [3-020.2B](#).)

**.6 Primary Review Criteria Report and Summary of Probable Impacts**

Information required by the City Council necessary to perform an adequate review pursuant to the *Montana Subdivision and Platting Act* that includes specific information relating to the State primary review criteria as required by MCA 76-3-608(3), and identify the adverse impacts and describe proposed avoidance and mitigation efforts resulting from the proposed development for each of the following criteria:

**A. Agriculture**

Demonstrate that the subdivision proposal will have no adverse impacts on agriculture, or identify the adverse impacts and describe proposed avoidance and mitigation efforts that will be used to mitigate the adverse impacts.

Mitigation of adverse impacts will not be based on a loss of agricultural soils and set aside of land or monetary contribution for the loss of agricultural soils will not be required.

**B. Agricultural Water User Facilities**

In areas where agricultural water user facilities exist on the subject property or adjoin the property, identify the agricultural water user, describe any proposed changes to the agricultural water use and describe alterations to the availability of water.

**C. Local Services**

Identify the services and evaluate the impacts on those services including transportation elements, utilities, water supply, sewage disposal, solid waste disposal, schools, emergency services, and information pertaining to residential units and taxation.

**D. Natural Environment**

Identify the resources and evaluate the impacts on those resources including adjacent public lands, cultural resources, hydrological characteristics, soil characteristics and vegetative cover types.

**E. Wildlife**

Identify species of fish and wildlife that use the area to be affected by the proposed subdivision. Describe measures to minimize and mitigate conflicts between residents and wildlife.

**F. Wildlife Habitat**

Identify any known critical or key wildlife areas and travel corridors. Describe any proposed measures to protect or enhance wildlife habitat or to minimize degradation of habitat.

**G. Public Health and Safety**

- (1) Demonstrate that the proposed subdivision will have no adverse impact on conditions that relate to the public health and safety including 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, on-site or nearby off-site land uses that create a nuisance (e.g. noise, dust, smoke, unpleasant odors), and air or vehicular traffic safety hazards.
- (2) In areas where hazardous conditions may be encountered, the subdivider may be required to prominently display these areas on the subdivision plat and may be required to provide additional materials.

**.7 Community Impact Report**

The subdivider must provide a report containing a statement of the local facility and service demands resulting from build-out of the subdivision, including the impacts on education facilities and school bus service, transit facilities and services, roads and non-motorized transportation facilities, water, sewage, and solid waste facilities, police and fire protection services and facilities, including those needed for wild land fire protection (per MCA 76-3-603(c)).

**.8 Project Summary**

The subdivider must provide a summary of the proposed project fully describing existing site conditions, the project proposal, zoning, growth policy compliance and variances requested.

**.9 Supplemental Maps**

- A. A vicinity sketch or sketches showing the relationship of the proposed development to adjacent subdivisions, certificates of survey, and public rights-of-way as well as any other access;
- B. A map showing the ownership of adjacent lands, including lands across public and private rights-of-way;
- C. Certificate of Survey history of subject property and adjacent properties, when requested by Development Services;
- D. An aerial photograph showing the location of the proposed subdivision and areas located within 200 feet of the proposal.
- E. A detailed current U.S. Geological Survey topographic map with an outline of the subdivision clearly indicated thereon;
- F. An Existing Conditions Map per [4-010.1B\(1\)](#), including location, current land use, land cover (e.g. cultivated areas, paved areas, etc.), description of general terrain, natural features (e.g. lakes, streams, and riparian vegetation), all existing structures and improvements, and all encumbrances, such as easements; and
- G. Other maps as a result of addressing the primary review criteria (see [5-020.6](#)).

**.10 Street and Road Plans**

- A. Typical cross-sections for each type of road proposed or road improvement;

- B. Road profiles and cross-sections for all proposed streets and roads that have grades exceeding 7% or cuts and fills exceeding 3 feet;
- C. Grades, pavement and base thickness, pavement width, and type and location of sidewalks and curbs must be shown;
- D. Street names;
- E. Minimum site distances and curb radii at corners;
- F. Locations and characteristics of bridges and culverts; and
- G. For cul-de-sac streets, provide the widths of turn-around radii, minimum right-of-way widths at turn-arounds, minimum surface widths at turn-arounds, and total length.

#### **.11 Grading and Drainage**

- A. A complete grading and drainage plan must be submitted showing the proposed grades of streets, proposed drainage facilities, and *Storm Water Pollution Prevention Plan* (SWPPP), for all lots, blocks, and other areas, displaying accurate dimensions, courses, elevations, existing and proposed contours, and demonstrating compliance with the minimum standards of the Montana Department of Environmental Quality, as required by MCA Title 76, Chapter 4, Part 1, as amended, and all applicable state and local regulations, per MMC 13.27 and Chapters 6 and 8 of the Missoula City Public Works Standards and Specifications.
- B. All drainage facilities are subject to the approval of the city engineer and when installed or constructed must be in conformance with the applicant's approved drainage plan for the affected basin where the subdivision is situated. Suitable drainage facilities must be provided for any surface run-off affecting the subdivision. These facilities must be located in the street rights-of-way or in perpetual easements of appropriate widths, subject to the approval of the city engineer. Design of such drainage facilities must be based upon local soil factors, topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water. Drainage facilities must be designed to handle both the subdivision and the adjacent drainage basin.
- C. Description and calculations of the proposed storm drainage plan analyzing on-site pre- and post-development peak flow for the two-year, 10-year, and 100-year storm events. Calculations analyzing off-site pre- and post-development peak flow for the two-year, 10-year, and 100-year storm events. Storm drainage designs must include an Initial Storm Water Facility sized to infiltrate, evapotranspire, and/or capture for reuse the post-development runoff generated from the first 0.5 inches of rainfall on impervious areas. Drainage must be retained on site or released from the site in a manner that will not substantially increase the peak run off normally present before subdivision. All drainage plans for the subdivision must provide for conveyance, treatment, and disposal. A complete grading and drainage plan must include accurate dimensions, courses, and elevations, showing the proposed grades and drainage improvements, existing and proposed contours, graded slopes, and indicating approval by the city engineer.



- D. A Slope Category Map must be submitted showing grades between 5–14.99%, 15–20%, 20.01–25%, and over 25%. This map may be combined with the Slope Category Map required with hillside submittal requirements (see 5-020.14E) when slopes of 15% or greater occur on the site.

**.12 Utility Plan**

Submit a plan that shows existing and proposed infrastructure and proposed utilities located on and adjacent to the tract, including:

- A. The approximate location, size, and depth of the nearest sanitary and storm sewers;
- B. The approximate location, size, and depth of water mains, water lines, wells, and fire hydrants if within 500 feet; and
- C. The approximate location of the nearest gas lines, electric, cable TV, telephone lines, and street lights.

**.13 Water and Sanitation**

If the subdivider does not propose a municipal facilities exclusion authorized under MCA 76-4-125(1), pursuant to MCA 76-3-622, the subdivider must provide the following water and sanitation information for any new subdivision that will include a new water supply system or new wastewater facilities:

- A. A vicinity map or plan that shows:
  - (1) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of flood plains, surface water features, springs, and irrigation ditches;
  - (2) existing, previously approved, and, for parcels fewer than 20 acres, proposed water wells and wastewater treatment systems; for parcels less than 20 acres, mixing zones;
  - (3) the representative drainfield site used for the soil profile description; and
  - (4) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities.
- B. A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including:
  - (1) Whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the Department of Environmental Quality.
  - (2) If the water supply and wastewater treatment systems are shared, multiple user, or public, a statement of whether the systems will be public utilities as defined in 69-3-101 and subject to the jurisdiction of the public service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the exemption.
  - (3) If water supply is provided by a multiple user water supply system, per [3-070](#), submit the system design prepared by a professional engineer to comply with design and construction requirements for public water

supply systems specified by rules adopted pursuant to MCA Title 75, Chapter 6.

- C. A drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the department of environmental quality pursuant to MCA 76-4-104.
- D. Evidence of suitability for new on-site wastewater treatment systems that, at a minimum, includes:
  - (1) a soil profile description from a representative drain-field site identified on the vicinity map, as provided in MCA 76-3-622(1)(a)(i)(G), that complies with standards published by the Department of Environmental Quality;
  - (2) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and
  - (3) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in 5-020.13D(2).
- E. For new water supply systems, unless cisterns are proposed, evidence of adequate water availability:
  - (1) obtained from well logs or testing of onsite or nearby wells;
  - (2) obtained from information contained in published hydro-geological reports; or
  - (3) as otherwise specified by rules adopted by the Department of Environmental Quality pursuant to MCA 76-4-104.
- F. Evidence of sufficient water quality in accordance with rules adopted by the Department of Environmental Quality pursuant to MCA 76-4-104.
- G. Preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the Board of Environmental Review pursuant to MCA 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and non-significant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis, the subdivider may perform a complete non-degradation analysis in the same manner as is required for an application that is reviewed under MCA Title 76, Chapter 4.

#### **.14 Other Supplemental Material**

- A. If a phased subdivision is proposed per 4-070.2, include a phasing plan that includes the following information:

- (1) a map showing the area, lots and improvements to be included in each independent platted development phase with a number or letter for each phase, and the amount of parkland required and provided in each phase; and
  - (2) a map legend that lists each phase and the specific final plat submittal deadline for each phase. Phases are required to be submitted sequentially.
- B. In areas with the potential for landsliding, slope instability, and high ground water, provide a report by a qualified soil or geotechnical engineer indicating the locations, character, and extent of all areas subject to landsliding, slope instability and high groundwater. These areas must be prominently designated on the subdivision plat and other records of conveyance.
- C. When evidence of high groundwater or unstable soil is present provide a groundwater drainage mitigation plan prepared by a licensed professional engineer to mitigate the problem. The plan must include, but not be limited to, measures to prevent the migration of groundwater through water, sewer, and drainage trenches.
- D. If required by [3-010.2A](#), submit a flood hazard evaluation report.
- E. If the subdivision has sites proposed for development located on slopes over 15%, the subdivider must address the following hillside requirements. A report must accompany an application for hillside development summarizing the soil, geological and hydrological characteristics with an application for hillside development. The report must be submitted by a professional engineer registered in the State of Montana. This report must include:
  - (1) Slope category map, with contour intervals in accordance [5-010.4G](#);
  - (2) Data regarding the nature, distribution, and strength of existing soils;
  - (3) Adequate description of the geology and hydrology of the site;
  - (4) Conclusions and recommendations for grading procedures;
  - (5) Plans or design for any proposed corrective measures;
  - (6) Opinions and recommendations covering the adequacy of sites to be developed;
  - (7) When evidence of high ground water or unstable soils is present, the developer must present a groundwater drainage mitigation plan prepared by a licensed professional engineer. The plan must include, but not be limited to, measures to prevent the migration of ground water through water, sewer and drainage trenches and subject to approval by the city engineer; and
  - (8) A storm water management plan that must address management of storm water and snow melt that affects ground water, and impacts of utility trenches.
- F. In areas identified as WUI, the standards found in [Exhibit 2](#) must be included in a development agreement between the City Council and the developer or in the covenants, except in those cases when the need to protect riparian resource areas or habitat for species of special concern outweigh the danger of wildfire.

- G.** Conditions of adjacent land showing the following:
- (1) The names of platted subdivisions and numbers of Certificates of Survey previously recorded;
  - (2) The ownership of lands adjacent to the exterior boundaries of the subdivision and to any access road leading from a present public right-of-way to the boundary of the proposed subdivision;
  - (3) Location of any buildings, railroads, powerlines, towers, roads, and other land uses;
  - (4) Any existing or proposed zoning; and
  - (5) Lands separated from the exterior boundary of the subdivision by public or private rights-of-way are deemed to be adjacent for the purpose of this requirement.
- H.** Landscaping and maintenance plans for common areas, parkland, and landscape buffer strips and screening, may be required.
- I.** When covenants and restrictions are proposed, drafts of covenants and restrictions to be included in deeds or contracts for sale must be provided.
- J.** If permanent open space is proposed as part of a cluster or conservation development, the subdivider must prepare and submit a management plan for the open space area in accordance with [3-180.4D](#) and documentation that required open space will be protected in perpetuity in accordance with [3-180.5](#).
- K.** If common property is to be deeded to a property owners' association, the subdivider must file a draft of the covenants and restrictions that will govern the association. These covenants and restrictions must, at a minimum, provide that:
- (1) The property owners' association will be formed before any property is sold;
  - (2) Membership is mandatory for each property buyer and any subsequent buyer;
  - (3) The open-space restrictions must be perpetual;
  - (4) The association is responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
  - (5) Property owners must pay their pro rata share of association costs and that the assessment charged by the association can become a lien on the property;
  - (6) The association may adjust the assessment to meet changed needs;
  - (7) Prior to final plat approval, the property owners' association articles of incorporation, bylaws, covenants, and restrictions must be prepared or reviewed by an attorney licensed to practice law in the State of Montana in order that applicable property owners' association requirements are met;
  - (8) There are means of enforcement and means of receiving and processing complaints;

- (9) The permission of the City Council is required before the association can be dissolved or the restrictions modified; and
  - (10) There is a regular maintenance program for private roads, parks, buildings, drainage facilities, and other mutually controlled facilities.
- L. When riparian or wetland areas are within or adjacent to the proposed subdivision, show the riparian resource area, riparian resource and riparian buffer on the plat or supplemental data sheet and provide a Riparian Management Plan that must include, but not be limited to the following:
  - (1) A narrative describing:
    - (a) how the area will be protected and preserved; and
    - (b) how each element identified in [3-130.4](#) is addressed.
  - (2) A vegetation map showing the following:
    - (a) location of vegetation types listed in [Exhibit 1](#);
    - (b) riparian buffer area; and
    - (c) drainage.
  - (3) A description of the following:
    - (a) vegetation (types and quantities) listed in [Exhibit 1](#);
    - (b) contribution of the vegetation type to stream bank stabilization;
    - (c) susceptibility of soil to compaction;
    - (d) contribution of the vegetation in preventing erosion; and
    - (e) contribution of the vegetation to fish and wildlife habitat, including big game species, upland game bird species, non- game bird species, fisheries, and threatened or endangered species.
  - (4) A mitigation plan outlining how the riparian resource area will be restored or enhanced. The plan must include, at a minimum, the following information:
    - (a) alternation, enhancement and restoration plan;
    - (b) planting plan; and
    - (c) streambank stabilization plan, if applicable.
  - (5) If roads are planned within the riparian resource area, provide information to address the regulations of [3-130.6](#).
  - (6) A maintenance and monitoring plan must be submitted outlining how the riparian resource area will be maintained.
- M. If the property contains agriculture or agricultural land, provide a soils assessment for the entire property that includes at a minimum a soil texture analysis in accordance with a textural triangle, measurements of topsoil depth and water-holding capacity. The assessment must include a discussion of how texture and depth compare to that of the predominant soil types of agricultural importance found on the site according to the Natural Resource Conservation Services. It must also include conclusions and

recommendations. The required assessment need not cover floodways, lands with a slope of 15% or greater or other areas that the director of CPDI determines to have very limited or no agricultural potential.

- N. Provide a copy of the minutes from neighborhood meetings, and any comments received during the meetings.
- O. If the city engineer requires a traffic study, it must be submitted as described in the application form.
- P. Provide information regarding compliance with the parkland dedication requirements of [3-080](#), as described in the subdivision application.

#### **5-030 Additional Requirements for Major Subdivisions**

##### **.1 Environmental Assessment**

The subdivider must provide an environmental assessment that addresses the requirements of MCA 76-3-603, and must include narratives describing the environment, coordination of roads, land dedication, road improvements, open space, sanitation and congestion. The following sections from [5-020](#) must be included as part of the environmental assessment: primary review criteria report, summary of probably impacts, and community impact report. The environmental assessment must include proposed avoidance and mitigation efforts that will be used to reasonably minimize potentially significant adverse impacts.

#### **5-040 Submittal Requirements for Mobile Home Community or Recreational Vehicle Park Subdivisions**

##### **.1 Preparation**

The subdivider must provide the plan and accompanying documents. If the data include engineering plans and specifications, certification of a professional engineer licensed to practice in the State of Montana must also be included.

##### **.2 Preliminary Plans for Mobile Home Community or Recreational Vehicle Park Subdivisions**

- A. Required information: see [5-010.3](#) and [5-010.4](#), where applicable; and
- B. Preliminary plan supplements: see [5-020](#).

#### **5-050 Final Plat Requirements**

##### **.1 Preparation**

The final plat must be prepared by a professional land surveyor. All engineering plans, specifications, and reports required in connection with the preliminary plat approval must be prepared and certified by a professional engineer.

##### **.2 Format**

- A. All plats must be the standard size of 24 inches by 36 inches overall, including a 1.5 inch margin on the binding side;
- B. Each sheet must show the number of that sheet and the total number of sheets included; and

- C. Final subdivision plats must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record. A poorly drawn or illegible plat or a plat of insufficient quality to assure acceptable recordation must be rejected.

**.3 Required Information**

The final plat submitted for approval must show or contain the following on the face of the plat or on separate sheets referenced on the face of the plat. (In accordance with ARM 24.183.1107 as amended.)

- A. The name of the subdivision or development, location, north arrow, scale, names of the owners, and date. The title of the plat must contain the words “plat” and either “subdivision” or “addition”.
- B. The exterior boundaries of the platted tracts, giving such boundaries by bearings and distances. Excepted lands must be labeled “NOT INCLUDED IN THIS SUBDIVISION” or “NOT INCLUDED IN THIS PLAT”.
- C. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary. If available, a metes and bounds or other legal description must be submitted.
- D. Location of all lots and blocks, designated by number or letter. Location of each park or other common area. The net area of each lot and each park or other common area.
- E. All streets, alleys, avenues, roads, and highways, their widths and bearings, the widths of all rights-of-way, and the names of all streets, avenues, roads, and highways.
- F. The dimensions and bearings of all lines.
- G. The bearings, distances, and curve data of all perimeter boundary lines must be indicated. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse must be given.
- H. Data on all curves sufficient to enable the re-establishment of the curves on the ground. These data must include:
  - (1) Radius of curve and delta angle;
  - (2) Arc length;
  - (3) Notation of non-tangent curves; and
  - (4) Radial bearings on non-tangent curves.
- I. Lengths of all lines shown to at least tenths of a foot and all angles and bearings shown to at least the nearest minute.
- J. Gross acreage of the subdivision.
- K. Utility easement located on and adjacent to the tract.
- L. Township, range, principal meridian, section and quarter section if portion of a section, or other proper legal description.
- M. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent

to the recording of the plat, the location of such additional monuments must be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the position of any corner or boundary indicated on the plat must be clearly shown.

- N.** Certification of the professional land surveyor, and certification of professional engineer (if the data includes engineering plans and specifications).
- O.** Certification of the subdivider that final plat conforms to the preliminary plat as previously reviewed and approved by the City Council.
- P.** When any private access is proposed, certification that the city is not required to improve or maintain the access must be provided, and the certification must be so noted on the plat.
- Q.** Notary block.
- R.** A memorandum of any oaths administered under 76-3-405, MCA;
- S.** The dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of these regulations, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed;
- T.** The landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;
- U.** The landowner(s)' certification statement(s) as follows:
  - (1)** A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the Conditions of Approval sheet or as otherwise stated.
  - (2)** A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.
  - (3)** A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-3-507, MCA, secure the future construction of any remaining public improvements to be installed.
- V.** A certificate of the governing body accepting any dedicated land, easements, or improvements;
- W.** Space for the clerk and recorder's filing information with a minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in .5.
- X.** In addition to showing the location of the utility easements, the final plat must include the following statement:



*The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, 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.*

- Y.** Certification of parks and open space: certificate of dedication of parkland to the public or common area to the property owners' association in perpetuity or of cash payment in lieu of dedication as noted on the face of the plat.
- Z.** Where private roads are proposed, each plat and instrument of conveyance must contain the following statement:

*The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance, and snow removal are the obligation of the owner or property owners' association and that the City of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the City of Missoula for maintenance.*

- AA.** Whenever an SID waiver statement is required, the statement must specify the street(s) the SID applies to, and must be provided on the plat and on each instrument of conveyance indicating that the purchasers of any lots in the subdivision will be required to waive the right to protest the creation of an SID for the subject improvements. This waiver of the right to protest formation of a SID expires 20 years after the date the final subdivision plat is recorded with the County Clerk and Recorder.
- BB.** A statement must be included on the subdivision plat that acceptance of a deed for a lot within the subdivision constitutes the assent of the owners to any future SID, based on benefit, for future improvements and maintenance, including but not limited to paving, curbs and gutters, the installation of non-motorized facilities, street widening and drainage facilities.

#### **.4 Conditions of Approval**

(Pursuant to ARM 24.183.1107 Uniform Standards for Final Subdivision Plats, or most recent version of the ARM.)

Sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "Conditions of Approval of [insert name of subdivision]" with a title block including the quarter-section, section, township, range, principal meridian, county, and city in which the subdivision is located, and shall contain:

- A.** Any text and/or graphic representations of requirements by the governing body for final plat approval including, but not limited to, setbacks from streams, riparian areas or riparian buffer areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;
- B.** A certification statement by the landowner that the text and/or graphics shown on the Conditions of Approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and

MISOULACITY SUBDIVISION REGULATIONS

- C. A notation stating that the information shown is current as of the date of the certification required in (4)(b), and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.
- D. Land use restrictions and encumbrances related to the approval by the governing body may not be deleted or amended without prior written consent by the governing body.
- E. Certification of zoning change, when applicable.
- F. Floodway, floodfringe, or floodplain delineation lines on the face of the plat, when applicable.
- G. No build zones, Riparian Resource and Buffer Areas, steep slope areas with slopes at or greater than 25% shall be shown with bearings and distances.

**.5 Final Plat Supplements, pursuant to MCA 76-3-504(d)**

- A. State Highway Access Permit: a copy of the State Highway Access Permit is required when a new street will intersect with a State highway.
- B. Final road and drainage plans: all engineering plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the City Council and certification of the professional engineer.
- C. Boulevard landscaping plan: a Right-of-Way Landscaping Permit is required in accordance with MMC 12.32 and is available from the urban forester.
- D. Public Improvements Agreement, pursuant to MCA 76-3-507, as amended: certification by the subdivider that all or part of required public improvements have been installed and/or that a subdivision improvements agreement exists that is acceptable to the city attorney and City Council, securing the future construction of public improvements. (See [9-010](#).) The City Council may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security per MCA 76-3-507 for purposes of filing a final plat.
- E. Covenants and restrictions: copies of covenants and restrictions encumbering each lot.
- F. Where appropriate, a copy of the property owners' association articles of incorporation, together with proof of filing with the Secretary of State and the bylaws. The property owners' association documents, covenants, and restrictions referred to above must bear the certification of the attorney who prepared or reviewed them that such attorney is licensed to practice law in the State of Montana and, further, that the documents contain the applicable provisions upon which plat approval was based or conditioned and that the provisions do not conflict.
- G. Platting Report.
- H. Certificate of approval by the Department of Environmental Quality.
- I. Certificates, acknowledgments, and descriptions include the following:

- (1) Certification by the County Treasurer that all taxes and fees levied and assessed against the property have been paid; and
- (2) A subdivision guarantee (MCA 76-3-612(3)) issued by an authorized title insurer or its title insurance producer, showing the names of the owners of record of the land to be subdivided and the names of lien-holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien-holders or claimants of record against the land.

## Article 6. Variances

<a href="#">6-010</a>	General .....	6-1
<a href="#">6-020</a>	Variances for Innovative Energy Savings Authorized .....	6-1
<a href="#">6-030</a>	Procedure .....	6-1
<a href="#">6-040</a>	Conditions .....	6-1
<a href="#">6-050</a>	Statement of Facts .....	6-1

### **6-010 General**

The City Council, upon recommendation of the Planning Board (when applicable), may grant a variance from these regulations when strict compliance with these regulations will result in undue hardship and when it is not essential to the public welfare. Costs or financial considerations may not constitute the sole basis for approval of a variance. The City Council must consider the following criteria and make a finding, based upon the evidence presented to it in each specific case, that:

- .1 The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property;
- .2 The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
- .3 Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced;
- .4 The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the *Missoula City Growth Policy*;
- .5 The variance will not cause an increase in public costs; and
- .6 The hardship has not been created by the applicant or the applicant's agent or assigns.

### **6-020 Variances for Innovative Energy Savings Authorized**

An innovative energy saving proposal that does not circumvent the purpose of these regulations may be reason for the granting of a variance by the City Council.

### **6-030 Procedure**

When requesting a variance, the applicant must identify the regulation or standard for which relief is being sought and a written description of how each requested variance satisfies the criteria of [6-010](#).

### **6-040 Conditions**

In approving variances, the City Council may require that conditions be attached to secure the objectives of the standards or requirements of these regulations.

### **6-050 Statement of Facts**

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

## Article 7. Error Corrections and Adjustments

<a href="#">7-010</a>	Purpose .....	7-1
<a href="#">7-020</a>	Minor Error .....	7-1
<a href="#">7-030</a>	Major Errors .....	7-1
<a href="#">7-040</a>	Plat Adjustments .....	7-2

### 7-010 Purpose

From time to time, errors may be discovered on the face of a recorded plat. It is the intent of the City of Missoula to establish reasonable standards and procedures to correct such errors in order to protect the interests of affected property owners. The City of Missoula recognizes two classifications of errors and sets forth the following procedures to correct them.

### 7-020 Minor Error

- .1 Minor errors may include but are not limited to:
  - A. Typographical and spelling errors or transpositions;
  - B. Incorrect seals;
  - C. Incorrect dates;
  - D. Monumentation incorrectly noted, drawn, or missing;
  - E. Incorrect or missing interior bearings and/or dimensions on the drawing;
  - F. Missing or incorrectly displayed arrows or symbols;
  - G. Street name changes; and
  - H. Other items of a similar nature as determined by the city engineer;
- .2 Minor errors must be reviewed by the city engineer. Appeal of the city engineer's decision is to the City Council. An Affidavit of Correction is to be prepared and signed by a professional engineer or registered land surveyor on forms approved by the city attorney and is to be recorded with the County Clerk and Recorder; and
- .3 The property owners petitioning for the amendment or correction of a filed subdivision plat must pay all related direct costs incurred by the City of Missoula, including filing fees according to the final plat filing fee schedule.

### 7-030 Major Errors

- .1 Major errors may include but are not limited to:
  - A. Additions to or deletions from the legal description or dedicatory language that are not typographical in nature;
  - B. Incorrect certificates or signatures;
  - C. Missing certificates, seals, or signature blocks; and
  - D. Other items of a similar nature as determined by the city engineer and director of CPDI;
- .2 Major errors must be reviewed by the city engineer and the director of CPDI. All corrected plats must be certified as stated under [4- 070.4F](#); and

- .3 The property owners petitioning for the amendment or correction of a filed subdivision plat must pay all related direct costs incurred by the City Council, including filing fees according to the final plat filing fee schedule.

**7-040 Plat Adjustments**

- .1 Plat adjustments are those changes that, in the opinion of the City Council, may affect the precise dimensions of lots or buildings and the siting of buildings but that do not affect the basic character or arrangement of buildings, lots, or blocks, the density of the development, the open space requirement, or street design.
- .2 Plat adjustments must be reviewed by the City Council. An Affidavit of Correction must be prepared and signed by a professional engineer or registered land surveyor on forms approved by the city engineer or an amended plat is required and must be recorded with the County Clerk and Recorder.
- .3 The property owners petitioning for the amendment or correction of a filed subdivision plat must pay all related direct costs incurred by the City Council, including filing fees according to the final plat filing fee schedule.

## Article 8. Exempt Land Divisions

<a href="#">8-010</a>	General .....	8-1
<a href="#">8-020</a>	Divisions Exempt from Review, Survey and Plat Filing .....	8-1
<a href="#">8-030</a>	Divisions and Aggregations Exempt from Plat Filing and Review .....	8-2
<a href="#">8-040</a>	Exemption Procedures .....	8-3
<a href="#">8-050</a>	Certificates of Survey .....	8-6

### 8-010 General

All divisions or subdivisions of land are subject to the surveying, plat filing and review processes set forth in these regulations unless specifically exempt from some or all requirements.

- .1 Even if a division of land is exempt from survey, subdivision review or plat filing, it may nevertheless be subject to other land use regulations not covered here, including but not limited to floodplain, zoning, and sanitation in subdivision regulation.
- .2 Any claimed exemption may be denied by the City Council if the method of disposition is adopted for the purpose of evading the *Montana Subdivision and Platting Act* (Subdivision Act), as determined under [8-040](#).

### 8-020 Divisions Exempt from Review, Survey and Plat Filing

- .1 The following divisions and subdivisions are exempt from review, plat filing and surveying requirements:
  - A. Division creating not more than four new lots or parcels (for a total not to exceed 5 lots or parcels including the parent parcel) and created by court order, operation of law, or one that could be created pursuant to the law of eminent domain in the absence of agreement between the parties;
  - B. Division created to provide security for mortgages, liens, or trust indentures; in compliance with 76-3-201;
  - C. Division creating an interest in oil, gas, mineral or water severed from the surface ownership;
  - D. Divisions creating cemetery lots;
  - E. Division reserving a life estate;
  - F. Division for lease or rental for farming or agricultural purposes;
  - G. Divisions created prior to July 1, 1974, as evidenced by conveyances executed prior to that date;
  - H. Divisions of state-owned land unless the division creates a second parcel from a single tract for the sale, rent, or lease for residential purposes after July 1, 1974; and
  - I. Divisions creating a parcel or parcels that can be described as 1/32 or aliquot part of government lot or section.
- .2 A person may file a Certificate of Survey or plat for a division that is exempt, if the survey meets all other applicable requirements.

### **8-030 Divisions and Aggregations Exempt from Plat Filing and Review**

The following divisions and aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, as described in MCA 76-3-207, are exempt from plat filing and review, but must be surveyed and are subject to applicable zoning regulations adopted under MCA Title 76, Chapter 2:

- .1** Outside platted subdivisions:
  - A.** relocating common boundaries outside of platted subdivisions;
  - B.** divisions for purpose of a single gift or sale in each county to each member of the landowner's immediate family;
  - C.** divisions by sale, gift, or agreement to buy or sell where the landowner enters into a covenant with the City Council that runs with the land and provides that the divided land will be used exclusively for agricultural purposes;
    - (1)** when an agricultural covenant exists and a change of use is requested for anything other than agricultural purposes, the division of land that received an exemption through 8-030.1C will be subject to subdivision review. However, the City Council, in its discretion, may revoke the covenant provided and the division may proceed without subdivision review if:
      - (a)** The original lot lines are restored through aggregation of the covenanted land prior to or in conjunction with the revoking of the covenant; or
      - (b)** A government or public entity seeks to use the land for public purposes as defined in the City Council's review criteria pursuant to 76-3-504(1)(p).
    - (2)** if the City Council proposes to revoke a covenant pursuant to subsection (D)(2), a public hearing will be held. Within 15 business days of the hearing, the City Council shall issue written findings of fact and a decision based on the record. If the City Council approves the revoking of the covenant the approval must be recorded with the clerk and recorder.
    - (3)** the revocation of a covenant pursuant to this section does not affect sanitary restrictions imposed under Title 76, chapter 4.
- .2** Inside platted subdivisions, the relocation of common boundaries of five or fewer lots must be surveyed and an amended plat filed, but is exempt from subdivision review;
- .3** Aggregation of parcels or lots when a Certificate of Survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas;
- .4** Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas;



- .5 Restrictions: a division of land may not be made under this section unless the County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent;

#### **8-040 Exemption Procedures**

- .1 Any person seeking exemption from the requirements of the *Montana Subdivision and Platting Act*, other than the six listed in [8-030](#), must complete and sign before a notary public an appropriate exemption affidavit, which must be printed on the Certificate of Survey, if one is filed.
- .2 Any person seeking an exemption listed in [8-030](#) must request a determination of his or her entitlement to use the exemptions claimed prior to submitting a Certificate of Survey or deed for review and/or recording by submitting a completed affidavit and sketch of the proposed divisions to the designated review agent in Development Services.

#### **.3 Types of Exemptions**

##### **A. Agriculture Exemption**

A division made for lease or rental for farming or agricultural purposes or divisions made outside platted subdivisions by sale, gift, or agreement to buy and sell where the landowner enters into a covenant with the City Council and provides that the divided land will be used exclusively for agricultural purposes. Any change in use of the land from agricultural purposes subjects the land to subdivision review.

##### **B. Family Transfer Exemption**

A division made outside of platted subdivisions for the purpose of a single gift or sale in each county to each immediate family member including spouse, children, or parents.

##### **C. Lot Aggregation**

A division of land that redesigns, rearranges or aggregates multiple lots into fewer lots.

##### **D. Relocation of Common Boundary Exemption**

A division of lots that redesigns or rearranges lots within a platted subdivision but does not result in an increase in the total number of lots.

##### **E. Security Interest Exemption**

A division of land to provide security for mortgages, liens, or trust indentures.

#### **.4 Procedure**

- A. All affidavits, surveys, deeds or other documents claiming entitlement to use an exemption must be submitted first to the designated review agent in Development Services;
- B. The use of exemptions under any of the circumstances listed in 8-040.4E must be referred to the City Council for their determination on whether the use of exemptions is an evasion of the Subdivision Act;

- C. All other circumstances must be certified on the affidavit as having been reviewed by the designated review agent and notice given to the applicant and the County Clerk and Recorder;
- D. For exemptions referred to the City Council:
  - (1) The City Council must conduct a hearing to allow the claimant an opportunity to present evidence showing that he/she is entitled to claim exemptions from the requirements of the Subdivision Act;
  - (2) The City Council will notify the claimant of the date, time, and place of the hearing and may exercise its subpoena power to require the testimony or physical evidence in the possession of any person having knowledge of the proposed divisions, prior, or future divisions and transfers;
  - (3) The City Council will review the circumstances outlined in 8-040.4E and [8-040.4F](#) surrounding the divisions and transactions, and must make written findings of fact and a determination that the claimant is or is not entitled to the exemption claimed, and must so notify the claimant and the County Clerk and Recorder;
  - (4) If the City Council determines that the claimant is not entitled to the exemption claimed and if the landowner proceeds to file the survey in question or to transfer title to or possession of tracts described by the survey, the City Council may direct the Director of CPDI to enforce the provisions of the Subdivision Act. Nothing stated herein prevents the Director of CPDI from taking any other appropriate action provided for in the Subdivision Act;
- E. The use of exemptions under any of the following circumstances requires review and hearing before the City Council to provide the claimant an opportunity to prove his/her entitlement to use the exemptions:
  - (1) General (applicable to all exemptions): For purposes of this part, “subsequent division” includes only those divisions made using the “family gift,” exemptions:
    - (a) Subsequent division of a tract created after July 1, 1974, in which more than one type of exemption is claimed by the same applicant or an applicant having a family or business relationship with another claimant;
    - (b) Subsequent division of a tract created after July 1, 1974, in which the proposed division will be to a common road, sewer, or water system or subject to restrictive covenants with other tracts created by using exemptions and that are part of the same parent parcel;
    - (c) Divisions of land where the land was included as part of a subdivision plat previously rejected;
    - (d) The arrangement of the proposed divisions suggests an intention to create multiple lots;
    - (e) The proposed division would permit a use of the land that is not in compliance with the *Growth Policy*, as determined by the following guidelines:

- i. If the location of the property can be precisely determined on the land use map accompanying the *Growth Policy*, the use will be in compliance so long as it is included in the activities designated by the plan for that area.
  - ii. If, because of the small scale of the map, the location of the property is difficult to pinpoint exactly with regard to boundaries of the areas on the land use map accompanying the *Growth Policy*, the use will be in compliance so long as it is included in the activities designated by the plan for any of the bordering areas.
  - iii. If the requested division is for a use different from the designation on the land use map, but the use would comply with the land use goals, objectives, or policies specified in the *Growth Policy*, the proposed use will be in compliance with the plan.
  - iv. Any other proposed use that may be found not to be in compliance with the *Growth Policy*.
- (2) Specific exemptions (applicable for specific exemption claimed):
  - (a) Family gift or sale (family transfer):
    - i. Use of a family transfer in combination with other exemptions by the same claimant regardless of when the other exemption was taken;
    - ii. Family transfers in which the parent purports to act as a guardian for a minor child without a trust instrument;
    - iii. Family transfers to grandchildren from a family member who received the same land as a gift from the grandchildren's parent; and
    - iv. Subsequent division using the family transfer exemption by a claimant who purchases from a donee or donee's successor in interest of a tract created by family transfer exemption.
  - (b) Security interest (division created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes):
    - i. More than one security interest parcel created simultaneously by a claimant out of same the parent parcel or created in any time span from the same claimant's ownership;
    - ii. Financing is not for construction on the parcel created, or refinancing, or an existing structure;
    - iii. Document creating security interest allows title to be transferred to a third party upon foreclosure;
    - iv. Documents creating the security interest, or letter verifying financing, must be filed with the survey; and

- v. The reference description created on a survey done for the security interest exemption may only be used by the security interest holder to transfer the parcel on foreclosure, unless another exemption is applied for and obtained.
  - (c) Agricultural leases and/or uses: More than one agricultural exemption per claimant's ownership, other than parcels leased to separate individuals.
  - (d) For lots that have fee-simple access to two (or fewer) public roads, rearrangement or redesign of lots that results in elimination of an existing access or reduction of access to less than 5 feet in width.
- F. At the hearing on entitlement to the exemption, the City Council will consider all relevant circumstances in determining whether a subdivision plat is required. Relevant circumstances may include:
  - (1) Any of the circumstances outlined in [8-040.4E\(1\)](#);
  - (2) Conveyances of property back to the sellers where exemptions were used by the buyers to divide the property;
  - (3) Divisions of land created by order of any court of record in the State of Montana or by operation of law or that, in the absence of an agreement between the parties to the sale, could be created by an order of any court in the State of Montana pursuant to the law of eminent domain, MCA Title 70, Chapter 30;
  - (4) Divisions of land where the land was included as part of a subdivision plat previously rejected;
  - (5) Simultaneous filing of similar surveys for contiguous tracts of land, where there is a relationship between the subdivider and the surveyor and between the subdivider and the other claimants and where the subdivider is the one originating the survey, or transactions;
  - (6) Nature of claimant's business (i.e., whether claimant is in the business of dividing and selling land);
  - (7) Prior history of the tract in question (i.e., whether this claimant is engaged in prior exempt transactions involving the tract);
  - (8) Proposed configuration of the tract after the transaction is completed; and
  - (9) The transaction is not substantial.

### **8-050 Certificates of Survey**

A Certificate of Survey may not be filed by the County Clerk and Recorder unless it complies with the following requirements:

- .1 Certificate of Survey must be drafted to standards that assure acceptable micro-filming quality and must be drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches overall to include a 1.5 inch margin on the binding side;

- .2** Each sheet must show the number of that sheet and the total number of sheets included. All certifications must be shown or referenced on one sheet;
- .3** The Certificate of Survey must show or contain on its face or on separate sheets referenced on its face the following information only:

  - A.** A location box including the quarter section, section, township, range, principal meridian and county of the surveyed land must be shown in lower right portion. Space in the lower right hand corner must be provided on the Certificate of Survey for the clerk and recorder's filing information. A Certificate of Survey may not bear the title "plat," "subdivision," or any title other than "Certificate of Survey."
  - B.** Names of the owners of the land surveyed and the names of any adjoining certificates of survey previously recorded and ties thereto;
  - C.** Date survey was completed and a purpose of survey quoting appropriate exemption must be shown in lower right hand corner above filing information;
  - D.** North point;
  - E.** Scale bar (scale must be sufficient to legibly represent the required data on the Certificate of Survey submitted for filing);
  - F.** All monuments found, set, reset, replaced, or removed describing their kind, size, location and giving other data related thereto and must be tied in by bearing and distance;
  - G.** The location of any corners of sections or divisions of sections pertinent to the survey and must be tied in by bearing and distance;
  - H.** Witness monuments, basis of bearing, bearings and length of lines;
  - I.** The bearings, distances and curve data of all perimeter boundary lines must be indicated. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse must be given;
  - J.** Data on all curves sufficient to enable the re-establishment of the curves on the ground. This data must include:

    - (1)** Radius of curve;
    - (2)** Arc length; and
    - (3)** Notation of non-tangent curves;
  - K.** Lengths of all lines shown to at least tenths of a foot and all angles and bearings shown to at least the nearest minute;
  - L.** A legal description of the perimeter boundary of the tract surveyed;
  - M.** All parcels created by the survey, designated by a number or letter, and the dimensions and area of each parcel. (Excepted parcels must be marked "Not included in this survey.")
  - N.** The signature and seal of the registered land surveyor responsible for the survey. The affixing of his seal constitutes a certification by the surveyor that the Certificate of Survey has been prepared in conformance with the

Subdivision Act (MCA sections 76-3-101 through 76-3-614) and the regulations adopted pursuant thereto; and

- O.** Memorandum of oaths administered pursuant to MCA section 76-3-405.
- .4** Procedures for divisions of land exempted from public review as subdivision. Certificates of Survey for divisions of land meeting the criteria set out in MCA section 76-3-207, must meet the following requirements:
  - A.** Certificates of Survey of a division of land that would otherwise be a subdivision but that is exempted from public review under MCA section 76-3-207 may not be filed by the County Clerk and Recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision and citing the applicable exemption;
  - B.** Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the Certificate of Survey may not be filed unless it bears a signed and acknowledged copy of the covenant;
  - C.** For an exemption as a gift or sale to a member of the immediate family, the Certificate of Survey must also indicate the name of the grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee; and
  - D.** For an exemption as a relocation of a common boundary line, the Certificate of Survey must bear the signatures of all landowners whose parcels are changed by the relocation. The Certificate of Survey must show that the exemption was used only to change the location of a boundary line dividing parcels, and must clearly distinguish the prior boundary location (shown, for example, by a solid line or notation).
- .5** Procedures for filing Certificates of Survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in MCA sections 76-3-201, 76-3-105, and 76-3-209, are not required to be surveyed nor must a Certificate of Survey or subdivision plat thereof be filed with the County Clerk and Recorder. A Certificate of Survey of such a division may, however, be filed with the clerk if it meets the requirements for form and content for certificates contained in this section and bears a certificate of the surveyor performing the survey stating the applicable exemption from the Subdivision Act.

## Article 9. Public and Private Improvements

<a href="#">9-010</a>	Subdivision Improvements Agreement.....	9-1
<a href="#">9-020</a>	Payment for Extension of Public Improvements.....	9-2
<a href="#">9-030</a>	Warranty of Improvements .....	9-2

### 9-010 Subdivision Improvements Agreement

#### .1 Security, Estimate of Probable Cost, and Agreement Required

- A. As a condition for granting approval of the final plat, the subdivider must provide a security, a Subdivision Improvements Agreement, and an estimate of probable cost, guaranteeing the construction and installation of all required improvements within two years of final plat approval unless an extension is granted. The security, estimate of probable cost, and the Subdivision Improvements Agreement must be turned into the city engineer for review. After approval and acceptance by the city engineering division, the documents must be forwarded to the city clerk for safekeeping.

*Commentary: The City Engineering Division governs administration of this process.*

- B. The City Council may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing acceptable bonding or other reasonable security per MCA 76-3-507 for purposes of filing a final plat.

#### .2 Security Arrangements

One or more of the following security arrangements may be approved by the city engineer. The security arrangement shall not expire for a minimum of one month after the expiration date of the improvements agreement.

*Commentary: City engineering will promulgate administrative rules pertaining to acceptable security arrangements.*

- A. Cash, CD, or Other Assignable Security
- B. Irrevocable Letter of Credit
- C. Performance or Property Bonds
- D. Special Improvement Districts in compliance with City Subdivision Regulations [5-050.3AA](#).

#### .3 Additional Regulations

Missoula City Council authorizes the City Engineering Division to release, extend, or draw upon securities commensurate with the completion of improvements acceptable to the city engineer.

*Commentary: City engineering promulgates administrative rules regarding: release of money or property held under guarantee and extension or default of Subdivision Improvement agreements.*

**9-020 Payment for Extension of Public Improvements**

- .1** The City Council may require the subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to the public health and safety, including but not limited to public roads and transportation facilities, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. The City Council may not require a subdivider to pay or guarantee payment for part or all of the costs of extending the capital facilities related to education.
- .2** A statement must be included on the subdivision plat that acceptance of a deed for a lot within the subdivision constitutes the assent of the owners to any future SID/RSID, based on benefit, for upgrading and/or maintaining the streets within the subdivision, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening, and drainage facilities and may be used in lieu of their signatures on an SID/RSID petition. This assent shall constitute a waiver of right to protest creation of a special improvement district for any specifically identified capital improvements, pursuant to MCA 76-3-608(7). This waiver of the right to protest formation of a SID/RSID for capital improvement projects expires 20 years after the date the final subdivision plat is recorded with the County Clerk and Recorder.

**9-030 Warranty of Improvements**

The subdivider must provide a two year warranty for all improvements required of the subdivision. The warranty must commence at the time the improvements are accepted by the city engineer.