

## APPENDIX K: COMMONLY REQUIRED CONDITIONS OF APPROVAL AND COVENANTS

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A. **Intent.** The following conditions and covenants are commonly required as part of the subdivision review and approval process in Gallatin County. The primary purpose of this appendix is to give applicants an idea of some of the conditions and covenants that may be attached to the approval of their project. While the Planning Department attempts to utilize standard conditions, please be aware that these conditions and covenants are likely to change as the subdivision review process evolves, and as site-specific conditions may warrant.

### B. **Conditions and Covenants Related to Water Conveyance Facilities**

#### 1. Conditions Related to Water Conveyance Facilities:

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

2. Covenants Related to Water Conveyance Facilities:

- a. No water may be removed from any irrigation ditch, canal, or other water conveyance facility without a water right, permit, or written water lease agreement with the appropriate water users and/or water conveyance facility's authorized representatives.
- b. Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, stormwater, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.
- c. The Owners' Association shall remove any trash or debris that originated from within the subdivision and has accumulated in the water conveyance facilities passing through their subdivision by no later than May 1<sup>st</sup> of each year. If the Owners' Association fails to remove the trash or debris as described above, the water users and/or water conveyance facility's authorized representatives may cause the trash or debris to be removed and bill the Owners' Association for such efforts. Until such time that the Owners' Association assumes responsibility for the requirements described herein, such requirements shall be the responsibility of the developer.
- d. Lot owners are hereby notified of the water users, water conveyance facility's authorized representatives, and/or their designee's right to access the property to maintain and repair the water conveyance facility (this includes, but is not limited to, placement of excavated material, removal of vegetation and debris along the water conveyance facility); to install, repair, and or adjust headgates and other diversion structures; and to carry out other normal means of repair and maintenance related to the ditch/canal.
- e. To assure non-interference with water conveyance facilities, no livestock grazing shall take place, nor shall any new structures (other than structures for the maintenance and operation of the water conveyance facility), fences, landscaping (other than grass), or roads, may be installed or erected within the water conveyance facility non-interference setback, except where agreed to in writing by the water users and/or water conveyance facilities authorized representatives. (**NOTE:** Where the water users and/or water

conveyance facility's authorized representatives agree to something else as part of the subdivision review process, this covenant would need to be amended to reflect those changes.)

- f. Neither the Owners' Association nor any lot owners shall undertake any activity that would result in the interference or obstruction in the transmission of water in the water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives prior to commencing such work. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the person responsible for such work shall provide written notice to the water users and/or water conveyance facility's authorized representatives and allow them an opportunity to inspect such work.
- g. Lot purchasers are hereby notified that Montana law provides specific protections in regards to liability and nuisance claims for agricultural operations and irrigators. Those specific protections include, but are not limited to Section 85-7-2211, MCA; Section 85-7-2212, M.C.A; and Section 27-30-101, MCA.