

GALLATIN COUNTY SUBDIVISION REGULATIONS



MARCH 11, 2021

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SECTION 1: GENERAL PROVISIONS AND DEFINITIONS

- A. **Title.** These Regulations shall be known as “The Gallatin County Subdivision Regulations” referred to throughout the document as “Subdivision Regulations” or “these Regulations.”
- B. **Authority.** Authorization for adopting these Regulations is the Montana Subdivision and Platting Act (MSPA). [[Title 76, Chapter 3, Montana Code Annotated \(MCA\)](#)].
- C. **Jurisdiction.** These Regulations govern the Subdivision of land within the jurisdictional area of the Governing Body of Gallatin County.

If a proposed Subdivision lies within one mile of a third class city or town or within two miles of a second-class city or within three miles of a first class city, the county Governing Body must submit the Preliminary Plat to the city or town Governing Body or its designated agent for review and comment. If a proposed Subdivision lies partly within an incorporated city or town, the Preliminary Plat must be submitted to, and approved by, both the city or town and the county Governing Bodies.

If a proposed Subdivision is located in a rural school district, the Governing Body shall provide a summary of the information contained in the Subdivision application and Preliminary Plat to school district trustees.

These Regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply. Other regulations include, but are not limited to, transportation design and construction standards, zoning regulations, floodplain regulations, building codes, development codes, and fire codes.

- D. **Purpose.** The purpose of these Regulations is to promote the public health, safety, and general welfare by regulating the Subdivision of land; prevent the overcrowding of land; lessen congestion in the roads and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public improvements; to require development in harmony with the Natural Environment; to promote preservation of Open Space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of Property Owners; and to require uniform monumentation of land Subdivisions and transferring interests in real property by reference to a plat or certificate of survey. [[76-3-102, MCA](#)]

These Regulations are intended to comply with Part 5 of the MSPA, and are intended to promote:

1. Orderly development of Gallatin County.
2. Coordination of roads within subdivided land with other roads, both existing and planned.
3. Dedication of land for public Roadways and for public utility Easements.
4. Proper physical and legal road access, including obtaining necessary Easements and the improvement of roads.
5. Adequate Open Spaces for travel, light, air and recreation.
6. Adequate transportation, water, drainage, and sanitary facilities.
7. Avoidance or minimization of congestion.
8. Avoidance of Subdivisions, which would involve unnecessary environmental degradation.
9. Requirement that Subdivision development be in harmony with the Natural Environment.
10. Avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation or other public improvements.
11. Avoidance of excessive expenditure of public funds for the supply of public improvements and services.
12. Manner and form of making and filing of plats for subdivided lands.
13. Administration of these Regulations, by defining the powers and duties of approving authorities, including procedures for the review and approval of all Subdivision plats covered by these provisions.
14. Implementation in accordance with the goals and policies of the Gallatin County Growth Policy and Gallatin County zoning districts.

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

Insofar as these Regulations are more restrictive than any other local law, these Regulations shall be controlling, and if any other law is more restrictive, it shall take precedence over these Regulations.

- F. Conditions.** Regulation of the Subdivision of land and the imposition of reasonable conditions to land Subdivision is an exercise of valid police power delegated by the state of Montana to Gallatin County. Subdividers have the duty to comply with reasonable conditions for design, Dedication, improvement, and restrictive use of the land so as to promote the physical and economic development of Gallatin County and the safety and general welfare of the future Subdivision Lot owners and of the community at large.
- G. Violation and Penalties.** Any person who violates any provision of the MSPA or these Regulations shall be guilty of a misdemeanor and punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in a 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 MSPA or these Regulations shall be deemed a separate and distinct offense.
- H. General Terms.** Terms used throughout these Regulations are abbreviated as follows:
1. Montana Subdivision and Platting Act: ***MSPA***
 2. Gallatin County Clerk and Recorder: ***Clerk and Recorder***
 3. Gallatin County Commission: ***County Commission***
 4. Gallatin County: ***County***
 5. Gallatin County Attorney: ***County Attorney***
 6. Gallatin County District Court: ***District Court***
 7. Gallatin City-County Health Department: ***GCCHD***
 8. Gallatin County Code Compliance Department: ***Code Compliance Department***
 9. Montana Department of Environmental Quality: ***MDEQ***
 10. Montana Department of Transportation: ***MDT***
 11. Natural Resources Conservation Services: ***NRCS***

12. County, City-County Planning Boards as established under [Title 76, Chapter 1, MCA](#): ***Planning Board***
13. Various Planning Departments throughout Gallatin County: ***Planning Department***
14. Gallatin County Subdivision Regulations: ***Subdivision Regulations***
15. Gallatin County Transportation Design and Construction Standards: ***Transportation Design and Construction Standards***
16. Gallatin County Road and Bridge Department: ***Road Department***
17. Gallatin County Road and Bridge Superintendent: ***Road Superintendent***
18. Gallatin County Treasurer: ***Treasurer***
19. United States Geological Survey: ***USGS***
20. Gallatin County Weed Control Department: ***Weed Department***
21. Traffic Impact Analysis: ***TIA***
22. Right-Of-Way: ***ROW***

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

1. Access Road(s). All off-site roads that connect to an interior Subdivision road or a direct driveway approach to a Subdivision lot. An Access Road may be an Arterial, Collector, Local, or County maintained road.
2. Adjoining Landowner or Property Owner. The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel only by a road, Watercourse or deeded right-of-way.

3. Agriculture. The cultivation or tilling of soil for the purpose of producing vegetative materials for sale or for use in a commercial operation and/or the raising or tending of animals for use or commercial sale. All aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market. Agriculture does not include gardening for personal use, keeping of house pets, or landscaping for aesthetic purposes.
4. Agricultural Water User Facility. Those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.
5. Aliquot Part. An equal division of a government section as described by the 'Manual for the Survey of The Public Lands of the United States.
6. Alley. A public or private way reserved as a secondary means of access to the rear or side of lots which adjoin on and are served by public roads.
7. Arterial Road. A road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic.
8. Average Daily Traffic (ADT). The average number of moving vehicles on a Roadway segment during a non-holiday week day.
9. Base Flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year. A Base Flood is the same as a 100 - year flood.
10. Block. A piece or Tract of land entirely surrounded by public highways roads, waterways, railway, right-of-way, or parks, etc., or a combination thereof. A group of lots, Tracts or parcels within well-defined and fixed boundaries.
11. Central Sewage System. A Public Sewage System as defined in [75-6-102 MCA](#) and [ARM 17.36.101](#).
12. Central Water System. A Public Water Supply System as defined in [75-6-102 MCA](#) and [ARM 17.36.101](#).
13. Certificate of Survey. A drawing of a field survey prepared by a registered land Surveyor for the purpose of disclosing facts pertaining to boundary location.

14. Collector Road. A road that gives equal priority to the movement of traffic and access to abutting properties.
15. Common Open Space or Area. Undeveloped land within a Subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common Open Space shall not be part of individual residential lots. It shall be substantially free of Structures, but may contain historic Structures and archaeological sites, and/or recreational facilities for residents, including but not limited to, meeting rooms, benches, picnic tables, and interpretive signage as indicated on an approved development plan.
16. Comprehensive Plan. A Growth Policy as defined in [Section 76-1-601, MCA](#).
17. Condominium. A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units. Pursuant to [70-23-102 \(5\), MCA](#), Condominium means the ownership of single units with common elements located on property submitted to the provisions of the Unit Ownership Act ([Title 70, Chapter 23, MCA](#)).
18. Conservation Easement. The grant of a property right or interest from the Property Owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in perpetuity (or defined time period) in its natural and open state, precluding future or additional development (with the exception of any allowable Structures or facilities).
19. Contiguous Tract. For the purpose of these Regulations, a parcel of land next to, abutting, adjacent to, adjoining or touching another individual parcel of land, including Tracts which are separated only by public right-of-way.
20. Covenant. An agreement, or restriction, in writing, of two or more parties by which any of the parties pledges to the others that something is done or shall be done. Covenant or Restrictive Covenant: A limitation contained in a deed or other document that restricts or regulates the use of the real property.
21. Dedication. The deliberate appropriation of land by an owner for any general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted ([76-3-103\(3\), MCA](#)).

22. Division of Land. The segregation of one or more parcels of land from a larger Tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the Tract or properly filing a certificate of survey or Subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a Tract of record or an entire parcel of land that was created by a previous Division of Land is not a Division of Land ([76-3-103\(4\), MCA](#)).
23. Dwelling Unit. Any building or portion thereof providing complete, independent and permanent living facilities for one family.
24. Easement. A nonpossessory interest in land that gives a person or entity the right to use the land of another for a specific purpose or purposes.
25. Engineer (Registered Professional Engineer). A person licensed in conformance with the Montana Professional Engineers Registration Act ([Title 37, Chapter 67, MCA](#)) to practice engineering in the state of Montana.
26. Final Plat. The final drawing showing the Subdivision and Dedication which is prepared for filing for record with the county clerk and recorder and contains all elements and requirements set forth in MSPA and the Subdivision Regulations.
27. FIRM-Flood Insurance Rate Map. The map on which the Federal Emergency Management Agency (FEMA) has delineated both the 100-year floodplains and the risk premium zones.
28. First Minor Subdivision. A proposed Minor Subdivision from a Tract of Record that has not been subdivided or created by a Subdivision under the MSPA, or has not resulted from a Tract of Record that has had more than five parcels created from that Tract of Record under [76-3-201](#) or [76-3-207](#), MCA, since July 1, 1973. [[76-3-609\(2\), MCA](#)].
29. Flood of 100 Year Frequency. A flood magnitude which has a one percent chance of occurring in any given year, or is a flood magnitude which is expected to recur on the average of once every 100 years [[76-5-103 \(9\), MCA](#)].
30. Flood. The water of any Watercourse or drainage which is above the bank or outside the channel and banks of such Watercourse or drainage [[76-5-103 \(8\), MCA](#)].
31. Floodplain. The area adjoining the Watercourse or drainage that would be covered by the floodwater of a flood of 100 year frequency [[76-5-103 \(10\), MCA](#)]. The floodplain consists of a floodway and floodway fringe.

32. Floodway. The channel of a stream or river and the adjacent over bank areas that must be reserved in order to discharge a Base Flood without cumulatively increasing the water surface elevation more than one-half (1/2) foot.
33. Floodway Fringe. That portion of the floodplain outside the limits of the floodway.
34. Governing Body. The governing authority of a county, city, town, or consolidated local government organized pursuant to law [\[76-3-103 \(7\), MCA\]](#). The Governing Body referred to in these Regulations is the Board of Gallatin County Commissioners (“County Commission”).
35. Growth Policy. An official public document adopted and used by a local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change. The required and optional elements of a Growth Policy are listed in [Title 76, Chapter 1, Part 6, MCA](#).
36. Health Authorities. The Montana Department of Environmental Quality, local health officer, local sanitarian, or other authorized representative.
37. Immediate Family. A spouse, children by blood or adoption, and parents.
38. Irregularly Shaped Tract of Land. Means a parcel of land other than a Aliquot Part of the United States Government survey section or a United States Government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
39. Legal Access. Where access to a Subdivision, or any lot within a Subdivision, is provided by a dedicated public road Right-of-Way over which a Governing Body has accepted or acquired jurisdiction, or over which the County Commission will accept jurisdiction upon approval of the Subdivision application.
40. Local Services. Any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens. These services include, but are not limited to, law enforcement, fire protection, water supply, recreation, roads, parks, libraries, schools, wastewater and solid waste collection and disposal.
41. Lot. A parcel, plot or other land area created by Subdivision for sale, lease, or rent.
42. Lot Measurements:
- a. Lot Depth. The average distance from the front Lot line to the rear Lot line.
 - b. Lot Width. The average distance between side Lot lines.

- c. Lot Frontage. The width of the front Lot line.
 - d. Lot Area. The area of a Lot determined exclusive of highway, Alley, road, or other right-of-way.
- 43. Lot Types:
 - a. Corner Lot. A Lot located at the intersection of two roads.
 - b. Interior Lot. A Lot with frontage on only one road.
 - c. Double Frontage Lot. A Lot with both front and rear Lot lines abutting a road.
- 44. Major Subdivision. A Subdivision containing six or more lots, which does not qualify for review as a Minor Subdivision.
- 45. Minor Subdivision. A Subdivision that creates five or fewer lots.
- 46. Manufactured Home. A detached residential dwelling unit, which may consist of one or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, “trailer homes,” “house trailers,” and “manufactured homes” whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include “modular” or “factory-built buildings” that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.
- 47. Manufactured or Mobile Home Lot or Space. A designated portion of a Manufactured Home Park designed for the accommodation of one Manufactured Home and its accessory buildings or Structures for the exclusive use of the occupants.
- 48. Manufactured or Mobile Home Stand. That area of a Manufactured Home lot which has been prepared for the placement of a Manufactured Home.
- 49. Manufactured or Mobile Home Park. Any real property under single ownership or control for which the primary purpose is the placement of two or more Manufactured Homes for permanent residential dwellings and for the production of income. A Manufactured Home Park does not include real property used for the display and sale of manufactured units, nor does it include real property used for seasonal purposes only, as opposed to year-round occupancy. Home sites within

the park are leased to individual homeowners, who retain customary leasehold rights.

- 50. Manufactured or Mobile Home Subdivision. A Subdivision designed and/or intended for the sale of lots for siting Manufactured Homes.
- 51. Mobile Home. A transportable, manufactured Structure, suitable for year-round single-family occupancy and having water, electrical, and sewage connections similar to those of conventional dwellings. This definition applies only to units constructed prior to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Compare to the definition of Manufactured Home.
- 52. Monument (Permanent Monument). Any Structure of masonry, metal or other permanent material placed in the ground which is exclusively identifiable as a Monument to a survey point, expressly placed for surveying reference (ARM 8.94.3001).
- 53. MSPA. Montana Subdivision and Platting Act, [Title 76, Chapter 3, MCA](#).
- 54. Natural Environment. The physical conditions which exist within a given area, including land, water, mineral, flora, fauna, sound, light, and objects of historic or aesthetic significance.
- 55. Net Density. The number of residential dwelling units per unit of land, excluding any land used or to be used as road Rights-of-Way and dedicated parkland/Open Space.
- 56. Open Space. A land or water area devoid of buildings and other physical Structures except where accessory to the provision of recreation.
- 57. Ordinary High Water Mark. The outermost line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water marks ([23-2-301 MCA](#)).
- 58. Pedestrian Facility. A sidewalk or walkway, separate from the traveled portion of the Roadway located in a Right-of-Way.

59. Phased Development or Subdivision. (a) A large scale development which is designed to be completed, one defined geographic area (phase) at a time, with each phase standing on its own in terms of access, circulation, utilities, parks and Open Space, and so on, in the event subsequent phases are delayed or canceled. (b) For Subdivision Preliminary Plat applications submitted on or after May 8, 2017, Phased Development also means a Subdivision application and Preliminary Plat that at the time of submission consists of independently platted development phases that are scheduled for review on a schedule proposed by the Subdivider. ([§ 76-3-103\(10\), MCA](#)).
60. Planned Unit Development (PUD). A land development project consisting of residential clusters, industrial parks, shopping centers, office buildings, parks, or any combination thereof which comprises a planned mixture of land uses built in a pre-arranged relationship to each other and having Open Space and community facilities in a common ownership or use.
61. Planning Board. The Gallatin County Planning Board.
62. Planning Department. The Gallatin County Planning Department.
63. Plat:
- a. Preliminary Plat. A legible and scaled drawing of a proposed Subdivision showing the layout of roads, alleys, lots, Blocks, and other elements of a Subdivision that furnish a basis for review by a Governing Body as more specifically set forth in these Regulations and the MSPA.
 - b. Final Plat. The final drawing of the Subdivision and Dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).
 - c. Amended Plat. The final drawing of any change to a filed platted Subdivision or any lots within a filed platted Subdivision.
 - d. Vacated Plat. A plat which has been voided under the provisions of MCA [76-3-305](#), [7-5-2501](#), [7-5-2502](#), [7-14-2616 \(1\) and/or \(2\)](#), [7-14-2617](#), [7-14-4114 \(1\) and/or \(2\)](#), and [7-14-3115](#).
64. Private Improvement. Private improvements are the same types of improvements as defined under Public Improvements, except the Structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.

65. Property Owner. Any person, firm, corporation or other entity shown as being the legal owner of a Tract, parcel or lot in the records of the County Clerk and Recorder.
66. Property Owners' Association. An association whether incorporated or not, formed to own, manage, or maintain common property or facilities.
67. Public Health and Safety. A condition of optimal well-being, free from danger or injury, for a community at large, not merely for an individual or small group of persons.
68. Public Improvement. Any Structure or facility constructed to serve more than one lot in a Subdivision which is dedicated to the public or otherwise acquired by a government entity for public use. Examples of typical Public Improvements include parks, roads, sidewalks, Trails, curbs, gutters, street lighting, utilities, and systems for water supply, sewage disposal, drainage, or fire protection.
69. Public Sewage System. A system of collection, transportation, treatment and disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year ([75-6-102 MCA](#) and [ARM 17.36.101](#)).
70. Public Water Supply System. A system for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply 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. ([75-6-102 MCA](#) and [ARM 17.36.101](#)).
71. Recreational Vehicle Park. A place used for public camping where persons can rent space to park individual camping trailers, pickup campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
72. 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.
73. Rights-of-Way (ROW). A linear public way established or dedicated for public purposes by a duly recorded plat, deed, Easement, grant, prescription, condemnation, governmental authority or by operation of law, intended to be occupied by a road, Trail, motorized and non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, or other similar uses.

74. Roadway. That portion of the road right-of-way which is improved or is proposed to be improved to carry traffic and provide for the on-road storage of automobiles; where curb is provided, the Roadway is measured from face-of-curb to face-of-curb.
75. Structure. A combination of materials to form a building, edifice or any piece of work for use, occupancy, or ornamentation whether installed on, or below the surface of land or water.
76. Subdivider. Any person, firm, or corporation, or other entity who causes land to be subdivided or who proposes a Subdivision of land.
77. Subdivision. A Division of Land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter Aliquot Part of a United States government section, exclusive of public Roadways, in order that the title to the parcels may be sold, or otherwise transferred and includes any re-Subdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or Mobile Homes will be placed [[76-3-103\(15\), MCA](#)].
78. Subdivision Administrator. The person or persons authorized by the Governing Body to perform the duties of review and administration as set forth in these Regulations.
79. Subsequent Minor Subdivision. Any Subdivision of five or fewer parcels that is not a First Minor Subdivision.
80. Surveyor (Registered Land Surveyor). A person licensed in conformance with the Montana Professional Engineers, Registration Act ([Section 37-67-101 through 37-67-332, MCA](#)) to practice surveying in the state of Montana.
81. Swale. A drainage channel or shallow depression designed to direct surface water flow.
82. Title of Report (Abstract of Title, Subdivision Guarantee, or Platting Report). A report from a title service company on the condition of title to the property proposed for Subdivision, which identifies the owners of record of the property, lien holders, encumbrances, Easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter.

83. Townhome or Townhouse. Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities. ([70-23-102 \(14\), MCA](#))
84. Tract. Land area proposed to be subdivided.
85. Tract of Record. An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [[76-3-103\(17\)\(a\), MCA](#)].
86. Trail. A public facility that accommodates recreational and transportation needs of citizens.
87. Trails Plan. A planning document adopted as an amendment to the Gallatin County Growth Policy pursuant to [Title 76, Chpt. 1, MCA](#) that serves as a guide for future Trail facility needs.
88. Transportation Plan. A planning document adopted as an amendment to the Gallatin County Growth Policy pursuant to [Title 76, Chpt. 1, MCA](#), which serves as a guide for future Transportation System needs.
89. Transportation System. The network of public roads, intersections, sidewalks, bike facilities, Trails, and transit systems.
90. Un-Subdivided Land. Existing transferable parcels of land which are not recorded as parcels or lots within a platted Subdivision. Parcels of land not created through the Montana Subdivision and Platting Act or local Subdivision review process.
91. Variance, Undue Hardship. The physical surroundings, shape, or topographical conditions of the property involved preclude the development of the property. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed.
92. Vicinity Sketch. A map at a scale suitable to locate a proposed Subdivision, showing the boundary lines of all adjacent properties and roads, Trails and other information necessary to determine the general location of the proposed Subdivision.
93. Water Conveyance Facility. Agricultural Water User Facilities and other facilities that convey water for Agriculture, stock, domestic, fish and Wildlife, industrial, irrigation, mining, municipal, power, recreation, aquifer recharge or mitigation, and all other beneficial uses set forth in [Section 85-2-101, et seq., MCA](#). These facilities

include, but are not limited to, ditches, canals, pipelines, flumes, wells, infiltration galleries, diversion Structures, headgates, pumps, blowoffs, Swales and associated infrastructure. This term is not intended to include a “Watercourse” as defined in these regulations or any man-made Structure the primary purpose of which is to convey stormwater.

94. Watercourse. Any natural stream, river, creek, drainage, waterway, gully, ravine or wash in which water flows either continuously or intermittently and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow. The term Watercourse shall not be construed to mean any facility created exclusively for the conveyance of irrigation water.
95. Wetland. Areas that are inundated and saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.
96. Wildlife. Animals that are neither human, domesticated, nor feral descendants of commonly domesticated animals.
97. Wildlife Habitat. The place or type of habitat where Wildlife naturally lives.

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SECTION 2: GENERAL PROCEDURES

- A. **Authorized Agent.** The Gallatin County Department of Planning and Community Development is the authorized agent designated by the County Commission to review Subdivision applications.
- B. **Permission to Enter.** The County Commission or its designated agent or affected agencies identified during the Subdivision pre-application plan review may investigate, examine, and evaluate the site of the proposed Subdivision to verify information provided by the Subdivider and to subsequently monitor compliance with any conditions if the Subdivision Preliminary Plat application is approved conditionally. The submission of a Subdivision application constitutes a grant of permission by the Subdivider for the County Commission, its agents, and affected agencies to enter the subject property. This consent applies to members of the public attending a noticed public meeting for a site visit.
- C. **Construction Timing and Installation of Infrastructure.** The Subdivider shall not proceed with any construction work on the proposed Subdivision including grading and excavating relating to improvements, until the Commission has given Preliminary Plat approval and only if the construction is in accordance with the conditions of Preliminary Plat approval.

No installation of infrastructure improvements (i.e. roads, water and sewer facilities, utilities) shall take place within the site until all applicable permits as listed in [Section 5.C](#) of the Subdivision Regulations have been issued by the agency or agencies authorized by statute, rule or regulation to issue them. In addition, no installation of infrastructure improvements shall take place within the site until the Subdivider or Subdivider's water supply provider has provided evidence to Gallatin County, pursuant to [Section 5.C](#) of these Regulations, that the physical availability of water is sufficient to meet the water supply needs of the Subdivision, as determined by the State of Montana, and that all uses of water within the Subdivision are legally authorized. This requirement shall not preclude or prevent an applicant from proceeding with the testing needed to obtain the data necessary (whether under statute, rule or regulation) to apply for the permits required for Final Plat approval.

- D. **Transfers of Title.** After a preliminary Subdivision plat has been approved or conditionally approved, the Subdivider may enter into contracts to sell lots in the proposed Subdivision if all of the following conditions are met:
 - 1. Under the terms of the contracts, the purchasers of lots in the proposed Subdivision shall make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the state of Montana.

2. Under the terms of the contracts and the escrow agreement, the payments made by lot purchasers 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 Clerk and Recorder.
3. The contracts and the escrow agreement provide that if the Final Plat of the proposed Subdivision is not filed with the Clerk and Recorder within two years of the Preliminary Plat approval, the escrow agent shall immediately refund to each purchaser any payment made under the contract.
4. The County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.
5. The contracts shall contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a Final Plat identifying the property has been filed with the Clerk and Recorder, title to the property cannot be transferred in any manner."
6. Instruments Which Transfer Title: Under [76-3-302, MCA](#), the Clerk and Recorder shall not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is required to be surveyed by the Act unless the required certificate of survey or Subdivision plat has been reviewed, approved and filed with the Clerk and Recorder and the instrument or transfer describes the parcel or tract by reference to the filed certificate or plat.

E. Appeals of Governing Body Decision.

1. A person who has filed with the Governing Body an application for a Subdivision under the MSPA and these Regulations may bring an action in district court to sue the Governing Body to recover actual damages caused by a final action, decision, or order of the Governing Body or a regulation adopted pursuant to the MSPA that is arbitrary or capricious.
2. A party identified in subsection (4) below who is aggrieved by a decision of the Governing Body to approve, conditionally approve, or deny an application and Preliminary Plat for a proposed Subdivision or a final Subdivision plat may, within 30 days from the date of the Governing Body's signed decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
3. For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

4. The following parties may appeal under the provisions of subsection (2) above:
 - a. The Subdivider;
 - b. A landowner with a property boundary contiguous to the proposed Subdivision or a private landowner with property within the county or municipality where the Subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
 - c. One of the following municipalities:
 - i. a first-class municipality as described in [7-1-4111, MCA](#) if a Subdivision is proposed within 3 miles of its limits;
 - ii. a second-class municipality, as described in [7-1-4111, MCA](#) if a Subdivision is proposed within 2 miles of its limits;
 - iii. a third-class municipality, as described in [7-1-4111, MCA](#) if a Subdivision is proposed within 1 mile of its limits.

F. Appeals of Code Compliance Department.

1. A party identified in subsection ([E.4](#)) above who is aggrieved by a decision of the Code Compliance Department may, within 30 days from the date of the decision, submit a written appeal.
2. For the purposes of this section, “aggrieved” means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.
3. An appeal of a decision made by the Code Compliance Department must be made in writing to the Code Compliance Department and be received within 30 days of the date of the decision. An appeal shall allege the Code Compliance Department’s decision was an erroneous interpretation or application of these Regulations or relevant State or Federal laws. The Code Compliance Department shall acknowledge receipt and notify the appellant of the preliminary date of the appeal hearing in writing.
4. An appeal shall be heard by the Governing Body, in accordance with its hearing rules. The Governing Body shall issue its findings of fact and conclusions on an appeal within a reasonable time.

5. The Governing Body may reverse the decision of the Code Compliance Department only if the governing body finds, based on facts presented in the hearing record, that the Code Compliance Department erred in their decision.
6. If an appeal is received more than 30 days after the date of the decision, the Code Compliance Department shall notify the appellant in writing declining to send the appeal to the Governing Body.

SECTION 3: REVIEW AND APPROVAL PROCEDURES FOR MAJOR AND SUBSEQUENT MINOR SUBDIVISIONS

- A. Major and Subsequent Minor Subdivisions.** Subdivisions containing six or more lots, and Subsequent Minor Subdivisions containing five or fewer lots that do not qualify as First Minor Subdivisions, shall follow a four-step review process: pre-submittal meeting; pre-application plan review; Preliminary Plat review; and Final Plat review.
- B. Pre-Submittal Meeting.** The Subdivider shall meet with Planning Department staff prior to submitting a pre-application plan. The purpose of this meeting is to discuss these Regulations and standards, to familiarize the Subdivider with the goals and objectives of applicable plans, regulations and ordinances, and to discuss the proposed Subdivision as it relates to these matters.
- C. Pre-Application Plan Review.** After the requirement for a pre-submittal meeting has been satisfied, and prior to submittal of a Subdivision Preliminary Plat application, the Subdivider shall submit an application for pre-application plan review, the appropriate fee, and all required pre-application plan submittal information as set forth in [Subsection 5.B.](#) of these Regulations.
1. Planning Department Review: Six copies of the pre-application plan submittal materials are required.
 - a. Time of Review: The Planning Department shall review the pre-application plan within 30 working days and will provide a written response to the Subdivider of the pre-application plan submittal.
 - b. The Planning Department shall identify, for informational purposes, state laws, local regulations and Growth Policy provisions that may apply to the Subdivision review process including, but not limited to, Subdivision design standards, zoning regulations, floodplain regulations, and fire protection requirements.
 - c. The Planning Department shall provide the Subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have an interest in the proposed Subdivision and that may be contacted for comment by the Planning Department on the Subdivision application. The Planning Department shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond.

- d. The Planning Department shall identify particular additional information the Subdivision Administrator anticipates will be required for review of the Subdivision application. This does not limit the ability of the Planning Department to request additional information at a later time.
- e. Unless the Subdivider submits a Subdivision Preliminary Plat application within 180 days of the pre-application plan written response, the Subdivider must request a meeting with the Planning Department prior to submitting the Subdivision Preliminary Plat application.

D. Subdivision Preliminary Plat Application Submittal. After the requirement for pre-application plan review has been satisfied, the Subdivider shall submit a complete Subdivision Preliminary Plat application form along with the submittal requirements for all Subdivision applications for Preliminary Plat review as provided under [Subsection 5.C.](#) of these Regulations, including the required fee and copies.

E. Review Process.

1. Element Review. Within 5 working days of receipt of a Subdivision Preliminary Plat application and required fee, the Planning Department shall determine whether the application contains all of the applicable materials required by [Subsection 5.C](#) of these Regulations, and shall give written notice to the Subdivider of the determination.
 - a. If the Planning Department determines that elements are missing from the application, the Planning Department shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the Planning Department until the application is resubmitted.
 - b. The Subdivider may correct the deficiencies and resubmit the application.
 - c. If the Subdivider corrects the deficiencies and resubmits the application, the Planning Department shall have 5 working days to notify the Subdivider whether the resubmitted application contains all the materials required, as applicable.
 - d. This process shall be repeated until the Subdivider submits an application containing all the materials required, or the application is withdrawn.

2. Sufficiency Review:

- a. Within 15 working days after the Planning Department notifies the Subdivider that the application contains all of the required elements as provided in [Subsection 3.E.1](#), above, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed Subdivision under these Regulations and shall give written notification to the Subdivider of the determination.
 - i. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed Subdivision, the Planning Department shall identify specific required information in its notification and return the application to the Subdivider, and no further action shall be taken on the application by the Planning Department until the material is resubmitted.
 - ii. The Subdivider may correct the deficiencies and resubmit the application, or withdraw the application.
 - iii. If the Subdivider corrects the deficiencies and resubmits the application in accordance with [Subsection 3.E.2.a.ii](#), above, the Planning Department shall have 15 working days to notify the Subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed Subdivision under these Regulations.
 - iv. This process shall be repeated until the Subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed Subdivision under the provisions of these Regulations, or the application is withdrawn.
 - v. If the Subdivider makes a change to the Subdivision Preliminary Plat application after Planning Department notification of sufficiency, and the change is determined to be material pursuant to [Subsection 3.P.1](#), the sufficiency review process shall be repeated.
- b. A determination that an application contains sufficient information for review as provided under [Subsection 3.E.2](#) of these Regulations does not ensure that the proposed Subdivision will be approved or conditionally

approved by the County Commission and does not limit the ability of the Planning Department, Planning Board, or the County Commission to request additional information during the review process.

- c. A determination of sufficiency by the Planning Department pursuant to this Subsection does not limit the MDEQ from requiring additional water and sanitation information as part of the MDEQ review of water and sanitation information.
3. Applicable Regulations. Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a Subdivision Preliminary Plat application is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the Subdivision Preliminary Plat application contains the required elements and sufficient information, and the Subdivision review, shall be based on the new regulations.
4. Affected Agencies. The Planning Department may submit copies of the Subdivision Preliminary Plat application and supplementary information to the affected utilities and public agencies for review and comment. If the proposed Subdivision is situated within a school district, the Planning Department shall provide an informational copy of the Subdivision Preliminary Plat application to the school district. A rural school district means a school district in which a majority of the pupils in the district reside outside the limits of any incorporated city or town. Review by public agencies or utilities shall not delay the County Commission's consideration of the Subdivision Preliminary Plat application beyond the statutory 60 or 80 working day review period. The County Commission will make these comments available to the Subdivider and to the general public upon request. If, during the review of the application, the Planning Department contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the Subdivider of the contact and the timeframe for response.
5. Review Period and Consideration By County Commission. Following determination that the Subdivision Preliminary Plat application is sufficient for review, the Planning Department will schedule a public hearing before the County Commission within the statutory 60 working day review period (80 working days for Subdivisions having 50 or more lots).

Within the statutory review period, the County Commission shall approve, conditionally approve or deny the proposed Subdivision, unless the Subdivider and the Planning Department agree in writing to an extension or suspension of

the statutory review period, not to exceed one year, or a subsequent public hearing is scheduled and held pursuant to [Subsection 3.1.](#)

6. **Public Hearing Notice:** Notice of the time and date of the Subdivision Preliminary Plat public hearing shall be published in a newspaper of general circulation in the County not less than 15 days prior to the date of the public hearing. The notice shall be published twice, with at least 6 days separating each publication. The Subdivider, each Property Owner of record and each recorded purchaser under contract for deed immediately adjoining the land included in the Subdivision Preliminary Plat application shall be notified of the public hearing by certified mail not less than 15 days prior to the public hearing.

- F. Subdivisions Within Planning Board Jurisdiction.** After the Subdivision Preliminary Plat application is deemed to have all the required elements and to contain sufficient information for review, and the Planning Department has prepared a staff report, if the proposed Subdivision is within the jurisdiction of a Planning Board, the Planning Board shall conduct a public hearing and review the proposed Subdivision, and receive public comment.

Within 10 working days of the public hearing and Planning Board review, the Planning Board shall submit in writing to the County Commission:

1. Its consideration and advice regarding the items under [Subsection 3.K.\(1. through 4.\)](#) of these Regulations.
2. A recommendation for approval, conditional approval, or denial of the Subdivision Preliminary Plat application.

- G. Subdivisions Outside Planning Board Jurisdiction.** For proposed Subdivisions outside the jurisdiction of a Planning Board, the County Commission shall conduct a public hearing and review of the proposed Subdivision in accordance with this Section.

- H. County Commission Public Hearing.**

1. The County Commission shall hold a public hearing on the Subdivision Preliminary Plat application.
2. The County Commission shall determine whether public comments or documents presented for consideration at the public hearing constitute either:
 - a. information or analysis of information that was part of the Subdivision Preliminary Plat application that the public has had a reasonable opportunity to examine and provide comment, in which case the County

Commission shall proceed with its decision to approve, conditionally approve, or deny the proposed Subdivision;

- b. new information that has never been submitted as evidence or considered by either the County Commission or the Planning Department, in which case the County Commission shall proceed as set forth in [Subsection 3.H.3.](#) below.
3. If the County Commission determines that public comments or documents presented at the hearing constitute new information under [Subsection 3.H.2\(b\)](#) above, the County Commission shall further determine whether the public comments or documents are relevant and credible with regard to the.
- a. If the County Commission determines the new information is relevant and credible, then the County Commission shall schedule or direct the Planning Department to schedule a subsequent public hearing.
 - b. At the subsequent public hearing the County Commission shall consider only the new information or analysis of new information that may have an impact on the findings and conclusions that the County Commission will rely upon in making its decision on the proposed Subdivision.

I. County Commission Subsequent Public Hearing.

- 1. If a subsequent public hearing is required, it must be held within 45 days of the County Commission's determination to schedule a subsequent public hearing.
 - a. Notice of the time, date and location of the subsequent public hearing shall be given by publication in a newspaper of general circulation in the County not less than 15 days prior to the date of the subsequent public hearing.
 - b. At least 15 days prior to the date of the subsequent public hearing, notice of the subsequent public hearing shall be given by certified mail to the Subdivider, each Adjoining Landowner to the land included in the preliminary plat, and each purchaser under contract for deed of property (provided by the Subdivider) immediately adjoining the land included in the preliminary plat.
- 2. If a subsequent public hearing is held, the statutory review period is suspended as of the date of the County Commission's decision to schedule a subsequent public hearing. The statutory review period resumes on the date of the County Commission's next regularly scheduled public meeting for which proper notice

for the public hearing on the Subdivision Preliminary Plat application can be provided. At this hearing, the County Commission shall decide to approve, conditionally approve, or deny the proposed Subdivision. The County Commission may not consider any new information regarding the Subdivision Preliminary Plat application that is presented after the subsequent public hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

J. Amended Subdivision Preliminary Plat Applications.

1. If the Subdivider submits changes to the Subdivision Preliminary Plat application after the Planning Department makes a determination of sufficiency, and the Planning Department finds that the changes are material as defined in [Subsection 3.P.1](#) of these Regulations, the Planning Department may require the Subdivider to resubmit a new application and restart one or all steps of the Subdivision review process as needed to address the changes.
2. A Subdivider whose Subdivision Preliminary Plat application has been deemed materially changed by the Planning Department may appeal the decision to the County Commission by written notice within 10 working days. The Subdivider may request a hearing, and may submit additional evidence to show that the changes to the Preliminary Plat application are not material.
 - a. The statutory review period is suspended until the County Commission decision on the appeal is made.
 - b. If the County Commission concludes that the evidence and information demonstrate that the changes to the Subdivision Preliminary Plat application are *not* material, the statutory review period resumes as of the date of the decision.

K. County Commission Decision and Documentation.

1. Prerequisites to Approval. Pursuant to the MSPA, the County Commission may not approve or conditionally approve a Subdivision Preliminary Plat application unless the proposed Subdivision:
 - a. complies with the survey requirements of [76-3-401 through 406, MCA](#);
 - b. provides Easements within and to the proposed Subdivision for the location and installation of any planned utilities;

- c. provides legal and physical access to each parcel within the proposed Subdivision and the required notation of that access on the applicable Plat and any instrument transferring the parcel;
 - d. assures that all required private or Public Improvements will be installed before Final Plat approval, or that their installation after Final Plat approval will be guaranteed as provided by [Section 8](#) of these Regulations;
 - e. assures that the requirements of [76-3-504\(1\)\(j\), MCA](#), regarding the disclosure and disposition of water rights has been considered and will be accomplished before the Final Plat is approved;
 - f. assures that the requirements of [76-3-504\(1\)\(k\), MCA](#) regarding Watercourse and irrigation Easements have been considered and will be accomplished before the Final Plat is approved; and
 - g. provides for the appropriate park Dedication or cash-in-lieu. ([76-3-621, MCA](#))
2. Application of Adopted Standards. In approving, conditionally approving, or denying a Subdivision Preliminary Plat application, the County Commission shall consider whether the proposed Subdivision complies with:
- a. these Regulations, including, but not limited to, submittal requirements of [Section 5](#), and the development standards set forth in Sections [6](#) and [7](#);
 - b. applicable zoning regulation design standards;
 - c. other applicable regulations and standards; and
 - d. consideration of any Variance from the standards set forth in [Section 6](#) of these Regulations.
3. Consideration of Evidence. In making its decision to approve, conditionally approve, or deny a proposed Subdivision, the County Commission shall consider and weigh the following, as applicable:
- a. the Subdivision application and Preliminary Plat;
 - b. the environmental assessment; community impact; flood study and/or flood hazard evaluation; Traffic Impact Study;

- c. the summary of probable impacts and mitigation;
 - d. the MSPA, specifically as to how the proposed Subdivision addresses impacts on Agriculture, Agricultural Water User Facilities, Local Services, the Natural Environment, Wildlife, Wildlife habitat, and Public Health and Safety; and
 - e. any officially adopted Growth Policy, Neighborhood Plan or Development Pattern ([76-2-104, MCA](#)) for the area involved;
 - f. comments, evidence and discussions at the public hearing(s);
 - g. Subdivision Administrator's staff report, findings and conclusions;
 - h. Planning Board recommendation; and
 - i. any additional information authorized by law.
4. Water and Sanitation-Special Rules:
- a. Water and sanitation information provided during the Subdivision Preliminary Plat application review process, including public comment, may be used as a basis for a conditional approval or denial of a Subdivision Preliminary Plat application only if the Governing Body finds that the application submittal does not comply with previously adopted Subdivision, zoning, Floodplain or other regulations.
 - b. For a proposed Subdivision that will create one or more parcels containing less than 20 acres, the Governing Body shall require approval by the MDEQ as a condition of approval of the Final Plat. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.
 - c. The County Commission shall collect public comments submitted regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the Subdivider within 30 days after conditional approval or approval of the Subdivision Preliminary Plat application.
 - d. The Subdivider shall, as part of the Subdivider's application for sanitation approval, forward the comments or the summary provided by the County Commission to the:

- i. reviewing authority provided in [MCA, Title 76, Chapter 4](#), for Subdivisions that will create one or more parcels containing less than 20 acres; and
- ii. local health department or board of health for proposed Subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

5. Decision, Written Findings and Statement of Approval:

- a. At the conclusion of the public hearing, the County Commission may either make a decision to approve, conditionally approve, or deny the Subdivision Preliminary Plat Application in accordance with these Regulations and the MSPA, or continue the decision on the Subdivision Preliminary Plat Application to a future meeting. The County Commission shall render their decision to approve, conditionally approve, or deny the Subdivision Preliminary Plat Application within the review period established under [Subsection 3.E.5](#) of these Regulations.
- b. In rendering its decision to approve, conditionally approve, or deny the Subdivision Preliminary Plat application, the County Commission shall issue written findings and provide those findings to the Subdivider within 30 working days following the decision.
- c. The findings shall:
 - i. contain information regarding the appeal process for the denial or imposition of conditions;
 - ii. identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - iii. provide the facts and conclusions that the County Commission relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;
 - iv. provide the conditions that apply to the Subdivision Preliminary Plat approval that must be satisfied before the Final Plat may be approved;
 - v. explain any reasonable mitigation required by these Regulations, if any; and
 - vi. be made available to the public.
- d. For applications that are approved or conditionally approved, the written findings constitute the County Commission's Statement of Approval.

- e. Any portion of the written findings may refer to or incorporate by reference any oral findings or conclusions made by the County Commission during the public hearing on the Subdivision Preliminary Plat application.

L. Subdivider Preference for Mitigation. If a Planning Board recommendation was provided, the Subdivider may, no later than two working days before the hearing at which the County Commission is to consider the Subdivision Preliminary Plat application, submit in writing to the Planning Department the Subdivider's comments on and responses to the Planning Board's recommendations. At the public hearing, the County Commission will consult with the Subdivider and will give due weight and consideration to the Subdivider's expressed preference. The County Commission may require the Subdivider to design the Subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these Regulations.

1. In reviewing a Subdivision Preliminary Plat application under this section and when requiring mitigation under this subsection, the County Commission may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the Subdivision.

M. Subdivision Application and Preliminary Plat Approval.

1. Applicability. This [Subsection 3.M](#) applies to any approved non-phased Preliminary Plat, and any phased Preliminary Plat application submitted prior to May 8, 2017. For Phased Subdivision Preliminary Plat applications submitted after May 8, 2017, [Section 12.B](#) of these Regulations apply.
2. Approval of the Subdivision Preliminary Plat application shall be in force for a period of not more than three calendar years or less than one calendar year from the date of the signed County Commission statement of approval.
3. After the Subdivision application and Preliminary Plat are approved, the County Commission may not impose any additional conditions as a prerequisite to Final Plat approval if the approval is obtained within the original or extended approval period.
4. At the end of the Preliminary Plat approval period, the County Commission may, at the request of the Subdivider, extend the Preliminary Plat approval for a mutually agreed-upon period of time. At least 30 days prior to the expiration of the Preliminary Plat approval, the Subdivider shall submit a written request for extension of the Preliminary Plat approval. The written request shall be

accompanied by responses to the criteria listed below along with supporting documentation. When evaluating the extension request, the County Commission shall consider the following criteria, responses and supporting documentation.

- a. Progress to date in completing the required conditions of Preliminary Plat approval;
- b. Efforts to maintain the property in good condition;
- c. Duration of the requested extension, and the adequacy of the Subdivider's plan to meet the required conditions of Preliminary Plat approval within the requested extension period;
- d. Significant changes in the vicinity of the Subdivision that have occurred or are planned to occur within the requested extension period, and whether the preliminary plat conditions adequately mitigate the significant changes. Significant changes include changes that may render the Subdivision noncompliant with current design standards, such as road design, wildfire, water supply, septic or flood standards;
- e. Planning and provision of public facilities and services in the vicinity of the Subdivision, and whether the requested extension conforms to those plans and provisions; and
- f. Impacts to public health, safety, and general welfare.

Any mutually agreed upon extension must be in writing and dated and signed by the Subdivider or the Subdivider's authorized agent and by the County Commission. More than one extension may be requested.

5. The County Commission may withdraw approval or conditional approval of the Preliminary Plat if it determines that information provided by the Subdivider, and upon which the approval or conditional approval was based, is inaccurate.

N. Conditions of Approval Sheet. In accordance with the Uniform Standards for Final Subdivision Plats ([Admin. R. Mont. 24.183.1107](#)), the County Commission may require a separate "Conditions of Approval" sheet to be filed with the Final Plat.

O. Restrictive Covenants Approval, Content and Enforcement by the County Commission.

1. The County Commission may require that some or all restrictive covenants governing the use of land within the Subdivision, whether proposed by the Subdivider or required by the County Commission, be set forth in a separate

heading identifying them as plat approval covenants, and indicating: “These covenant(s) may not be repealed or amended without prior written consent of the Gallatin County Commission.”

2. The County Commission may require that all restrictive covenants it has required as a condition of plat approval contain the following language: “The Gallatin County Commission is a party to this restrictive covenant and may enforce its terms.”
3. If property is to be held in common ownership by the landowners within the Subdivision, including any parkland or Open Space, it shall be deeded to a Property Owners’ association and the covenants and by-laws which govern the association must, at a minimum, provide for the:
 - a. Formation of a Property Owners’ association concurrently with the filing of the final Subdivision plat. Articles of Incorporation shall be filed with the Secretary of State’s office;
 - b. Mandatory membership for each Property Owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
 - c. Perpetual reservation of the common property when required under [76-3-621\(6\)\(a\), MCA](#);
 - d. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
 - e. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
 - f. Adjustment of assessments to meet changing needs;
 - g. Means of enforcing the covenants, and of receiving and processing complaints;
 - h. Transition of control of the association from the Declarant to the homeowners.
 - i. Dissolution of the association and modification of the covenants and restrictions after obtaining the Governing Body’s approval of the change; and

- j. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

P. Amending Approved Preliminary Plat Before Final Plat Approval.

- 1. If the Subdivider proposes to change the Preliminary Plat, or any required condition after Preliminary Plat approval but before Final Plat approval, the Subdivider shall submit the proposed changes to the Planning Department for review. Within 15 working days of receiving the proposed changes, the Planning Department shall make one of the following determinations:

- a. A determination that the proposed changes are material. The Planning Department shall require the Subdivider to restart all or part of the Subdivision review process as needed to specifically address the proposed changes, and require payment of the appropriate application fee.

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

- i. configuration of lots;
- ii. road layout;
- iii. water and/or septic proposals;
- iv. configuration of park land or Open Spaces;
- v. Easement provisions;
- vi. designated access; or
- vii. change (including any additions or subtractions) to conditions of approval.

- b. A determination that the proposed changes are not material. The Planning Department shall accept the changes and notify the Subdivider of its decision.

- 2. A Subdivider whose proposed changes have been deemed material by the Planning Department may appeal the decision to the County Commission by written notice within 10 working days. During a properly noticed hearing before the County Commission, the Subdivider may submit evidence to show that the changes are not material. The County Commission may reverse or affirm the determination of the Planning Department.
- 3. A Subdivider whose proposed changes to a Preliminary Plat increases the number of lots, or results in a new Subdivision proposal as determined by the Planning Department, therefore constituting a new, second or subsequent

Subdivision Preliminary Plat, shall follow the procedures established under [Subsection 12.F](#) of these Regulations.

4. If the Subdivider and Planning Department determine that a condition of approval appears to be illegal or impossible to comply with due to circumstances outside the Subdivider's control, economic hardship notwithstanding, the condition shall be reviewed by the County Commission at a properly noticed public hearing in order to determine if the condition may be waived or amended.

Q. Final Plat Required. After the conditions of Preliminary Plat approval, including any additional conditions imposed on a Phased Subdivision, and the requirements for the installation of improvements have been satisfied, the Subdivider shall submit to the Planning Department a Final Plat.

1. Final Plat Submittal: A Final Plat and all supplementary documents shall be submitted to the Planning Department at least 30 working days prior to the expiration of Preliminary Plat approval or any extension thereto. The submittal shall include: an application for Final Plat review; the required fee; County Attorney's Office statement of review of Final Plat documents; Certificate of a Licensed Title Abstractor; and, a written explanation of how each of the conditions of Preliminary Plat approval and any additional conditions imposed on a Phased Subdivision, has been satisfied, including supporting documentation. The requirements for the Final Plat content and application submittal materials are listed in [Section 5](#) Submittal Requirements, of these Regulations.
2. Final Plat Review. The Planning Department will examine the Final Plat contents and required Final Plat application materials to ascertain that all conditions set forth in the Preliminary Plat approval, including any additional conditions imposed on a Phased Subdivision, and any applicable requirements of the Montana Subdivision and Platting Act and these Regulations, have been met. Within 20 working days of receipt of the Final Plat submittal, the Planning Department shall notify the Subdivider if the Final Plat submittal contains all the required information, or of any deficiencies identified in the review. The Planning Department shall have 20 working days to review any subsequent submittal of defects identified in the original Final Plat review, and notify the Subdivider as to whether or not the Final Plat contains all the required information. The County Commission shall approve or deny a Final Plat within 20 working days of the Planning Department's notification to the Subdivider that the Final Plat contains all the required information. The Subdivider or the Subdivider's agent and the County Commission or the Subdivision Administrator may mutually agree to extend the review periods provided in this [Subsection Q.2](#).

3. Final Plat Approval. The County Commission shall examine the Final Plat and shall approve it if it conforms to the conditions of Preliminary Plat approval and the terms of the MSPA and these Regulations.
 - a. If the Final Plat is approved, the County Commission shall certify its approval in a printed certificate on the Final Plat.
 - b. If the Final Plat is denied, the County Commission shall provide the reason for denial in writing to the Subdivider. The Subdivider may then make any necessary corrections and resubmit the Final Plat application.
4. Final Plat Filing. After it is approved, the Final Plat may not be altered in any manner, except in accordance with [Section 12](#) of these Regulations. The County Clerk and Recorder may not accept any Final Plat for filing that does not bear the County Commission's approval in proper form. The Clerk and Recorder may file an approved Final Plat only if it is accompanied by the required signed certificates, required documents, and only if it complies with the Uniform Standards for Monumentation and Uniform Standards for Final Subdivision Plats contained in Appendix C of these Regulations. The Subdivider shall file the Final Plat and all required documents within 60 days of the date of Final Plat approval.

R. Resubmittal of a Denied Subdivision Preliminary Plat Application. A resubmittal of the same Preliminary Plat application for the same property must restart the four-step review process from the beginning. Additionally, the new Preliminary Plat application must clearly address or mitigate health and safety issues and/or design standards which were the basis of the original Preliminary Plat denial.

SECTION 4: REVIEW AND APPROVAL PROCEDURES FOR FIRST MINOR SUBDIVISIONS

- A. First Minor Subdivision.** Subdivisions containing five or fewer lots from a tract of record that has not been subdivided or created by a Subdivision under the MSPA, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under [§ 76-3-201](#) or [§ 76-3-207](#), MCA, since July 1, 1973. First Minor Subdivisions shall follow a four-step review process: pre-submittal meeting; pre-application plan review; Preliminary Plat review; and Final Plat review.
- B. Pre-Submittal Meeting.** The Subdivider shall meet with Planning Department staff prior to submitting an application for Subdivision review and approval. The purpose of this meeting is to: discuss these Regulations and design standards, familiarize the Subdivider with the Subdivision review process, identify goals and objectives of applicable plans, regulations, and ordinances, and discuss the proposed Subdivision as it relates to these matters.
- C. Pre-Application Plan Review.** After the requirement for a pre-submittal meeting has been satisfied, and prior to submittal of a Subdivision Preliminary Plat application, the Subdivider shall submit an application for pre-application plan review, the appropriate fee, and all required pre-application plan submittal information as set forth in [Subsection 5.B.](#) of these Regulations.
1. Planning Department Review. Six copies of the pre-application plan submittal materials are required.
 - a. Time of Review. The Planning Department shall review the pre-application plan within 30 working days and will provide a written response to the Subdivider of the pre-application plan submittal.
 - b. The Planning Department shall identify, for informational purposes, state laws, local regulations and Growth Policy provisions that may apply to the Subdivision review process including, but not limited to, Subdivision design standards, zoning regulations, floodplain regulations, and fire protection requirements.
 - c. The Planning Department shall provide the Subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have an interest in the proposed Subdivision, and that may be contacted for comment by the Planning Department on the Subdivision application. The Planning Department shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond.

- d. The Planning Department shall identify particular additional information the Planning Department anticipates will be required for review of the Subdivision application. This does not limit the ability of the Planning Department to request additional information at a later time.
- e. Unless the Subdivider submits a Subdivision Preliminary Plat application within 180 days of the pre-application plan written response, the Subdivider must request a meeting with the Planning Department prior to submitting the Subdivision Preliminary Plat application.

D. First Minor Subdivision Preliminary Plat Application Submittal. After the requirement for pre-application plan review has been satisfied, the Subdivider shall submit to the Planning Department a completed Subdivision Preliminary Plat application form along with the submittal requirements for all Subdivision applications for Preliminary Plat review as provided under [Subsection 5.C.](#) of these Regulations, including the required fee and copies.

E. First Minor Subdivision Review Process.

1. Element Review: Within 5 working days of receipt of a Subdivision Preliminary Plat application and required fee, the Planning Department shall determine whether the application contains all of the applicable materials required by [Subsection 5.C.](#) of these Regulations, and shall give written notice to the Subdivider of the determination.
 - a. If the Planning Department determines that elements are missing from the application, the Planning Department shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the Planning Department until the application is resubmitted.
 - b. The Subdivider may correct the deficiencies and resubmit the application.
 - c. If the Subdivider corrects the deficiencies and resubmits the application the Planning Department shall have 5 working days to notify the Subdivider whether the resubmitted application contains all the materials required, as applicable.
 - d. This process shall be repeated until the Subdivider submits an application containing all the materials required, or the application is withdrawn.

2. Sufficiency Review:

- a. Within 15 working days after the Planning Department notifies the Subdivider that the application contains all of the required elements as provided in [Subsection 4.E.1](#), above, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed Subdivision under these regulations and shall give written notification to the Subdivider of the Planning Department's determination.
 - i. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed Subdivision, the Planning Department shall identify specific required information in its notification and return the application to the Subdivider, and no further action shall be taken on the application by the Planning department until the material is resubmitted.
 - ii. The Subdivider may correct the deficiencies and resubmit the application, or withdraw the application.
 - iii. If the Subdivider corrects the deficiencies and resubmits the application in accordance with [Subsection 4.E.2.a.ii](#), above, the Planning Department shall have 15 working days to notify the Subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed Subdivision under these Regulations.
 - iv. This process shall be repeated until the Subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed Subdivision under the provisions of these Regulations, or the application is withdrawn.
 - v. If the Subdivider makes a change to the Subdivision Preliminary Plat application after Planning Department notification of sufficiency, and the change is determined to be material pursuant to [Section 4.O.1](#), the sufficiency review process shall be repeated.
- b. A determination that an application contains sufficient information for review as provided under [Subsection 4.E.2](#) of these Regulations does not ensure that the proposed Subdivision will be approved or conditionally approved by the County Commission and does not limit the ability of the Planning Department or the County Commission to request additional information during the review process.

- c. A determination of sufficiency by the Planning Department pursuant to this subsection does not limit the MDEQ from requiring additional water and sanitation information as part of the MDEQ review of water and sanitation information.
3. Applicable Regulations. Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a Subdivision Preliminary Plat application is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the Subdivision Preliminary Plat application contains the required elements and sufficient information, and the Subdivision review, shall be based on the new regulations.
4. Affected Agencies. The Planning Department may submit copies of the Subdivision Preliminary Plat application and supplementary information to the affected utilities and public agencies for review and comment. If the proposed Subdivision is situated within a school district, the Planning Department shall provide an informational copy of the Subdivision Preliminary Plat application to the school district. Review by public agencies or utilities shall not delay the County Commission's consideration of the Subdivision Preliminary Plat beyond the statutory 35 working day review period. The County Commission will make these comments available to the Subdivider and to the general public upon request. If, during the review of the application, the Planning Department contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the Subdivider of the contact and the timeframe for response.
5. Review Period and Consideration By County Commission. Following determination that the Subdivision Preliminary Plat application is sufficient for review, the Planning Department will schedule the Subdivision Preliminary Plat application for consideration by the County Commission within the statutory 35 working day review period. Within 35 working days, the County Commission shall approve, conditionally approve or deny the proposed Subdivision according to these Regulations, unless the Subdivider and the Planning Department agree in writing to an extension or suspension of the review period, not to exceed one year.
6. Notice. The Planning Department shall send courtesy notice with the time and date of the scheduled decision on the Subdivision Preliminary Plat application to the list of adjoining Property Owners of record and each recorded purchaser under contract for deed, provided by the Subdivider.

F. First Minor Subdivision Exceptions. The following do not apply to First Minor Subdivisions:

1. Preparation of an environmental assessment;
2. Parkland Dedication.

G. Amended Subdivision Preliminary Plat Applications.

1. If the Subdivider submits changes to the Subdivision Preliminary Plat application after the Planning Department makes a determination of sufficiency, and the Planning Department finds that the changes are material as defined in [Subsection 4.0](#) of these Regulations, the Planning Department may require the Subdivider to resubmit a new application and restart one or all steps of the Subdivision review process as needed to address the changes.
2. A Subdivider whose Subdivision Preliminary Plat application has been deemed materially changed by the Planning Department may appeal the decision to the County Commission by written notice within 10 working days. The Subdivider may submit additional evidence to show that the changes to the Preliminary Plat application are not material.
 - a. The 35-working day review period is suspended until the County Commission decision on the appeal is made.
 - b. If the County Commission concludes that the evidence and information demonstrate that the changes to the Subdivision Preliminary Plat application are *not* material, the 35-working day review period resumes as of the date of the decision.

H. County Commission Public Meeting.

1. The County Commission shall make its decision on the Subdivision Preliminary Plat application at a regularly scheduled public meeting.
2. The County Commission shall determine whether public comments or documents presented for consideration at the public meeting constitute either:
 - a. information or analysis of information that was part of the Subdivision Preliminary Plat application that the public has had a reasonable opportunity to examine and provide comment, in which case the County Commission shall proceed with its decision to approve, conditionally approve, or deny the proposed Subdivision;

- b. new information that has never been submitted as evidence or considered by either the County Commission or the Planning Department, in which case the County Commission shall proceed as set forth in [Subsection 4.H.3.](#) below.
- 3. If the County Commission determines that public comments or documents presented at the public meeting constitute new information under [Subsection 4.H.2\(b\)](#) above, the County Commission shall further determine whether the public comments or documents are relevant and credible with regard to the County Commission's decision.
 - a. If the County Commission determines the new information is relevant and credible, then the County Commission shall schedule or direct the Planning Department to schedule a subsequent public meeting.
 - b. At the subsequent public meeting the County Commission shall consider only the new information or analysis of new information that may have an impact on the findings and conclusions that the County Commission will rely upon in making its decision on the proposed Subdivision.

I. County Commission Subsequent Public Meeting

- 1. If a subsequent public meeting is required, it must be held within 45 days of the County Commission's determination to schedule a subsequent public meeting.
 - a. Notice of the time, date and location of the subsequent public meeting shall be given by publication in a newspaper of general circulation in the County not less than 15 days prior to the date of the subsequent public meeting.
 - b. At least 15 days prior to the date of the subsequent public meeting, notice of the subsequent public meeting shall be given by certified mail to the Subdivider, each Adjoining Landowner to the land included in the preliminary plat, and each purchaser under contract for deed of property (provided by the Subdivider) immediately adjoining the land included in the preliminary plat.
- 2. If a subsequent public meeting is held, the 35-working day review period is suspended as of the date of the County Commission's decision to schedule a subsequent public meeting. The 35-working day review period resumes on the date of the County Commission's next regularly scheduled public meeting for which proper notice for the public meeting on the Subdivision Preliminary Plat application can be provided. At this meeting, the County Commission shall decide to approve, conditionally approve, or deny the proposed Subdivision. The

County Commission may not consider any new information regarding the Subdivision Preliminary Plat application that is presented after the subsequent public meeting when making its decision to approve, conditionally approve, or deny the proposed subdivision.

J. County Commission Decision and Documentation.

1. Prerequisites to Approval: Pursuant to the MSPA, the County Commission may not approve or conditionally approve a Subdivision Preliminary Plat application unless the proposed subdivision:
 - a. complies with the survey requirements of [76-3-401 through 406, MCA](#);
 - b. provides Easements within and to the proposed Subdivision for the location and installation of any planned utilities;
 - c. provides legal and physical access to each parcel within the proposed Subdivision and the required notation of that access on the applicable plat and any instrument transferring the parcel;
 - d. assures that all required Public or Private Improvements will be installed before Final Plat approval, or that their installation after Final Plat approval will be guaranteed as provided by [Section 8](#) of these Regulations;
 - e. assures that the requirements of [76-3-504\(1\)\(i\), MCA](#), regarding the disclosure and disposition of water rights has been considered and will be accomplished before the Final Plat is approved; and
 - f. assures that the requirements of [76-3-504\(1\)\(k\), MCA](#) regarding Watercourse and irrigation Easements has been considered and will be accomplished before the Final Plat is approved.
2. Application of Adopted Standards: In approving, conditionally approving, or denying a Subdivision Preliminary Plat application, the County Commission shall consider whether the proposed Subdivision complies with:
 - a. these Regulations, including, but not limited to, submittal requirements of [Section 5](#) and the development standards set forth in Sections [6](#) and [7](#);
 - b. applicable zoning regulation design standards;
 - c. other applicable regulations and standards; and

- d. consideration of any Variance from the standards set forth in [Section 6](#) of these Regulations.
- 3. Consideration of Evidence: In making its decision to approve, conditionally approve, or deny a proposed Subdivision, the County Commission shall consider and weigh the following, as applicable:
 - a. the Subdivision application and Preliminary Plat;
 - b. the summary of probable impacts and mitigation;
 - c. the MSPA, specifically as to how the proposed Subdivision addresses impacts on Agriculture, Agricultural Water User Facilities, Local Services, the Natural Environment, Wildlife, Wildlife habitat, and Public Health and Safety;
 - d. any officially adopted Growth Policy, neighborhood plan or development pattern ([76-2-104, MCA](#)) for the area involved;
 - e. comments, evidence and discussions presented before the County Commission;
 - f. Planning Department's staff report; and
 - g. any additional information authorized by law.
- 4. Water and Sanitation-Special Rules:
 - a. Water and sanitation information provided during the application review process, including public comment, may be used as a basis for a conditional approval or denial of a Subdivision Preliminary Plat application only if the County Commission finds that the application does not comply with previously adopted Subdivision, zoning, floodplain or other regulations.
 - b. For a proposed Subdivision that will create one or more parcels containing less than 20 acres, the County Commission shall require approval by the MDEQ as a condition of approval of the Final Plat. This approval applies to the development of Lots at the time of the approval and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the Lots are actually developed.

- c. The County Commission shall collect public comments submitted regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the Subdivider within 30 days after conditional approval or approval of the Subdivision Preliminary Plat application.
- d. The Subdivider shall, as part of the Subdivider's application for sanitation approval, forward the comments or the summary provided by the County Commission to the:
 - i. reviewing authority provided in [MCA, Title 76, chapter 4](#), for Subdivisions that will create one or more parcels containing less than 20 acres; and
 - ii. local health department or board of health for proposed Subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

5. Decision, Written Findings and Statement of Approval:

- a. At the conclusion of the public meeting, the County Commission may either make a decision to approve, conditionally approve, or deny the Subdivision Preliminary Plat Application in accordance with these Regulations and the MSPA, or continue the decision on the Subdivision Preliminary Plat Application to a future meeting. The County Commission shall render their decision to approve, conditionally approve, or deny the Subdivision Preliminary Plat Application within the review period established under [Subsection 4.E.5](#) of these Regulations.
- b. In rendering its decision to approve, conditionally approve, or deny the Subdivision Preliminary Plat application, the County Commission shall issue written findings and provide those findings to the Subdivider within 30 working days following the decision.
- c. The findings shall:
 - i. contain information regarding the appeal process for the denial or imposition of conditions;
 - ii. identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - iii. provide the facts and conclusions that the County Commission relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;

- iv. provide the conditions that apply to the Subdivision Preliminary Plat application approval that must be satisfied before the Final Plat may be approved;
 - v. explain any reasonable mitigation required by these Regulations, if any; and
 - vi. be made available to the public.
 - d. For applications that are approved or conditionally approved, the written findings constitute the County Commission's Statement of Approval.
 - e. Any portion of the written findings may refer to or incorporate by reference any oral findings or conclusions made by the County Commission during the public meeting on the Subdivision Preliminary Plat application.
- K. Subdivider Preference for Mitigation.** At the scheduled date at which the County Commission is to consider the Subdivision Preliminary Plat application, the County Commission will consult with the Subdivider and will give due weight and consideration to the Subdivider's expressed preference. The County Commission may require the Subdivider to design the Subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these Regulations.
- 1. In reviewing a Subdivision under this Section and when requiring mitigation under this Subsection, the County Commission may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the Subdivision.
- L. Conditions of Approval Sheet.** In accordance with the Uniform Standards for Final Subdivision Plats ([Admin. R. Mont. 24.183.1107](#)), the County Commission may require a separate "Conditions of Approval" sheet to be filed with the Final Plat.
- M. Restrictive Covenants Approval, Content and Enforcement by the County Commission.**
- 1. The County Commission may require that some or all restrictive covenants governing the use of land within the Subdivision, whether proposed by the Subdivider or required by the County Commission, be set forth in a separate heading identifying them as plat approval covenants, and indicating: "These covenant(s) may not be repealed or amended without prior written consent of the Gallatin County Commission."

2. The County Commission may require that all restrictive covenants it has required as a condition of plat approval contain the following language: “The Gallatin County Commission is a party to this restrictive covenant and may enforce its terms.”
3. If property is to be held in common ownership by the landowners within the Subdivision, including parkland or Open Space, it shall be deeded to a Property Owners’ association and the covenants and by-laws which govern the association must, at a minimum, provide for the:
 - a. Formation of a Property Owners’ association concurrently with the filing of the final Subdivision plat. Articles of Incorporation shall be filed with the Secretary of State’s office;
 - b. Mandatory membership for each Property Owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
 - c. Perpetual reservation of the common property when required under [76-3-621\(6\)\(a\), MCA](#);
 - d. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
 - e. Placement of liens on the property of Lot owners who are delinquent in the payment of association fees and assessments;
 - f. Adjustment of assessments to meet changing needs;
 - g. Means of enforcing the covenants, and of receiving and processing complaints;
 - h. Transition of control of the association from the Declarant to the homeowners.
 - i. Dissolution of the association and modification of the covenants and restrictions after obtaining the Governing Body’s approval of the change;
 - j. Conveyance of all common property, including any parkland and Open Space to the association; and
 - k. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

N. Subdivision Application and Preliminary Plat Approval.

1. Applicability. This [Subsection 4.N](#) applies to any approved non-Phased Preliminary Plat, and any Phased Preliminary Plat application submitted prior to May 8, 2017. For Phased Subdivision Preliminary Plat applications submitted on or after May 8, 2017, [Subsection 12.B](#) of these Regulations apply.
2. Approval of the Subdivision Preliminary Plat application shall be in force for a period of not more than three calendar years or less than one calendar year from the date of the signed County Commission statement of approval.
3. After the Subdivision application and Preliminary Plat are approved, the County Commission may not impose any additional conditions as a prerequisite to Final Plat approval if the approval is obtained within the original or extended approval period.
4. At the end of the Preliminary Plat approval period, the County Commission may, at the request of the Subdivider, extend the Preliminary Plat approval for a mutually agreed-upon period of time. At least 30 days prior to the expiration of the Preliminary Plat approval, the Subdivider shall submit a written request for extension of the Preliminary Plat approval. The written request shall be accompanied by responses to the criteria listed below along with supporting documentation. When evaluating the extension request, the County Commission shall consider the following criteria, responses and supporting documentation:
 - a. Progress to date in demonstrating good faith efforts to complete the required conditions of Preliminary Plat approval;
 - b. Efforts to maintain the property in good condition;
 - c. Duration of the requested extension, and the adequacy of the Subdivider's plan to meet the required conditions of Preliminary Plat approval within the requested extension period;
 - d. Significant changes in the vicinity of the Subdivision that have occurred or are planned to occur within the requested extension period, and whether the Preliminary Plat conditions adequately mitigate the significant changes. Significant changes include changes that may render the Subdivision noncompliant with current design standards, such as road design, wildfire, water supply, septic, or flood standards;
 - e. Planning and provision of public facilities and services in the vicinity of the Subdivision, and whether the requested extension conforms to those plans and provisions; and

- f. Impacts to public health, safety, and general welfare.

Any mutually agreed upon extension must be in writing and dated and signed by the Subdivider or the Subdivider's authorized agent and by the County Commission. More than one extension may be requested.

- 5. The County Commission may withdraw approval or conditional approval of the Preliminary Plat if it determines that information provided by the Subdivider, and upon which the approval or conditional approval was based, is inaccurate.

O. Amending Approved Preliminary Plat Before Final Plat Approval.

- 1. If the Subdivider proposes to change the Preliminary Plat, or any required condition after Preliminary Plat approval but before Final Plat approval, the Subdivider shall submit the proposed changes to the Planning Department for review. Within 15 working days of receiving the proposed changes, the Planning Department shall make one of the following determinations:

- a. A determination that the proposed changes are material. The Planning Department shall require the Subdivider to restart all or part of the Subdivision review process as needed to address the proposed changes, and require payment of the appropriate application fee.

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

- i. configuration of Lots;
- ii. road layout;
- iii. water and/or septic proposals;
- iv. configuration of park land or Open Spaces;
- v. Easement provisions;
- vi. designated access; or
- vii. change (including any additions or subtractions) to conditions of approval.

- b. A determination that the proposed changes are not material. The Planning Department shall accept the changes and notify the Subdivider of its decision.

- 2. A Subdivider whose proposed changes have been deemed material by the Planning Department may appeal the decision to the County Commission by written notice within 10 working days. During a properly noticed hearing before the County Commission, the Subdivider may submit additional evidence to show

that the changes are not material. The County Commission may reverse or affirm the determination of the Planning Department.

3. A Subdivider whose proposed changes to a Preliminary Plat increases the number of Lots, or results in a new Subdivision proposal as determined by the Planning Department, therefore constituting a new, second or subsequent Subdivision Preliminary Plat, shall follow the procedures established under [Subsection 12.F](#) of these Regulations.
4. If the Subdivider and Planning Department determine that a condition of approval appears to be illegal or impossible to comply with due to circumstances outside the Subdivider's control, economic hardship notwithstanding, the condition shall be reviewed by the County Commission at a properly noticed public hearing in order to determine if the condition may be waived or amended.

P. Final Plat Required. After the conditions of Preliminary Plat approval, including any additional conditions imposed on a Phased Subdivision, and the requirements for the installation of improvements have been satisfied, the Subdivider shall submit to the Planning Department a Final Plat. The Planning Department will not begin processing, nor schedule any actions on a Final Plat submittal until a complete application and fee have been received.

1. Final Plat Submittal. A Final Plat application and all supplementary documents shall be submitted to the Planning Department at least 30 working days prior to the expiration of Preliminary Plat approval or any extension thereto. The submittal shall include: an application for Final Plat review, the required fee, County Attorney's Office statement of review of Final Plat documents, Certificate of a Licensed Title Abstractor, and a written explanation of how each of the conditions of Preliminary Plat approval and any additional conditions on a Phased Subdivision have been satisfied, including supporting documentation. The requirements for the Final Plat content and application submittal materials are listed in [Section 5](#) Submittal Requirements of these Regulations.
2. Final Plat Review. The Planning Department will examine the Final Plat contents and required Final Plat application materials to ascertain that all conditions set forth in the Preliminary Plat approval, any additional conditions imposed on a Phase Subdivision, and any applicable requirements of the Montana Subdivision and Platting Act and these Regulations, have been met. Within 20 working days of receipt of the Final Plat submittal, the Planning Department shall notify the Subdivider if the Final Plat submittal contains all the required information, or of any deficiencies identified in the review. The Planning Department shall have 20 working days to review any subsequent submittal of defects identified in the original Final Plat review, and notify the Subdivider as to whether or not the Final Plat contains all the required information. The County Commission shall approve

or deny a Final Plat within 20 working days of the Planning Department's notification to the Subdivider that the Final Plat contains all the required information. The Subdivider or the Subdivider's agent and the County Commission or the Subdivision Administrator may mutually agree to extend the review periods provided in this [Subsection P.2](#).

3. Final Plat Approval. The County Commission shall examine the Final Plat submittal and shall approve it if it conforms to the conditions of Preliminary Plat approval and the terms of these Regulations.
 - a. If the Final Plat submittal is approved, the County Commission shall certify its approval in a printed certificate on the Final Plat.
 - b. If the Final Plat submittal is denied, the County Commission shall provide the reason for denial in writing to the Subdivider. The Subdivider may then make any necessary corrections and resubmit the Final Plat application.
4. Final Plat Filing. After it is approved, the Final Plat may not be altered in any manner, except in accordance with [Section 12](#). The County Clerk and Recorder may not accept any Final Plat for filing that does not bear the County Commission's approval in proper form. The Clerk and Recorder may file an approved Final Plat only if it is accompanied by the required signed certificates, required documents, and only if it complies with the Uniform Standards for Monumentation and Uniform Standards for Final Subdivision Plats contained in Appendix C of these Regulations. The Subdivider shall file the Final Plat and all required documents within 60 days of the date of Final Plat approval.

Q. Resubmittal of a Denied Subdivision Preliminary Plat Application. A resubmittal of the same Preliminary Plat application for the same property must restart the four-step review process from the beginning. Additionally, the new Preliminary Plat application must clearly address any adopted Growth Policy, and address or mitigate health and safety issues and/or design standards which were the basis of the original Preliminary Plat denial.

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SECTION 5: SUBDIVISION APPLICATION SUBMITTAL REQUIREMENTS

- A. Submittals.** All Subdivision applications and supplemental materials shall be bound in sets ready for distribution. All copies of Plats, other maps and/or supplemental materials, shall be folded to approximately eight and a half to nine by eleven inch (8½" to 9"x11") or eight and a half to nine by fourteen (8½" to 9"x14") in sets ready for distribution.
- B. Subdivision Pre-Application Plan Submittal Requirements.** The pre-application plan submittal shall include the following:
1. Sketch Map: May be a free-hand sketch, legibly drawn, showing approximate boundaries, dimensions, areas and distances. The plan may be drawn directly on a print of a topographic survey and shall include the following information:
 - a. A title block indicating the proposed name, quarter-section, township, range, principal meridian, and county of Subdivision.
 - b. Scale and north arrow.
 - c. The name of adjoining Subdivisions and numbers of adjoining Certificates of Survey.
 - d. Names of record owners of Lots and Tracts adjoining the proposed Subdivision and to any Access Road leading to the boundary of the proposed Subdivision.
 - e. Location, name, width and owner of existing roads and Easements within the proposed Subdivision; within adjacent Subdivisions and Tracts; and which road provides access from the nearest public road to the proposed Subdivision.
 - f. Location of any existing Structures, including buildings, railroads, power lines, towers, and improvements inside and within 100 feet of the exterior boundaries of the proposed Subdivision.
 - g. Zoning classification within and adjacent to the proposed Subdivision. Proposed zoning for the Subdivision if a change is contemplated.
 - h. Topographic features of the proposed Subdivision and adjacent Tracts of land, including:

- i. A current USGS Topographic map at the largest scale available with the proposed Subdivision clearly outlined.
 - ii. Natural features on the land, including: embankments; Watercourses; drainage channels or ditches; areas of seasonal water ponding; Wetlands; areas within the designated Floodplain; marsh areas; wooded areas; geologic hazards, and soil types.
- i. Existing and proposed utilities located within and adjacent to the proposed Subdivision, including:
 - i. Location, size, and depth of sanitary and storm sewers, water mains and gas lines.
 - ii. Location of fire hydrants, fire fill sites (i.e., pond, tank), electric lines, telephone lines, sewage and water treatment, and storage facilities.
- j. Subdivision Parcel boundaries.
- k. Subdivision layout, including Subdivision Blocks, Tracts, and Lots, with numbers, dimensions, and area.
- l. Road location, Right-of-Way width, and name.
- m. Easement location, width and purpose.
- n. Sites to be Dedicated or reserved as parkland, Common Open Space or other public areas; with boundaries, dimensions and areas.
- o. Sites for commercial centers, churches, schools, industrial areas, Condominiums, Townhouses, Manufactured or Mobile Home Parks, and uses other than single-family residences.
- p. Existing Conservation Easements.
- 2. Existing Covenants or deed restrictions.
- 3. Documentation on the current status of the site, including:
 - a. Ownership information, such as a deed, option to buy, or buy-sell agreement.
 - b. Permission to subdivide.
 - c. Water rights, including location of Water Conveyance Facilities.

- d. Any special improvements district.
 - e. Rights of first refusal for the property.
- 4. Development Plan: An overall development plan indicating future development of the Tract if the Tract is to be developed in phases.
- 5. Variances: A list of Variance requests from the Subdivision Regulations or Transportation Design and Construction Standards which will be submitted with the application for Preliminary Plat approval. (Note: Any Variance from the Gallatin County Transportation Design and Construction Standards is a distinct and separate Variance from the Subdivision Regulations. Such Variances will be processed in accordance with the procedural requirements and criteria of the Gallatin County Transportation Design and Construction Standards, but may be processed concurrently with an application for Preliminary Plat approval.
- 6. Notice Requirements Concerning Water Conveyance Facilities:
 - a. Where Water Conveyance Facilities are present on-site, within 500 feet of the exterior boundaries of the proposed Subdivision, or on an adjoining property, the Subdivider shall provide written notice to the applicable water users and/or Water Conveyance Facility's authorized representatives of the proposed Subdivision, provide them with a copy of the proposed Subdivision layout, provide a description of any anticipated adverse effects to the Water Conveyance Facility, provide a description of any mitigation proposed to remedy such adverse effects, and provide 45 calendar days for the water users and/or Water Conveyance Facility's authorized representatives to submit written comments.
 - b. Notice to the water users and/or Water Conveyance Facility's authorized representatives shall be as follows.
 - i. In the event the Water Conveyance Facility conveys water for an incorporated or otherwise organized group of water users such as a ditch or canal company, and the water users have officially elected or otherwise appointed a representative or group of representatives, written notice shall be to the Water Conveyance Facility's authorized representatives.
 - ii. In the event the Water Conveyance Facility conveys water for water users that have not organized or officially elected or otherwise appointed a representative, the Subdivider shall give written notice to all water users.

- iii. In the event the Water Conveyance Facility conveys water in a combination of the scenarios described in *i* and *ii* above, the Subdivider shall give written notice to the Water Conveyance Facility's authorized representatives, and any water users not represented by the Water Conveyance Facility's authorized representatives.
 - iv. The Montana Department of Natural Resources and Conservation is the agency that maintains the official records for water rights. The Gallatin County Planning Department has some contact information for ditches and canals in Gallatin County.
- c. The Subdivision pre-application plan submittal shall include a sworn statement from the Subdivider listing the names and contact information for the water users and Water Conveyance Facility's authorized representatives that were provided with written notice, and the date they were provided written notice.
 - d. If the water users and/or Water Conveyance Facility's authorized representatives have provided the applicant with written comments, those comments shall be submitted with the Subdivision pre-application plan submittal.
 - e. If there are changes to the project between the Subdivision pre-application plan submittal and Subdivision Preliminary Plat application stage that would result in additional impacts to the Water Conveyance Facility, the Subdivider shall comply with the notice and documentation requirements described above to be submitted with the Subdivision Preliminary Plat application.

C. Submittal Requirements for all Subdivision Applications for Preliminary Plat Review. The Subdivision application for Preliminary Plat approval shall include the following information and materials:

- 1. Pre-Application information. All information required with the Subdivision Pre-Application Plan submittal. An explanation of how the Subdivider has responded to the comments of the Pre-Application review.
- 2. A completed and signed Subdivision Preliminary Plat Application and Elements Checklist Form and required number of copies, including an electronic copy of the complete application.
- 3. Required Review Fee.

4. For First Minor Subdivision applications, documentation confirming that the Tract of record has not been subdivided or created by a Subdivision under the MSPA, or has not resulted from a Tract of record that has had more than five parcels created from that tract of record under [76-3-201](#) or [76-3-207](#), MCA, since July 1, 1973.
5. Adjoining Property Owners. Certified list of adjoining Property Owners and addresses (including those across public Rights-of-Way and/or Easements), and property description. List of the adjoining Property Owners and addresses on self-adhesive address labels; one set for First Minor Subdivisions and three sets for all other Subdivisions.
6. A Preliminary Plat legibly drawn at the horizontal scale of not less than 200 feet to the inch and approximate boundaries, dimensions, distances and areas, unless specifically noted. The Plat shall be on one or more sheets of twenty-four inches by thirty-six inches (24"x36"). Where accurate information is required, surveying and engineering data shall be prepared under the supervision of a registered Engineer or registered land Surveyor as their respective licensing laws allow. The Preliminary Plat shall include the following:
 - a. Subdivision Information. Name and location of the Subdivision, scale, scale bar, north arrow, date of preparation, Lots, Tracts and Blocks (designated by number or letter), and the dimensions and area of each Lot and Tract.
 - b. Roads and Grades. All roads, Alleys, avenues, highways, and Easements and the width of the Rights-of-Way, grades and curvature of each; existing and proposed road names, and proposed location of intersections for any Subdivision requiring access to Arterial or Collector Roadways.
 - c. Adjoining Subdivisions. The names of adjoining platted Subdivisions and numbers of adjoining Certificates of Survey.
 - d. Perimeter Survey. An approximate survey of the exterior boundaries of the platted Tract with bearings, distances, and curve data indicated outside of the boundary lines. When the Plat is bounded by an irregular shoreline or a body of water, the bearings and distances of a closing meander traverse shall be given.
 - e. Section Corner. The approximate location of all section corners or legal Subdivision corners of sections pertinent to the Subdivision boundary.
 - f. Phase Boundaries. If the Subdivision is to be completed in phases, the phase number, area and boundaries of each phase shall be shown.

- g. Important Land Features. Important land features shall be shown and clearly labeled on the Preliminary Plat. Important land features include, but are not limited to the following: Watercourses, Water Conveyance Facilities (in the case of irrigation ditches, canals, or pipelines, the centerline shall be shown on the plat), drainage ditches or channels, Wetlands or other areas of seasonal water ponding, areas within the designated Floodplain, marsh areas, and areas of geologic hazards as described by [Section 8.C](#) of these Regulations.
 - h. Required Certificates. (see [Appendix A](#) of these Regulations).
7. Subdivision Map. Map of entire Subdivision on either an eight and a half by eleven inch (8½"x11") or an eleven by seventeen inch (11"x17" sheet).
 8. Area/Vicinity Map. A map showing all adjacent sections of land, Subdivision, Certificates of Survey, and roads.
 9. Topographic Map with Contours. Ground contours shall be provided for the Tract according to the following requirements:

Where average slope is:	Contour intervals shall be:
Under 10%	2 feet (If Lots are over one acre in size, 5 feet intervals may be used.)
Between 10% and 15%	5 feet
Between 15% and 25%	10 feet
25% or greater	a reasonable contour for the Lot sizes
 10. Grading and Drainage Plan in Accordance with [Section 6.F.](#) of these Regulations.
 11. Engineering Plans for all Public and Private Improvements.
 12. Overall Development Plan for Phased Developments.
 13. Abstract of Title (or Title Report).
 14. Lienholders' Acknowledgement of Subdivision.
 15. Documentation of Legal and Physical Access. Documentation of Legal Access to the proposed Subdivision should include the instrument or reference the legal authority by which a Governing Body has accepted or acquired jurisdiction over the right-of-way.

16. Existing Easements. Documentation of existing Easements, including those for Water Conveyance Facilities. Where the water users and/or Water Conveyance Facility's authorized representatives have provided the Subdivider with written comments, those comments shall be submitted with the Preliminary Plat application.
17. Proposed Easements in Accordance with the Requirements of [Section 6.F.](#) of these Regulations.
18. Existing Covenants and Deed Restrictions.
19. Description and Disposition of Water Rights in Accordance with the Requirements of [Section 6.F.\(4\)](#) of these Regulations.
20. Description and Disposition of Mineral Rights.
21. Parkland Dedication and/or Cash-in-Lieu Calculations in Accordance with the Requirements of [Section 6.I.](#) of these Regulations.
22. Summary of Probable Impacts and Proposed Mitigation in Accordance with the Requirements of [Section 8.D.](#) of these Regulations.
23. Environmental Assessment in Accordance with the Requirements of [Section 8.B.](#) of these Regulations. (not required for First Minor Subdivision applications)
24. Traffic Impact Analysis in Accordance with the Requirements of the Gallatin County Transportation Design and Construction Standards.
25. Fire Protection Plan in Accordance with the Requirements of [Section 6.G.](#) and [Appendix I](#) of these Regulations.
26. Approved Noxious Weed Control and Re-vegetation Plan in Accordance with the Requirements of [Section 6.P.](#) of these Regulations.
27. Flood Hazard Evaluation and/or Flood Study in Accordance with the Requirements of [Section 9](#) and [Appendix G](#) of these Regulations.
28. Watercourse Mitigation in Accordance with the Requirements of [Section 6.A.\(5\)](#) of these Regulations.
29. For Subdivisions that will include new water supply or wastewater facilities, provide the required water and sanitation information under [76-3-622, MCA](#) (a Subdivider whose land division is excluded from review under [76-4-125\(2\), MCA](#), is not required to submit the information).

30. Documents granting approval of any zoning action by the appropriate County authority.
31. Variances. If a Variance is requested, provide a written statement describing the requested Variance(s) and the facts of Undue Hardship, pursuant to [Subsection 12.A of](#) these Regulations, upon which the request is based for consideration by the County Commission; or documentation of an approved Variance(s).
32. Waiver. If a waiver is requested, a written statement describing the requested waiver(s) for PUD applications for consideration by the County Commission.
33. Restrictive and Protective Covenants, Bylaws, and Articles of Incorporation for the Property Owners' Association as provided under Section [3.O.](#) or [4.M.](#) of these Regulations, as applicable.
34. Documents providing for the maintenance of all roads, parks, and other required improvements.
35. Drafts of Public Improvements Agreement and Financial Guarantee. A written statement describing the requested improvements(s) to be installed under the improvements agreement, justification for requesting the installation of the improvements under the improvements agreement, and the proposed length of the improvements agreement shall also be submitted with the draft improvements agreement.
36. Water Right, Streambed, Streambank and/or Wetland Permits. The Subdivider shall provide the Planning Department with a list of all required water right, streambed, streambank or wetland permits, or written notification from the appropriate agency that a permit is not required. These permits include, but are not limited to:
 - a. Beneficial Water Use Permit/Availability of Water. The Subdivider shall submit evidence to Gallatin County that the physical availability of water is sufficient to meet the water supply needs of the proposed Subdivision, as determined by the State of Montana, and that all uses of water within the Subdivision are legally authorized.
 - b. Montana Stream Protection Act (SPA 124 Permit). Administered by the Habitat Protection Bureau, Fisheries Division, Montana Department of Fish, Wildlife & Parks.
 - c. Stormwater Discharge General Permit. Administered by the Water Quality Bureau, Montana Department of Environmental Quality.

- d. Montana Natural Streambed and Land Preservation Act (310 Permit). Administered by the Board of Supervisors, Gallatin Conservation District.
 - e. Montana Floodplain and Floodway Management Act (Floodplain Development Permit). Administered by the Gallatin County Planning Department.
 - f. Federal Clean Water Act (404). Administered by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency.
 - g. Federal Rivers and Harbors Act (Section 10 Permit). Administered by the U.S. Army Corps of Engineers.
 - h. Short-term Water Quality Standard for Turbidity (318 Authorization). Administered by the Montana Department of Environmental Quality.
 - i. Montana Land-Use License or Easement on Navigable Waters, Administered by the Montana Department of Environmental Quality.
37. For a second or subsequent Subdivision application for Preliminary Plat approval where the existing Preliminary Plat approval has not expired, documentation that the existing Preliminary Plat has been withdrawn in accordance with [Subsection 12.F. of](#) these Regulations.
38. Documentation of notice concerning Water Conveyance Facilities as set forth in [Subsection 5.B.6.](#) of these Regulations.
39. Documentation that proposed interior Subdivision road names have been reviewed by the Gallatin County GIS Department.
40. Phased Subdivision. If the Subdivision is to be completed or platted in more than one phase, a Phased Development plan shall be prepared, and must include the following information:
- a. The total number of phases and the identification of each phase.
 - b. The sequence and date of completion of each phase.
 - c. Description of improvements to be completed for each phase, including but not limited to: interior roads; off-site Roadway and intersection improvements; domestic water supply facilities; wastewater disposal facilities; fire protection water supply facilities; storm water facilities; utilities; and, pedestrian facilities.

- d. A schedule identifying when the Subdivider plans to submit for review each phase of the development.
- 41. For commonly owned property, including parkland and Open Space, a copy of the draft deed(s) transferring ownership of the common property to a Property Owner's Association.
- 42. Letter from the Montana Sage Grouse Habitat Conservation Program, Department of Natural Resources and Conservation.

D. Submittal Requirements for all Subdivision Applications for Final Plat Review.

- 1. Prior to Final Plat Submittal:

A copy of the following documents, in one submittal, shall be submitted to the Gallatin County Attorney's Office, at least thirty (30) days prior to submitting an application for Final Plat approval to the Planning Department. In addition to the documents listed below, the Subdivider shall provide a cover letter explaining which documents are being submitted or not submitted, including the name of the Subdivision and the date of Preliminary Plat approval. Unless indicated otherwise, all documents provided to the County Attorney's Office must be signed copies.

- a. County Commission Findings of Fact and Order granting Preliminary Plat approval.
- b. Articles of Organization or Incorporation of the Property Owner's Association accompanied by a letter from the Secretary of State approving the Articles.
- c. Bylaws controlling the operation of the Property Owner's Association.
- d. Restrictive and Protective Covenants encumbering the real property contained within the Subdivision. All County required covenants shall be in a separate section clearly delineated.
- e. Any and all public road Easements.
- f. Any and all improvements agreements along with: (i) itemized estimates of the cost of improvements to be included in the agreement; (ii) certification by a licensed Engineer of the itemized costs; and (iii) draft (unsigned) copy of the form of financial security, which shall expire no less than 12 months after the date of completion of the improvements.

- g. Any and all required maintenance agreements, including road maintenance agreements.
- h. Two copies of the Certificate of Licensed Title Abstractor and a copy of the proposed Final Plat. The Certificate of Licensed Title Abstractor shall be dated no earlier than ninety (90) days prior to the submittal to the County Attorney's Office.
- i. For commonly owned property, including parkland and Open Space, a copy of the deed(s) transferring ownership of the common property to a Property Owner's Association.

In addition, a copy of the Restrictive and Protective Covenants and any and all maintenance agreements must be submitted to the Planning Department at the same time as submitted to the County Attorney's Office.

2. Final Plat Submittal:

- a. A completed and signed Final Plat application.
- b. The Final Plat review fee.
- c. A written explanation of how each of the conditions of Preliminary Plat approval, including any additional conditions imposed on a Phased Subdivision, have been satisfied.

The following original documents, items d. through q. below, shall accompany be placed on the Final Plat when filed with the Clerk and Recorder. All documents shall be properly notarized or sealed where applicable. The submittal shall include, as applicable:

- d. All certificates, with the exception of those of the County Commission and Clerk and Recorder, shall be complied with, signed and notarized. This shall include the Treasurer's Certification that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.
- e. Certification of Director of Public Service for Subdivisions within three miles of an incorporated municipality.
- f. A horizontal scale of not less than 200 feet (200') to the inch, and the lengths of all lines shall be shown to at least tenths of a foot and all angles and bearings to at least the nearest minute.

- g. Compliance with the Uniform Standards for Final Subdivision Plats. (See APPENDIX F: UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS.)
- h. Two (2) signed reproducible copies on a stable base polyester film or equivalent with a 1 ½ inch binding side margin, along with one (1) digital file copy and six paper copies of the Final Subdivision Plat.
- i. Two (2) signed reproducible copies on a stable base polyester film or equivalent with a 1 ½ inch binding side margin, along with one (1) digital file copy and six paper copies of the Conditions of Approval sheet(s), where applicable.
- j. Certification by a licensed title abstractor (Abstract of Title) showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land. Certificate shall be accompanied by County Attorney's Certificate.
- k. Articles of Incorporation and Bylaws for any Property Owners' association, and approval letter from the Montana Secretary of State.
- l. Covenants or notice of deed restrictions required by the County Commission.
- m. Declaration of Unit Ownership (Condominiums).
- n. Certification by the MDEQ approving the plans and specifications for sanitary, water, and storm water facilities when required, and the Local Health Officer Approval issued by the GCCHD.
- o. Improvements Agreement and financial security, if required improvements are to be installed after the filing of the Final Plat.
- p. A statement of waiver by the Subdivider acknowledging and agreeing to waive the right to protest the creation of a special improvement district or a rural improvement district.
- q. Public road Easements.
- r. Signed Memorandum of Understanding between the Gallatin County Weed Control District and the Subdivider.

- s. Written confirmation that the Fire Protection Plan has been reviewed by the Fire Protection Authority Having Jurisdiction for compliance with [Section 6.G](#) (Fire Protection Requirements) and [Appendix I](#) (Fire Protection Packages) of these Regulations.
- t. Beneficial Water Use Permit or documentation of the legal availability of water.
- u. Gallatin County and/or MDT access or encroachment permits (copy only) for Subdivision road access onto county maintained roads or state highways.
- v. Streambed, Streambank and/or Wetland Permits.
- w. Supporting documents which satisfy required conditions for Final Plat approval.
- x. Any deed transferring ownership of commonly owned property, including parkland or Open Space, to the Property Owner's Association.

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SECTION 6: DESIGN AND IMPROVEMENT STANDARDS, GENERAL

- A. **General Standards.** All Subdivisions approved by the Governing Body must comply with the provisions of this section, except where granted a Variance pursuant to [Section 12](#), Administrative Provisions: Variances.
1. Conformance: The design and development of a Subdivision shall conform with adopted growth policies or Comprehensive Plans, zoning regulations, Gallatin County Transportation and Design Standards, and other resolutions and regulations.
 2. General Design: The design and development of the Subdivision shall—minimize adverse impacts to Agriculture, water conveyance facilities, Local Services, the Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety. Where a Subdivision is expected to have an adverse impact on any of the above, the Preliminary Plat application shall describe such impacts and propose mitigation.
 3. Lands Unsuitable for Subdivision: Land which the Commission has found to be unsuitable for Subdivision because of potential hazards such as flooding, erosion, channel migration, land slides, excessive slope, rock falls, snow avalanches, subsidence, high water table, polluted or non-potable water; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds, environmental degradation, and congestion in the roads shall not be subdivided for building or residential purposes unless the hazards or excessive public burdens are eliminated or will be overcome by appropriate design and construction plans.
 4. Re-vegetation: All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor.
 5. Watercourse Mitigation: Where a Subdivision is crossed by or adjacent to a Watercourse, the Subdivider shall mitigate the impacts of the Subdivision on the Watercourse. This mitigation may not be less restrictive than the requirements of the Gallatin County Floodplain Regulations or any applicable zoning regulations. As described below, the Subdivider shall provide Watercourse setbacks or a Watercourse mitigation plan.
 - a. Setback: The Subdivider shall provide the following setbacks, which parallel the Ordinary High Water Mark of the Watercourse. A 300 foot setback shall be provided between the Ordinary High Water Mark and any Structure, excluding Structures used for agricultural purposes or for the maintenance of livestock, along the following rivers: the East and West Gallatin, Madison,

Jefferson and Missouri rivers. A 150-foot setback shall be provided from the Ordinary High Water Mark of all other Watercourses.

- b. Watercourse mitigation plan: The Subdivider shall submit a plan as part of the Preliminary Plat application, and propose measures to mitigate the impacts of the Subdivision on the Watercourse.
 - i. A Watercourse mitigation plan shall include the following:
 - a. A written explanation of the existing characteristics of the Watercourse (e.g. drainage area, average channel width and depth during both peak annual flow and base-flow conditions, slope of streambed, riparian vegetation, flooding history, channel migration history, erosion problems, etc.), fish and Wildlife Habitat, Wetlands, storm water management, and water quality. It is recommended that the descriptions be supplemented with photographs;
 - b. A written explanation of the anticipated impacts of the proposed Subdivision on the existing characteristics described above;
 - c. A detailed plan describing the proposed protective measures, which may include, but are not limited to: Watercourse setbacks, building envelopes, vegetated buffers or other appropriate landscaping, stream restoration, the type and/or location of septic systems, stormwater management, etc. For Watercourses draining greater than 25 square miles, the Watercourse setbacks described in [Section 6.A.5\(a\)](#) of these Regulations may not be reduced by more than 50% unless a Variance is granted;
 - d. A written explanation of how proposed protective measures will be implemented and enforced;
 - e. A written explanation of how proposed protective measures are expected to provide equivalent or better protection of the Watercourse-associated resources than the Watercourse setbacks described in [Section 6.A.5\(a\)](#) of these Regulations; and
 - f. A written explanation of the impact, if any, that the protective measures are expected to have on flood and erosion risks experienced by the subject property and upstream and downstream properties.
 - ii. To approve a Watercourse mitigation plan, the County Commission shall make the following findings:

- a. The mitigation proposed by the plan is expected to provide equivalent or greater protection of existing Watercourse-associated resources (e.g. fish and Wildlife Habitat, water quality, riparian vegetation, and overall Watercourse health) than the setbacks described in [Section 6.A.5.\(a\)](#) alone;
- b. The plan includes appropriate and adequate provisions for implementation and enforcement of protective measures; and
- c. Implementation of the plan is not expected to adversely impact flood and erosion risks experienced by the subject property and upstream and downstream properties.

6. Mitigation of Impacts on Water Conveyance Facilities.

- a. Where a Water Conveyance Facility is located on or adjacent to property proposed for Subdivision, the Subdivider shall mitigate adverse impacts of the Subdivision on the Water Conveyance Facility. Mitigation shall include the requirements of *i* or *ii* below, and any other methodology necessary to mitigate adverse impacts on the Water Conveyance Facility. Mitigation shall be reasonable, based on site-specific conditions, and shall address any comments received from the water users and or Water Conveyance Facility's authorized representatives.
 - i. Establishment of Water Conveyance Facility non-interference setbacks as described in [Section 6.A.6\(b\)](#) of these Regulations is required in the event water conveyance facilities exist or will be established on the property being subdivided and such facilities convey water through the property being subdivided to lands adjacent to or beyond the Subdivision. Water conveyance facility non-interference setbacks may also be required on the property being subdivided when a Water Conveyance Facility is located on land adjacent to the proposed Subdivision.
 - ii. Establishment of Water Conveyance Facility Easements as described in [Section 6.D.3\(b\)](#) of these Regulations is required in the event water conveyance facilities exist or will be established on the property being subdivided and such facilities provide water for use on land within the Subdivision, and do not convey water through the property being subdivided to lands adjacent to or beyond the Subdivision.

b. Water Conveyance Facility Non-Interference Setbacks:

- i. The preliminary and Final Plats shall show the Water Conveyance Facility non-interference setback as set forth in [Section 6.A.6.\(a\)](#) above. This setback shall be reasonable and of sufficient width to provide for the unobstructed passage and delivery of water, unobstructed access, inspection, use, routine maintenance, repair, and construction related to the Water Conveyance Facility, and shall be based on site-specific conditions and shall address comments from the water users and/or Water Conveyance Facility's authorized representatives. This setback shall extend on both sides of the Water Conveyance Facility and shall be measured from the centerline along a horizontal plane.
- ii. 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 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 Facility's authorized representatives.

c. Where the Subdivider has not received comments from the water users or Water Conveyance Facility's authorized representatives, or where the Subdivider is not in agreement with the mitigation requested by water users or Water Conveyance Facility's authorized representatives, the following shall take place:

- i. the Preliminary Plat shall show a default 50-foot Water Conveyance Facility non-interference setback as described in [Section 6.A.6.\(b\)\(i\)](#) above, or required Water Conveyance Facility Easements as described by in [Section 6.D.3.\(b\)](#) of these Regulations; and
- ii. if the Subdivider, water users, or Water Conveyance Facility's authorized representatives are of the opinion that, based on site specific conditions, the Water Conveyance Facility non-interference setback should be different than the default setback, a written request justifying the proposed alternate setback shall be submitted with the Preliminary Plat application, and a copy of the written request shall be sent to the other applicable parties; and
- iii. At the hearing on the Preliminary Plat application, the Commission:
 - shall consider the site-specific conditions and any information entered into the record regarding the Water Conveyance Facility;

- may impose conditions of Preliminary Plat approval as necessary to adequately mitigate adverse impacts on the subject Water Conveyance Facility; and
 - may require the width of the Water Conveyance Facility non-interference setback to be greater than or less than the default width if site-specific conditions so warrant.
- d. Any mitigation of Water Conveyance Facilities required as a condition of Preliminary Plat approval shall be agreed to in writing by the Subdivider prior to issuance of Final Plat approval. Such written agreement shall be filed with the Clerk and Recorder when the Final Plat is recorded and shall include language to assure the mitigation requirements are binding upon all successors in interest and remain in effect until such time that the Water Conveyance Facility is abandoned in accordance with the requirements of Montana Law or alternative requirements are agreed to in writing by all applicable parties.
- e. Water Conveyance Facility non-interference setbacks do not eliminate any secondary Easement for maintenance and repair of the Water Conveyance Facility as described by [Section 70-17-112, MCA](#). Subdividers shall consider the specific terms and requirements of any such secondary Easement(s) when designing a Subdivision to ensure a buildable location on each developable Lot.
- f. 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.
7. Subdivision of Land within the 100-year Floodplain. Where the 100-year Floodplain has been delineated according to the requirements set forth in [Section 10](#) of these Regulations, the following standards shall apply to any proposed Subdivision:
- a. Land located within the 100-year Floodplain may be used for the following purposes:
- i. Agriculture
 - ii. Open Space.
 - iii. Wildlife Habitat.
 - iv. Parkland.
 - v. Recreation.

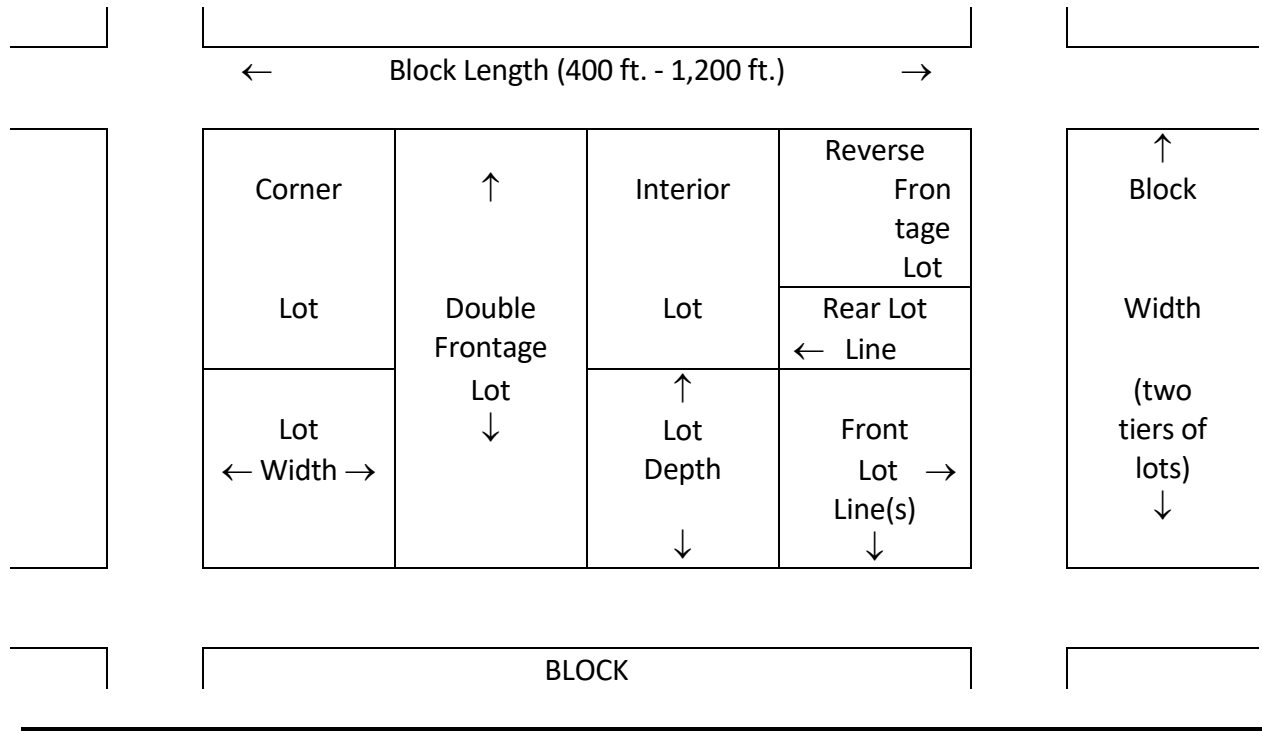
- b. Any proposed Lot that includes land within the 100-year Floodplain must contain a designated building site outside of the 100-year Floodplain, within which all new development activity (erection or placement of Structures, placement of fill, topographic reconfiguration, etc.) on that Lot shall take place.
 - i. All Structures built on such Lots shall be designed and constructed so the lowest-floor elevation within the Structure is at least two feet above the 100-year flood elevation.
 - ii. The required lowest-floor elevation for each building site shall be recorded on the plat or other applicable development document (final site plan, Covenants, etc.).
- c. Subdivider shall demonstrate that safe access to the designated building site must be possible during the 100-year Flood.
- d. Subdivisions should be designed to avoid placing Subdivision-related infrastructure (roads, bridges, utilities, etc.) within the boundaries of the 100-year Floodplain. Infrastructure that must be located in the 100-year Floodplain shall not adversely affect Public Health and Safety or increase Flood hazards.
 - i. Bridges constructed inside a Subdivision shall be designed so the lowest horizontal chord of the bridge is at least two-feet above the Base Flood elevation.

B. Lots. See [FIGURE 1.](#)

1. Dimensions and Orientation: Lot size, width, shape, and orientation shall be appropriate for the location and contemplated use of the Subdivision. Lot designs with irregular shapes, narrow necks, points and flag shapes shall be permitted only when the Subdivider can demonstrate that the proposed Lot designs are necessary due to topography or other physical constraints. Each Lot shall contain a satisfactory building site and shall conform to zoning codes and Comprehensive Plans where officially adopted, and to the regulations of MDEQ. Slopes in excess of 25 percent (25%) shall be presumed unsuitable for building sites unless otherwise proved by the Subdivider.
2. Division by Rights-of-Way: No single Lot shall be divided by a dedicated right-of-way or Easement, which would reduce the buildable area to a size less than required by these and other adopted regulations.

3. Double Frontage: Double frontage Lots shall be avoided except where essential:
 - a. To provide separation of residential development from Arterial Roads.
 - b. To provide access to development adjacent to limited Access Roads.
 - c. To overcome topography or other physical conditions.
 - d. To overcome specific disadvantages of existing design and orientation.
4. Corner Lots: Corner Lots shall have sufficient width to permit appropriate building setback from both roads and provide acceptable visibility for traffic safety.
5. Width: Lots shall have a width sufficient to allow normal construction without the construction encroaching on property lines.
6. Depth: No Lot shall have an average depth greater than three times its average width. For Lots greater than five (5) acres in size, the average depth may be greater than three times its average width provided that the Lot width is no less than 150 feet.
7. Side Lot Lines: Side Lot lines shall be, whenever practical, at right angles or radial to road lines.
8. Frontage on Public Roads: Each Lot shall have a minimum of thirty feet (30') of frontage on a public road or on a public road Easement to provide enough room for snow removal along the Lot access (driveway) and utility Easements.
9. Location in regard to water conveyance facilities:
 - a. No developable Lot may be created in which any portion of a Water Conveyance Facility is located.
 - b. The Commission may waive this standard at the request of the Subdivider without need for a Variance where such action is agreed to in writing by the water users and/or Water Conveyance Facilities authorized representatives. Where such agreement cannot be reached, the Subdivider may request a Variance in accordance with the requirements of [Section 12](#) of these Regulations.

**FIGURE 1.
SUBDIVISION LOT TERMS**



C. Blocks. See [FIGURE 1.](#)

1. Size and Orientation: Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
2. Block Length: Block length shall not be designed, unless otherwise impractical, to be more than one thousand two hundred feet (1,200') or less than four hundred feet (400') in length.
3. Block Width: Blocks shall be wide enough to allow for two tiers of Lots except where essential to provide separation of residential development from a traffic arterial or to overcome specific disadvantages of topography and orientation.

D. Roadway.

1. Dedication of Public Right-Of-Way. All Access Roads and interior Subdivision roads shall be Dedicated to the public. Roads Dedicated to the public are accepted for public use, but the County accepts no responsibility for maintenance.
2. Subdivision Access. The number of Subdivision accesses, access intersection spacing, and interior dead-end roads shall adhere to the standards adopted in the Gallatin County Transportation Design and Construction Standards.
3. Roadway Design Criteria. All Subdivision roads shall be designed in accordance with the standards adopted in the Gallatin County Transportation Design and Construction Standards.
4. Intersections. New intersections shall be designed and constructed in accordance with the standards adopted in the Gallatin County Transportation Design and Construction Standards.
5. Roadway Improvement and Construction Requirements. All Access Roads and interior Subdivision roads shall meet the standards set forth in the Gallatin County Transportation Design and Construction Standards.

E. Pedestrian, Bicycle and Trail, and Transit Facilities.

1. Pedestrian Facilities. Pedestrian Facilities shall be required in accordance with the standards adopted in the Gallatin County Transportation Design and Construction Standards.
2. Bicycle and Trail Facilities. Bicycle and Trail improvements shall meet the standards set forth in the Gallatin County Transportation Design and Construction Standards.

Trail surfacing shall meet the standards set forth in the Gallatin County Transportation Design and Construction Standards.

3. Transit Facilities. The Subdivider may be required to provide transit facilities and improvements as provided for in the Gallatin County Transportation Design and Construction Standards.

F. Easements.

1. Required Easements: Where determined to be necessary, the Commission shall require that Easements be provided for utilities, drainage, irrigation ditch maintenance, vehicular or pedestrian access, and planting screens. All Easements shall be shown on the final Subdivision plat.
2. Utility Easements: Utility Easements shall meet the following standards:
 - a. Utility Easements shall be centered along side and rear Lot lines wherever possible, and, if placed in the road, be located between the Roadway and the right-of-way line, or in a location requested by and agreed upon in writing by all of the appropriate utilities.
 - b. Utility Easements shall be twenty feet (20') wide; except the Commission shall require Easements for sanitary sewer, storm sewer, and water lines to be thirty feet (30') wide if requested by the appropriate utility provider. Utility Easement width may be less than twenty feet (20') if approved by the utility provider(s), and approved by the Commission.
 - c. Where a utility is to be located in an existing, dedicated right-of-way, an encroachment permit must be obtained from the local or state road department having jurisdiction.
 - d. The following statement shall appear on the Final Plat:

The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.
3. Easements for Water Conveyance Facilities:
 - a. Where Easements have been filed, recorded, or otherwise officially established for water conveyance facilities that convey water through the property being subdivided to lands adjacent to or beyond the Subdivision, such Easements shall be shown on the preliminary and final Subdivision plats in addition to the Water Conveyance Facility non-interference setback described in [Section 6.A.6](#) of these Regulations.

- b. Where Water Conveyance Facilities exist or will be established on the property being subdivided and such facilities provide water for use on land within the Subdivision, and do not convey water through the property being subdivided to lands adjacent to or beyond the Subdivision, Easements shall be established that:
 - i. are in locations of appropriate topographic characteristics and sufficient width to allow for the physical placement and unobstructed maintenance of water conveyance facilities for the delivery of water to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the Subdivision Lots;
 - ii. are sufficient distance from the centerline of the ditch to allow construction, repair, maintenance, and inspection of the ditch; and
 - iii. prohibit the placement of structures or the planting of vegetation other than grass within the ditch Easement without the written permission of the ditch owner.
- c. Establishment of Easements as described in part b above is not required if:
 - i. the average Lot size is 1 acre or less and the Subdivider provides for disclosure, in a manner acceptable to the Commission, that adequately notifies potential buyers of Lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or
 - ii. the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the Preliminary Plat. If removal of water rights is not complete upon filing of the Final Plat, the Subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
- d. Interference with canal or ditch Easements is prohibited as described by [Section 70-17-112, MCA](#). The Subdivision shall be designed to maintain or enhance access to any such Easements.

4. Water Rights: When a Subdivision creates parcels with Lot sizes averaging less than 5 acres, the Subdivider shall:
 - a. Reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the Subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - b. if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the Subdivision Lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the Subdivision who have a legal right and access to the water; or
 - c. reserve and sever all surface water rights from the land.

G. Fire Protection Requirements. Fire Protection Requirements for Subdivisions are described in this Section ([Section 6.G](#)) and Appendix I (Fire Protection Packages). Appendix I is adopted as part of these Regulations. All Subdivisions shall be required to provide the following fire protection measures:

1. Fire Protection Plan. All proposed Subdivisions shall provide a Fire Protection Plan reviewed by the local Fire Protection Authority Having Jurisdiction (FPAHJ) prior to the Subdivision application being considered complete by the Planning Department. The FPAHJ is the Fire Chief of the fire service organization providing fire protection services to the proposed Subdivision. The Fire Protection Plan shall include the following:
 - a. Description and confirmation of fire protection service/arrangement as required under [Section 6.G.2](#).
 - b. For all Subdivisions, compliance with general fire protection requirements as outlined under [Section 1 of Appendix I](#), General Fire Protection Requirements.
 - c. For major residential Subdivisions, fire protection packages as outlined under sections [2](#) and [3](#) of Appendix I.
 - d. For one-Lot minor residential Subdivisions, fire protection packages as outlined under [Section 4 of Appendix I](#).

- e. For two through five-Lot minor residential Subdivisions, fire protection packages as outlined under [Section 5 of Appendix I](#).
 - f. For commercial Subdivisions and buildings, fire protection packages as outlined under [Section 6 of Appendix I](#).
 - g. For Subdivisions identified as being located within a Structure- Wildland Interface by the Gallatin County Community Wildfire Protection Plan and the FPAHJ, compliance with fire protection requirements for Subdivisions in Structure-Wildland Interface as outlined under [Section 7 of Appendix I](#).
2. Fire District/Service Area. If a Subdivision is not located in a fire district or fire service area, one of the following fire protection arrangements shall be provided:
- a. If contiguous to a fire district or fire service area, the Subdivision shall petition to annex into the fire district or fire service area before Preliminary Plat application.
 - b. If the annexation is unsuccessful, the Subdivider/Property Owner(s) shall either:
 - i. contract for fire protection services from an existing rural fire district or fire service area ; or
 - ii. form a new fire district or fire service area and contract with an existing rural fire district or fire service area for all Fire Protection Services; or
 - iii. form a rural fire district or fire service area meeting the criteria listed in the Gallatin County Fire Council Fire Protection Standard for New Rural Fire Districts and Fire Service Areas.
3. Fire Protection Review Fees. All Subdivisions that are located in or annex into a fire district or fire service area shall pay the Fire Protection Review Fee per the current fee schedule on file with the Planning Department.
4. Proportionate Reimbursement: If additional Subdivisions will be served by an existing Fire Protection Water Supply, the Commission shall include reimbursement of the original Fire Protection Water Supply improvement costs as a condition of preliminary approval of any additional Subdivision.

The proportionate reimbursement shall be determined based on the ratio of the number of Lots in the Subdivision to the total number of Lots served by the Fire Protection Water Supply. The ratio then is multiplied by the total cost of the Fire Protection Water Supply. The new Subdivision shall join the entity that is responsible in the maintenance or improvements of the Fire Protection Water

Supply. If the total cost of the Fire Protection Water Supply has been reached, then a fee of not less than \$100 per Lot/living unit shall be paid to the entity that is responsible for maintenance or improvements of the Fire Protection Water Supply.

5. Reimbursement Methodology: The original Subdivider/Property Owner shall forward the total costs of improvements to the Planning Department within 60 days of the completion of improvements. Subsequent Subdivisions shall pay their proportionate reimbursement to the Planning Department. The Planning Department shall then make disbursements within 60 days of receiving reimbursement funds. Funds shall be disbursed to the entity which has the responsibility for maintenance of the facility. Documentation should also be given to the FPAHJ regarding cost of the improvements.

H. Grading and Drainage.

1. The Subdivider shall provide a complete grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of roads and drainage improvements.
2. The drainage system and facilities required for any surface run-off affecting the Subdivision shall meet the minimum standards of MDEQ, as required by [Title 76, Chapter 4, MCA](#), and all regulations adopted pursuant thereto, and are subject to the approval of the Commission.
 - a. Drainage systems shall not discharge into any sanitary sewer facility.
 - b. The Subdivider shall provide suitable drainage facilities for any surface runoff affecting the Subdivision; these facilities shall be located in road Rights-of-Way or in perpetual Easements of appropriate widths and are subject to approval by the Commission.

I. Park Requirements.

1. Except when a Subdivision provides permanent multiple spaces for recreational camping vehicles, Mobile Homes, or condominiums with residential uses, park Dedication is not required for:
 - a. A Minor Subdivision.
 - b. Land proposed for Subdivision into parcels larger than five acres.

- c. Subdivision into parcels that are all nonresidential, where there are adopted zoning restrictions which prohibit residential development or it can be documented that the Subdivider has immediate plans for non-residential development.
 - d. A Subdivision in which parcels are not created.
 - e. A Subdivision in which only one additional parcel is created.
- 2. The Commission shall waive the park Dedication requirement if ([76-3-621\(6\), MCA](#)):
 - a. The Preliminary Plat provides for a Planned Unit Development or other development with land permanently set aside for park and recreation uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the Dedication required.
 - b. The Preliminary Plat provides long-term protection of critical Wildlife Habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be subdivided, by virtue of providing long term protection provided above, is reduced by an amount equal to or exceeding the area of the required Dedication.
 - c. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of (a) and (b) above, is reduced by an amount equal to or exceeding the area of the Dedication required.

OR,

 - d. The Subdivider provides for land outside of the Subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the Subdivision; and the area of the land and any improvements set aside for park and recreational uses equals or exceed the area of Dedication required.
- 3. The Commission may waive the park Dedication requirement if ([76-3-621\(7\), MCA](#)):
 - a. The Subdivider provides land outside the Subdivision that affords long-term protection of critical Wildlife Habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; AND

- b. the area of the land to be subject to long-term protection equals or exceeds the area of the Dedication required.
- 4. Park Dedications and Cash in Lieu.
 - a. The Final Plat of a residential Subdivision shall show that the Subdivider has dedicated to the public a land donation or to the County a cash donation equal to:
 - i. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller.
 - ii. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre.
 - iii. 5% of the area of the land proposed to be subdivided into parcels of one acre or larger but not larger than three acres.
 - iv. 2.5% of the area of the land proposed to be subdivided into parcels of three acres or larger but not larger than five acres.
 - b. The Commission, in consultation with the Subdivider and the Planning Board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the Subdivider, may determine whether the park Dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash is required, the cash donation may not exceed the proportional amount not covered by the land donation.
 - c. The land dedicated for park use may be inside or outside the boundaries of the proposed Subdivision ([76-3-621\(10\), MCA](#)).
 - d. Subject to the approval of the Commission and acceptance by the school district trustees, a Subdivider may dedicate the required park land donation to a school district, adequate to be used for school facilities or buildings ([76-3-621\(8\), MCA](#)).
 - e. Land dedicated for park land and recreational purposes shall not be used for the location of water supply and sewage disposal facilities, or storm water detention. Fire fill site ponds may be located within a dedicated park, however, the surface area of the pond cannot count towards the required park Dedication.

5. Cash in Lieu.
 - a. A “cash donation” is the fair market value of the un-subdivided, unimproved land.
 - b. Where cash has been accepted in lieu of land Dedication, the amount of cash donation shall be stated on the Final Plat.
 - c. Where cash has been accepted in lieu of land Dedication, the Commission shall record in the minutes of the meeting upon the proposed Subdivision why the Dedication of land for parks and playgrounds was undesirable.
 - d. The Subdivider shall provide a current appraisal of the fair market value by a certified real estate appraiser of their choosing. The appraisal fee shall be the responsibility of the Subdivider.
6. When a Subdivision is located totally within an area for which density requirements have been adopted pursuant to a Growth Policy under [Title 76, Chapter 1](#), or pursuant to zoning regulations under [Title 76, Chapter 2](#), the Commission may establish park Dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park Dedication requirements established under this section are in lieu of those provided in [Subsection 4](#) and may not exceed 0.03 acres per dwelling unit.
7. Park Fund.
 - a. The Commission shall use a cash donation for development, acquisition, or maintenance of parks to serve the Subdivision.
 - b. The Commission may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public Open Space or Conservation Easement only if:
 - i. The park, recreational area, Open Space, or Conservation Easement is within reasonably close proximity to the proposed Subdivision.
 - ii. The Commission has formally adopted a park plan that establishes the needs and procedures for use of the money.
 - c. The Commission may not use more than fifty percent (50%) of the dedicated money for park maintenance.

J. Sanitary Sewers.

1. Where the Subdivision is within the service area of a public sanitary sewer system, the Subdivider shall install complete sanitary sewer system facilities in accordance with the requirements of the sewer district involved and MDEQ. The Subdivider shall submit plans and specifications for the proposed facilities to the sewer district involved and to MDEQ, and shall obtain their approvals prior to undertaking any construction.
2. Where Lots cannot be served by the extension of an existing public sanitary sewer system, the Subdivider shall obtain approval of Lot sizes for individual septic tanks and disposal fields or approval of neighborhood disposal systems from MDEQ and the Health Department. Percolation data and/or comments from local health officers must accompany the request for approval to MDEQ.

K. Sewage Treatment Systems.

1. For Subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of disposing of sewage from each Lot in the Subdivision must comply with the design standards adopted by the MDEQ.
2. For Subdivisions that will create one or more parcels containing less than 20 acres, the Subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections [76-4-101 et seq., MCA](#) before the Governing Body can approve the Final Plat.
3. For Subdivisions containing parcels containing 20 acres or more, the Subdivider shall have demonstrated that there is an adequate water source and at least one area for a septic system and a replacement drain field for each Lot before the Governing Body may approve the Final Plat.

L. Solid Waste.

1. For Subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of must comply with the standards adopted by the MDEQ.
2. Before the Governing Body will approve the Final Plat of a Subdivision containing Lots of less than 20 acres in size, the Subdivision must have been approved by the DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act sections [76-4-101, et seq., MCA](#).

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

M. Utilities.

Underground utilities, if placed in the road right-of-way, shall be located between the Roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed or utility culverts provided before the road is surfaced to eliminate the necessity of disturbing the road surface when connecting individual services. Overhead utility lines shall be located at the rear property lines where practical. Utility facilities shall be designed by utility firms in cooperation with the Subdivider, subject, however, to all applicable laws and rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

N. Water Supply System.

1. Public Water Supply Systems:

- a. Where the Subdivision is within the service area of a Public Water Supply System, the Subdivider shall install complete water system facilities in accordance with the requirements of the water district involved, and MDEQ. The Subdivider shall submit plans and specifications for the proposed facilities to the water district involved and to MDEQ, and shall obtain their approvals prior to undertaking any construction.
- b. Where a public water supply is not within a reasonable distance or not made available to the Subdivider, the Subdivider shall obtain approval for some alternative water supply system and Lot sizes for such proposals from MDEQ and the GCCHD.

2. All other Water Supply Systems

- a. For Subdivisions that will create one or more parcels containing less than 20 acres, the proposed method of supplying domestic water to each Lot in the Subdivision must comply with the design standards adopted by the MDEQ.
- b. The Governing Body may not approve the Final Plat of a Subdivision containing Lots of less than 20 acres in size, unless the Subdivision has been approved by MDEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections [76-4-101 et seq., MCA](#).

- c. Any central water supply system must provide adequate and accessible water for fire protection.
- O. **Mail Delivery.** If mail delivery will not be to each individual Lot within the Subdivision, the Subdivider shall provide an off-road area for mail delivery within the Subdivision in cooperation with the United States Postal Service. Mailboxes installed within County Road Rights-of-Way are subject to the requirements of the Gallatin County Transportation Design and Construction Standards.
- P. **Noxious Weeds.** State and County declared noxious weeds shall be controlled as directed by the Weed Control District (District) in accordance with the Montana County Noxious Weed Control Act ([§ 7-22-2101 through 7-22-2154 MCA](#)).
 - 1. Prior to submitting an application for Preliminary Plat approval, the Subdivider/Landowner shall prepare a Noxious Weed Control and Revegetation Plan (Plan). The Plan shall be reviewed and approved by the District. The purpose of the Plan is to ensure the control of, and minimize the spread of noxious weeds upon Preliminary Plat approval and the revegetation of any land disturbed during the construction of Subdivision improvements.
 - 2. The Subdivider/Landowner shall submit the approved Plan at the time of application for Preliminary Plat approval.
 - 3. After Preliminary Plat approval, the Plan shall be effectively implemented in accordance with the requirements of the Plan.
 - 4. Prior to application for Final Plat approval, the Subdivider/Landowner shall enter into a Memorandum of Understanding (MOU) with the Weed District. The MOU shall be signed between the District and the Subdivider/Landowner prior to Final Plat approval. The Subdivider/Landowner shall submit the signed MOU at the time of application for Final Plat approval. The MOU shall include any county required Covenants, and include documentation demonstrating implementation of the Plan.
 - 5. The Subdivider/Landowner shall ensure that after Final Plat approval the Property Owner(s) and/or Property Owners' Association shall be responsible for the control of State and County declared noxious weeds by placing the following Covenant on the property:

"The control of noxious weeds by the Property Owner's Association on those areas for which the Association is responsible (right(s)-of-way, easement(s), parks, and any other common areas) and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act ([MCA 7-22-2101 through 7-22-2153](#)) and the rules and regulations of the Gallatin County Weed Control District.

The control of Noxious Weeds is the responsibility of the Property Owner whether the lot is improved or unimproved, and shall be as set forth and specified under the Montana Noxious Weed Control Act ([MCA § 7-22-2101 through 7-22-2153](#) as amended) and the rules, regulations and management Plans of the Gallatin County Weed Control District.

The Property Owner shall be responsible for the control of state and county-declared noxious weeds on his or her lot, and the Subdivision road right-of-way and/or road easement(s) adjoining their property. In the event a Property Owner does not control the noxious weeds, after 10 days notice from the Property Owners Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment.”

Nothing herein shall require or obligate the Gallatin County Weed District to undertake any management or enforcement on behalf of the Property Owners Association or Property Owners that is not otherwise required by law, or the rules, regulations, and management Plans of the Gallatin County Weed District.”

6. For Subdivisions without a Property Owner’s Association and no common areas:
 - a. The control of Noxious Weeds is the responsibility of the Property Owner on his or her Lot, and the Subdivision road right-of-way and/or road Easement(s) adjoining their property whether the Lot is improved or unimproved, and shall be as set forth and specified under the Montana Noxious Weed Control Act ([MCA § 7-22-2116](#) as amended) and the rules, regulations and management Plans of the Gallatin County Weed Control District.

Q. Waiver of Right to Protest.

All Subdivision Final Plats to be recorded by the Clerk and Recorder shall include a statement acknowledging and agreeing to waive the right to protest the creation of a special improvement district, road improvement district, or annexation affecting the Subdivision.

R. Stormwater Management.

Unless there is written consent from the appropriate water users and/or Water Conveyance Facility’s authorized representatives, the Subdivision shall be designed and developed so stormwater, snowmelt runoff, water from dewatering activities, or other water originating from within the boundaries of the Subdivision, does not run into or become captured by any Water Conveyance Facility.

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SECTION 7: IMPROVEMENTS PROCEDURES

A. Improvements.

1. General: It shall be the responsibility of the Subdivider to comply with the applicable procedures and standards for the installation of Subdivision improvements identified in these Regulations, and the procedures and standards for the installation or Roadway improvements established in the Gallatin County Transportation Design and Construction Standards.
2. Plans and Specifications: Engineering and survey plans, specifications and reports required in connection with Public Improvements and other elements of the Subdivision required by the Commission shall be prepared by an Engineer or a Registered Land Surveyor as their respective licensing laws allow.
3. Scope of Work: The intent of these Regulations is to provide standards by which the contractor and the Subdivider shall execute their respective responsibilities and guarantee proper construction and completion in every detail of the work in accordance with the plans, specifications and terms set forth under these Regulations and the Gallatin County Transportation Design and Construction Standards.

B. Improvements Procedures.

1. Improvement Procedure: After the Preliminary Plat has received approval or conditional approval and before the Final Plat is submitted, the following procedure for approval of improvement plans and specifications shall be completed.
 - a. Submittal. Engineering plans and specifications for all improvements required by these Regulations shall be submitted to the Road Department and to MDEQ, if appropriate.
 - b. Review. Plans and specifications shall be locally reviewed by the:
 - i. Road Department, to ascertain that the engineering plans and specifications meet the requirements of these Regulations and other adopted rules and regulations. And when determined by the Road Department to be necessary:

- Planning Department, to ascertain that there have been no significant deviations from the Preliminary Plat, as approved.
 - Other affected local agencies and utilities.
- ii. Health Department, to review sanitary facilities which will not be connected to a public system.
- c. Comments and Recommendations. Written comments and recommendations from the local reviewing agencies shall be forwarded to the Road Department within 15 days of submission.
- d. Approval. After comments and recommendations have been received from local agencies and a certificate of approval of sanitary facilities has been received from MDEQ, the Commission shall either give approval in a printed or stamped certificate on the plans and specifications or shall inform the Subdivider in writing as to what additional requirements must be met to receive approval.
- e. Pre-Construction Meeting. Prior to beginning construction of required road, pathway or Trail improvements, the Subdivider or a representative, the Subdivider's Engineer, and the contractor who will install the improvements shall meet with the Road Department to ensure that improvements will be installed in accordance with approved plans and specifications.
- f. Completion of Improvements. Improvements shall be installed, in accordance with the approved plans and specifications, by the Subdivider and certified by an Engineer and accepted by the County prior to the approval of the Final Plat or in accordance with the terms of an executed improvements agreement.
- g. Improvements Agreements. Only those improvements not essential to human habitation can be completed under an improvements agreement. Non-essential improvements include, but are not limited to, road paving, noxious weed management practices, landscaping, road name signs, park and recreation facilities. Essential health and safety improvements include, but are not limited to, road access to the Subdivision, road access to each Lot, sewage disposal and water supply facilities, fire protection facilities, intersection improvements, traffic safety signage. All improvements agreements shall meet the following standards:
 - i. The length of time of the agreement shall be determined by the County Commission.

- ii. Financial guarantee in the amount equal to one hundred fifty percent (150%) of the cost of the improvement shall be included. The County has the discretion to require a second estimate of the cost of improvements. The cost of obtaining the second estimate shall be borne by the Subdivider. Such financial guarantee shall be in a form of guarantee deemed satisfactory to the County Commission. The expiration of the financial guarantee shall not be less than 12 months from the date of the completion of the required improvements as stipulated in the improvements agreement.
 - iii. The agreement and financial guarantee shall be satisfactory to the County Attorney as to form and manner of execution.
 - iv. Financial guarantee for improvements other than internal Subdivision roads shall be reduced only upon recommendation of the Road and Bridge Superintendent and approval by the Commission, upon request by the Subdivider. Requests for partial release of financial guarantee shall only be in amounts commensurate with the percentage of the improvements completed. The financial guarantee shall always equal one hundred fifty percent (150%) of the value of the uncompleted work.
 - v. The improvements agreements and, when needed, the financial guarantee shall be placed in the keeping of the Clerk and Recorder.
- h. Individual Sewage Facilities. Where each Lot in a Subdivision is being served by an individual sanitary system it shall not be necessary to install the system before Final Plat approval is given. Rather, appropriate permits must be obtained from the Health Department prior to such time as when the system is to be installed.

2. Design Standards:

- a. Roads. All road improvements shall be designed by and constructed under the supervision of an Engineer and shall meet or exceed the standards for the type of road and Subdivision required. All road improvements shall be reviewed and approved by the Road Department.
 - i. Construction materials specified may be substituted with other appropriate materials with the approval of the Road Department.
 - ii. Roads within mobile or manufactured home and Recreational Vehicle Parks shall meet or exceed the standards.
 - iii. Following the completion of all required improvements, the Subdivider shall have an as built plan prepared. The as-built plans

shall be drawn in permanent ink on the original construction plan and profile. The as-built plan shall show the actual location of all improvements as installed, and shall clearly designate any and all changes from the approved plans and specifications, and shall bear the signature and seal of the Engineer who prepared it. As-built plans shall be provided to the Road Department.

3. Protection of Existing Improvements: The Subdivider, his contractors, and suppliers shall be jointly and severally responsible that existing improvements are not damaged or rendered less useful by the operation of the Subdivider, his contractors, or suppliers. This provision is intended to preclude damage to existing roads and drainage systems. The Commission may instruct the Subdivider as to the roads to be used for access by construction equipment, and the Subdivider shall be responsible for enforcement of this instruction upon his contractors and their suppliers. The Commission may require the Subdivider to post a surety to guarantee repair of damages.
4. Control of Work: During the course of construction, at the completion of each phase of the project, the Engineer will be required to submit a statement that the improvements have been inspected and found to have been constructed in accordance with plans and specifications approved by the Road Department. The Engineer shall notify and receive written approval or disapproval from the Road Department for any changes in approved plans or specifications.
5. Conformity with Plans and Specifications: All work performed and all materials furnished shall be in substantial conformity with lines, grades, cross sections, dimensions, and material requirements.

C. Acceptance of Improvements.

1. Acceptance of Subdivision Roads and Bridges into the County Road System:
 - a. County Standards. Before any Subdivision road or bridge can be accepted into the County road system by the Commission, it shall be built to meet or exceed the standards set by the County. Existing roads or bridges shall be improved to meet or exceed the standards set by the County prior to petition.
 - b. Maintenance of Roads and Bridges. If a Subdivision road or bridge has been built to a paved standard approved by the Road Department and the appropriate steps have been taken resulting in the Commission accepting such facility into the road system, the County will then accept responsibility for maintenance and snow removal of that Subdivision road or bridge.

2. Acceptance Procedure:

- a. No road or bridge in a Subdivision shall become a part of the county road system unless the Commission are petitioned, as provided by law, by the freeholders to accept such facilities as part of the road system.
- b. Upon receiving the petition, the Commission will set a date for a hearing.
- c. All freeholders signing the petition and living on the road will be notified by registered mail of the date of the hearing.
- d. After the hearing, each freeholder will be notified by registered mail as to the course of action taken by the Commission.
- e. Acceptance of any Subdivision road or bridge shall be made by resolution and entered into the minutes of the proceedings of the Commission in session on that date. Upon acceptance, said road shall be assigned an appropriate name or number. The Commission shall exercise extreme precaution not to burden the County with various duties, expense, and liabilities subsequent to this acceptance.

3. Previously Recorded Subdivisions: Roads and bridges in previously recorded Subdivisions may become part of the road system if accepted by the same procedure as set forth in this Section.

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SECTION 8: ENVIRONMENTAL ASSESSMENT

- A. General.** It shall be the responsibility of the Subdivider to submit the information required by this Section with the Subdivision application.
1. In accordance with [76-3-603, MCA](#), an environmental assessment must accompany the Preliminary Plat for a Major Subdivision.
 2. For a First Minor Subdivision, a second or Subsequent Minor Subdivision, the Subdivider need only to provide a summary of the probable impacts of the proposed Subdivision based on the primary review criteria established in [76-3-608\(3\)\(a\), MCA](#), (effects on Agriculture, Agricultural Water User Facilities, Local Services, the Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety).
 3. Any environmental assessment, summary of probable impacts, community impact report, or traffic impact study must address and provide responses to all applicable criteria relative to proposed and anticipated use(s) within the Subdivision (i.e., single-family residential, multi-family residential, commercial, retail, office, manufacturing, industrial, etc.).
- B. Environmental Assessment.** The environmental assessment must accompany the Preliminary Plat and must include the required information.
1. Major Subdivision: An environmental assessment must accompany the Preliminary Plat and must include the following information:
 - a. A description of every body or stream of surface water that may be affected by the proposed Subdivision, together with available ground water information, and a description of the topography, vegetation, and Wildlife use within the area of the proposed Subdivision as required under the Environmental Description Contents.
 - b. A summary of the probable impacts of the proposed Subdivision based on the criteria described in [76-3-608, MCA](#), and this Section.
 - c. A community impact report containing a statement of anticipated needs of the proposed Subdivision for Local Services, including education and business; roads and maintenance; water, sewage, and solid waste facilities; fire and police protection.

- d. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under these Regulations.
- 2. Second or Subsequent Minor Subdivision: An abbreviated environmental assessment must accompany the Preliminary Plat and must include the following information:
 - a. A summary of the probable impacts of the proposed Subdivision based on the criteria described in [76-3-608 MCA](#), and this Section.
- 3. First Minor Subdivision from a Tract of Record: The First Minor Subdivision from a tract of record is exempt from any environmental assessment requirement ([76-3-609\(3\), MCA](#)).

C. Environmental Description Contents.

- 1. Surface Water:
 - a. Mapping. Locate on a plat overlay or sketch map all surface waters and the delineated Floodways which may affect or be affected by the proposed Subdivision including:
 - i. Natural water systems such as streams, lakes, rivers, or marshes.
 - ii. Artificial water systems such as canals, ditches, aqueducts, reservoirs, irrigation or drainage systems.
 - b. Description. Describe all surface waters which may affect or be affected by the proposed Subdivision including name, approximate size, present use, and time of year when water is present.
 - i. Describe proximity of proposed construction (such as buildings, sewer systems, roads) to surface waters.
 - c. Water Body Alteration. Describe any existing or proposed streambank or shoreline alterations or any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration. A 310 Permit from the Gallatin Conservation District shall be required for any alterations to perennial streams.
 - d. Wetlands. If Wetlands are present, the Subdivider shall provide a Wetlands investigation completed by a qualified consultant, using the U.S. Army Corps of Engineers' Wetlands Delineation Manual Technical Report Y-87-1 (1987 Manual). If the investigation indicates the presence

of Wetlands, a Wetlands delineation shall be shown on the Final Plat. If any construction or changes are proposed which require a 404 Permit, the Subdivider shall provide evidence of such permit to the Planning Department.

2. Ground Water:

- a. Depth. Establish the seasonal minimum and maximum depth to the water table, dates on which these depths were determined, and the location and depth of all known aquifers which may be affected by the proposed Subdivision. The high water table shall be determined from tests taken during the period of major concern as specified in writing by the Health Department. Specific locations for test holes may also be determined by the Health Department.
- b. Steps to Avoid Degradation. Describe any steps necessary to avoid degradation of ground water and ground water recharge areas.

3. Geology - Soils - Slopes:

- a. Geologic Hazards. Identify geologic hazards affecting the proposed Subdivision which could result in property damage or personal injury due to rock falls or slides; slides-land, mud, snow; surface subsidence (e.g., settling or sinking); and seismic activity.
- b. Protective Measures. Explain what measures will be taken to prevent or materially lessen the danger of future property damage or injury due to any of the hazards referred to above.
- c. Unusual Features. Provide a statement describing any unusual soil, topographic or geologic conditions on the property which limit the capability for building or excavation using ordinary and reasonable construction techniques. The statement should address conditions such as shallow bedrock, highwater table, unstable or expansive soil conditions, and slope. On a map identify any slopes in excess of fifteen percent (15%) grade.
- d. Soils Map. The Subdivision shall be overlaid on the Gallatin County Soil Survey maps obtained from the NRCS. The maps are 1:24,000 scale. These maps may be copied without permission. However, enlargement of these maps could cause misunderstanding of the detail of mapping. Soils were mapped using a minimum delineation of five acres. Soils reports were intended to alert Subdividers to possible problems and the need for

a more detailed on-site investigation. The Subdivider shall provide the following soil reports which can be obtained for the NRCS:

- i. The physical properties and engineering indexes for each soil type.
 - ii. Soil limitations for sanitary facilities, building site development, and water features for each soil type.
 - iii. Hydric soils report for each soil type. If hydric soils are present, the Subdivider shall provide a Wetlands investigation by a certified consultant, using the U.S. Army Corps of Engineers' Wetlands Manual.
 - iv. The Subdivider shall provide any special design methods planned to overcome the above limitations.
- e. Cuts and Fills. Describe the location and amount of any cut or fill three or more feet in depth. These cuts and fills should be indicated on a plat overlay or sketch map.
- i. Where cuts or fills are necessary, describe any plans to prevent erosion and to promote revegetation such as replacement of topsoil and grading.

4. Vegetation:

- a. Vegetation Map. On a plat overlay or sketch map:
- i. Indicate the distribution of the major vegetation types such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.
 - ii. Identify critical plant communities such as stream bank or shoreline vegetation; vegetation on steep, unstable slopes; vegetation on soils highly susceptible to wind or water erosion.
 - iii. The Subdivider shall have any noxious weeds identified and their location mapped by a person with experience in weed management and knowledgeable in weed identification.
- b. Protective Measures. Describe measures to:
- i. Preserve trees and critical plant communities (e.g., design and location of roads, Lots and Open Spaces).

5. Wildlife:

- a. Species. Describe species of fish and Wildlife which use the area affected by the proposed Subdivision.
- b. Critical Areas. Identify on a plat overlay or sketch map of the proposed Subdivision any known critical or "key" Wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, Wetlands.
- c. Protective Measures. Describe any proposed measures to protect or enhance Wildlife Habitat or to minimize degradation (e.g., keeping building and roads back from shorelines; setting aside marshland as undeveloped Open Space).
- d. The Subdivider shall discuss the impact of the proposed development on fish and Wildlife with the Department of Fish, Wildlife and Parks (FWP). The Subdivider shall provide a written statement outlining any recommendation of FWP and any mitigation planned to overcome any adverse impacts.

6. Historical Features:

- a. Affected Areas. Describe and locate on a plat overlay or sketch map any known or possible historic, paleontological, archeological or cultural sites, Structures, or objects which may be affected by the proposed Subdivision.
- b. Protective Measures. Describe any plans to protect such sites or properties.
- c. The Subdivider shall discuss the impact of the proposed development on any historic features, and the need for inventory, study and/or preservation with the State Historic Preservation Office (SHPO). The Subdivider shall provide a written statement outlining any recommendations of SHPO and any plans for inventory, study and/or preservation and any mitigation planned to overcome any adverse impacts.

7. Visual Impact:

- a. Measures. Describe any efforts to visually blend development activities with the existing environment (e.g., provisions for appropriate building materials, colors, road design, and underground utilities and re-vegetation or earthworks).

D. Summary of the Probable Impacts Criteria. All Subdivisions must be designed so that they do not adversely impact Agriculture, Agricultural Water User Facilities, Local Services, the Natural Environment, Wildlife, Wildlife Habitat, Public Health and Safety, pursuant to the MSPA, or that such adverse impacts have been avoided or mitigated to the maximum extent possible.

1. The effect on Agriculture and proposed mitigation of impacts. Agriculture is defined as all aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market. Prime agricultural lands are defined under [82-4-203 \(40\), MCA](#).

- a. Number of acres in type of production. Is the proposed Subdivision or associated improvements located on or near prime farmland or farmland of statewide importance as defined by the Natural Resource Conservation Service? If so, identify each area on a copy of the Preliminary Plat.
- b. The productivity of the land.
- c. Whether or not the property is part of a viable farm unit. Describe whether the Subdivision would remove from production any agricultural or timber land.
- d. Agricultural operations and other uses of land in the general locality.
- e. What measures will be taken, if any, to control family pets.
- f. Fencing of Agricultural Land. Describe any existing fence lines around the Subdivision boundary, which protect agricultural lands under an ownership other than that of the Subdivider, and describe any measures which will be taken to insure that the owners of the Subdivision will share with the owner of the agricultural lands in the continued maintenance of the fence.
- g. Additional information as needed.

2. The effect on Agricultural Water User Facilities and other Water Conveyance Facilities and proposed mitigation of impacts. The terms *Agricultural Water User Facility* and *Water Conveyance Facility* are defined in [Section 1](#) of these Regulations.
 - a. Type, description, ownership, and users of facilities.
 - b. Describe conflicts the Subdivision would create with Agricultural Water User Facilities and Water Conveyance Facilities (e.g. residential development creating problems for operating and maintaining irrigation systems) and whether such facilities would be more subject to vandalism or damage because of the Subdivision.
 - c. Describe possible nuisance problems which the Subdivision would generate with regard to Agricultural Water User Facilities and Water Conveyance Facilities (e.g. safety hazards to residents or water problems from irrigation ditches, head gates, siphons, sprinkler systems, or other Agricultural Water User Facilities or Water Conveyance Facilities).
 - d. Where the water users and/or Water Conveyance Facility's authorized representatives have provided the Subdivider with written comments, those comments shall be submitted with the Preliminary Plat application.
 - e. Additional information as needed.
3. The effect on Local Services and proposed mitigation of impacts. Local Services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens including but not limited to police, sheriff, fire, emergency, and public health services, as well as schools, busing, and roads.
 - a. Methods of water supply and sewage disposal.
 - b. Provision of law enforcement services and fire protection services, and projected costs to providers.
 - c. Costs of upgrading or extending off-site public roads. Costs of annual road maintenance.
 - d. Provision of educational services and projected costs to providers.

- e. Current amount of local property taxes, projected amount land and improvements will pay in local property taxes. Who would bear these costs (e.g. all taxpayers within the jurisdiction, people within special taxing districts, or users of a service)?
 - f. Provision of utilities and Easements.
 - g. Additional information as needed.
4. The effect on the Natural Environment and proposed mitigation of impacts. The Natural Environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.
- a. Road drainage and erosion.
 - b. Terrain and surface runoff effects.
 - c. Grading and drainage plan.
 - d. Effects on native vegetation, soils, quality or quantity of surface or ground waters.
 - e. Weed control.
 - f. Additional information as needed.
 - g. Light pollution.
 - h. Whether the proposed development complies with adopted County plans for parks, recreation, Open Space, and Trails.
5. The effect on Wildlife and proposed mitigation of impacts. Wildlife are defined as those animals that are not domesticated or tame.
- a. Expected effects of pets and human activity on Wildlife.
 - b. Effects on fisheries.
 - c. Effects on public access to public lands, Trails, hunting or fishing areas.
 - d. Additional information as needed.

6. The effect on Wildlife Habitat and proposed mitigation of impacts. Wildlife Habitats are defined as the place or area where Wildlife naturally lives or travels through.
 - a. Proximity to area of significant Wildlife Habitat or critical Wildlife areas.
 - b. Effects on public access to public lands, Trails, hunting or fishing areas.
 - c. Describe what impacts the Subdivision or associated improvements would have on Wildlife areas such as big game wintering range, migration routes, nesting areas, Wetlands, or important habitat for rare or endangered species.
 - d. Additional information as needed.
7. The effect on Public Health and Safety and proposed mitigation of impacts. Public Health and Safety is defined as the prevailing healthful, sanitary condition of well-being for the community at large. Conditions that relate to Public Health and Safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.
 - a. Potential natural hazards; flooding, snow or rock slides, high winds, wildfire, excessive slopes, etc.
 - b. Potential man-made hazards; high voltage power lines, high pressure gas lines, nearby industrial or mining activity, high traffic volumes, lack of fire protection, inadequate traffic safety, etc.
 - c. Additional information as needed.

E. Community Impact Report Contents.

1. Water Supply:
 - a. Description of Use. Describe how water will be provided for household use and fire protection.
 - b. Capacity. Indicate the number of gallons per day of water the proposed Subdivision will require and whether the water supply is sufficient to meet the needs of the anticipated, final population of the Subdivision. Are there any anticipated effects on existing water systems or wells within the area?

- c. State Standards. Indicate whether the plans for water supply meet the standards of MDEQ for quality, quantity and construction criteria.
- d. Existing Public System. If the Subdivider proposes to connect to an existing water system:
 - i. Identify and describe that system.
 - ii. Provide written evidence that permission to connect to that system has been obtained.
 - iii. State the approximate distance to that system.
 - iv. State the cost of extending or improving the existing water system to service the proposed development.
 - v. Show that the existing water system is adequate to serve the proposed Subdivision.
- e. New Public System. If a separate public water system is to be installed, discuss:
 - i. Who is to install that system and when it will be completed.
 - ii. Who will administer and maintain the system at the beginning of Subdivision development and when Subdivision is completed.
 - iii. Provision of evidence that the water supply is adequate in quantity, quality, and dependability ([75-6-102 MCA](#)).
- f. Individual System. If individual water systems are to be provided, describe the adequacy of supply of the ground water for individual wells or cisterns and how this was determined.

2. Sewage Disposal:

- a. Method. Describe the proposed method of sewage disposal.
- b. Capacity. Indicate the number of gallons of effluent per day which will be generated by the proposed Subdivision at its full occupancy, whether the proposed method of sewage disposal is sufficient to meet the anticipated final needs of the Subdivision and whether it meets the standards of MDEQ.
- c. Existing System. If the development will be connected to an existing public sewer system, include:
 - i. A description of that system and approximate distance from proposed Subdivision.

- ii. Written evidence that permission to connect to that system has been obtained.
 - d. New System. If a new public sewage disposal system, as defined under [75-6-102 MCA](#), is to be installed, discuss:
 - i. When the system will be completed, and how it will be financed.
 - ii. Who is to administer and maintain the proposed system at the beginning of Subdivision development and when development is completed.
- 3. Solid Waste Disposal:
 - a. Collector System. Describe the proposed system of solid waste collection and disposal for the Subdivision including:
 - i. Evidence that existing systems for collection and facilities for disposal are available and can handle the anticipated additional volume.
 - ii. A description of the proposed alternative where no existing system is available.
 - iii. Whether the proposed method of solid waste disposal meets the standards of MDEQ.
- 4. Roads:
 - a. Description. Describe any proposed new public or private Access Roads or substantial improvements of existing public or private Access Roads. Road improvements may include Trails needed to accommodate existing historic non-motorized road uses.
 - b. Access to Arterial. Discuss whether any of the individual Lots or tracts have access directly to Arterial Roads; and if so, the reason access was not provided by means of a road within the Subdivision.
 - c. Modification of the Existing Roads. Explain any proposed closure or modification of existing roads.
 - d. Dust. Describe provisions considered for dust control on roads.
 - e. Pollution and Erosion. Explain how road maintenance will be provided to meet MDEQ guidelines for prevention of water pollution and erosion.

- f. Installation and Maintenance. Indicate who will pay the cost of installing and maintaining dedicated and private Roadways.
 - g. Average Daily Traffic (ADT). Discuss how much ADT will be generated on existing Local, Collector and Arterial Roads, when the Subdivision is fully developed.
 - h. Capacity. Indicate the capacity of existing and proposed roads to safely handle any increased traffic. Describe any anticipated increased maintenance that will be necessary due to increased traffic and who will pay the cost of maintenance.
 - i. Year-Round Access. Explain whether year-round access by conventional automobile will be available over legal Rights-of-Way to the Subdivision and to all Lots and common facilities within the Subdivision.
5. Utilities:
- a. Affected Utilities. Indicate whether the Subdivision Preliminary Plat has been submitted to affected utilities for review; if so, include a copy of response.
 - b. Include a description of:
 - i. The method of furnishing electric, natural gas or telephone service, where provided.
 - ii. The extent to which these utilities will be placed underground.
 - iii. Estimated completion of each utility installation.
 - iv. The Subdivider shall provide a written statement from the utility companies that the proposed Subdivision can be provided with service.
6. Emergency Services:
- a. Describe the emergency services available to the Subdivision such as:
 - i. Fire Protection. Is the proposed Subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?
 - ii. Police protection.
 - iii. Ambulance service.
 - iv. Medical services.
 - b. Give the estimated response time of the above services.

- c. Can the needs of the proposed Subdivision for each of the above services be met by present personnel and facilities?
 - i. If not, what additional expense would be necessary to make these services adequate?
 - ii. At whose expense would the necessary improvements be made?
 - iii. Indicate whether the Subdivision Preliminary Plat has been submitted to affected above agencies; if so, include copy of response.
 - iv. The Subdivider shall discuss the impact of the proposed development on the provision of emergency services with each of the providers. The Subdivider shall provide a written statement outlining the recommendations of the providers and any mitigation planned to overcome any inability to provide services or adverse impacts.

7. Schools:

- a. Available Facilities. Describe the available educational facilities which would service this Subdivision.
- b. School Children. Estimate the number of school children that will be generated from the proposed Subdivision.
- c. The Subdivider shall discuss the impact of the proposed development on the provision of educational services with the administrator(s) of the appropriate school system(s). The Subdivider shall provide a written statement outlining whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system, any recommendations of the administrator(s), and any mitigation planned to overcome any adverse impacts of the proposed development on the provision of educational services.

8. Land Use:

- a. Planning. Describe comprehensive planning and/or land use regulations covering the proposed Subdivision or adjacent land and if located near the jurisdictional area of an incorporated city or town, whether annexation is proposed.
- b. Public Lands. Describe how the Subdivision will affect access to any public lands. Where public lands are adjacent to or near the proposed

development, describe present and anticipated uses for those lands; (e.g., grazing, logging, recreation, etc.).

- c. Adjacent Land Use. Describe the effect of the Subdivision on adjacent land use.
- d. Hazards. Describe any health or safety hazards on or near the Subdivision, such as mining activity or potential subsidence, high pressure gas lines, dilapidated Structures or high voltage power lines. Any such conditions should be accurately described and their origin and location identified. List any provisions that will be made to mitigate these hazards.
- e. Nuisance. Describe any on-site or off-site land uses creating a nuisance, such as unpleasant odors, unusual noises, dust or smoke.

9. Housing:

- a. Indicate the proposed use(s) and number of Lots or spaces in each:

_____ Residential, single family.
_____ Residential, multiple family. Types of multiple family Structures and numbers of each (e.g., duplex, four-plex).
_____ Planned Unit Development (number of units).
_____ Condominium (number of units).
_____ Mobile or Manufactured Home Park.
_____ Recreation Vehicle Park.
_____ Commercial or Industrial.
_____ Other (please describe).

- b. Is the Subdivision planned as a second home or recreational Subdivision?

10. Parks and Recreation Facilities:

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

- b. Describe Trail facilities to be provided within the proposed Subdivision. Trails should connect with parks, Trails and recreation facilities in accordance with the then current Trails Plan where applicable.

11. Taxation:

- a. Acreage. Include a list of the number of acres in each land assessment classification prior to Subdivision.
- b. Existing Taxes. Describe any existing tax and existing or proposed special assessments which will affect the Subdivision.
- c. Anticipated Taxes. Estimate the increased amount of taxes that will be generated by the Subdivision at full development using existing valuations and mill levies. Estimate the increases costs of all public services, including schools, at full Subdivision buildout.

12. Accessibility of Service Systems and Facilities: Provide total distances over road types to each of the following:

	Unimproved	Graded	Graveled	Paved	Total	Town Where Located
Fire Protection						
Police Protection						
Hospital Facilities						
Elementary School						
High School						

- F. Traffic Impact Analysis (TIA). The purpose of a TIA is to identify any traffic impacts resulting from a proposed Subdivision and to determine the need for improvements to the Transportation System to reasonably mitigate the impacts (refer to Section 6, Traffic Impact Analysis, Gallatin County Transportation Design and Construction Standards, for traffic impact analysis requirements and procedures).

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SECTION 9: FLOOD HAZARD EVALUATION

- A. General.** Land subject to being flooded by a Flood of 100-Year Frequency as defined by [Title 76, Chapter 5, MCA](#), or land subject to flooding pursuant to these Regulations, shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate Flood hazards to life, health or welfare, or that may be prohibited by state or local Floodplain or Floodway regulations. Land subject to flooding pursuant to these Regulations may include (but is not limited to) land subject to 100-year flooding, 500-year flooding, shallow flooding, groundwater rise, historically flooded lands, and lands located in proximity to a Watercourse.
- B. Intent.** The intent of a Flood hazard evaluation is to assess possible flooding hazards to a proposed Subdivision and resulting therefrom. Part of this evaluation must therefore address the uncertainty of predicted conditions during significant meteorologic, geologic and hydrologic events, and the evaluation draws upon known and observed Flood behaviors and dynamics for context. The Flood maps and associated documentation included within the County-recognized Flood studies may contain some of this information but do not address the full range of hazards and flooding conditions necessary for a Flood hazard evaluation.
- C. Procedure.**
1. Flood Hazard Evaluation Required: If any portion of a proposed Subdivision is within a Flood zone as designated by a FEMA Flood Insurance Rate Map, a FEMA Floodway Map, or a County-recognized Flood study, a Flood hazard evaluation (as outlined in [Subsection D](#) below) shall be submitted. County-recognized Flood studies include Flood studies adopted by Federal or State government agencies (USGS, NRCS, Army Corps of Engineers, FEMA, Montana DNRC), those Flood studies referenced by the Gallatin County Floodplain Regulations, or other Flood studies meeting the requirements of [Appendix G](#) of these Regulations that have been reviewed and found to be acceptable by the Gallatin County Floodplain Administrator. Where multiple Flood studies cover a proposed Subdivision, the Subdivider shall consult the Floodplain Administrator to identify the applicable Flood study to reference.
 2. Flood Study Required: If any infrastructure (roads, bridges, utilities, etc.) or developable portion of a Lot within a proposed Subdivision is within two thousand (2,000) horizontal feet and less than twenty (20) vertical feet above the Ordinary High Water Mark of a Watercourse draining an area of 20 square miles or more, or within 1,000 horizontal feet and less than 10 vertical feet above the Ordinary High Water Mark of a Watercourse draining an area between 10 and 20 square miles, and no County-recognized Flood study of the Watercourse exists; or when a Base

Flood elevation is contested or not provided by a County-recognized Flood study; a Flood study (as outlined in [Appendix G](#)) consisting of a full engineering analysis to determine the Base Flood elevation and a Flood hazard evaluation (outlined in [Subsection D](#) below) shall be required. An Engineer experienced in this field of work must submit a stamped letter attesting to the accuracy and integrity of the Flood study.

3. Submission of Report: Three copies of the required Flood hazard evaluation and/or Flood study and the digital files from any applicable hydraulic model shall be included with the Preliminary Plat application submitted to the Planning Department. It is recommended that this information be provided to the Floodplain Administrator for review and comment at least 30-days prior to submittal of the Preliminary Plat application to the Planning Department. This information may be forwarded by the Floodplain Administrator or County Commission to the Floodplain Management Section, Water Resources Division, Department of Natural Resources and Conservation (DNRC) for review and concurrence. The Subdivider may choose to pay for independent peer review of a Flood study and/or Flood hazard evaluation where the Subdivider disputes findings reached by the County or DNRC. The Subdivider may request a reimbursement for peer review expenses from the County if the peer review validates the conclusions reached in the Subdivider's Flood study and/or flood hazard evaluation. The County Commission or County Floodplain Administrator may request the Subdivider pay for independent peer review of a Flood study and/or Flood hazard evaluation when those items are beyond the technical capabilities of the Floodplain Administrator. The Flood study/Flood hazard evaluation review fees and independent peer review fees shall be assessed at the current rate established in the Gallatin County Planning Department fee schedule.

D. Flood Hazard Evaluation. A Flood hazard evaluation is a professional assessment of possible flooding hazards and a report of the risks associated with this potential flooding in the proposed Subdivision or resulting therefrom. In addition to industry standard, one-dimensional, steady state water surface elevation modeling provided by the applicable County-recognized Flood study (as outlined in [Section 9.C.1](#)), a Flood hazard evaluation includes:

1. A hydrologic analysis detailing: the derivation of the magnitude and frequency of the design flows utilized in the risk analysis (a discussion of the statistical and the Engineer's confidence in these estimates); the implications of simultaneous Flood events on the design discharge, and verification that these estimates reflect the most recent recorded stream gage data and/or industry standard estimation methodologies.

2. An analysis and commentary regarding the accuracy of the existing regulatory maps to predict 100-year and 500-year Floodplain boundaries with existing conditions upstream, on site and downstream of the Subdivision area or a new Flood study proposed as the new regulatory map for the Subdivision area.
3. A discussion of overbank flow path uncertainty related to: Watercourse channels that are topographically higher than surrounding Floodplain, such as is common on the East and West Gallatin Rivers; shallow Flood channels; alluvial fan flooding; debris jams; ice jams and/or diversions and ditches.
4. A discussion of possible or predicted channel stability during Flood events, including the possibility of channel avulsion and/or thalweg migration that could affect the Flood dynamics in the Subdivision area.
5. A discussion of the risk of landslides and/or debris flows occurring and affecting Flood behavior in Subdivision area drainages.
6. An analysis of the stability and structural integrity of permitted and unpermitted Floodplain fill in the vicinity of the Subdivision that contacts the regulatory 100-year Floodplain, including rip rap, berms, levees, and other fill.
7. Identification and quantification of predicted overland flow and potential overland flow paths above and below the land proposed for Subdivision.
8. A discussion of the proposed Subdivision area's propensity to experience Flood due to groundwater rise.
9. Identification and quantification of predicted flooding from runoff over saturated and/or frozen ground.
10. A complete discussion of the stormwater runoff management practices and design criteria utilized to safely pass stormwater through the Subdivision without negatively affecting up- and downstream Flood dynamics. This discussion shall be based on runoff after projected Subdivision buildout conditions.
11. A discussion of risks associated with failures in upstream, downstream or on-site road, culvert, bridge and stormwater management infrastructure.
12. A statement attesting that all proposed sanitary sewer infrastructure meets 100-year Flood design standards and/or will not otherwise contribute to water pollution during periods of flooding or high groundwater.
13. A discussion of Water Conveyance Facilities in the area and how they would affect the Subdivision should they fail, overtop or route surface runoff.

14. An identification of depressional areas (areas below the Base Flood elevation or design Flood elevation but unconnected to a separate and discrete flow path).
 15. A discussion of risks associated with dam failures.
 16. A discussion of potential changes in runoff or watershed hydrology that could affect the proposed Subdivision.
 17. A discussion of impacts to the Floodplain associated with development of the Subdivision (i.e. boring utilities under Watercourse channel, construction of Watercourse crossings, etc.) and proposed mitigation of such impacts.
 18. A discussion regarding compliance with the requirements of [Section 6.A.7.](#)
- E. Flood Hazard Evaluation Techniques.** Acceptable methodologies for developing a Flood hazard evaluation include industry standard methods and those capable of satisfying professional peer review. These may include engineering, hydraulic, hydrologic, fluvial geomorphic, geotechnical, and risk analyses in addition to professionally qualified opinions and observations.
- F. Waiver of Requirement.** A Subdivider may apply for a waiver from the requirement to perform a Flood study and/or Flood hazard evaluation following the process described in [Section 9.F.1](#) of these Regulations. The Commission may waive the requirement to perform a Flood study and/or Flood hazard evaluation after considering the criteria described in [Section 9.F.2](#) of these Regulations.
1. Process for Requesting Waiver:
 - a. Waivers shall be requested by the Subdivider in writing, submitted to the Planning Department, and processed by the Floodplain Administrator.
 - b. Waiver requests may be reviewed and decided upon by the Commission prior to submittal of the Preliminary Plat Application to the Planning Department, or reviewed concurrently with the Preliminary Plat Application;
 - c. The waiver request shall include substantial documentation sufficient to demonstrate that the proposed Subdivision is safe from Flood hazards; and shall address the criteria described below in [Section 9.F.2](#). Such documentation may include, but is not limited to, ground elevations, hydrologic information for the subject Watercourse, historical Flood information, descriptions or mapping of local drainage patterns, other similar information;

- d. The Floodplain Administrator shall review the waiver request and prepare a staff report for the County Commission;
 - e. If the waiver request is processed prior to submittal of the Preliminary Plat Application, the County Commission shall hold a public hearing on the waiver request within 30 working days of the Floodplain Administrator's receipt of the waiver request.
 - f. If the waiver request is processed concurrently with the Preliminary Plat Application, the County Commission shall consider the waiver request at the same public hearing as the Preliminary Plat Application.
 - g. In reaching a decision on the waiver request, the County Commission shall consider the information provided by the Subdivider, staff report, public testimony, and other information relevant to the request; and
 - h. If the waiver request is processed prior to submittal of the Preliminary Plat Application a written record of the County Commission's decision on the waiver shall be provided to the Subdivider within 10 working days of the decision.
 - i. If the waiver request is processed concurrently with the Preliminary Plat Application, a written record of the County Commission's decision on the waiver shall be provided to the Subdivider with the written findings documenting the decision on the Subdivision.
2. Criteria for Waiver: In reaching a decision on whether or not to grant a waiver, the Commission shall consider the following criteria:
- a. Whether the Subdivider provided substantial documentation, as described in [Section 9.F.1\(c\)](#) above, to show that the proposed Subdivision is safe from Flood hazards;
 - b. Whether the Subdivider is proposing adequate mitigation to assure that Flood hazards are not significantly increased as a result of the proposed Subdivision;
 - c. If the property is already developed, whether sufficient land-use controls exist to assure that any redevelopment of the property will be safe from Flood hazards

- G. Plat Map Requirements.** The Preliminary and Final Plats of all new Subdivisions within any land located in a 100-year Floodplain shall show the Base Flood elevations and the limits of the 100-year Floodplain based on where the Base Flood elevations intersect surveyed ground elevations. The Floodplain Administrator may require additional Flood data and Flood hazard notes to be shown on the Final Plats or other applicable development document (final site plan, Covenants, etc.). Such information includes, but is not limited to, the elevation of the existing ground, Flood water depth, lowest permissible floor elevations, and the boundary of the 100-year Floodplain and Floodway through the Subdivision.

SECTION 10: PLANNED UNIT DEVELOPMENT (PUD)

- A. Intent.** The intent of this Section is to provide flexibility in certain of the Design and Improvement Standards. By using a Planned Unit Development (PUD) which clusters development, Subdivisions may be planned so as to promote creativity in Subdivision design; to provide economies in the supply of public services; to enhance and preserve Open Space and unique natural features; and to enable the planning of a tract for a single use or for a harmonious combination of uses, such as a mixture of residential and commercial.
- B. Procedure and Submittal.** The requirements of these Regulations shall be followed, with the addition of the following information:
1. Pre-application Plan:
 - a. A layout plan showing the proposed location and use of Lots and Structures and the location and number of parking spaces, if appropriate.
 - b. A description of measures to be taken to assure permanence and maintenance of Open Space and other facilities to be under common ownership.
 - c. A description of all proposed waivers or modifications from the Design and Improvement Standards.
 - d. Any additional, reasonable information.
 2. Preliminary Plat:
 - a. A schedule showing the time when improvements required by these Regulations will be completed where a plan calls for a development time of 18 months or more for improvements.
 - b. If common property is to be deeded to a Property Owners' Association, the Subdivider shall establish a Property Owners' Association and submit a draft of all Covenants and legal documents which will govern the association.
 - c. A description of all proposed waivers or modifications from the Design and Improvement Standards.

- d. Any additional information found to be necessary during Pre-application Plan review.

C. PUD Criteria. The Commission may establish or approve a PUD and waive or modify the Design and Improvement Standards for Lots, Blocks, and parks if the following criteria are met or exceeded.

1. General: The plan shall conform to the intended purposes of these Regulations, the special intent of this Section, and one or more of the following:
 - a. Preserve to the maximum extent possible the natural characteristics of the land; including topography, vegetation, streams and other bodies of water.
 - b. Preserve productive agricultural land.
 - c. Protect important historic sites or Structures or areas of important Wildlife Habitat.
 - d. Provide economies in the provision of roads and Public Improvements.
2. Site Size: The total site size, as measured by the boundary perimeter of the PUD, shall be appropriate to the proposed area and design.
3. Open Space: Each PUD shall provide an area for dedicated park or Common Open Space appropriate in size to the proposed development and design; however, such area shall not be less than the amount of land required to be dedicated under these Regulations for the area of the Subdivision, exclusive of all other Dedications.
4. Landscaping: Landscaping may be required between building sites or on the PUD perimeter where the Commission deems it necessary to provide buffer screening between different land uses.
5. Parking Area: Adequate parking area shall be required for the proposed uses of the development, as determined appropriate by the Commission.
6. Pedestrian Access: Sidewalks, walkways, or other forms of pedestrian access shall be required for the proposed uses of the development, as determined appropriate by the Commission.

7. Roads:

- a. Collector Roads designed to furnish access to adjacent areas shall either be within a public dedicated right-of-way or within a public right-of-way Easement.
- b. Adequate responsibility for the improvement and maintenance of interior roads is assumed by the Property Owners' Association.
- c. Road improvement specifications demonstrate compliance with the Gallatin County Transportation Design and Construction Standards.

8. Other Regulations: Where there are other ordinances or regulations which require compliance to PUD or other minimum standards, this Section does not authorize the Commission to waive or modify such ordinances or regulations.

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SECTION 11: SUBDIVISIONS THAT PROVIDE FOR THE RENT OR LEASE OF MULTIPLE SPACES FOR RECREATIONAL CAMPING VEHICLES OR MOBILE HOMES, AND CONDOMINIUMS

- A. General.** An area, regardless of its size, that provides for the rent or lease of multiple spaces for recreational camping vehicles or Mobile Homes, and Condominiums are exempt from the survey requirements of these Regulations, but must be submitted for review and be approved by the Governing Body before possession of any portion thereof may be conveyed in any manner.
- B. Procedure.** Subdivisions created for the rent or lease of multiple spaces for recreational camping vehicles or Mobile Homes, and Condominiums shall be reviewed in accordance with the procedures outlined in the Major Subdivision Section for proposals that include six or more Mobile Home, Condominium or recreational camping vehicle units; or the Minor Subdivision Section for proposals that include five or fewer Mobile Home, Condominium or recreational camping vehicle units.
- C. Plans and Data.** Plans and supplemental information required in these Regulations shall be submitted with the following exemptions and additions.
1. Boundary Lines: All plans may show approximate boundary, Lot, right-of-way, or other lines including the plan submitted for final approval.
 2. Documents and Certificates: Only the following documents and certificates shall be submitted with or shown on the preliminary plan (draft or copy) and the plan submitted for final approval (final form and signed).
 - a. Covenants, restrictions, or lease and rental agreements.
 - b. Encroachment permits or a letter indicating intent to issue a permit where new roads, Easements, and other Subdivision improvements intersect or are located within city, county, or state highways or roads.
 - c. Certificates of Installation of Improvements by Engineer.
 - d. Certificate of the Commission.
 - e. A letter of approval from the Commission where a zoning change is necessary (with plan for final approval only).

- f. Certificate of Approval by MDEQ (with plan for final approval only).

D. Standards for Mobile Home Parks and Recreational Vehicle Camping Parks.

1. The Design and Improvement Standards of these Regulations shall be compiled with, except where otherwise noted below.
2. Space Layout: Required plans shall include a layout of a typical Mobile Home or recreational camping vehicle space showing the location and dimensions of the space, stand, driveway and parking spaces in compliance with the following standards:

		<u>MOBILE HOME</u>	<u>REC. CAMPING VEHICLE</u>
a.	Min. Space Area	6,000 sq. ft.	1,500 sq. ft.
b.	Minimum Space Width	60 feet	15 feet
c.	Minimum Stand Size	12'x 50', single wide 24'x 50', double wide	
d.	Setback of Stands from: Property line (exterior boundary) Interior roads: Public roads:	20 feet 15 feet 25 feet	25 feet
e.	Distance between Stands from: Side to side: Rear to rear:	25 feet 15 feet	
f.	Parking Spaces: For each Lot For every 4 Lots (guest parking) Space size	2 spaces 1 space 9' x 20'	

3. Road Design: Roads within Mobile Home or recreational camping vehicle parks shall be improved in accordance with the Gallatin County Transportation Design and Construction Standards. The Subdivider shall not be required to reserve

right-of-way in excess of road width. The Roadway width, as measured from improved edge to improved edge shall be:

a.	Roads with parking allowances on both sides	40 feet
b.	Roads with parking allowances on one side	32 feet
c.	Roads without parking allowances	24 feet

As determined by the Road Department, roads within a Mobile Home or recreational camping vehicle park may either be public or private.

5. Mail Delivery: If mail delivery will not be to each individual space or unit, the Mobile Home or recreational camping vehicle park shall provide an off-road area for mail delivery within the park in cooperation with the United States Post Office.
6. Primary Access: Mobile home and recreational camping vehicle parks shall have direct access to a collector or Arterial Road.
7. Stand Access: Minimum access width to each Mobile Home stand shall be twelve feet (12').
8. Second Access: To facilitate traffic, the provision of emergency services, and the placement of utility Easements, the Subdivider may be required to provide all Mobile Home or recreational camping vehicle parks with a second access.
9. Arrangement: Mobile or Manufactured Home spaces shall be arranged to permit the practical placement and removal of Mobile Homes.
10. Limits Marked: The limits of each Mobile Home or recreational camping vehicle space shall be marked on the ground with a suitable means prior to submittal of the plan for final approval.
11. Stand Base Requirements: Each Mobile Home stand shall be constructed to provide adequate support for placement of the Mobile Home, including a stabile sub base along with an appropriate base material (gravel, concrete, etc.) and this base material shall be subject to Road Department approval.
12. Tie-Downs: Mobile Home stands shall be equipped with anchors or tie-downs in conformance with the Uniform Building Code.
13. Landscaping: Landscaping may be required to provide a buffer between Mobile Home and recreational camping vehicle parks and adjacent properties.

14. Recreation Areas: A common recreational area(s) shall be provided in the mobile or recreational camping vehicle park for use by all tenants and their invited guests. These areas shall be located to conveniently serve residents of the entire development, with a minimum total area of 400 square feet of recreational space for each mobile or recreational camping vehicle space. Common recreation areas may include community recreation buildings and facilities.
15. If a Subdivision that will provide multiple spaces for Mobile Homes or recreational camping vehicles is also a “trailer court”, “work camp”, “youth camp”, or “campground as those terms are defined in section [50-52-102, MCA](#), the Commission will not grant final approval of the Subdivision until the Subdivider obtains a license for the facility from the Montana Department of Public Health and Human services under [Title 50, Chapter 52, MCA](#).

E. Standards for Condominiums.

1. Condominium developments shall meet the minimum standards of the MDEQ, adopted pursuant to sections [76-4-101 through 76-4-128, MCA](#).
2. The Design and Improvement Standards of these Regulations shall be complied with, except where noted below.
3. Unit Ownership Act: Condominium development shall comply with all provisions of the Unit Ownership Act, [Sections 70-23-102 through 70-23-703, MCA](#) and all regulations adopted pursuant thereto.
4. Other Requirements: The Subdivider shall comply with all other standards and requirements of these Regulations, the Gallatin County Transportation Design and Construction Standards, and other local and state regulations. Condominium applications shall show the proposed location of buildings, snow storage, parking, and internal access.

SECTION 12: ADMINISTRATIVE PROVISIONS

A. Variances.

1. Undue Hardship. The County Commission may grant reasonable Variances from the design and improvement standards of these Regulations where it is found that strict compliance with the specific design and improvement standards of these Regulations, would result in undue hardship and such strict compliance is not essential to the public health, safety, and general welfare.
2. Procedure. The Subdivider shall include with the submission of the Subdivision Preliminary Plat application a written statement describing the requested Variance and the facts of undue hardship upon which the request is based. Variance requests shall be considered at the public hearing or public meeting on the Subdivision Preliminary Plat application.
 - a. Variances from the Gallatin County Transportation Design and Construction Standards are distinct and separate from a Variance from the Subdivision Regulations. Such Variances will be processed in accordance with the procedural requirements and criteria of the Gallatin County Transportation Design and Construction Standards, but may be processed concurrently with an application for preliminary plat approval.
3. Review Criteria. In accordance with [Section 76-3-506, MCA](#), a Variance from the design and improvement standards of these Regulations must be based on specific Variance criteria, and may not have the effect of nullifying the intent and purpose of these Regulations. The County Commission shall not approve a Variance unless it makes findings based upon evidence presented in each specific case that:
 - a. The granting of the Variance will not be detrimental to the public health, safety, or general welfare, or be injurious to other adjoining properties;
 - b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the Regulations will impose an undue hardship to the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;
 - c. The Variance will not cause a substantial increase in public costs; and
 - d. The Variance will not place the Subdivision in nonconformance with any adopted zoning regulations.

4. Variances from Floodway Provisions Not Authorized. The County Commission may not, by Variance, permit Subdivision for building purposes in areas located within the Floodway of a Flood of 100-year frequency as defined in [Title 76, Chapter 5, M.C.A.](#)
5. Conditions. In granting Variances, the County Commission may require such conditions as will, in its judgment, secure the objectives of these Regulations.
6. Statement of Facts. When any such Variance is granted, the motion of approval of the proposed Subdivision shall contain a statement describing the Variance and the facts and conditions upon which the issuance of the Variance is based.

B. Subdivision Phasing.

1. General. For any proposed Subdivision which includes more than one independent platted development phase, the Subdivider shall submit with the Preliminary Plat application, an overall Phased Development Preliminary Plat on which independent platted development phases are identified. The County Commission may approve Phased Developments that extend beyond the Preliminary Plat approval period established under Sections [3.M](#) and [4.N](#) of these Regulations, however all phases of a Phased Development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date the overall Phased Development Preliminary plat is approved by the County Commission.
2. Application and Schedule. The Phased Development Preliminary Plat application must comply with all applicable submittal requirements, design standards and review procedures of these Regulations for all phases of the development, and must also include a schedule for when the Subdivider submits for review the commencement of each independent phase of the development as provided in [Subsection 3](#). Subsequent to Preliminary Plat approval, the Subdivider may request County Commission approval to change the schedule for review of each phase of the development, after a public hearing is held as provided in [Subsection 3.C](#), if the County Commission finds that the change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.
3. Procedure.
 - a. Prior to commencement of the installation of any required infrastructure improvements for each development phase, the Subdivider shall submit an application for the commencement of the development phase to the Planning Department. The application shall include the following:

- i. Completed application form.
 - ii. Updated Environmental Assessment and Community Impact Report, prepared in accordance with [Section 9](#) of these Regulations, which identifies any adverse impacts resulting from changes to the primary review criteria of [76-3-608\(3\), MCA](#).
 - iii. The required review fee.
- b. Within 30 working days of receipt of a complete application for commencement of development phase and required fee, the County Commission shall hold a public hearing to determine whether any changed primary criteria impacts of [76-3-608\(3\), MCA](#), or new information exist that create new potentially significant adverse impacts for the phase or phases.
- c. Notice of the time, date and location of the public hearing shall be given by publication in a newspaper of general circulation in the County not less than 15 days prior to the date of the public hearing. The Subdivider, each Property Owner of record whose property is immediately adjoining land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat must also be notified of the public hearing by registered or certified mail not less than 15 days prior to the date of the public hearing.
- d. Subsequent to the public hearing, the County Commission shall issue supplemental written, dated and signed findings of fact within 20 working days of the public hearing and may impose necessary additional conditions to minimize potentially significant adverse impacts identified in the review of each phase of the development for changed primary review criteria impacts or new information.
- e. Not more than three calendar years or less than one calendar year from the date of the signed supplemental findings of fact, the required Preliminary Plat conditions of approval for the phase and any additional conditions imposed must be met before Final Plat approval. Final Plat approval for any phase must be obtained within 20 years of the date the overall Phased Development Preliminary plat was approved by the County Commission.

C. Amendments to Subdivision Regulations.

- 1. General. For the purpose of providing for the public health, safety, and general welfare, the County Commission may amend the provisions of these Regulations.

2. Hearing. Such amendments shall not become effective until after a public hearing has been held before the County Commission, legal notice of which shall have been given in a newspaper of general circulation in the County not less than 15 days nor more than 30 days prior to the date of hearing.
 3. Amendments to these Regulations may occur due to amendments to the MSPA and the Administrative Rules of Montana.
- D. Fees.** Review fees shall be paid to the Planning Department for each Subdivision application submittal according to the fee schedule approved by the County Commission under a separate document.
- E. Corrections, Amendments or Vacation of Recorded Final Plats.**
1. Correction of Recorded Final Subdivision Plat Errors. Corrections of errors that in the Clerk & Recorder's opinion will not materially alter the Plat may be made by the submission of a corrected Final Plat for filing in the Clerk & Recorder's Office.
 2. Amendments to Recorded Final Plats.
 - a. Except as exempted from the requirements of the MSPA by [Title 76, Chapter 3, Part 2, MCA](#), any alteration to a recorded Final Plat which increases the number of Lots, modifies six or more Lots, abandons legal and physical access to any parcel within the Subdivision, abandons or alters parkland Dedication or Open Space within the Subdivision, or that will modify the approved use of land within the Subdivision, excluding any change in use authorized by applicable zoning regulations, or other amendments deemed significant alterations can only be made by the recording of an Amended Plat showing all alterations. The Amended Plat must be reviewed by the County Commission subject to the Preliminary Plat and Final Plat procedures for reviewing Major or First Minor Subdivisions, as appropriate. The County Commission may not approve an Amended Plat which will place any portion of the Plat in non-conformance with the standards of these Regulations or with local zoning regulations unless, as concerns the standards of these Regulations, the County Commission grants a Variance or waiver. The County Commission may not approve an Amended Final Plat without the written consent of the owners and lienholders of all Lots which will be modified by the proposed amendment.
 - b. As determined by the Planning Department, an amendment to a recorded Final Plat that will not result in an alteration to the recorded Final Plat as described under [Subsection 12.E.2.a.](#), may be approved by the County Commission when it finds that the proposed amendment

complies with the design standards of the Subdivision Regulations. Upon receipt of a letter of request and supporting documentation demonstrating that the proposed amendment is compliant with the design standards of these Regulations, the Planning Department shall present a report and findings to the County Commission at a regular scheduled meeting of the County Commission.

3. Vacating Filed Plats. Any Plat prepared and filed as provided herein required may be vacated, either in whole or in part, as provided by [7-5-2501](#), [7-5-2502](#), [7-14-2616\(1\) and \(2\)](#), [7-14-2617](#), [7-14-4114\(1\) and \(2\)](#) , and [7-14-4115](#), MCA. Upon vacation, the County Commission or the district court, as provided in [7-5-2502](#), shall determine to which properties the title to the streets and Alley of the vacated portions shall revert. The County Commission or the district court, as provided in [7-5-2502](#), shall take into consideration the previous platting; the manner in which the Right-of-Way was originally Dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent Property Owners regarding the use of the vacated area. The title to the streets and Alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

When any poleline, pipeline, or any other public or private facility is located in a vacated street or Alley at the time of the reversion of the title to the vacated street or Alley, the owner of the public or private utility facility has an Easement over the vacated land to continue the operation and maintenance of the public utility facility.

- F. **Second or Subsequent Preliminary Plat Approvals; Withdrawing Preliminary Plat Approval.** Where a request for a second or subsequent Subdivision Preliminary Plat approval is received for the same property which has an approved Preliminary Plat, resulting in a new subdivision proposal, the second or subsequent Subdivision Preliminary Plat shall follow the procedures for Major or First Minor Subdivisions, as applicable.

Prior to the submittal of the second or subsequent Subdivision Preliminary Plat application, the existing Preliminary Plat approval for the subject property must be withdrawn. Such withdrawal is not required if the prior Preliminary Plat on the subject property has expired or has received Final Plat approval.

For the withdrawal of an existing Preliminary Plat, a written letter withdrawing the existing Preliminary Plat shall be signed by all owners and lienholders of the property. The signed letter shall be included in the second or subsequent Subdivision Preliminary Plat application. After the Planning Department confirms receipt of the withdrawal letter, the following statement, signed by all owners and lienholders of the property,

shall be recorded with the Gallatin County Clerk & Recorder, with a copy provided to the Planning Department:

The owners and lienholders of the subject property do hereby withdraw and disclaim any right, title and interest in the Preliminary Plat previously approved for the (name of Subdivision and date of approval) by recording this written instrument with the Gallatin County Clerk & Recorder.

- G. Inaccurate or Incomplete Information.** The County Commission may withdraw approval of a Preliminary Plat if they determine that information provided by the Subdivider, and upon which approval of the Preliminary Plat was based, is inaccurate or incomplete.
1. Within 30 days following approval or conditional approval of a Preliminary Plat any person or agency which claims that information which was provided by the Subdivider is inaccurate or incomplete may submit the information and proof to the Planning Department.
 2. The Planning Department shall investigate the claim, the accompanying information and proof, and make a report to the County Commission.
 3. Within 15 working days after receipt of the information, the Planning Department shall present the report to the County Commission at a regular meeting of the County Commission. Notice of the meeting shall be given to the claimant and the Subdivider. At the meeting the County Commission shall consider the information and proof.

SECTION 13: DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

- A. Purpose; Review Required.** The Montana Subdivision and Platting Act (MSPA) provides that certain divisions of land, which would otherwise constitute Subdivisions, are exempt from local Subdivision review and approval, unless the use of the exemption is an attempt to evade the MSPA. The exemptions found under [§ 76-3-207, MCA](#) are subject to the review procedures for Subdivision exemptions under [Subsection 13.1](#) of these Regulations.
- B. Divisions of Land Exempt from the Requirements of These Regulations and the MSPA ([§ 76-3-201, MCA](#)).**
1. A Division of Land is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in the state pursuant to the law of eminent domain, [Title 70, Chapter 30](#);
 - a. Before a court or record orders a Division of Land, the court shall notify the Governing Body of the pending division and allow the Governing Body to present written comment on the division.
 2. A Division of Land of any size is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes;
 3. A Division of Land creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
 4. A Division of Land creates cemetery Lots;
 5. A Division of Land is created by the reservation of a life estate;
 6. A Division of Land is created by lease or rental for farming and agricultural purposes;
 7. A Division of Land is in a location over which the state does not have jurisdiction;
 8. A Division of Land is created for Rights-of-Way or utility sites;

- C. Exemption for Certain Condominiums, Townhomes, or Townhouses ([§ 76-3-203, MCA](#)).** Condominiums, Townhomes, Townhouses, or conversions, as those terms are defined under the Unit Ownership Act ([§ 70-23-102 MCA](#)), constructed on land divided in compliance with these regulations and the MSPA provided that:
1. The approval of the original Subdivision of land expressly contemplated the construction of the Condominiums, Townhomes, or Townhouses and any applicable park Dedication requirements in [76-3-621, M.C.A.](#) are complied with; or
 2. The Condominium, Townhome, or Townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.
- D. Exemption for Airport Land, State-Owned Lands, and Conveyances Executed Before July 1, 1974 ([§ 76-3-205, MCA](#) and [§ 76-3-206](#)).**
1. A Division of Land created by lease or rental of contiguous airport-related land owned by a city, county, the state, or a municipal or regional airport authority provided that the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier-related activities;
 2. A division of state-owned land unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974;
 3. Deeds, contracts, leases, or other conveyances which were executed prior to July 1, 1974.
- E. Specific Exemptions from Review But Subject to Survey Requirements and Zoning Regulations ([§ 76-3-207, MCA](#)).**
1. Unless the Commission determines the method of disposition is adopted for the purpose of evading these Regulations or the MSPA, the following divisions or aggregations of Tracts of Record of any size, regardless of the resulting size of any Lot created by the division or aggregation are not Subdivisions under these regulations and the MSPA, but are subject to the surveying requirements of [76-3-401, MCA](#) for divisions or aggregations of land other than Subdivisions and are subject to applicable zoning regulations adopted under [Title 76, Chapter 2, MCA](#).
 - a. Divisions made outside of platted Subdivisions for the purpose of relocating common boundary lines between adjoining properties;

- b. Divisions made outside of platted Subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's Immediate Family;
- c. Divisions made outside of platted Subdivisions by gift, sale, or an agreement to buy and sell in which the landowner enters into a Covenant with the County Commission runs with the land and provides that the divided land will be used exclusively for agricultural purposes, subject to the following provisions;
 - i. A change in use of the land for anything other than agricultural purposes subjects the division to these Regulations. However, the County Commission may revoke the restrictive agricultural use Covenant 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 revoking of the Covenant; or
 - (b). a government or public entity seeks to use the land for public purposes provided that the use is not an attempt to evade the MSPA.
 - ii. If the County Commission proposes to revoke a Covenant pursuant to [Subsection 13.E.1.c.i.\(b\)](#), above, the County Commission shall hold a public hearing. Within 15 days of the hearing, the County Commission shall issue written findings of fact and decision based on the record. If the County Commission approves the revoking of the Covenant, the approval must be recorded with the Clerk and Recorder.
 - iii. The revocation of the restrictive agricultural use Covenant does not affect sanitary restrictions imposed under the Montana Sanitation in Subdivisions Act pursuant ([Title 76, chapter 4, MCA](#)).
- d. For five or fewer Lots within a platted Subdivision, relocation of common boundaries and the aggregation of Lots;
- e. 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; and

- f. 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.

F. Exemption from Surveying and Platting Requirements for Lands Acquired for State Highways ([§ 76-3-209, MCA](#)). Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with [60-2-209 M.C.A.](#) and are exempted from the surveying and platting requirements of these regulations and the MSPA. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate Certificates of Survey and Plats when presented for recording.

G. Exemptions as a Gift or Sale to a Member of the Immediate Family.

1. A member of the Immediate Family is the spouse of the grantor, or, whether by blood or adoption, a son, daughter, mother, or father of the grantor.
2. The proper use of the exemption as a gift or sale to a member of the Immediate Family is to convey one parcel of land outside of a platted Subdivision to each member of the landowner's family, provided that the use of the exemption creates no more than one additional or remaining parcel of less than 160 acres in size. The parcel involved in the division must be outside of a platted Subdivision.
3. A Certificate of Survey for a family transfer may include more than one exempt parcel provided all parcels meet the criteria of this Section.
4. Certificates of Survey showing the creation of new parcels of land pursuant to this exemption as a gift or sale to a member of the Immediate Family must be accompanied by a copy of the deed transferring interest in the parcel being created or a statement detailing where the deed is in escrow, how long it will be in escrow and authorization to contact the escrow agent for verification.
5. The Commission shall determine whether the applicant's claim for exemption has the purpose of evading the MSPA based on evidence presented by the applicant and any other person. In order to do so, the Commission shall evaluate all relevant circumstances including whether:
 - a. The division would create more than one additional parcel of less than 160 acres.

- b. The member of the landowner's Immediate Family would have received more than one exempted parcel in the County.
- c. The exempted parcel is being divided from a tract that was previously created through the use of an exemption, including remaining tracts of less than 160 acres, and
- d. The division creates a pattern of development consistent with an overall plan with characteristics such as common roads, utility Easements, restrictive Covenants, Open Space or common marketing.

H. Relocation of Common Boundary Lines.

1. The proper use of the exemption for relocating common boundary lines is to:
 - a. Establish a new boundary between adjoining parcels of land outside of a platted Subdivision, without creating an additional parcel; or
 - b. Establish a new 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.
2. Certificates of Survey showing the relocation of common boundary lines must be accompanied by:
 - a. When the parcels are owned by different parties, deed(s) exchanging ownership of the existing parcels with ownership of the newly-described parcel(s) that are acquiring land; and
 - b. Documentation showing the need or reason for the relocation (for example, Structure encroachment or Surveyor error).
3. The Commission shall determine whether the applicant's claim for exemption has the purpose of evading the MSPA based on evidence presented by the applicant and any other person. In order to do so, the Commission shall evaluate all relevant circumstances including:
 - a. whether the applicant is in the business of dividing and selling land;
 - b. whether the applicant has engaged in prior exempt transactions involving the tract;

- c. the proposed configuration of the tract after the allegedly exempt transactions are completed; or
- d. any other relevant circumstances consistent with [Section 76-3-207 Mont. Code Ann.](#)

I. Relocation of Common Boundaries within a Platted Subdivision.

- 1. The proper use of the exemption for relocation of common boundaries is to rearrange five or fewer Lots within a platted Subdivision and does not increase the total number of Lots. The Plat shall contain the title “Amended Plat” and must be recorded with Clerk and Recorder.
- 2. The Amended Plat showing the relocation of common boundaries within a platted Subdivision must be accompanied by:
 - a. When the tracts are owned by different parties, deed(s) exchanging ownership of the existing tracts with ownership of the newly-described tract(s); and
 - b. Documentation showing the need or reason for the relocation (for example, Structure encroachment, Surveyor error or enhancement of the configuration of the property).
- 3. Any division, redesign, or rearrangement of Lots which results in an increase in the number of Lots or which redesigns or rearranges six or more Lots must be reviewed and approved by the Commission following the Amended Plat process of these Regulations.

J. Aggregation of Parcels or Lots.

- 1. The proper use of the exemption is for aggregation of Lots within a platted Subdivision or aggregation of parcels outside of a platted Subdivision.
- 2. A Certificate of Survey or Subdivision plat must show that the boundaries of the original parcels or Lots have been eliminated and the boundaries of a larger aggregate parcel or Lots are established. A restriction or requirement on the original platted Lot or original unplatted parcel continues to apply to those areas.
- 3. The Amended Plat or Certificate of Survey showing the aggregation of Lots or parcels must be accompanied by:

- a. When the Lots or parcels are owned by different parties, deed(s) exchanging ownership of the existing Lots or parcels with ownership of the newly described Lot(s) or parcel(s); and
 - b. Documentation showing the need or reason for the aggregation (i.e., Structure encroachment, Surveyor error or enhancement of the configuration of the property).
4. Any redesign or rearrangement of six or more Lots within a platted Subdivision must be reviewed and approved by the Commission following the Amended Plat process of these Regulations.

K. Security for Mortgages, Liens, or Trust Indentures for the Purpose of Construction, Improvements to the Land Being Divided, or Refinancing Purposes.

1. The proper use of the exemption is to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes, when a survey of the parcel has been required.
2. The Commission shall determine whether the applicant's claim for exemption has the purpose of evading the MSPA based on evidence presented by the applicant and any other person. In order to do so, the Commission shall evaluate all relevant circumstances including:
 - a. If the Division of Land is created for the purpose of conveyance;
 - b. The financing is for construction on land other than on the exempted parcel;
 - c. The person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is anyone other than the borrower of funds for construction;
 - d. Title to the exempted parcel will be conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given other than any purchaser upon foreclosure of the mortgage, lien, or trust indenture; and
 - e. It appears that the principle reason the parcel is being created is to create a building site and using the parcel to secure a construction loan is a secondary purpose.

3. When the security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes exemption is to be used, the landowner shall submit, in addition to such other documents as may be required, a written statement explaining:
 - a. How many parcels within the original tract will be created by use of the exemption.
 - b. Who will have title to and possession of the remainder of the original parcel.
 - c. A signed and notarized statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel or for refinancing purposes.
4. The exempted parcel may be of any size.
5. The written statement of the financial or lending institution and the instruments creating the security shall be recorded at the same time with the Clerk and Recorder.
6. Except as provided in [Subsection 13.L.8](#), a transfer of the exempted parcel, by the owner of the property at the time that the land was divided, to any party other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture, subjects the Division of Land to the requirements of these Regulations.
7. If a parcel of land was created by Subdivision exemption to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes, and one of the parcels created by the division was conveyed by the landowner to another party without foreclosure before October 1, 2003, the conveyance of the remaining parcel is not subject to the requirements of these Regulations.
8. If a parcel of land was created by Subdivision exemption to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes, and one of the parcels created by the division realigns its boundary(s) with an adjacent parcel(s), the lending institution shall consent to the boundary realignment.

L. Procedures and General Requirements. The following procedures, criteria and requirements shall be used to review a [§ 76-3-207, MCA](#) exemption claim from Subdivision review and to determine whether the Division of Land is for the purpose of evading the MSPA.

1. The Commission designates the Planning Department as its agent for purposes of these Regulations. All exemption claims shall be submitted to the Planning Department.
2. A claimant seeking an exemption under the MSPA and these Regulations shall submit a claim on the appropriate application form, including a signed certificate of exemption, together with evidence to support the claim and any other information required by these Regulations to the Planning Department. When a Certificate of Survey is required, six paper copies of the Certificate of Survey shall be submitted with the claim and shall be folded to fit in a standard eight and a half to nine by eleven (8½" to 9" x 11") or eight and a half to nine by fourteen (8½" to 9" x 14") folder. The required review fee, according to the fee schedule approved by the Commission under a separate document, shall be submitted with each exemption claim.
3. The claimant or the claimant's representative shall be notified of the date and time of the hearing provided for in this Subsection.
4. The Planning Department shall facilitate review of the exemption claim by the Environmental Health Department, the Clerk and Recorder, and the County Attorney's Office. The Planning Department shall prepare a written report for the Commission and make the report available to the claimant. The Commission should consider the exemption request in a public meeting within 30 working days of submittal of a complete application for an exemption claim. At the public meeting, the claimant should present evidence in support of the exemption. The claimant may request a continuance of the hearing.
5. In assessing the claimant's purpose the Commission will evaluate all relevant circumstances, such as the nature of the claimant's business and use of the parcel, the prior history of the particular tract in question, the proposed configuration of the tract(s) if the proposed exempt transactions are completed, and any pattern of exempt transactions that will result in the equivalent of a Subdivision without local government review.
6. If the exemption is approved, the Commission shall so certify in a printed certificate on the Certificate of Survey or on a separate page to be recorded.
7. If the exemption is denied, the Commission shall provide written notification of its decision to the person claiming the exemption and the Clerk and Recorder.

8. A Certificate of Survey of a Division of Land which is exempted from review may not be recorded by the Clerk and Recorder unless it bears the certificate of the landowner stating that the Division of Land is exempted from review as a Subdivision and citing the applicable exemption.
9. Each newly created parcel less than 160 acres shall have a certificate of exemption.

APPENDIX A: CERTIFICATES (GUIDELINES)

- A. General.** The following represent the general format for the certificates to be shown on plats. Other certificates than those shown may be required by the County Commission, when deemed appropriate. A corporate notary shall be used in place of an individual notary when appropriate.
- B. Dedication or Consent.** All parts of Subdivisions must contain a Certificate of Dedication or Certificate of Consent. In the case of corporate ownership, the proper corporation officers must sign, corporate notary form must be used and the corporate seal must be affixed. The certificate shall read as follows:

<p style="text-align: center;">CERTIFICATE OF DEDICATION</p> <p>(I), (We), the undersigned Property Owner(s), do hereby certify that (I), (We), have caused to be surveyed, subdivided and platted into lots, parcels, blocks, roads and alleys, and other divisions and dedications, as shown by this plat hereunto included, the following described tract of land, to wit:</p> <p style="text-align: center;"><i>Description</i> <i>(Exterior boundary description of Area Contained in Plat and Total Acreage)</i></p> <p>the above described tract of land is to be know and designated as _____, Gallatin County, Montana; and the lands included in all roads rights-of-way and easements, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever. The roadways and parks dedicated to the public are accepted for public use, but the County accepts no responsibility for maintaining the same. The owner(s) agree(s) that the County has no obligation to maintain the roads and parks hereby dedicated to public use.</p> <p>DATED _____ day of _____, A.D., 20 ____.</p> <p>this _____</p> <p style="text-align: right;">_____ <i>(Signature)</i> _____ (Typed or Printed Name of Each Owner)</p> <p style="text-align: right;">_____ (Notary)</p>

CERTIFICATE OF CONSENT

(I), (We), the undersigned Property Owner(s), do hereby certify that (I), (We), caused to be surveyed, subdivided and platted into lots, parcels, blocks, roads, and alleys, and other divisions and dedications, as shown by this plat hereunto included, the following described tract of land, to wit:

Description

*(Exterior Boundary Description of Area Contained
in Plat and Total Acreage)*

The above described tract of land is to be known and designated as _____, Gallatin County, Montana.

DATED this _____ day of _____, A.D., 20 _____.

(Signature)

(Typed or Printed Name of Each Owner)

(Notary)

- C. Mortgagee.** In those cases where the area being platted on the plat of Subdivision is subject to any liens, mortgages, claims, or other encumbrances by party(ies) or other owner(s) the following certificate shall also be required:

CONSENT OF MORTGAGEE(S)

(I), (We), the undersigned mortgagee(s), do hereby join in and consent to the described plat, releasing our respective liens, claims or encumbrances as to any portion of said lands now being platted into roads, avenues, parks or other public uses and dedicated to the use of the public forever.

DATED this _____ day of _____, A.D., 20 _____.

(Signature)

(Typed or Printed Name of Each Owner)

(Notary or Corporate Notary)

- D. Cash-in-lieu of Park.** Where the park requirements are being waived in lieu of cash, plats of Subdivision shall show the following certificates:

CERTIFICATE ACCEPTING CASH-IN-LIEU OF PARK DEDICATION

In as much as dedication of park land within the platted area of (Subdivision Name) would be undesirable for park and playground purposes, it is hereby ordered by the Board of County Commissioners, Gallatin County, that land dedication for park purposes be waived and that cash-in-lieu, to the amount of _____ dollars, be accepted in accordance with the provisions of the Montana Subdivision and Platting Act, [Section 76-3-101 through 76-3-625, MC.](#), and the Gallatin County Subdivision Regulations.

DATED this _____ day of _____, A.D., 20 ____.

(Signature)

(Chairman, Board of County Commissioners)

- E. Surveyor.** All plats of Subdivision shall contain a Certificate of Surveyor and shall read as follows:

CERTIFICATE OF SURVEYOR

I, the undersigned, (Type or Print Name), (Registered Land Surveyor), do hereby certify that between _____, 20____, and _____, 20____, I surveyed (Name of Subdivision), _____, and described the same as shown on the accompanying plat and platted in accordance with the provisions of the Montana Subdivision and Platting Act, [Section 76-3-101 through 76-3-625, MCA](#), and the Gallatin County Subdivision Regulations.

DATED this _____ day of _____, A.D., 20 ____.

(Signature)

(Printed or Typed Name)

Registration No.

(Seal of Surveyor)

- F. Improvements.** Where improvements are to be installed prior to Final Plat approval, the plat of Subdivision shall contain a Certificate of Completion of Public Improvements (to be submitted with application for approval of final Subdivision plat). The certificate shall read as follows:

CERTIFICATE OF COMPLETION OF IMPROVEMENTS	
(I), (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), a registered professional engineer licensed to practice in the State of Montana, hereby certify that the public improvements, required as a condition of approval of (Name of Subdivision), have been installed in conformance with the approved engineering specifications and plans.	
(Signature of Subdivider) _____	(Date) _____
(Signature of Professional Engineer) _____	(Date) _____
Registration No. _____	(Engineer's Seal)

- G. Director of Public Service.** Section 7-3-4444, MCA, requires that all plats within corporate limits or within three miles thereof be approved by the director of public service prior to filing at the Clerk and Recorder's Office, to ensure that all streets and alleys are "of proper width" and are "coterminous with the adjoining streets and alleys and that all other regulations are conformed with". No plat subdividing land within three miles of corporate limits can be filed at the Clerk and Recorder's Office "without such written approval endorsed thereon".

CERTIFICATE OF DIRECTOR OF PUBLIC SERVICE	
I, Director of Public Service, (City/Town of _____), Montana, do hereby certify that the accompanying plat has been duly examined as required in Section 7-3-4444, M.C.A., and that all streets and alleys are of proper width and are coterminous with adjoining streets and alleys, and all other regulations are conformed with.	
DATED this _____ day of _____, A.D., 20 _____.	
(Signature) _____ Director of Public Service	

- H. **County Commission.** The County Commission shall certify approval of the plat of Subdivision. Said certificate shall read as follows:

<p style="text-align: center;">CERTIFICATE OF COUNTY COMMISSIONERS</p> <p>I, (the Chairman of the Board of County Commissioners), Gallatin County, Montana, do hereby certify that the accompanying plat has been duly examined and have found the same to conform to the law, approve it, and hereby accept the dedication to public use.</p> <p>DATED this day of , A.D., 20 .</p> <p style="text-align: right;">(Signature) Chairman, Board of County Commissioners</p>

- I. **County Treasurer.** All final Subdivision plats shall show the following Certificate of County Treasurer:

<p style="text-align: center;">CERTIFICATE OF COUNTY TREASURER</p> <p>I, (Name of County Treasurer), Treasurer of Gallatin County, Montana, do hereby certify that the accompanying plat has been duly examined and that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.</p> <p>DATED this day of , A.D., 20 .</p> <p style="text-align: right;">(Signature) Treasurer of Gallatin County</p>

- J. **Clerk and Recorder Certificates.**

1. All Subdivision plats and Amended Subdivision plats shall show the following Certificate of Clerk and Recorder:

CERTIFICATE OF CLERK AND RECORDER

I, (Name of Clerk and Recorder), Clerk and Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office at _____ o'clock, (a.m., or p.m.), this _____ day of _____, A.D., 20____, and recorded in Book _____, of Plats on Page _____, as Document No. _____, Records of the Clerk and Recorder, Gallatin County, Montana.

(Signature)
Clerk and Recorder

2. All Minor Subdivision plats and Amended Minor Subdivision plats shall show the following Certificate of Clerk and Recorder:

CERTIFICATE OF CLERK AND RECORDER

I, (Name of Clerk and Recorder), Clerk and Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office at _____ o'clock, (a.m., or p.m.), this _____ day of _____, A.D., 20____, and recorded as Minor Subdivision No. _____, and Document No. _____, Records of the Clerk and Recorder, Gallatin County, Montana.

(Signature)
Clerk and Recorder

3. All Certificates of Survey shall show the following Certificate of Clerk and Recorder:

CERTIFICATE OF CLERK AND RECORDER

I, (Name of Clerk and Recorder), Clerk and Recorder of Gallatin County, Montana, do hereby certify that the foregoing instrument was filed in my office at _____ o'clock, (a.m., or p.m.), this _____ day of _____, A.D., 20____, and recorded as Certificate of Survey No. _____, and Document No. _____, Records of the Clerk and Recorder, Gallatin County, Montana.

(Signature)
Clerk and Recorder

- K. Exemption Certificates.** The following represents examples of certificates to be used on certificates of surveys for the following types of exemptions: relocation of common boundaries, land gift or sale to family member, agricultural exemption, and security for construction.

**CERTIFICATE OF EXEMPTION
(RELOCATION OF COMMON BOUNDARY)**

We certify that the purpose of this survey is to relocate common boundaries between adjoining properties. Therefore this survey is exempt from review as a Subdivision pursuant to [Section 76-3-207\(1\)\(a\), MCA](#).

DATED this _____ day of _____, A.D., 20_____.

(Signature)
Property Owner(s)

CERTIFICATE OF EXEMPTION
(FAMILY GIFT OR SALE)

I certify that the purpose of this survey is to create Tract _____ for transfer of ownership as a family gift or sale and that no prior family gift or sale has been conveyed to _____ and that this exemption complies with all conditions imposed on its use. Therefore this survey is exempt from review as a Subdivision pursuant to [Section 76-3-207\(1\)\(b\), MCA](#), and the Gallatin County Subdivision Regulations.

DATED this _____ day of _____, A.D., 20 _____.

(Signature(s))

Property Owner(s)

CERTIFICATE OF EXEMPTION
(FOR AGRICULTURAL PURPOSES)

I certify that the purpose of this survey is to create Tract _____ for gift or sale, which is to be used for agricultural purposes only, and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a Subdivision pursuant to [Section 76-3-207\(1\)\(c\), MCA](#) and the Gallatin County Subdivision Regulations.

I also hereby enter a covenant, to run with the land, that Tract _____ as shown hereon, will be used exclusively for agricultural purposes only. No building or structure requiring water or sewer facilities shall be utilized on Tract _____. This covenant is revocable only by the mutual consent of the governing body and the Property Owner.

DATED this _____ day of _____, A.D., 20 _____.

(Signature)

Property Owner(s)

CERTIFICATE OF EXEMPTION
(SECURITY FOR MORTGAGES, LIENS, TRUST INDENTURES FOR CONSTRUCTION, IMPROVEMENTS TO
THE LAND BEING DIVIDED, OR REFINANCING)

I certify that the purpose of this survey is to create a parcel of land to provide security for (Type of Security: mortgage, lien, trust indenture, construction, improvements to the land, refinancing), and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a Subdivision pursuant to [Section 76-3-201\(1\)\(b\) MCA](#) of the Subdivision and Platting Act and from review by the Montana Department of Environmental Quality pursuant to [76-4-125\(2\)\(a\) MCA](#).

DATED this _____ day of _____, A.D., 20 _____.

(Signature)
Property Owner(s)

- L. Exemption Certificates.** If the exemption is allowed, the County Commission shall so certify in a printed certificate on the Certificate of Survey.

I, Chairman of the Board of County Commissioners, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Subdivision and Platting Act, [Section 76-3-101 et. seq. MCA](#), and the Gallatin County Subdivision Regulations.

DATED this _____ day of _____, A.D., 20 _____.

(Signature)
Chairman, Board of County Commissioners

- M. Correction of Errors.** All Subdivision Plats or Certificates of Survey that are being recorded for the purpose of correction of errors shall include the following Certificate of Surveyor:

<p style="text-align: center;">CERTIFICATE OF SURVEYOR</p> <p>I, the undersigned, (Type or Print Name), (Registered Land Surveyor), do hereby certify that this survey is being corrected to (reason for correction).</p> <p>DATED this _____ day of _____, A.D., 20 ____.</p> <table><tr><td>(Signature)</td></tr><tr><td>(Printed or Typed Name)</td></tr><tr><td>Registration No.</td></tr><tr><td>(Seal of Surveyor)</td></tr></table>	(Signature)	(Printed or Typed Name)	Registration No.	(Seal of Surveyor)
(Signature)				
(Printed or Typed Name)				
Registration No.				
(Seal of Surveyor)				

APPENDIX B: SUPPLEMENTARY DOCUMENTS

- A. General.** When required, the following documents shall be submitted in draft form with the Preliminary Plat and signed and notarized with the Final Plat.
- B. Property Owners' Association.** If common property is to be deeded to the Property Owners Association, or if the Property Owners' Association will be responsible for the maintenance of Subdivision roads, landscaped areas, parkland, or pathways, Property Owners' Association bylaws or the declaration of Covenants, conditions, and restrictions set up to govern such an association shall include as a minimum:
1. Membership: Automatic and mandatory membership for each property or unit buyer and any subsequent buyer.
 2. Perpetual Reservation: Perpetual reservation and limited use of common property.
 3. Right to Use: The right of each property or unit owner to use and enjoyment of any common property or facility.
 4. Responsibility: Responsibility for liability insurance, any applicable tax assessments and the maintenance of any common property or facilities to be placed in the association.
 5. Assessments: Assessments which require each property or unit owner to pay a pro rata share of the cost of any common expenses, with any assessment charged by the association becoming a lien where necessary on individual parcels. Safeguards against unreasonably high charges and provision to adjust assessments may be provided.
 6. Common Land/Facilities: The legal description of the common land and a description of common facilities.
 7. Enforcement: Persons or entities entitled to enforce the restrictions, responsibilities, and payment of assessments.
 8. A mechanism for resolving disputes among owners or association members.
 9. The conditions and timing of the transfer of ownership and control of land facilities to the association.

C. Covenants. The Gallatin County Commission may require Covenants to be recorded with the Final Plat when it is determined they are necessary for the protection of the public health, safety and general welfare. All Covenants shall be considered to run with the land. If the Covenants are not marked or noted on the Final Subdivision Plat, they shall be contained in a separate instrument which shall be recorded with the Final Plat. The Covenants may be required to include, but are not limited to, the following provisions:

1. All Structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zones, and the National Fire Protection Association (NFPA) codes.
2. The control of noxious weeds by the Property Owners' Association on those areas for which the association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act ([7-22-2101 through 7-22-2153 MCA](#)) and the rules and regulations of the Gallatin County Weed Control District.

The Property Owner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.

3. The Property Owners' Association shall be responsible for the operation and maintenance of all interior Subdivision roads.
4. The Property Owners' Association shall be responsible for the operation and maintenance of parks, Trails, Common Open Space, and other common amenities within the Subdivision.
5. Property Owners of the Subdivision are informed that nearby uses may be agricultural. Property Owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
6. That all fences bordering agricultural lands shall be maintained by the Property Owner in accordance with state law.
7. All Structure addresses shall be assigned by the Gallatin County GIS Department.

8. All lots shall have only one driveway access. Each driveway access point must be at least seventy-five (75) feet from the nearest road intersection.
9. The artificial feeding of all big game Wildlife shall be prohibited, including providing any food, garbage or other attractant.
10. All garbage shall be stored in animal-proof containers or be made unavailable to animals.
11. Owners acknowledge that Wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other Governing Body for such damages.
12. Pets shall be controlled by each homeowner, and not allowed to roam within the Subdivision.
13. The taking of any Wildlife species within the property is prohibited, except for catching fish.
14. Any Covenant which is included herein as a condition of Preliminary Plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these Covenants and the Governing Body of Gallatin County.

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APPENDIX C: UNIFORM STANDARDS FOR MONUMENTATION AND FILING REQUIREMENTS

UNIFORM STANDARDS FOR MONUMENTATION [[SECTION 24.183.1101 A.R.M.](#)]:

1. The following standards govern the monumentation of land surveys:
 - a. The terms "monument" and "permanent monument" as used in these regulations mean any structure of masonry, metal or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
 - b. All metal monuments must be at least one-half inch in diameter and 18 inches in length with a cap not less than one inch in diameter marked in a permanent manner with the license number of the surveyor in charge of the survey and either the name of the surveyor or the company employing the surveyor. Metal monuments marking a public land survey corner as described in [70-22-101 , MCA](#), must be at least 24 inches long and 5/8 inch in diameter with an appropriately stamped metal cap at least two inches in diameter. A monument marking a public land survey corner may also consist of a cap as described in this rule set firmly in concrete.
 - c. Before a subdivision plat or certificate of survey may be filed for record the surveyor shall confirm the location of as many monuments as, in the surveyor's professional judgment, are necessary to reasonably assure the perpetuation of any corner or boundary established by the survey and to enable other surveyors to reestablish those corners and boundaries and retrace the survey. The surveyor shall clearly identify on the face of the plat or certificate of survey all monuments pertinent to the survey, and the descriptions of these monuments must be sufficient to identify the monuments.
 - d. The surveyor shall set all monuments prior to the filing of a plat or certificate of survey except those monuments that will be disturbed by the installation of improvements or that, because of severe weather conditions, may, in the surveyor's judgment, be more appropriately and accurately set after the weather has improved. In these two circumstances the surveyor may set monuments after the survey document is filed if the surveyor certifies on the survey document that the monuments will be set by a specified date. The surveyor shall set monuments, the placement of which has been deferred because of severe weather conditions, within 240 days of the date on which the survey document was filed.

- i. If during the later monumentation of the corners of a plat or certificate of survey that were not monumented before the plat or certificate was filed, the surveyor finds that it is necessary to set a reference monument to a corner, the surveyor shall prepare and file an amended certificate of survey or subdivision plat.
 - ii. The failure of the surveyor to set the monuments by the date certified on the record of survey will be deemed a violation of these rules.
- e. The surveyor shall set monuments at the following locations:
 - i. At each corner and angle point of all lots, blocks and parcels of land created by the survey.
 - ii. At every point of intersection of the outer boundary of a subdivision with an existing road right-of-way line of record or a road right-of-way line created by the survey.
 - iii. At every point of curve, point of tangency, point of reversed curve, point of compounded curve and point of intersection on each road right-of-way line created by the survey.
 - iv. At the intersection of a boundary line and a meander line. Meander line angle points need not otherwise be monumented.
- f. If the placement of a required monument at its proper location is physically impractical, the surveyor may set a reference or witness monument. This monument has the same status as other monuments of record if its location is properly shown. If the surveyor relies upon any existing monument in conducting a survey, he or she shall confirm the location of the monument and show and describe it on the resulting certificate of survey or subdivision plat.

UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY [[SECTION 24.183.1104 A.R.M.](#)]:

- 1. A certificate of survey must comply with the following requirements:
 - a. A certificate of survey must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches, or 24 inches by 36 inches, overall to include a 1½ inch margin on the binding side and a minimum of ½ inch margin on all other sides.
 - b. Two signed copies on 3 mil or heavier matte stable-base polyester film or equivalent must be submitted.
 - c. If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed on sheet number one of the certificate of survey.

- d. A certificate of survey must show or contain the following information:
- i. a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not contain the title "plat," "subdivision," or any title other than "Certificate of Survey";
 - ii. the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land surveyed, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;
 - iii. the date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line, or retrace an existing parcel of land;
 - iv. a north arrow;
 - v. a scale bar. The scale of the certificate of survey must be sufficient to legibly represent the required information and data on the certificate of survey;
 - vi. the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM [24.183.1101](#);
 - A. If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).
 - B. All monuments found during the survey that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).
 - C. Witness and reference monuments must be clearly shown.
 - vii. the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as a control in the survey;
 - viii. basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the certificate of survey. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the certificate of survey, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey

- shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;
- ix. the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;
 - A. The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
 - B. For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.
 - C. If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.
 - x. data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;
 - xi. lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;
 - xii. at least one record measurement reference for each line and curve, if available, must be shown;
 - xiii. a narrative legal description of the parcel(s) surveyed.
 - A. The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:
 - I. If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the parcel;
 - II. If the certificate of survey depicts the division of one or more parcels shown on a previously filed certificate of survey, the narrative legal description may be the number of

- the previously filed certificate of survey and the parcel number of the parcel(s) previously surveyed;
- III. If the certificate of survey depicts the retracement of one or more parcels shown on a previously filed certificate of survey, plat, or amended plat, the narrative legal description may be the number of the previously filed certificate of survey or the name of the previously filed plat or amended plat, and the parcel number of the parcel(s) previously surveyed;
 - IV. If the survey creates or retraces one or more parcels, the narrative legal description may be either the metes-and-bounds description of each individual parcel created by the survey or the metes-and-bounds description of the perimeter boundary of the parcels surveyed; or
 - V. If the narrative legal description does not fall within (1)(d)(xiii)(A)(I), (II), or (III), then the narrative legal description required by this subsection must conform with [\(1\)\(d\)\(xiii\)\(A\)\(IV\)](#).
- B. When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the parcel surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the certificate of survey.
 - C. The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.
- xiv. all parcels created or retraced by the certificate of survey designated by number or letter, and the bearings, distances, curve data, and area of each parcel, except as provided in [\(1\)\(f\)\(iii\)](#). If a parcel created by the certificate of survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification;
 - xv. the location, bearings, distances, and curve data of any easement that will be created by reference to the certificate of survey;
 - xvi. the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the certificate of survey has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act;
 - xvii. a memorandum of any oaths administered under [76-3-405, MCA](#);
 - xviii. if applicable, the certificate of the examining land surveyor; and

- xix. space for the clerk and recorder's filing information.
- e. Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s) citing the applicable exemption in its entirety.
- f. Procedures for divisions of land exempted from review as subdivisions. If one or more parcels on a certificate of survey is created by an exemption from subdivision review under [76-3-207, MCA](#), then, except as provided in [\(1\)\(f\)\(iii\)](#) and [\(iv\)](#), the certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY". The certificate of survey must contain the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and cite the applicable exemption in its entirety. The certificate of survey must meet the following requirements:
 - i. If 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 shows or contains a signed and acknowledged recitation of the covenant in its entirety.
 - ii. If a certificate of survey invokes the exemption for gift(s) or sale(s) to members of the landowner's Immediate Family, the certificate of survey must indicate the name of the proposed grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.
 - iii. If a certificate of survey invokes the exemption for the relocation of common boundary line(s):
 - A. The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of a boundary line or lines common to two or more tracts of record, and must clearly

- distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new boundary location or locations (shown, for example, by solid line(s) with a notation);
- B. The certificate of survey must show the boundaries of the area that is being removed from one tract of record and joined with another tract of record. The certificate of survey is not required to establish, but may establish, the exterior boundaries of the resulting tracts of record. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation. Unsurveyed portions of the tracts of record must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY"; and
 - C. The certificate of survey must contain the following notation: "The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the [certificate of survey or amended plat] on which said area is described, unless said area is included with or excluded from adjoining tracts of record."
- iv. If a certificate of survey invokes the exemption for aggregation of parcels or lots:
- A. The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown, for example, by solid line(s) with a notation); and
 - B. The certificate of survey must establish the perimeter boundary of the resulting tract(s) of record.
- v. A survey document that modifies lots on a filed plat and invokes an exemption from subdivision review under [76-3-201](#) or [76-3-207\(1\)\(d\), \(e\), or \(f\), MCA](#), must be entitled "amended plat of [lot, block, and name of subdivision being amended]," but for all other purposes must comply with the requirements for form and descriptive content of certificates of survey contained in this rule.

- vi. If the certificate of survey invokes an exemption from subdivision review under [76-3-207, MCA](#), the certificate of survey must contain or be accompanied by a certification by the county treasurer that all real property taxes and special assessments assessed and levied on the surveyed land have been paid.
 - vii. For purposes of this rule, when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.
- g. The land surveyor, at his or her discretion, may provide additional information on the certificate of survey regarding the survey.
- h. Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in [76-3-201](#), [76-3-205](#), and [76-3-209](#), MCA, and divisions of federally owned land made by a U.S. government agency are not required to be surveyed, nor must a certificate of survey or plat showing these divisions be filed with the clerk and recorder. However, a certificate of survey of one of these divisions may be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and contains a certificate of all the landowners citing the applicable exemption from the Act in its entirety, or when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY."

UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS [\[SECTION 24.183.1107 A.R.M\]](#)

1. A final subdivision plat must comply with the following requirements:
 - a. the plat complies with the requirements contained in [\(2\)](#);
 - b. the plat includes a Conditions of Approval sheet(s) that complies with the requirements contained in [\(4\)](#); and
 - c. the plat is accompanied by documents listed in [\(5\)](#).
2. A plat must comply with the following requirements:

- a. A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins shall include a 1½ inch margin on the binding side and a minimum of ½ inch on all other sides.
- b. Two signed copies on 3 mil or heavier matte stable-base polyester film or equivalent must be submitted.
- c. If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. Except as provided in [\(4\)\(b\)](#), all certifications must be placed on sheet number one of the plat.
- d. A survey document that results in an increase in the number of lots or modifies six or more lots on a filed plat must be entitled "amended plat of (lot, block, and name of subdivision being amended)," and unless it is exempt from subdivision review by [76-3-201](#) or [76-3-207\(1\)\(d\), \(e\), or \(f\)](#), MCA, must meet the filing requirements for final subdivision plats specified in this rule.
- e. A plat must show or contain the following information:
 - i. a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";
 - ii. the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;
 - iii. a north arrow;
 - iv. a scale bar. The scale of the plat must be sufficient to legibly represent the required information and data on the plat;
 - v. the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by [ARM 24.183.1101](#);
 - A. If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by [ARM 24.183.1101\(1\)\(d\)](#).
 - B. All monuments found during the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by [ARM 24.183.1101\(1\)\(c\)](#).

- C. Witness and reference monuments must be clearly shown.
- vi. the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as control in the survey;
 - vii. basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;
 - viii. the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;
 - A. The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
 - B. For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.
 - C. If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.
 - ix. data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;
 - x. lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;
 - xi. at least one record measurement reference for each line and curve, if available, must be shown;

- xii. all lots and blocks in the subdivision designated by number, the bearings, distances, and curve data of each lot and block, the area of each lot, and the total area of all lots. (Excepted lands must be labeled "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT";
- xiii. all existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision; their names and widths from public record (if ascertainable); the bearings, distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;
- xiv. all rights-of-way for streets, alleys, avenues, roads, and highways that will be created by the filing of the plat; their names, widths, bearings, distances, curve data, and area;
- xv. except as provided in (2)(d)(xiii) and (xiv), the location, bearings, distances, curve data, and areas of all parks, common areas, and other grounds dedicated for public use;
- xvi. the total area of the subdivision;
- xvii. a narrative legal description of the subdivision.

A. The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

- I. If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land;
- II. If the plat depicts the division of one or more parcels shown on a previously filed certificate of survey or plat, the narrative legal description may be the number of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel(s) previously surveyed;
- III. The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or
- IV. If the narrative legal description does not fall within [\(2\)\(e\)\(xvii\)\(A\)\(I\)](#) or [\(II\)](#), the narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.

B. When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of

Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.

- xviii. the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act. The land surveyor's signature and certification do not include certification of the Conditions of Approval sheet(s);
- xix. a memorandum of any oaths administered under [76-3-405, MCA](#);
- xx. the dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of this rule, 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;
- xxi. certification by the governing body that the final plat is approved;
- xxii. if applicable, the landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;
- xxiii. if applicable, or as required by subdivision regulations, the landowner(s)' certification statement(s) as follows:
 - A. 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.
 - B. 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.
 - C. 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.
- xxiv. if applicable, a certificate of the governing body accepting any dedicated land, easements, or improvements;
- xxv. if applicable, the certificate of the examining land surveyor;
- xxvi. space for the clerk and recorder's filing information; and
- xxvii. 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 [\(5\)](#).

- f. The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.
- 3. The following certifications of final plat approval must appear on the plat or on the Conditions of Approval sheet as contained in [\(4\)](#), or recorded or filed as contained in [\(5\)](#) of these rules:
 - a. A certification by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid and, if applicable, certification of the local health officer having jurisdiction.
- 4. If applicable, a 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, if applicable, city or town 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 or riparian 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
 - 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.
- 5. If applicable, the following documents as specified by local government shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:
 - a. a Title Report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land if other than the Subdivider, and any lien holders or claimants of record against the land;

- b. any covenants or deed restrictions relating to the subdivision;
- c. for lots less than 20 acres in size, exclusive of public roadways, a certification from the Montana Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to [76-4-104\(2\), MCA](#);
- d. if required by the governing body, for lots of 20 acres or greater in size, written documentation that the Subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with [76-3-604\(8\)\(b\), MCA](#);
- e. a copy of any security requirements, pursuant to [76-3-507, MCA](#), securing the future construction of any remaining public improvements to be installed;
- f. unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the Subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the Conditions of Approval sheet that states where the plans can be obtained must be filed or recorded;
- g. if a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit; and
- h. any other documents satisfying subdivision application approval required by the governing body to be filed or recorded.

APPENDIX D: GALLATIN COUNTY, MONTANA FIRE PROTECTION IMPACT FEE REGULATION

Adopted August 27, 1996

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1. LEGISLATIVE FINDINGS

The Commissioners of Gallatin County, Montana, find that:

- 1.1 Fire protection services are currently being provided to the citizens of the County by various Rural Fire Districts and Fire Service Areas that receive administrative fees from the County to help finance such services and facilities.
- 1.2 The protection of the health, safety, and general welfare of the citizens of the County requires that fire protection facilities and equipment be acquired and constructed to accommodate continuing growth within the County.
- 1.3 All types of development for which specific waivers have not been defined in this Regulation will create increased demands for fire protection facilities and equipment.
- 1.4 The current system of fire impact fees is inadequate to allow 14 of the Rural Fire Districts and Fire Service Areas to provide the fire protection facilities and equipment needed to serve new development.
- 1.5 The adoption of a new Fire Protection Impact Fee system would enable the County, at the request of one or more of the 14 Rural Fire Districts and Fire Service Areas, to collect additional revenues for such Districts or Areas for the purpose of acquiring or constructing fire protection facilities and equipment, and to impose a proportionate share of the costs of required fire protection facilities and equipment on those developments that create the need for them.
- 1.6 That County Road and Fire Impact Fee Study prepared by James Duncan and Associates dated September 1995 sets forth a reasonable methodology and analysis for determining the impacts of new development on fire protection facilities and equipment and for determining the cost of acquiring or constructing the capital facilities and equipment required to serve new development.
- 1.7 The Fire Protection Impact Fees described in this Regulation are based on that County Fire Protection and Fire Impact Fee Study, and do not exceed the costs of acquiring or constructing the fire protection facilities and equipment required to serve the new developments that will pay the Fire Protection Impact Fees.
- 1.8 The County Fire Protection and Fire Impact Fee Study did not include the costs of providing a water supply to fight fires in remote areas, and the Fire Protection Impact Fees described in this Regulation do not cover such costs. Any obligation to provide a water supply to fight fires imposed by a Rural Fire District or Fire Service Area is separate and distinct from the obligation to pay the fees described in this Regulation.

- 1.9 The acquisition or construction of new fire protection facilities and equipment by the 14 Rural Fire Districts and Fire Service Areas will provide benefits to the landowners in the District or Area where the new facilities and equipment are located, and it is therefore appropriate to create 14 different fire protection benefit areas for purposes of collecting and spending Fire Protection Impact Fees.
- 1.10 There is both a rational nexus and a rough proportionality between the fire protection impacts created by new development covered by this Regulation and the Fire Protection Impact Fee that such development will be required to pay.
- 1.11 This Regulation creates a system by which the Fire Protection Impact Fees paid by different developments will be used to acquire or construct fire protection facilities and equipment benefiting the development that paid the fee within a reasonable period of time after the fee is paid.
- 1.12 Section [76-3-510, MCA](#), authorizes the County to require a Subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to Public Health and Safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a Subdivision. Fire protection facilities and equipment relate to the Public Health and Safety.

2. AUTHORITY AND APPLICABILITY

- 2.1 Authority for the adoption of this Regulation is found in the Montana Subdivision and Platting Act, [sections 76-3-101 et. seq., MCA](#).
- 2.2 The provisions of this Regulation shall apply to all of the land within any Rural Fire District or Fire Service Area that (a) is listed in [Table 1](#), and (b) has executed an agreement with County in the form attached as [Appendix 1](#), which is an integral part of this Regulation, but shall not apply to any land located within the corporate limits of any city or town in Gallatin County.

3. INTENT

- 3.1 This Regulation is adopted to help implement the Gallatin County Plan.
- 3.2 The intent of this Regulation is to ensure that new development bears a proportionate share of the cost of Fire Protection Improvements, to ensure that such proportionate share does not exceed the cost of Fire Protection Improvements required to serve such new developments, and to ensure that money collected from such new developments are actually used to acquire or construct Fire Protection Improvements that benefit such new developments.

- 3.3 It is not the intent of this Regulation to collect any money from any new development in excess of the actual amount necessary to offset new demands for Fire Protection Improvements created by that new development.
- 3.4 It is not the intent of this Regulation that any monies deposited in any Impact Fee Fund created by this Regulation ever be commingled with monies from a different Impact Fee Fund or ever be used for a type of facility or equipment different from that for which the Fee was paid or located in a different fire protection benefit area than that for which the Fee was paid, except in the case where two or more of the eligible Rural Fire Districts or Fire Service Areas have agreed to jointly acquire or construct improvements or equipment that will benefit each of them using monies from each of their respective Impact Fee Funds and the disbursements from each Impact Fee Fund meet the requirements set forth in the agreement between each such District or Area and the County.
- 3.5 As used in this Regulation, the term “Fire Protection Improvements” means the planning, land acquisition, engineering design, construction, construction inspection, equipment purchases, and financing costs associated with new or expanded facilities, buildings, and equipment, that expand the capacity of a fire protection facility or system and that have an average useful life of at least 10 years, but not including maintenance, operations, or improvements that do not expand capacity.

4. FIRE PROTECTION BENEFIT AREAS

- 4.1 For purposes of this Regulation, there shall be 14 fire protection benefit areas corresponding to the boundaries of the fourteen Rural Fire Districts and Fire Service Areas listed in [Table 1](#).
- 4.2 No fire protection benefit area shall include any area within the corporate limits of any city or town in Gallatin County.

5. IMPOSITION OF FIRE PROTECTION IMPACT FEES

- 5.1 Any Subdivider who obtains preliminary plat approval of a Subdivision of land within those fire protection benefit areas listed in [Table 1](#) after the effective date of this Regulation shall pay a Fire Protection Impact Fee in the amount specified in this Regulation prior to final plat approval.
- 5.2 The duty to pay the Fire Protection Impact Fees described by this Regulation shall be attached as a condition to any preliminary plat approval of a Subdivision.

- 1.3 No final Subdivision plat shall be approved until the Fire Protection Impact Fee described in this Regulation has been paid, unless such fee has been explicitly waived by [Section 10](#) of this Regulation.

6. COMPUTATION OF AMOUNT OF FIRE PROTECTION IMPACT FEE

- 6.1 A Subdivider required to pay a Fire Protection Impact Fee may choose to have the County determine the amount of such fee pursuant to either section [6.2](#) or [6.3](#) below.
- 6.2 Unless the Subdivider requests that the County determine the amount of such Fee pursuant to [section 6.3](#), the County shall determine the amount of the Fire Protection Impact Fee by applying a fixed fee of four hundred and ninety-six dollars (\$496) per lot or parcel shown on the final map of the Subdivision.
- 6.3 A Subdivider may prepare and submit to the County an independent fee calculation study prepared by qualified fire protection professional and/or economist calculating the cost of Fire Protection Improvements required to serve the proposed development, that (a) is performed on an average cost (not marginal cost) methodology; (b) is specific to the Rural Fire District or Fire Service Area in which the land is located; (c) uses the service units and unit construction costs stated in the County Road and Fire Impact Fee Study; and (d) is performed in compliance with any criteria for such studies previously established by this Regulation or by the County; and (e) is submitted and decided upon by the County prior to submittal of final plat application for the Subdivision (*Resolution 2005-168*). An average cost methodology is one that calculates the average cost of new fire facilities and equipment needed to serve each new lot or parcel in new developments in a specific Rural Fire District or Fire Service Area over a future period of at least 10 years.
- 6.4 If the Subdivider is applying for a resubdivision of an approved Subdivision or an amendment to a final Subdivision plat for which a Fire Protection Impact Fee has previously been paid, then the fee shall be the net positive difference between the fee applicable at the time of the current application and any amount previously paid as an impact fee for fire protection facilities or equipment.

7. PAYMENT OF FIRE PROTECTION IMPACT FEES

- 7.1 A Subdivider required to pay a Fire Protection Impact Fee shall pay such fee to the County prior to the final approval of any Subdivision of land.
- 7.2 All monies paid by a Subdivider pursuant to this Regulation shall be identified as Fire Protection Impact Fees and shall be promptly deposited in the Fire Protection

Impact Fee Fund for the fire protection benefit area or areas in which the Subdivider's land is located.

- 7.3 If the Subdivider's land is not located entirely within one of the fire protection benefit areas defined in [section 4](#) of this Regulation, then the Fire Protection Impact Fee due from the Subdivider shall be calculated separately for the portion of Subdivider's land in each benefit area, and each separate portion of the Fire Protection Impact Fee shall be deposited in the Fire Protection Impact Fee Fund for the fire protection benefit area in which that portion of the land is located.

8. FIRE PROTECTION IMPACT FEE FUNDS

- 8.1 A separate Fire Protection Impact Fee Fund is hereby created for each of the 14 fire protection benefit areas listed in [Table 1](#).
- 8.2 Each Fire Protection Impact Fee Fund shall contain only those Fire Protection Impact Fees collected within the fire protection benefit area for which such Fund was created and any interest which may accrue from time to time on such amounts.
- 8.3 Interest earned on monies in any Fire Protection Impact Fee Fund shall be considered part of such Fund, and shall be subject to the same restrictions on use applicable to the Fire Protection Impact Fees deposited in such Fund.
- 8.4 The County's reasonable costs to calculate and document Fire Protection Impact Fees, credits against those Fees, and refunds of those Fees pursuant to this Regulation shall be considered as expenses of reviewing Subdivision plats, and shall be included in the County's fees for the review of such plats pursuant to authority granted in section [76-3-602, MCA](#).

9. USE OF FIRE IMPACT FEE FUNDS

- 9.1 The monies in each Fire Protection Impact Fee Fund shall be made available to the Rural Fire District or Fire Service Area serving the fire protection benefit area for which such Fund was created, but only after such District or Area has signed a contract with the County in the form attached as Appendix 1 to this Regulation, and then only (a) to acquire or construct Fire Protection Improvements within the fire protection benefit area for which that Fund was created, or (b) to pay debt service on any portion of any future bond issue used to finance the acquisition or construction of Fire Protection Improvements to the extent that such Improvements expand the capacity of a fire protection facility or system within the fire protection benefit area for which such Fund was created, or (c) as described in sections [11](#) or [12.7](#) of this Regulation.

- 9.2 Monies in each Fire Protection Impact Fee Fund shall be considered to be spent or encumbered in the order collected, on a first-in/first-out basis.
- 9.3 No monies from any Fire Protection Impact Fee Fund shall be spent for periodic or routine maintenance of any facility of any type or to cure deficiencies in facilities existing on the effective date of this Regulation.

10. WAIVERS OF FIRE PROTECTION IMPACT FEES

- 10.1 Subdividers otherwise required by this Regulation to pay a Fire Protection Impact Fee may receive a waiver of that requirement if the Subdivider can demonstrate to the County that (a) the land when subdivided and built out with at least one Structure per lot will produce no greater demand for fire protection than would have been produced if such land had not been subdivided; or (b) a fire protection facilities fee for such land has previously been paid in an amount that equals or exceeds the Fire Protection Impact Fee that would be required by this Regulation.
- 10.2 Any such claim for waiver must be made no later than the time when the Subdivider applies for final approval of the Subdivision, and any request for a waiver not made at or before such time shall be invalid.
- 10.3 The County Planning Director or his designee shall determine the validity of any claim for waiver pursuant to the criteria set forth in [Section 10.1](#).

11. REFUNDS OF FIRE PROTECTION IMPACT FEES PAID

- 11.1 Any monies in any Fire Protection Impact Fee Fund that have not been spent or encumbered within 10 years after the date on which such fee was paid shall, upon application of the then current owner of the land for which the fee was paid, be returned to such owner with interest at the rate of 10 percent per annum since the date of payment. In order to be eligible to receive such refund, the then owner of the land shall be required to submit an application for such refund within six months after the expiration of such 10 year period, or such claim shall be waived. When the right to a refund exists due to a failure to encumber or spend fees within such 10 year period, the County shall provide written notice of entitlement to a refund to current owner of the land for which the fee was paid. The County shall also publish such notice within 30 days after the expiration of the 10 year period from the date the Fire Protection Impact Fee was paid. The published notice shall contain the heading 'Notice of Entitlement to an Impact Fee Refund'.

12. CREDITS AGAINST FIRE PROTECTION IMPACT FEES

- 12.1 After the effective date of this Regulation, all mandatory or voluntary dedications of land for fire stations, all mandatory or voluntary construction of fire stations, and

all mandatory or voluntary purchases of fire trucks by a Subdivider, shall result in a pro rata credit against the Fire Protection Impact Fees otherwise due for such development, except that no such credit shall be awarded for (a) land dedications for or construction or purchase of Fire Protection Improvements that remain under the control of the Subdivider and serve only the Subdivider's property; or (b) any voluntary right-of-way dedications not accepted by the Rural Fire District or Fire Service area in which such land is located; (c) any voluntary acquisition or construction of fire stations or fire trucks not approved in writing by the Rural Fire District or Fire Service area in which such land is located prior to commencement of the acquisition or construction; (d) any mandatory or voluntary dedication, construction, or acquisition of a type of Fire Protection Improvement not included in the calculation of the Fire Protection Impact Fees in the County Road and Fire Impact Fee Study. Credits shall not be granted for the provision of a water supply to fight fires.

12.2 In order to obtain a credit against Fire Protection Impact Fees otherwise due, a Subdivider must (a) submit a written agreement or offer to dedicate specific parcels of land to the Rural Fire District or Fire Service Area in which the Subdivider's project is located, or to construct Specific Fire Protection Improvements in accordance with all applicable state or County design and construction standards; and (b) obtain the written approval of the Rural Fire District or Fire Service Area servicing the fire protection benefit area or areas in which the land is located; and (c) specifically request a credit against such Fire Protection Impact Fees. Such written agreement, offer, or evidence must be made on a form provided by the County, must contain a statement under oath of the facts that qualify the Subdivider to receive a credit, must be accompanied by documents evidencing those facts, and must be filed not later than the time when an application is made for final approval of the first Subdivision required for the development, or the claim for the credit shall be invalid.

12.3 The credit due to a Subdivider who submits such a request shall be calculated by the County and documented by the County as follows:

12.3.1 Credit for qualifying land dedications shall, at the Subdivider's option, be valued at (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor; or (b) that fair market value established by a private appraiser acceptable to the County in an appraisal paid for by the Subdivider.

12.3.2 In order to receive credit for acquisition or construction of fire stations or fire trucks, the Subdivider shall submit acceptable engineering drawings, specifications, construction cost estimates, or purchase price estimates to the County. The County shall determine the amount of credit due based on the information submitted, or, if it determines that such information is

inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County.

12.4 Approved credits shall become effective at the following times:

12.4.1 Approved credits for qualifying land dedications shall become effective when the applicable Rural Fire District or Fire Service Area confirms that the land has been conveyed to it or that acceptable arrangements have been made for the future conveyance of such land. When such conditions have been met, the County shall note that fact in its records. Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.

12.4.2 Approved credits for the acquisition or construction of Fire Protection Improvements shall generally become effective when the applicable Rural Fire District or Fire Service Area confirms that all required construction has been completed and accepted or that acceptable arrangements have been made for future construction or acquisition. When such conditions have been met, the County shall note that fact in its records. Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.

12.5 Approved credits may be used to reduce the amount of Fire Protection Impact Fees otherwise due from any Subdivider within the same fire protection benefit area for which the credit was approved, until the amount of the credit is exhausted. Each time a request to use credits from a mandatory or voluntary dedication, acquisition, or construction is presented to the County shall reduce the amount of the Fire Protection Impact Fee otherwise due from the Subdivider, and shall note in the County records the amount of credit remaining, if any. Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.

12.6 Approved credits shall only be used to reduce the amount of Fire Protection Impact Fees otherwise due under this Regulation within the fire protection benefit area for which the credit was approved, and shall not be paid to the Subdivider in cash or in credits against any impact fees for any other type of facility or service or against Fire Protection Impact Fees for any other fire benefit area or against any other monies due to the County, except as described in [Section 12.7](#) of this Regulation. Credits may be limited to use in areas that can be served by the land, fire station, or fire trucks whose dedication, purchase, or construction gave rise to the credit.

12.7 If the amount of approved credits exceeds the amount of Fire Protection Impact Fees otherwise due under this Regulation, the Subdivider may request in writing that County provide for reimbursement of any excess credits to the Subdivider in

cash instead of transferable credits. Such written request must be filed not later than the time when an application is made for final approval of the first Subdivision required for the development, or the claim for the credit shall be invalid. Upon receipt of such written request, those credits described in [Section 12.3](#) shall not be issued, and the County may, at its discretion, arrange for the reimbursement of such excess credits from the Fire Protection Impact Fee Fund or Funds for the fire protection benefit area or areas in which the Subdivider's land is located from fees paid by others.

- 12.8 Credits may be transferred from one owner to another by any written instrument clearly identifying the certificate or certificates issued under [Section 12.3](#) of this Regulation that are to be transferred, provided that such instrument is signed by both the transferor and transferee and that the document is delivered to the County for registration of the change in ownership.

13. FEE ADJUSTMENT

- 13.1 The Fire Protection Impact Fee stated in [Section 6.2](#) of this Regulation shall be adjusted annually to reflect the effects of inflation on those costs for Fire Protection Improvements set forth in the County Road and Fire Impact Fee Study. Beginning on January 1, 1998 and on January 1 of each following year unless and until the Fee in [Section 6.2](#) is revised or replaced by action of the County Commissioners, the Fee amount in [Section 6.2](#) shall be adjusted by multiplying such amount by a fraction, the numerator of which is the U.S. Consumer Price Index for all Urban Consumers for All Items as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the area for the most recent period for which figures are available, and the denominator of which is the Consumer Price Index for All Items for the same area for the period one year prior to the period reflected in the numerator. Such adjustments in the amount of such fee shall become effective immediately upon calculation by the County, and shall not require additional action by the County Commissioners to be effective.
- 13.2 The Fire Protection Impact Fees described in this Regulation and the administrative procedures of this Regulation shall be reviewed at least once every three fiscal years to ensure that (a) the cost assumptions underlying such fees are still valid; (b) the resulting fees do not exceed the actual cost of acquiring land for Fire Protection Improvements and/or acquiring or Constructing Fire Protection Improvements required to serve new development; (c) the monies collected or to be collected in the Fire Protection Impact Fee Funds have been and/or are expected to be spent for Fire Protection Improvements; and (d) such Fire Protection Improvements will benefit those lots and parcels for which the fees were paid.
- 13.3 If a Fire Protection Impact Fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a Subdivider

shall be refunded by the County to the Subdivider within 30 days after the County's acceptance of the recalculated amount, with interest at the rate of 10 percent per annum since the date of such overpayment. Any amounts underpaid by the Subdivider shall be paid to the County within 30 days after the County's acceptance of the recalculated amount, with interest at the rate of 10 percent per annum since the date of such underpayment. In the case of an underpayment, the County shall not issue any additional permits or approvals for the project for which the Fire Protection Impact Fee was previously paid until such underpayment is corrected, and if amounts owed to the County are not paid within such 30 day period, the County may also repeal any permits or approvals issued in reliance on the previous payment of such Fire Protection Impact Fees and refund such fees to the then current owner of the land.

14. MISCELLANEOUS PROVISIONS

- 14.1 Nothing in this Regulation shall restrict the County from requiring a Subdivider to construct reasonable project improvements required to serve the Subdivider's project, whether or not such improvements are of a type for which credits are available under [Section 12](#).
- 14.2 Knowingly furnishing false information to any official of the County charged with the administration of this Regulation on any matter relating to the administration of this Regulation, including without limitation the furnishing of false information regarding the expected size of a proposed Subdivision or expected fire hazards related to a proposed Subdivision, shall be a violation of this Regulation.
- 14.3 If any portion of this Regulation is determined to be invalid, unenforceable, or unconstitutional for any reason by any court of competent jurisdiction, that portion shall be treated as an independent provision of this Regulation, and such determination shall not affect the validity, enforceability, or constitutionality of any other portion of this Regulation.
- 14.4 The section titles used in this Regulation are for convenience only, and shall not affect the interpretation of any portion of the text of this Regulation.
- 14.5 The County shall keep a copy of the County Road and Fire Impact Fee Study prepared by James Duncan and Associates dated September 1995 on file in the offices of the County Planning Department, and shall maintain accurate records of the Fire Protection Impact Fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received for each fee, the fire protection benefit area for which the fee was paid, and any other matters that the County deems appropriate or necessary to the accurate accounting of such fees, and such records shall be available for review by the public during County business hours.

14.6 This Regulation shall become effective on August 27, 1996.

APPENDIX D: TABLE 1

FIRE PROTECTION BENEFIT AREAS

BENEFIT AREA	RURAL FIRE DISTRICT OR FIRE SERVICE AREA
1	Amsterdam RFD 165
2	Belgrade RFD 105
3	Bridger Canyon RFD 110
4	Clarkston FSA
5	Fort Ellis FSA
6	Gallatin Canyon RFD 115
7	Gallatin Gateway RFD 120
8	Gallatin River Ranch RFD 170
9	Manhattan RFD 125
10	Northside RFD 135
11	Rae FSA
12	Sourdough RFD 155
13	Springhill FSA
14	Story Mill RFD 143
15	Three Forks RFD 145
16	Willow Creek RFD 150

**AGREEMENT BETWEEN
GALLATIN COUNTY, MONTANA
AND**

**REGARDING THE USE OF
FIRE PROTECTION IMPACT FEE REVENUES**

This Agreement is entered into this ____ day of _____, 199____, between Gallatin County, Montana (hereinafter referred to as County) and _____, Gallatin County, Montana (hereinafter referred to as Fire District).

The County and the Fire District agree as follows:

1. The Fire District certifies that it is currently delivering fire protection services to the residents and landowners of the Fire District and is lawfully authorized to provide such services and to execute this Agreement.
2. The County has adopted a fire protection impact fee regulation set forth in Appendix D of the Gallatin County Subdivision Regulations (hereinafter referred to as Regulation) for the purpose of placing a proportionate share of the costs of expanded and improved fire protection facilities and equipment on the new developments that create the need for such facilities and equipment.
3. Upon the execution of this Agreement the County shall collect fire protection impact fees from the Fire District Area as authorized in the Regulation. The County shall place all such impact fees collected from the Fire District into a Fire Protection Impact Fee Fund for the Fire District (hereinafter referred to as Fund) and shall separately account for the impact fees collected.
4. The parties agree that the monies in the Fund may be used for the following purposes only:
 - a. To pay for planning, land acquisition, engineering design, construction, construction inspection, equipment purchases, and financing costs associated with a specific project to construct or acquire new or expanded fire protection facilities, buildings, and/or equipment that expand the capacity of the Fire District to provide fire protection services within the Fire District and that have an average useful life of at least 10 years; or
 - b. To pay debt service on any portion of any fixture bond issue used to finance any of the buildings, facilities, or equipment described in [section 4.a.](#) to the

extent such improvements expand the capacity of the Fire District's fire protection facilities or fire protection system.

5. The Fire District agrees that monies from the Fund shall never be used (a) for routine maintenance, operations, or (b) for the construction or acquisition of facilities, buildings, or equipment that do not expand the capacity of the Fire District to provide fire protection services within the Fire District, or (c) to cure deficiencies in facilities existing on or before August 27, 1996 (the effective date of the Regulation).
6. The County shall notify monthly the Fire District of the amount of money in the Fund.
7. Upon the written request of the Fire District, the Gallatin County Commissioners will consider the transfer of monies from the Fund to the Fire District for use on a specific acquisition or construction project. Any request for a transfer of monies from the Fund (a) shall specifically state what the monies will be used to construct or acquire; (b) shall include a price estimate, quote, or bid from those who will complete or provide the buildings, facilities, or equipment; (c) shall include a statement of the anticipated completion date for the project; and (d) shall include a certification by the Fire District that it will use the requested monies only for the purposes stated in the request.
8. The Gallatin County Commissioners shall approve such request for a transfer of monies from the Fund unless there are not adequate monies in the Fund to fulfill the request or unless the Gallatin County Commissioners conclude that the purposes for which the monies are requested do not meet (a) the requirements stated in [Section 4](#) of this Agreement; or (b) the requirements for the use of fire protection impact fees stated in the Regulation. The Gallatin County Commissioners shall promptly notify the Fire District of the reason for any denial of a request to transfer monies from the Fund.
9. The Fire District shall notify the County promptly of the completion of each construction or acquisition project for which monies from the Fund were received, and shall certify in writing that all such monies were used as stated in the original request for transfer of monies. If the final cost of such project is lower than the amount of monies from the Fund that the Fire District received from the County, then within one (1) month after the completion of the project, the Fire District shall transfer any remaining monies back to the County for deposit in the fund.
10. The Fire District shall be liable to the County for any use of monies from the Fund for any purpose not stated in the request for transfer of such monies, or for any purpose not authorized by [Section 4](#) of this Agreement and shall indemnify the

County for any loss or damage suffered by the County because of any such unauthorized expenditure of monies from the Fund.

This Agreement consists of _____ pages. The Original Agreement will be kept by the Gallatin County Clerk and Recorder.

BOARD OF COUNTY COMMISSIONERS
GALLATIN COUNTY, MONTANA

Jane Jelinski, Chair

Phil Olson, Member

Kris Dunn, Member

ATTEST:

Shelley M. Cheney
Clerk and Recorder

Approved as to legal content

County Attorney

(district name)

Chairman

Attest:
Secretary

Copy:
Gallatin County Treasurer

APPENDIX E: ROAD IMPACT FEE REGULATION

Adopted April 1, 1997
Effective May 1, 1997

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1. LEGISLATIVE FINDINGS

The Commissioners of Gallatin County, Montana, find that:

- 1.1 The protection of the health, safety, and general welfare of the citizens of the County requires that the road system of the County be expanded and improved to accommodate continuing growth within the County.
- 1.2 All types of new development for which specific waivers have not been defined in this Regulation will generate traffic that will require expansions and improvements to the County Major Road System.
- 1.3 The creation of an equitable Road Impact Fee system would enable the County to impose a proportionate share of the costs of required road expansions and improvements on those developments that create the need for them.
- 1.4 That County Road and Fire Impact Fee Study prepared by James Duncan and Associates dated September 1995 sets forth a reasonable methodology and analysis for determining the impacts of new development on the County's Major Road System and for determining the cost of acquiring or constructing those road expansions and improvements required to serve new development.
- 1.5 The County hereby adopts the assumptions, levels of service, and capital improvement plans related to roads and referenced in the County Road and Fire Impact Fee Study as part of its current plans for the County's Major Road System.
- 1.6 The Road Impact Fee described in this Regulation is based on that County Road and Fire Impact Fee Study, and does not exceed the costs of acquiring additional rights-of-way and acquiring or constructing those road expansions and improvements required to serve the new developments that will pay the Road Impact Fee.
- 1.7 All of the road expansions and improvements listed in the County Road and Fire Impact Fee Study will benefit all new development in the County, and it is therefore appropriate to treat all of the unincorporated areas of the County as a single benefit area for purposes of calculating, collecting, and spending the Road Impact Fees.

- 1.8 There is both a rational nexus and a rough proportionality between the traffic impacts created by new development covered by this Regulation and the Road Impact Fee that such development will be required to pay.
- 1.9 This Regulation creates a system by which the Road Impact Fees paid by different developments will be used to provide Road Improvements benefiting the development that paid the fee within a reasonable period of time after the fee is paid.
- 1.10 [Section 76-3-501, MCA](#), authorizes the County to require a Subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to Public Health and Safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a Subdivision.

2. AUTHORITY AND APPLICABILITY

- 2.1 Authority for the adoption of this Regulation is found in the Montana Subdivision and Platting Act, [sections 76-3-101 et. seq., MCA](#).
- 2.2 The provisions of this Regulation shall apply to all of the land within Gallatin County, but shall not apply to any land located within the corporate limits of any city or town in Gallatin County.

3. INTENT

- 3.1 This Regulation is adopted to help implement the Gallatin County Plan and any future updates to or replacement of that Plan.
- 3.2 The intent of this Regulation is to ensure that new development bears a proportionate share of the cost of Road Improvements, to ensure that such proportionate share does not exceed the cost of Road Improvements required to serve such new developments, and to ensure that funds collected from such new developments are actually used to construct Road Improvements that benefit such new developments.
- 3.3 It is not the intent of this Regulation to collect any money from any new development in excess of the actual amount necessary to offset new demands for Road Improvements created by that new development.
- 3.4 It is not the intent of this Regulation that any monies deposited in the Impact Fee Fund created by this Regulation ever be commingled with monies from a different Impact Fee Fund or ever be used for a type of facility or equipment different from that for which the fee was paid.

- 3.5 As used in this Regulation, the term “Road Improvements” means the planning, land acquisition, engineering design, construction, construction inspection, equipment purchases, and financing costs associated with new or expanded facilities or equipment, that expand the capacity of the County’s Major Road System and that have an average useful life of at least 10 years, but not including maintenance, operations, or improvements that do not expand capacity.

4. IMPOSITION OF ROAD IMPACT FEES

- 4.1 A Subdivider who submits a complete application for preliminary plat approval after the effective date of this Regulation shall pay a Road Impact Fee in the amount specified in this Regulation prior to final plat approval. The effective date of this Regulation is May 1, 1997.
- 4.2 The duty to pay such Road Impact Fee shall be attached as a condition to any preliminary plat approval of a Subdivision.

5. COMPUTATION OF AMOUNT OF ROAD IMPACT FEE

- 5.1 A Subdivider required to pay a Road Impact Fee may choose to have the County determine the amount of such fee pursuant to either section [5.2](#) or [5.3](#) below.
- 5.2 Unless the Subdivider requests that the County determine the amount of such fee pursuant to [Section 5.3](#), the County shall determine the amount of the Road Impact Fee by applying a fixed fee of one thousand five hundred and ninety-six dollars (\$1,596) per lot or parcel shown on the final map of the Subdivision or on the zoning permit application. Such fee amount includes credits for expected future receipts of federal highway funds and expected future receipts of gas tax revenues applied to the Road Improvements required to serve new development.
- 5.3 A Subdivider may prepare and submit to the County an independent fee calculation study for the proposed development prepared by qualified professional traffic engineers and/or economists. Any such study must: (a) use the service units and unit construction costs stated in the County Road and Fire Impact Fee Study; (b) be performed in compliance with any criteria for such studies previously established by this Regulation or by the County; (c) show the traffic engineering and economic methodologies and assumptions used, including but not limited to those forms of documentation listed in Sections [5.3.1](#) and [5.3.2](#) below; and (d) be acceptable to the County pursuant to [Section 5.3.3](#) below; and (e) is

submitted and decided upon by the County prior to submittal of final plat application for the Subdivision. (*Resolution 2005-168*)

- 5.3.1 Traffic engineering studies must include documentation of trip generation rates, trip lengths, any percentage of trips from the site that represent net additions to current trips from the site, the percentage of trips that are new trips as opposed to pass-by or divert-link trips, and any other trip data for the proposed land use.
- 5.3.2 Economic studies must include documentation of any special factors that the Subdivider believes will reduce the traffic volumes otherwise attributable to the development.
- 5.3.3 The County shall consider all such documentation and any independent fee calculations submitted by the Subdivider, but shall not be required to accept any such study or documentation reasonably deemed to be inaccurate or unreliable, and may request that the Subdivider submit additional or different documentation for consideration. Any independent fee calculation study submitted by a Subdivider may be accepted, rejected, or accepted with modifications by the County as the basis for calculating Road Impact Fees.
- 5.3.4 Upon acceptance or acceptance with modifications of an independent fee calculation study and documentation, the County shall use the following formula to determine the fee:

New Lane Miles = $\frac{[(\text{One Way Average Daily Trips} \times \text{Primary Trip Factor} \times \text{Average Trip Length}) / (390 \text{ Vehicles per Day per Lane})]}{1}$
(390 is the weighted average of current use rates per lane for paved and gravel roads from County Road and Fire Impact Fee Study)

Cost = New Lane Miles x \$ 55,300.
(\$55,300 is the weighted average of cost per lane mile of paved and gravel roads from County Road and Fire Impact Fee Study)

Street Impact Fee = Cost x .617 (representing the same 38.3% credit for expected state and federal highway funding and gas tax revenues used to calculate the Fee in [Section 6.2](#))

where: “One Way Average Daily Trips” means one-half of the average daily trip ends on a weekday.

“Primary Trip Factor” means that percentage of average daily trips to or from the development that are primary trips, as opposed to pass-by or divert-link trips.

“Average Trip Length” means the average distance per trip traveled on public roads in the County.

- 5.4 If the Subdivider is applying for a re-Subdivision of an approved Subdivision or an amendment to a final Subdivision plat for which a Road Impact Fee has previously been paid, then the fee shall be the net positive difference between the fee applicable at the time of the current application for Subdivision approval or amendment and any amount previously paid as an impact fee for road facilities.

6. PAYMENT OF ROAD IMPACT FEES

- 6.1 A Subdivider required to pay a road impact shall pay such fee to the County prior to the final approval of any Subdivision of land or enter into an Improvements Agreement and provide security for said agreement pursuant to Gallatin County Subdivision Regulation Section [8.B.1.g. Improvements Agreements](#).
- 6.2 All monies paid by a Subdivider pursuant to this Regulation shall be identified as Road Impact Fees and shall be promptly deposited in the Road Impact Fee Fund described in [Section 7](#).

7. ROAD IMPACT FEE FUND

- 7.1 A Road Impact Fee Fund is hereby created for the County.
- 7.2 The Road Impact Fee Fund shall contain only those Road Impact Fees collected pursuant to this Regulation and any interest which may accrue from time to time on such amounts.
- 7.3 Interest earned on monies in the Road Impact Fee Fund shall be considered part of such fund, and shall be subject to the same restrictions on use applicable to the Road Impact Fees deposited in such fund.
- 7.4 The County’s reasonable costs to calculate and document Road Impact Fees, credits against those fees, and refunds of those fees pursuant to this Regulation shall be considered as expenses of reviewing Subdivision plats, and shall be included in the County’s fees for the review of such plats pursuant to authority granted in [Section 76-3-602, MCA](#).

8. USE OF FUNDS

- 8.1 The monies in the Road Impact Fee Fund shall be used only (a) to acquire land for and/or acquire or construct any Road Improvements including

planning, land acquisition, engineering design, construction, construction inspection, equipment purchases and financing costs associated with new or expanded facilities or equipment within the County; or (b) to pay debt service on any portion of any future bond issue used to finance Road Improvements to the extent that such Improvements expand the capacity of the County's Major Road System; or (c) as described in sections [10](#) or [11.8](#) of this Regulation.

- 8.2 Monies in the Road Impact Fee Fund shall be considered to be spent or encumbered in the order collected, on a first-in/first-out basis.
- 8.3 No monies from the Road Impact Fee Fund shall be spent for periodic or routine maintenance of any facility of any type or to cure deficiencies in facilities existing on the effective date of this Regulation.

9. WAIVERS OF ROAD IMPACT FEES

- 9.1 The County shall waive the Road Impact Fee for any lot meeting the existing use or the Agriculture covenant criteria.

- 1. Existing use:

- a) The lot is developed with at least one dwelling unit/structure.
 - b) The use of the lot will produce no greater demand on road impacts that would have been produced if such land had not been subdivided.

- 2. Agriculture covenant:

- a) A covenant has been placed on the lot that the lot will be used exclusively for agricultural purposes, no building or structure requiring water or sewer facilities shall be utilized on the lot.
 - b) The covenant runs with the land and is revocable only by mutual consent of the County Commission and the property owner through the Subdivision process.
 - c) The impact fee in place at the time of the revocation shall be paid.

Such waiver shall be granted prior to final approval of the Subdivision. A request for a waiver made after the approval shall be invalid.

- 9.2 Subdividers otherwise required by this Regulation to pay a Road Impact Fee may request a full or partial waiver of that requirement if one of the following can be demonstrated:

1. A full waiver may be received if the Subdivider has provided a contribution towards the cost of acquiring or constructing the capital facilities and/or equipment required to serve the lot(s) in an amount that equals or exceeds the Road Impact Fee otherwise required by this Regulation.
2. A partial waiver may be received if the Subdivider has provided a contribution towards the cost of acquiring or constructing the capital facilities.

Any such claim for waiver must be made no later than the time when the Subdivider applies for final approval of the Subdivision, and any request for a waiver not made at or before such time shall be invalid.

- 9.3 The County Planning Director, after consulting with the County Road and Bridge Department, shall determine validity, subject to an application for Subdivision review, or any waiver or claim for a waiver pursuant to the criteria set forth in section [9.1](#) or [9.2](#). Final determination of validity shall be made at final approval of Subdivision.

10. REFUNDS OF ROAD IMPACT FEES PAID

- 10.1 Any monies in the Road Impact Fee Fund that have not been spent or encumbered within 10 years after the date on which such fee was paid shall, upon application of the then current owner of the land for which the Fee was paid, be returned to such owner with interest at the rate of ten percent (10%) per annum since the date of payment. In order to be eligible to receive such refund, the then owner of the land shall be required to submit an application for such refund within six months after the expiration of such 10 year period, or such claim shall be waived. When the right to a refund exists due to a failure to encumber or spend fees within such 10 year period, the County shall provide written notice of entitlement to a refund to current owner of the land for which the Fee was paid. The County shall also publish such notice within 30 days after the expiration of the 10 year period from the date the Road Impact Fee was paid. The published notice shall contain the heading 'Notice of Entitlement to an Impact Fee Refund'.

11. CREDITS AGAINST ROAD IMPACT FEES

- 11.1 After the effective date of this Regulation, all mandatory or voluntary right-of-way dedications for Road Improvements by a Subdivider, and all mandatory or voluntary acquisition or construction of Road Improvements by a Subdivider, and all payments to any approved Rural Improvement Area

for Road Improvements, shall result in a pro rata credit against the Road Impact Fees otherwise due for such development, except that no such credit shall be awarded for: (a) land dedications for or construction of, site-related improvements as defined in [Section 11.2](#) of this Regulation; or (b) any voluntary right-of-way dedications not accepted by the County; (c) any voluntary acquisition or construction of Road Improvements not approved in

writing by the County prior to commencement of the acquisition or construction; or (d) any mandatory or voluntary dedication, construction, or acquisition of a type of Road Improvement not included in the calculation of the Road Impact Fee in the County Road and Fire Impact Fee Study.

- 11.2 For purposes of this Regulation, site related improvements include all (a) Access Roads leading to the proposed development; (b) driveways and roads within the development; (c) acceleration, deceleration, right, or left turn lanes leading to any road and driveway within the development; and (d) traffic control devices for roads and driveways within the development.
- 11.3 In order to obtain a credit against Road Impact Fees otherwise due, a Subdivider must (a) submit a written agreement or offer to dedicate to the County specific parcels of land, or to construct specific Road Improvements in accordance with all applicable state or County design and construction standards; or (b) submit written evidence of the payment of fees for Road Improvements to an approved Rural Improvement District; and (c) must specifically request a credit against such Road Impact Fees. Such written agreement, offer, or evidence must be made on a form provided by the County, must contain a statement under oath of the facts that qualify the Subdivider to receive a credit, must be accompanied by documents evidencing those facts, and must be filed not later than the time when a Subdivider applies for final approval of the first Subdivision required for the development, or the claim for the credit shall be invalid.
- 11.4 The credit due to a Subdivider who submits such a request shall be calculated by the County and documented by the County as follows:
 - 11.4.1 Credit for qualifying right-of-way dedications shall, at the Subdivider's option, be valued at (a) one hundred percent (100%) of the most recent assessed value for such land as shown in the records of the County Assessor; or (b) that fair market value established by a private appraiser acceptable to the County in an appraisal paid for by the Subdivider.

11.4.2 In order to receive credit for acquisition or construction of Road Improvements, the Subdivider shall submit acceptable engineering drawings, specifications, and construction cost estimates to the County. The County shall determine the amount of credit due based on the information submitted, or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County.

11.4.3 Credit for payments to an approved Rural Improvement Area for Road Improvements shall be valued at the full amount of such payments.

11.5 Approved credits shall become effective at the following times:

11.5.1 Approved credits for dedications of rights-of-way shall become effective when the right-of-way has been conveyed to the County in a form acceptable to the County and at no cost to the County and has been accepted by the County Commissioners. When such conditions have been met, the County shall note that fact in its records. Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.

11.5.2 Approved credits for the construction of Road Improvements shall generally become effective when (a) all required construction has been completed and has been accepted by the County; and (b) a suitable maintenance and warranty bond has been received and approved by the County; and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable County and state procedures. However, approved credits for the construction of Road Improvements may become effective at an earlier date if the Subdivider posts security in the form of a performance bond, irrevocable letter of credit, or escrow agreement and the amount and terms of such security are accepted by the County. At a minimum, such security must be in the amount of the approved credit or an amount determined to be adequate to allow the County to construct the improvements for which the credit was given, whichever is higher. When such conditions have been met, the County shall note that fact in its records. Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.

11.5.3 Credits for payments to an approved Rural Improvement Area for Road Improvements shall be effective immediately upon review and approval of the evidence of such payment submitted by the Subdivider. When such conditions have been met, the County shall note that fact in its records.

Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.

- 11.6 Approved credits may be used to reduce the amount of Road Impact Fees otherwise, until the amount of the credit is exhausted. Each time a request to use credits from a mandatory or voluntary dedication, acquisition, or construction is presented to the County, the County shall reduce the amount of the Road Impact Fee otherwise due from the Subdivider, and shall note in the County records the amount of credit remaining, if any. Upon request of the Subdivider, the County shall send the Subdivider a letter stating the number of credits available to the Subdivider.
- 11.7 Approved credits shall only be used to reduce the amount of Road Impact Fees otherwise due under this Regulation, and shall not be paid to the Subdivider in cash or in credits against any other impact fees for a different type of facility or service or against any other monies due to the County, except as described in [Section 11.8](#) of this Regulation.
- 11.8 If the amount of approved credits exceeds the amount of Road Impact Fees otherwise due under this Regulation, the Subdivider may request in writing that the County provide for reimbursement of any excess credits to the Subdivider in cash instead of transferable credits. Such written request must be filed not later than the time when an application is made for final approval of the first Subdivision required for the development, or the claim for the credit shall be invalid. Upon receipt of such written request, those credits described in [Section 11.4](#) shall not be issued, and the County may, at its discretion: (a) arrange for the reimbursement of such excess credits from the Road Impact Fee Fund from Fees paid by others; or (b) arrange for reimbursement of such excess credits through the issuance of a promissory note payable in not more than ten (10) years and bearing interest equal to the interest rate paid by the County for its long-term debt.
- 11.9 Credits may be transferred from one owner to another by any written instrument clearly identifying the credits issued under [section 11.4](#) of this Regulation that are to be transferred, provided that such instrument is signed by both the transferor and transferee and that the document is delivered to the County for registration of the change in ownership.

12. MISCELLANEOUS PROVISIONS

- 12.1 Nothing in this Regulation shall restrict the County from requiring a Subdivider to construct reasonable project improvements required to serve the Subdivider's project, whether or not such improvements are of a type for which credits are available under [Section 11](#).

- 12.2 At least once during each fiscal year of the County, the County Planning Director shall present to the County Commissioners a proposed capital improvement program for the County Major Road System, and such capital improvement program shall assign monies from the Road Impact Fee Fund to specific projects for the expansion or improvement of the County Major Road System and related expenses. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program or not expended pursuant to [section 10](#) or [11.8](#) of this Regulation shall be retained in the Road Impact Fee Fund until the next fiscal year.
- 12.3 The Road Impact Fee stated in [Section 5.2](#) of this Regulation shall be adjusted annually to reflect the effects of inflation on those costs for Road Improvements set forth in the County Road and Fire Impact Fee Study. Beginning on January 1, 1999, and on January 1 of each following year unless and until the fee in [Section 5.2](#) is revised or replaced by action of the County Commissioners, the fee amount in [section 5.2](#) shall be adjusted by multiplying such amount by a fraction, the numerator of which is the U.S. Consumer Price Index for all Urban Consumers for all Items published by the U.S. Department of Labor, Bureau of Labor Statistics, for the area for the most recent period for which figures are available, and the denominator of which is the Consumer Price Index for All Items for the same area for the period one year prior to the period reflected in the numerator. Such adjustments in the amount of such fee shall become effective immediately upon calculation by the County, and shall not require additional action by the County Commissioners to be effective.
- 12.4 The Road Impact Fees described in this Regulation and the administrative procedures of this Regulation shall be reviewed at least once every three fiscal years to ensure that: (a) the traffic and cost assumptions underlying such fees are still valid; (b) the resulting Fees do not exceed the actual cost of acquiring land for Road Improvements and/or acquiring or constructing Road Improvements required to serve new development; (c) the monies collected or to be collected in the Road Impact Fee Fund have been and/or are expected to be spent for Road Improvements; and (d) such Road Improvements will benefit those developments for which the fees were paid.
- 12.5 If a Road Impact Fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a Subdivider shall be refunded by the County to the Subdivider within thirty (30) days after the County's acceptance of the recalculated amount, with interest at the rate of ten percent (10%) per annum since the date of such overpayment. Any amounts underpaid by the Subdivider shall be paid to the County within thirty (30) days after the County's acceptance of the

recalculated amount, with interest at the rate of ten percent (10%) per annum since the date of such underpayment. In the case of an underpayment, the County shall not issue any additional permits or approvals for the project for which the Road Impact Fee was previously paid until such underpayment is corrected, and if amounts owed to the County are not paid within such thirty (30) day period, the County may also repeal any permits or approvals issued in reliance on the previous payment of such Road Impact Fees and refund such fees to the then current owner of the land.

- 12.6 In order to promote the economic development of the County and the provision of affordable housing in the County, the County Commissioners may agree to pay some or all of the Road Impact Fees imposed on one or more subdivided lots or parcels from other funds of the County that are not restricted to other uses. Any such decision to pay Road Impact Fees on behalf of a Subdivider shall be at the discretion of the County Commissioners and shall be made pursuant to goals and objectives previously adopted by the County Commissioners to promote economic development and/or affordable housing.
- 12.7 Knowingly furnishing false information to any official of the County charged with the administration of this Regulation on any matter relating to the administration of this Regulation, including without limitation the furnishing of false information regarding the expected size of a proposed Subdivision or expected traffic impacts from a proposed Subdivision, shall be a violation of this Regulation.
- 12.8 If any portion of this Regulation is determined to be invalid, unenforceable, or unconstitutional for any reason by any court of competent jurisdiction, that portion shall be treated as an independent provision of this Regulation, and such determination shall not affect the validity, enforceability, or constitutionality of any other portion of this Regulation.
- 12.9 The section titles used in this Regulation are for convenience only, and shall not affect the interpretation of any portion of the text of this Regulation.
- 12.10 The County shall keep a copy of the County Road and Fire Impact Fee Study prepared by James Duncan and Associates dated September 1995 on file in the offices of the County Planning Department, and shall maintain accurate records of the Road Impact Fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received for each fee, and any other matters that the County deems appropriate or necessary to the accurate

accounting of such fees, and such records shall be available for review by the public during County business hours.

12.11 This Regulation shall become effective on May 1, 1997.

APPENDIX F: UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

ARM 8.94.3003 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS (1) A final subdivision plat may not be approved by the governing body or filed by the county clerk and recorder unless it complies with the following requirements:

(a) Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1½ inch margin on the binding side.

(b) One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.

(c) If more than one sheet must be used to accurately depict the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be placed or referenced to on one sheet.

(d) A survey that modifies a filed subdivision plat must be entitled “amended plat of (lot, block, and name of subdivision being amended),” and unless it is exempt from subdivision review by section [76-3-201](#) or [76-3-207\(1\)\(d\) or \(e\)](#), may not be filed with the county clerk and recorder unless it meets the filing requirements for final subdivision plats specified in this rule.

(2) A final plat submitted for approval must show or contain, on its face or on separate sheets referenced on the plat, the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

(a) A title or title block indicating the quarter-section, section, township, range, principal meridian, county, and, if applicable, city or town in which the subdivision is located. The title of the plat shall contain the words “plat” and either “subdivision” or “addition”.

(b) The name of the person(s) who commissioned the survey and the name(s) of the owner of the land to be subdivided if other than the person(s) commissioning the survey, the names of any adjoining platted subdivision, and numbers of any adjoining certificates of survey previously filed.

(c) A north arrow.

(d) A scale bar (The scale must be sufficient to legibly represent the required information and data on the plat).

(e) The location of, and other information relating to, all monuments found, set, reset, replaced, or removed as required by [ARM 8.94.3001 \(1\) \(c\)](#).

(i) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must bear a certification by the surveyor as to the reason the monuments have not been set and the date by which they will be set.

(ii) All monuments found during retracements that influenced the positions of any corner or boundary indicated on the plat must be clearly shown as required by [ARM 8.94.3001 \(1\) \(c\)](#).

(f) The location of any section corners or corners of divisions of sections pertinent to the survey.

(g) Witness and reference monuments and basis of bearings. For the purpose of this rule the term “basis of bearings” means the surveyor’s statement as to the origin of the bearings shown on the plat. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the plat shows true bearings, as basis of bearings must describe the method by which these true bearings were determined.

(h) The bearings, distances and curve data of all boundary lines must be indicated. If the subdivision is bounded by an irregular shoreline or body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.

(i) The course along a meander line are shown solely to provide a basis for calculating the acreage of a parcel with one or more riparian boundaries as the parcel existed at the time of survey.

(ii) For purposes of these regulations a line that indicates a fixed boundary of a parcel is not a “meander” or “meander line” and may not be designated as one.

(i) Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be labeled, the plat must include the bearings of radial lines or chord length and bearing.

(j) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.

(k) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey of the subdivision.

(l) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels must be marked "Not Included in this subdivision" or “Not included in this plat," as appropriate, and the bearings and lengths of these excepted boundaries must be shown.)

(m) All streets, alleys, avenues, roads, and highways; their widths (if ascertainable from public records), bearings, and area; the width and purpose of all road rights-of-way and all other easements that will be created by the filing of the plat; and the names of all streets, roads and highways.

(n) The location, dimensions, and areas of all parks, common areas, and other grounds dedicated for public use.

(o) The total acreage of the subdivision.

(p) A narrative legal description of the subdivision as follows:

(i) If the parcel being subdivided is either an aliquot part of a U.S. Government section or a U.S. Government lot, the information required by this paragraph is the aliquot description of the parcel.

(ii) If the plat depicts the division of a parcel or lot that is shown on a filed certificate of survey or subdivision plat and the number of the parcel or lot affected by the survey.

(iii) If the parcel surveyed does not fall within subparagraphs (i) or (ii), above, the information required by this paragraph is the metes-and-bounds description of the perimeter boundary of the subdivision.

(iv) If the plat establishes the boundaries of a subdivision containing one or more interior parcels, the information required by this paragraph is the legal description of the perimeter boundary of the subdivision.

(q) The dated signature and seal of the surveyor responsible for the survey. The affixing of his seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act ([76-3-101 through 76-3-625, MCA](#)) and the regulations adopted under the Act.

(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 being subdivided. For purposes of this rule when the parcel of land proposed for subdivision is being conveyed under contract-for-deed, the terms “owner” and “owner of the land” refers to the seller under the contract-for-deed.

(t) Certification by the governing body that the final subdivision plat is approved.

(u) Space for the clerk and recorder’s filing information.

(3) The following documents must appear on the face of or accompany the approved final plat when it is presented to the county clerk and recorder filing:

(a) If applicable, the owner’s certificate of dedication of streets, parks, playgrounds, easements, or other public improvements.

(b) If applicable, a certificate of the governing body expressly accepting any dedicated land, easements, or improvements. An acceptance of a dedication is ineffective without this certification.

(c) A certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.

(d) Copies of any covenants or deed restrictions relating to the subdivision.

(e) If applicable, a certificate from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities.

(f) A certificate from the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.

(g) Unless otherwise provided by local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed or file them with a governmental official other than the county clerk and recorder, or both.

(h) If applicable, the certificate of the examining land surveyor.

(i) If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.

(j) The certification of the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

APPENDIX G: FLOOD STUDY

- A. General.** When required, three copies of the completed Floodplain analysis study report and the model's digital files shall be submitted. The report submittal must be stamped by a licensed professional civil Engineer and include the following information:

1. Floodplain Map.

- a. A scaled survey base map stamped by a licensed professional land Surveyor in the State of Montana. The map must accurately locate the proposed development with respect to the Floodplain, the channel of the subject stream/river, and the existing improvements within the subject study area.
- b. The map must show elevation contours at a minimum of 1-foot vertical intervals and shall comply with survey and map guidelines published in the FEMA publication *Guidelines and Specifications for Study Contractors*. The map must show the following:
 - i. Elevations and ground contours, spot elevations and vertical datum NAVD 88 or NGVD 29 (or most recent vertical datum accepted by Gallatin County).
 - ii. Elevations and dimensions of existing structures or fill.
 - iii. Location of proposed lot lines.
 - iv. Location and elevation of roadways, drainage facilities, bridges, and utility lines.
 - v. The base maps must be accompanied by all field survey notes/computations, drawings, etc. for each cross-section with water surface elevation at the time the cross section field survey was done.

2. Study Report.

- a. Soil maps, groundcover maps and photographs.
- b. A narrative report containing purpose of the study and description of the study area, data collection, methodology for both the hydrology and hydraulics, detailed discussion on the input parameters used, modeling results, and conclusions.

- c. A Floodplain analysis must include calculations and computer analysis input and output information, supporting graphical illustrations, as well as the following information.
 - i. Scaled cross-sections showing the current/existing conditions of the river/stream channel, the Floodplain adjoining both sides of the channel, the cross-sectional area to be occupied by any proposed development and all historic high water information.
 - ii. Profiles showing the bottom of the channel, the top of both left and right banks and computed Base Flood water surface elevations for the 10, 25, 50, 100 and 500-year events.
 - iii. Complete printout of input and output data of the model that was used for the analysis. Liberal use of comments and written discussion will assist considerably in understanding the model logic and minimize misinterpretations and/or questions.
 - iv. A map showing the graphical/plotted location and limits of the computed Floodplain.
 - v. Three copies of ready to run digital files of both the hydrologic and hydraulic model and its input and output files used in the study. Data shall be submitted on a disk in standard ASCII format, ready to use on an IBM-compatible personal computer and in the applicable software application (e.g. HEC-RAS, etc.)
 - vi. A section on the Flood flow including computer modeling and/or calculations (see below for additional information on Flood flow determinations).
 - vii. Aerial photographs of the site, including during Flood events with the specific date and time the photograph was taken.
 - viii. All field survey notes/computations, maps, and drawings for each cross section with water surface elevation at the time of the cross section field survey.

3. Computer Modeling Information. Floodplain studies submitted to Gallatin County for review must include output summary tables and include the following (but not limited to) items:

- a. Cross-section identification number.
- b. Range of flows being examined.
- c. Computed water surface elevation at each cross-section.
- d. Energy grade line at each cross-section.

- e. Graphical plots of the channel cross-sections with computed water surface elevations for all model runs including calibrated model runs.
- f. All model input and output printouts.
- g. Discussion on the starting water surface elevation for the hydraulic model.

B. Determining Flood Flows. The techniques used to determine the flows used in a Flood study depend upon whether gage data is available or a detailed Flood study has been done and approved for use in Gallatin County. The first technique is used if a gaging station exists on the stream. The second technique is used on un-gaged catchments or those with an insufficient length of record. In all cases, the Engineer shall be responsible for assuring that the hydrologic methods used are technically reasonable, conservative, conform to the FEMA publication *Guidelines and Specifications for Study Contractors*, and are acceptable by FEMA and Gallatin County.

1. Flood Flows from Stream Gage Data. Determining Flood flows from stream gage data uses the Log-Pearson Type III distribution method as described in the *Guidelines for Determining Flood Flow Frequency, Bulletin 17B of the Hydrology Committee, United States Water Resources Council (revised September 1981)*.

- a. This technique may be used only if data from a gaging station in the basin is available for a period of at least 10 years.
- b. If the difference in the drainage area at the study site and the drainage area at a gaging station in the basin is more than 50%, a continuous model shall be used as described below to determine the Flood flows at the study site.
- c. In all cases where dams or reservoirs, Floodplain development, or land use upstream may have altered the storage capacity or runoff characteristics of the basin so as to affect the validity of this technique, a continuous model shall be used to determine Flood flows at the study site.
- d. Alternative methodologies may be utilized if industry standard techniques are proposed and approved by County.

2. Flood Flows in Ungaged Basins. Flood flows may be determined by utilizing a continuous flow simulation model such as HSPF or other equivalent continuous flow simulation model, as approved by the County. Where Flood elevation or stream gaging data are available, the model shall be calibrated to the known data. Otherwise, regional parameters may be used.

C. Determining Flood Elevations and Profiles.

1. **Reconnaissance.** The applicant's project Engineer is responsible for the collection of all existing data with regard to flooding in the study area. This shall include a literature search of all published reports in the study area and adjacent communities and an information search to obtain all unpublished information on flooding in the immediate and adjacent areas from Federal, State and local units of government. This search shall include specific information on past flooding in the area, drainage Structures such as bridges and culverts that affect flooding in the area, available topographic maps, available community maps, photographs of past Flood events, and general flooding problems within the community. Documented discussions with nearby property owners should also be done to obtain witness account of the flooding extent. A field reconnaissance shall be made by the applicant's project Engineer to determine the hydraulic conditions of the study area, including type and number of Structures, locations of cross-sections, and other parameters including the roughness values necessary for the hydraulic analysis.
2. **Base data.** Channel cross-sections used in the hydraulic analysis shall be current/existing at the time the study is performed and shall be obtained by field survey. Topographic information obtained from aerial photographs/mapping may be used in combination with surveyed channel cross sections in the hydraulic analysis. The elevation datum of all information used in the hydraulic analysis shall be verified. All information shall be referenced directly to NAVD 1988 or NGVD 1929 unless otherwise approved by Gallatin County.
3. **Methodology.** Flood studies shall be calculated using the U.S. Army Corps of Engineers HEC-RAS computer model (or subsequent revision) unless otherwise approved by County.
4. **Adequacy of Hydraulic Model.** Gallatin County considers the following (but not limited to) factors when determining the adequacy of the hydraulic model for use in the floodplain model:
 - a. Cross-section downstream starting location and spacing.
 - b. Differences in energy grade line (significant differences in the energy grade line from cross-section to cross-section are an indication that cross-sections should be more closely spaced or that other inaccuracies exist in the hydraulic model.)
 - c. Methods and results for analyzing the hydraulics of the Structures such as bridges and culverts.

- d. Lack of flow continuity.
- e. Use of a gradually varied flow model. In certain cases, rapidly varied flow techniques may need to be used in combination with a gradually varied flow model such as weir flow over a levee, flow through a spillway of a dam, or special application of bridge flow (pressure flow if bridge superstructure is shown to be submerged for the study event).
- f. Mannings “n” value.
- g. Calibration of hydraulic model to known and/or observed flow stage elevations including past Flood events.
- h. Special applications. In some cases, steady state one-dimensional hydraulic models may not be sufficient for preparing the Floodplain analysis. This may occur where sediment transport, two-dimensional flow, or other unique hydraulic circumstances affect the accuracy of the model. In these cases, the project Engineer musts propose and obtain Gallatin County approval of alternative models for establishing the water surface elevations.
- i. All reported error and/or warning messages by the model must be properly and adequately addressed and/or resolved and included in the report for review verification.

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APPENDIX H: AMENDMENTS TO THE SUBDIVISION REGULATIONS BY RESOLUTION

RESOLUTION NO. 2006 - _____

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSION
GALLATIN COUNTY
TO ADOPT AMENDMENTS TO THE GALLATIN COUNTY
SUBDIVISION REGULATIONS**

<p>This resolution was introduced by the Gallatin County Planning Department. Moved by Commissioner _____, and seconded by Commissioner _____. The resolution was adopted _____.</p>

WHEREAS, Gallatin County has adopted subdivision regulations in accordance with Title 76, Chapter 3, Montana Code Annotated; and

WHEREAS, the Gallatin County Subdivision Regulations (Subdivision Regulations) were adopted on February 26, 1975, and amended thereafter to include eliminating the requirement for a beneficial water use permit with a preliminary plat application, adopted August 9, 2006, Resolution No. 2006-076; and

WHEREAS, the Gallatin County Planning Department proposes amendments to Sections 1, 2, 3, 4, 5, 6, 7, 9, 13, 14, and Appendix C of the Subdivision Regulations; and

WHEREAS, the numerous amendments to the Subdivision Regulations include the 2005 Legislative mandates, and procedural changes including requiring Subdividers provide evidence to Gallatin County that a subdivision has sufficient physical availability of water and that all uses of water in a subdivision are legally authorized prior to final plat, and requiring a Subdivider obtain certain permits prior to installation of infrastructure; and

WHEREAS, since September 6, 2006, copies of the draft proposed amendments, as approved by unanimous vote (3:0) by the County Commission on September 5, 2006, have been on file for public inspection at the Office of the Gallatin County Clerk and Recorder, and the Gallatin County Planning Department, both located at 311 W. Main Street, Bozeman, MT, and available electronically at www.gallatin.mt.gov/planning; and

WHEREAS, pursuant to [Section 76-3-503, MCA](#), notice of the County Commission public hearing for consideration of the resolution to adopt amendments to the Subdivision Regulations was published in the newspaper of general circulation in the County, the *Bozeman Daily Chronicle*, August 20, September 3, 10, and 17, 2006; and

WHEREAS, the County Commission held a public hearing on September 5, 2006 and found the amendments to the Subdivision Regulations consistent with the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations and approved the Resolution of Intent to adopt the proposed amendments (Resolution No. 2006-092); and

WHEREAS, on September 19, 2006, the County Commission held a public hearing on the Resolution to Adopt the proposed amendments to the Subdivision Regulations approved by Resolution No. 2006-092.

NOW THEREFORE BE IT RESOLVED:

The Gallatin County Commission approves the resolution to adopt the attached draft amendments proposed by the Planning Department to the Gallatin County Subdivision Regulations, pursuant to [Montana Code Annotated, 76-3-503](#).

Dated this 19th day of September 2006.

GALLATIN COUNTY COMMISSION

John Vincent, Chair

William A. Murdock, Member

Joe Skinner, Member

ATTEST:

Shelley Vance, Clerk and Recorder

APPENDIX I: FIRE PROTECTION PACKAGES

1. General Fire Protection Requirements. All of the fire protection requirements in this Appendix apply to all Subdivisions.

- 1.1 Where review or approval of any fire protection requirement is to be performed by the Fire Protection Authority Having Jurisdiction (FPAHJ), another qualified authority or expert, approved by the FPAHJ, may provide such review or approval at the expense of the Subdivider/Property Owner.
- 1.2 Access to and from and within the Subdivision – All roads shall meet or exceed Gallatin County Transportation Design and Construction Standards, including but not limited to construction, width and grade. The access routes shall be approved by the FPAHJ.
- 1.3 The FPAHJ may require a particular fire protection plan (fill sites, tanks, sprinklers, etc.). The FPAHJ may also require additional fire protection features depending on the Subdivision fire protection requirements.
- 1.4 Use of Existing Fire Protection Water Supply Features – Credit for the use of existing fire protection water supply features may be considered by the FPAHJ provided the feature meets the current applicable Gallatin County Fire Council fire protection standards and be approved by the FPAHJ. A written plan shall be provided to and approved by the FPAHJ providing for funding, use, maintenance and future upgrades of the feature. If the proposed plan requires any cooperative agreements, or actions, between the Subdivider/Property Owner and any other party, those shall be completed prior to the proposed plan being accepted by the FPAHJ. This includes but is not limited to contracts, joint ownership, etc.

The Subdivider/Property Owner shall provide, at their expense, current performance test data for the fire suppression water supply system based on current field measures, certified in writing by a Professional Engineer licensed in Montana. The Subdivider/Property Owner shall provide detailed descriptions and specifications and drawings of the as-built construction and water supply system components of the pond, water main system, pump, and hydrant(s) to the FPAHJ. The FPAHJ may require the Subdivider/Property Owner to pay for an independent validation review of the fire protection water system by a Professional Engineer (“P.E.”) licensed in Montana and approved by the FPAHJ.

- 1.5 Any Structure over 3,600 square feet or with a building height greater than 35 feet shall be subject to additional requirements for fire protection water supplies (amount, delivery rate, and location) as described according to the construction and square footage of the Structure in the current edition of Fire Code adopted by the State of

Montana. The FPAHJ may accept the installation of an approved fire protection sprinkler system meeting the current, applicable National Fire Protection Association (NFPA) standard in place of, and equivalent to, the additional fire protection water supply requirement specified in this Appendix.

- 1.6 Fire Protection Covenants – All Covenants required to meet the fire protection requirements shall be recorded with the Subdivision final plat. Any amendment to the fire protection Covenants must be approved by the County Commission and the FPAHJ. The FPAHJ is granted standing in the Covenants of the Subdivision for the purpose of enforcing all fire protection requirements. A fire protection note, calling attention to the fire protection requirements shall be placed on the final Subdivision plat.

The following Covenants may, at the discretion of the FPAHJ, be included as a requirement of the fire protection plan to mitigate potential threats from fire. This list is not all inclusive:

- a. Maintenance of Fire Protection Water Supply Features and Fire Department Use (i.e., open water fill sites, buried water tanks) – Fire protection features must be maintained to their original performance capability in perpetuity by, and at the expense of, the Property Owners. Performance of all fire protection features shall be certified annually, by the use of field measures, by the FPAHJ or by a PE licensed in Montana. If a PE is to be used, a report shall be submitted, in writing, to the FPAHJ to ensure continued specified capability. The annual certification by the PE shall be at the expense of the Property Owners. The PE shall be approved by the FPAHJ.

The fire department shall have unrestricted use, in perpetuity (at no cost to the fire department) of the fire protection features including but not limited to water sources, pumps, and hydrants.

- b. Separation Between Buildings on the Same Lot – The separation between all Structures protected by approved fire sprinkler systems and all detached, non-sprinkler protected Structures, including accessory buildings, shall be a minimum of 50 feet.
- c. Driveways to Structures – To allow for emergency vehicle access to Structures, the Property Owner shall provide a driveway meeting the following requirements as approved by the FPAHJ: a minimum unobstructed driving surface of 12 feet for driveways less than 300 feet long and a 16 foot driving surface for any driveway over 300 feet long; a vertical clearance of 15 feet; and a four foot zone of reduced vegetation on each side of the driving surface. If a driveway that is less than 16 feet wide is approved by the FPAHJ, turnouts shall be designed and constructed every 300 feet along the driveway's length.

(i.) For all buildings or Structure sites on driveways over 300 feet in length, the Property Owner shall provide a turnaround including but not limited to a drive-through, cul-de-sac or hammerhead turn-a-round.

- A turnaround shall be within 50 feet of the building or Structure when there is no community water system with fire hydrants.
- A turnaround shall be within 150 feet when there is a community water system with fire hydrants.

(ii.) All gates, bridges, culverts, cattle guards and all related constructs affecting access shall be a minimum of two feet wider on each side of the driveway. The entire driveway shall have a 30-ton minimum rating for two-axle trucks including all bridges, culverts, cattle guards and all other constructs of the driveways.

- 1.7 Alternative Fire Protection Features or Systems – Alternative fire protection technologies, means, features or systems may be approved by the FPAHJ where they provide fire protection equivalent to or greater than required in this Appendix.
- 1.8 Addressing Posted – Addressing on the building shall be contrasting on the building and reflective on the street. Number size shall be four-inch (4”) minimum height. Sign numbers and the background shall be made of retro-reflective material. Address signs shall meet the requirements of the FPAHJ.
- 1.9 Fire Apparatus Access – Fire apparatus shall be able to park on a Roadway, driveway, or fire apparatus parking area within 150 feet of all parts of the exterior of the building. The Roadway, driveway, or fire apparatus parking area shall be engineered and constructed to safely support a 30-ton, two-axle fire apparatus.
- 1.10 Mapping – A map or electronic file, in the format approved by the FPAHJ, of the Subdivision shall be provided to the FPAHJ indicating streets, addresses, street names, fire protection features, lot lines, building envelopes, utilities, Easements, etc.
- 1.11 Fire Protection Water Supply Feature Standards – All fire protection water supply features shall meet or exceed the appropriate fire protection standard adopted by the Gallatin County Fire Council, which are based on the current edition of the Fire Code, as adopted by the State of Montana.
- 1.12 Travel Routes to Fire Protection Water Supply Features – Travel routes to fire protection water supply features shall be approved by the FPAHJ.

1.13 Fire Protection Sprinkler/Fire Alarm System Project Tracking Process – Fire protection sprinkler/fire alarm project tracking process may be required, by the FPAHJ, where a Structure has a fire protection sprinkler system installed as a part of a Subdivision fire protection plan. The tracking process may be administered by the FPAHJ. The tracking process requirements are as follows:

- a. The Property Owner shall provide 14-day written notice of intent to build a Structure with fire protection sprinkler system, and where applicable, fire alarm system, engineered by a PE. A plans review fee will be paid by the Subdivider/owner to the FPAHJ. A fee schedule shall be determined by the FPAHJ. In lieu of a plans review fee and at the discretion of the FPAHJ, the FPAHJ may require a third-party review (selected by the FPAHJ) of the plans at the expense of the Subdivider/Property Owner.
- b. The Property Owner shall provide written certification by a PE that the fire protection sprinkler system and, where applicable, fire alarm system, are installed and fully operational prior to enclosure with sheet rock or interior wall covering installation. The FPAHJ shall be permitted to witness the testing with a minimum of 48 hours advanced notice.
- c. The Subdivider or Property Owner shall provide written certification, to the FPAHJ, by a PE and the Subdivider or Property Owner that all fire protection requirements have been met prior to final occupancy. The FPAHJ shall be permitted to witness the checklist inspections required in this section. The Subdivider or Property Owner shall provide the FPAHJ with 48 hours notice of the checklist inspections.
- d. Occupancy shall be permitted only when all fire protection requirements have been met as determined by the FPAHJ.

1.14 Back-Up-Power Requirements for Water Distribution Systems Providing Fire Protection Water Supply:

- a. Back-up power is required for water distribution systems supplying a fire hydrants or fire sprinkler systems for the wells and/or pumps if there is not any storage tanks or ponds as part of the system. The Subdivider/Property Owner shall provide, at their expense, a back up power supply and automatic transfer switching system for the fire protection water supply system that supplies the fire sprinkler systems in the buildings and hydrants. The back up power supply system shall be engineered by a P.E. licensed in Montana. The P.E. designing back up power system shall certify in writing that the back up power supply system will be capable for the duration of the capacity of the water supply. Documentation of the proposed back up power supply system shall be provided to the FPAHJ 30 days prior to Final Plat approval. The back up power system

design documentation shall include certification of the system capacity and design by signature of the P.E. licensed in Montana. Prior to installation, the back up power sources and automatic transfer switching systems shall meet the requirements of, and be approved by, the FPAHJ. The Subdivider may be required to pay for an independent validation review of the fire protection water system back up power system they propose to the FPAHJ by a P.E. licensed in Montana and selected by the FPAHJ.

- b. Back-up power, meeting the requirements of [Section 1.14\(a\) of Appendix I](#), or a draft connection, meeting requirements of the FPAHJ, is required for water distribution systems supplying a fire hydrants, or fire sprinkler systems for the wells and/or pumps if there are storage tanks or ponds as part of the system.

1.15 Subdivisions with mixed residential and commercial use or buildings shall have fire protection requirements using portions (residential, commercial, etc.) of these fire protection requirements that addresses the uses (residential, commercial, etc.) for the Subdivision.

1.16 A Vegetation Management Plan is required for all Subdivisions that have any Common Space, Open Space or Parkland. See [Section 7.1\(d\) of Appendix I](#).

2. Fire Protection Requirements for Major Residential Subdivisions (49 or less lots/units).
For major residential Subdivisions, the Subdivider/Property Owner shall provide one of the following fire protection packages:

2.1 Fire protection water supply system capable of 1,000-gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrant(s), for a minimum of 120 minutes. The distribution of fire hydrants shall meet the requirements of the current edition of the Fire Code, as adopted by the State of Montana; or

2.2 Fire protection water tank(s), constructed from plastic, concrete, fiberglass or other materials, approved by the FPAHJ. The capacity of the tanks shall be a minimum of 30,000 gallons with a pump capable of delivering 1,000-gallons-per-minute at 20 psi from an approved fire hydrant. The maximum travel distance to the edge of the lot line furthest from a hydrant on a route approved by the FPAHJ shall be 1,000 feet. The tank(s) shall have an automatic water supply to maintain the required capacity; or

2.3 Installation in every residential or combination use Structure, a fire protection sprinkler system. The Fire Sprinkler System shall be connected to a public water supply, if available and the system shall be engineered by an licensed Engineer (P.E.), installed and fully operational and compliant with the current edition of the applicable NFPA standard and one of the following fire protection water supply packages:

- a. Fire protection water tank(s), or ponds, of 30,000-gallon capacity with a pump capable of delivering 500-gallons-per-minute at 20 psi from an approved fire hydrant with a maximum approved travel distance from the furthest edge of the lot line from the hydrant to tank of 5,000 feet. The tank(s) shall have an automatic water supply to maintain the required captivity. Back-up power or a draft connection is also required; or
 - b. Fire protection water supply system capable of 500-gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrants, for 120 minutes. Fire hydrants shall be installed no more than 1000-foot intervals.
- 3. Fire Protection Requirements for Major Residential Subdivisions (50 or more lots/units).** For major residential Subdivisions, the Subdivider/Property Owner shall provide one of the following fire protection packages:
 - 3.1 Fire protection water supply system capable of 1,000-gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrants(s), for a minimum of 120 minutes. The distribution of fire hydrants shall meet the requirements of the current edition of the Fire Code, as adopted by the State of Montana; or
 - 3.2 Installation in every residential or combination use Structure, a fire protection sprinkler system. The Fire Sprinkler System shall be connected to a public water supply and the Fire Sprinkler System shall be engineered by an licensed P.E., installed and fully operational and compliant with the current edition of the applicable NFPA standard and one of the following fire protection water supply packages:
 - a. Fire Protection Water Supply system capable of 1000-gallons-per-minute at 20 psi minimum, through an approved public water system, with fire hydrants, for 60 minutes. Fire hydrants shall be installed no more than 1000-foot intervals; or
 - b. Fire protection water supply system capable of 500-gallons-per-minute at 20 psi minimum, through an approved public water system, with fire hydrants, for 120 minutes. Fire hydrants shall be installed no more than 1000-foot intervals.
- 4. Fire Protection Requirements for One Lot Minor Residential Subdivisions.** For a one (1) lot minor residential Subdivision, the Subdivider/Property Owner shall provide one of the following fire protection packages:
 - 4.1 An underground tank or pond of 10,000 gallons capable of delivering 1,000-gallons-per-minute from an approved fire hydrant with a maximum approved travel distance from the furthest lot line to the hydrant of 1,000 feet; or

- 4.2 Installation in every residential or combination use Structure a fire protection sprinkler system. The Fire Sprinkler System shall be connected to a public water supply, if available and the system shall be engineered by a licensed P.E., installed and fully operational and compliant with the current edition of the applicable NFPA standard.
5. **Fire Protection Requirements for Two-through Five-Lot Minor Residential Subdivisions.** For a two-to five-lot minor residential Subdivision, the Subdivider/Property Owner shall provide one of the following fire protection packages:
- 5.1 A storage tank(s) or pond of 30,000 gallons with a pump capable of delivering 1,000-gallons-per-minute at 20 psi from an approved fire hydrant. The maximum approved travel distance from the lot most distant from the hydrant to the hydrant shall be 1,000 feet. The tank(s) shall have an automatic water supply to maintain the required capacity. The tank(s) can be underground, on the ground, or elevated; or
- 5.2 Installation in every residential or combination use Structure, a fire protection sprinkler system. The Fire Sprinkler System shall be connected to a public water supply, if available and the system shall be engineered by an licensed P.E., installed and fully operational and compliant with the current edition of the applicable National Fire Protection A standard and one of the following fire protection water supply packages:
- a. Storage tank or pond of 10,000-gallon capacity with a pump capable of delivering 500-gallons-per-minute at 20 psi from an approved fire hydrant with a maximum approved travel distance from the furthest edge of the lot line from the hydrant to tank of 5,000 feet; or
 - b. Fire protection water supply system capable of 1,000-gallons-per-minute from draft through an approved fire hydrant system, for 120 minutes. Maximum travel distance from the edge of the lot line furthest from the hydrant to the tank, on a route approved by the FPAHJ, shall be 5,000 feet.
6. **Fire Protection Requirements for Commercial Subdivisions and Buildings.** Commercial buildings and buildings which are used for purposes other than as dwellings or as lodging houses which accommodate 10 persons or less shall provide the following fire protection features:
- 6.1 Each commercial Structure that is required to provide fire detection and/or fire protection sprinkler systems, shall have installed a lock box to hold keys to the exterior and interior doors. The lock box make and model, and the location shall be approved by the FPAHJ. The lock box shall contain current contact information for a local, responsible party or parties who will respond to fire alarms or fire sprinkler system alarms.

- 6.2 A fire protection water supply shall be provided that meets or exceeds the minimum required fire flow and flow duration for buildings as described in the current edition of the Fire Code, as adopted by the State of Montana.
- 6.3 All commercial Structures that are required to provide fire detection and/or fire protection sprinkler systems, either by code or as part of the Fire Protection Plan, shall have the plans reviewed and approved by the FPAHJ. These systems shall comply with the current edition of the Fire Code, as adopted by the State of Montana, for design and installation.
- 6.4 Structures with fire protection sprinkler systems shall be allowed to have a minimum of one (1) approved fire hydrant delivering 1000-gallons-per-minute at 20 psi for 2 hours at a maximum travel distance of 5,000 feet to the furthest lot line on an FPAHJ-approved route.
- 6.5 Fire hydrant locations and distribution – Fire hydrants shall be provided in accordance with the current edition of the Fire Code, as adopted by the State of Montana. Locations and distribution shall be reviewed and approved by the FPAHJ before construction.
- a. Consideration of existing fire hydrants – Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus Access Roads extend between properties and Easements are established to prevent obstruction of such roads.
- 6.6 All Structures shall be built meeting or exceeding the requirements of the current editions of the Fire and Building codes, as adopted by the State of Montana.
- 7. WILDLAND/URBAN INTERFACE.** For areas identified as Wildland/Urban Interface in the Gallatin County Community Wildfire Protection Plan (CWPP) or by the United States Forest Service, Montana Department of Natural Resources and Conservation, a local FPAHJ, a local Growth Policy, special standards are required.
- 7.1 Additional Requirements: For Subdivisions proposed in areas that are classified, by the CWPP, as Wildland/Urban Interface Area or as indicated as High or Extreme Hazard by the Wildland Fire Risk and Hazard Severity Assessment Form, the following standards shall apply:
- a. Water Supply - An additional 500-gallons-per-minute shall be included in the base fire flow requirement.
- b. Access and Evacuation -

- (i.) Road rights-of-way shall be cleared of construction slash. The required clearance of the right-of-way shall be maintained, in perpetuity, in a fire-resistive state.
- (ii.) All bridges and cattle guards shall be constructed of noncombustible materials.
- (iii.) Subdivisions shall be designed to allow emergency vehicle access to wildland areas behind Structures by:
 - Providing a perimeter Roadway approved by FPAHJ along the entire wildland side of a development; or by
 - Providing a fuel break that has been reviewed and approved by the FPAHJ, and accessible to fire apparatus.
- c. Building Density Requirements - Densities in areas of steep slopes and/or dense forest growth shall be appropriate per the site conditions.
- d. Vegetation Management - A vegetation management plan shall be submitted for review and approval of the FPAHJ.
 - (i.) Intent - The intent of the vegetation management plan is to:
 - Reduce fuel loading and hazard rating and provide continuous maintenance of the fuel load.
 - To protect life and property.
 - To reduce the potential for a fire on improved property from spreading to wildland fuels and from a fire in wildland fuels from spreading to the Structures.
 - To provide a safe working area and access for emergency responders.
 - (ii.) Components – Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the development. A vegetation management plan shall include at least the following information:
 - A copy of the site plan for the development.
 - Methods and timetables for controlling, changing or modifying areas on the property. Elements of the plan shall include removal

of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, ladder fuels, and dead trees, and the thinning of live trees.

- A plan for continuously maintaining the proposed fuel-reduction measures.
- Establishment of the requirements for defensible space as appropriate per site conditions and as described in the following section.

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

- Fuel Load Reduction - The dimensions of the defensible space shall be based upon the requirements established in the Vegetation Management Plan.
- Ground Fuel - Ground fuel within the defined defensible space, shall be treated (mowed, mulched, converted to compost, etc.) or removed annually or more frequently as directed by the FPAHJ.
- Thinning and Pruning - Live vegetation within the defensible space shall have all dead material removed and shall be thinned and pruned to reduce fire intensity and rate of spread.
- Dead Trees - Dead trees within the defensible space of buildings shall be removed.
- Ladder Fuels - Vegetation under trees, within the defined defensible space, shall be maintained at a height that will preclude its functioning as a "ladder" for fire to travel from ground vegetation into the tree crown.
- Fire-Resistant Landscaping - Where landscaping is desired, the proposed vegetation type and/or management practices shall be approved by the FPAHJ and be in compliance with fire resistant landscaping guidelines.
- Defensible Space Maintenance - The defensible space plan shall include a maintenance element with the responsibility for maintenance defined.

f. Fuel Breaks & Greenbelts - Open space, park land and recreation areas (including greenbelts, riding or hiking Trails) should be located, where appropriate, to separate communities, groups of Structures, or residences and other buildings from densely forested areas. These breaks can slow or stop the spread of an oncoming wildland fire.

- Fuel Breaks & Greenbelts Required - If the FPAHJ determines it is necessary to reduce the threat of wildland fires to life or improved property, fuel modification outside of the defensible space shall be required.
- Fuel Breaks & Greenbelt Maintenance - The vegetation management plan shall include a maintenance element with the responsibility for maintenance of the fuel breaks and greenbelts defined.

8. WILDLAND/URBAN INTERFACE FIRE PROTECTION COVENANTS. All Covenants required to meet the fire protection requirements shall be recorded consistent with the Subdivision Regulations. The County Commission shall consult the FPAHJ prior to adoption or amendment of the fire protection Covenants. The FPAHJ is granted standing in the Covenants of the Subdivision for the purposes of enforcing all fire protection requirements. A fire protection note calling attention to the fire protection requirements, approved by the FPAHJ, shall be placed on the Final plat.

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

- Maintenance of Fire Protection Water Supply (for example: water systems, draft sites, fill sites, buried tanks or open ponds) – Fire protection water supplies must be maintained to their original performance capability in perpetuity by the Property Owners. Performance of all fire protection features shall be certified annually by a licensed P.E. and submitted to the FPAHJ to ensure continued specified capability.
- Maintenance of Fire Protection Features (for example: defensible spaces, Driveway routes, fuel breaks, fuel modification plan, greenbelts, etc.) - Fire protection features must be maintained to their original performance capability in perpetuity by the Property Owners.
- In the event that automatic sprinkler systems are an acceptable alternative for fire protection, as approved by the FPAHJ, the requirements of installation shall be included in an agreement with the local fire protection authority which shall be filed with the plat.

9. Definitions.

- Accessory Building or Structure. Any building or Structure used incidentally to another building or Structure.

- b. Address Identification Signs. Signs displaying the numeric address(as approved by Gallatin County GIS) of the Structure. Address signs shall meet the requirements of the FPAHJ.
- c. Alternative. A system, condition, arrangement, material, or equipment submitted to the Fire Protection Authority Having Jurisdiction (FPAHJ) as a substitute for a code requirement.
- d. Approved. Acceptable to the Fire Protection Authority Having Jurisdiction.
- e. Aspect. Compass direction toward which a slope faces.
- f. Building. Any Structure used or intended for supporting any occupancy.
- g. Combustible. Any material that, in the form in which it is used and under the conditions anticipated, will ignite and burn (see Noncombustible).
- h. Community Wildland Protection Plan (CWPP). Community Wildfire Protection Plans are authorized and defined in Title I of the Healthy Forests Restoration Act (HFRA) passed by Congress on November 21, 2003 and signed into law by President Bush on December 3, 2003.

The Healthy Forests Restoration Act places renewed emphasis on community planning by extending a variety of benefits to communities with a wildfire protection plan in place. Critical among these benefits is the option of establishing a localized definition and boundary for the wildland-urban interface (WUI) and the opportunity to help shape fuels treatment priorities for surrounding federal and non-federal lands.

The CWPP, as described in the Act, brings together diverse local interests to discuss their mutual concerns for public safety, community sustainability and natural resources. It offers a positive, solution-oriented environment in which to address challenges such as: local firefighting capability, the need for defensible space around homes and Subdivisions, and where and how to prioritize land management – on both federal and non-federal land.

- i. Defensible Space. An area as defined by the FPAHJ, between an improved property and a potential wildland fire where the combustibles have been removed or modified with the following intent:
 - (1) To protect life and property from wildland fire.
 - (2) To reduce the potential for fire on improved property spreading to wildland fuels.

- (3) To provide a safe working area for fire fighters protecting life and improved property.
- j. Dry Hydrant. An arrangement of pipe permanently connected to a year around water source other than a piped, pressurized water supply system that provides a ready means of water supply for firefighting purposes and that utilizes the drafting (suction) capability of fire department pumpers. The point of connection between the water source and the fire department pumper shall be a fire hydrant approved by the FPAHJ.
 - k. Dwelling. One or two living units, each providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
 - l. Evacuation. The temporary movement of people and their possessions from locations threatened by a hazard.
 - m. Fire Hydrant. A valved connection on a piped year around pressured water supply system having one or more outlets that is used to supply hose and fire department pumpers with water.
 - n. Fire Lane. A means of access or other passageway designated and identified to provide access for emergency apparatus where parking is not allowed.
 - o. Fire Protection Authority Having Jurisdiction (FPAHJ). The organization, office, or individual responsible for approving equipment, an installation, or a procedure and having jurisdiction (as established by action described in, and in accordance with, Montana Codes Annotated).
 - p. Fire Resistant Landscaping. Vegetation management which removes flammable fuels from around a Structure, and access routes to the Structure, to reduce exposure to radiant heat. The flammable fuels maybe replaced with green lawn; gardens; certain individually spaced, green, ornamental shrubs; individually spaced and pruned trees; decorative rock or stone; or other non-flammable or flame resistant materials.
 - q. Fire Resistive or Fire Resistive Construction. Construction to resist the spread of fire, details of which are usually found in the currently adopted edition of the Uniform Building Code or others building code or codes as use by the FPAHJ.
 - r. Fuel Break. An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires

burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting.

- s. Fuel Hazard Rating. A measure of the fire behavior and the difficulty of fire control in non-fire-resistive materials. At the discretion of the FPAHJ, applicable references may include, but are not limited to, those available from DNRC, NFPA, and others.
- t. Fuel Loading. The volume of fuel in a given area generally expressed in tons per acre.
- u. Fuel Modification. Any manipulation or removal of fuels to reduce the likelihood of ignition or the resistance to fire control.
- v. Fuels. All combustible material within the wildland/urban interface, including vegetation and Structures.
- w. Greenbelt. An area with fire-resistive vegetation (planted or native), maintained to cause a reduction in fire intensity, and used for other than fire protection (golf course, cemetery, park, playground, mowed park, orchard, etc.).
- x. Ground Fuels. All combustible materials such as grass, duff, loose surface litter, tree or shrub roots, rotting wood, leaves, peat, or sawdust that typically support combustion.
- y. Hammerhead "T". A Roadway that provides a "T"-shaped, three-point turnaround for emergency equipment that is no narrower than the road that it serves. The top of the "T" shall be a minimum of 40 ft (12.19 m) long in each direction (see Turnaround).
- z. Hazard. A fuel complex defined by kind, arrangement, volume, condition, and location, that determines the ease of ignition and/or of resistance to fire control.
- aa. Ladder Fuels. Fuels that provide vertical continuity allowing fire to carry from surface fuels into the crowns of trees or shrubs with relative ease.
- bb. Life Risk. Events, actions, or situations created by emergency incidents that have the potential to cause serious injury or death to people.
- cc. Life Safety. Actions taken to prevent the endangerment of people threatened by emergency incidents or by activities associated with the management.
- dd. Listed. Equipment, materials, or services included in a list published by an organization that is acceptable to the Fire Protection Authority Having

Jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets identified standards or has been tested and found suitable for a specified purpose.

- ee. Mitigation. Action that moderates the severity of a fire hazard or risk.
- ff. Noncombustible. A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire.
- gg. One-Lot Subdivision. The Subdivision of an existing parcel of land that creates only one new lot, where the remainder parcel is 160 acres or greater.
- hh. Professional Engineer (PE). An engineer licensed in Montana and approved by the FPAHJ.
- ii. Public-Access Easement. A thoroughfare that has been dedicated for public use.
- jj. Rated Roof. A roof constructed with a "roof covering assembly" that is listed as meeting the requirements for Class A, B, or C "roof covering assembly materials" as determined by the FPAHJ. At the discretion of the FPAHJ, applicable references may include, but are not limited to, NFPA and other codes or listing authorities.
- kk. Roadway. An open way for passage of vehicles giving access to more than one parcel.
- ll. Shall. Indicates a mandatory requirement.
- mm. Should. Indicates a recommendation or that which is advised but not required.
- nn. Shoulder. Surface of a road adjacent to the traffic lane.
- oo. Slope. Upward or downward incline or slant, usually calculated as a percent of slope [rise or fall per 100 ft (30.45 m) of horizontal distance].
- pp. Street or Road Identification Signs. Any sign containing words, numbers, directions, or symbols that provides information to emergency responders.
- qq. Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

- rr. Traffic Lane. That portion of a Roadway that provides a single lane of vehicle travel in one direction.
- ss. Turnaround. A portion of a Roadway, unobstructed by parking, that allows for a safe reversal of direction for emergency equipment.
- tt. Turnouts. A widening in a travel way of sufficient length and width to allow emergency vehicles to pass one another.
- uu. Vegetation Management Plan. A vegetation management plan reduces the amount of fuel available for wildland fires, reducing the probability of a rapidly spreading wildland fire. Elements of the plan include removal of slash, snags, other ground fuels, ladder fuels and dead trees, and thinning of live vegetation.
- vv. Water Supply. A source of water for fire fighting activities.
- ww. Wildland Fire. An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving Structures.
- xx. Wildland/Urban Interface (or Structure-Wildland Interface). An area where improved property and wildland fuels are both present.

Appendix 1 - WILDLAND FIRE RISK AND HAZARD SEVERITY ASSESSMENT FORM

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

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

C. Topography Within 91.4 M (300 ft.) of Structure(s)

1. Slope <9%	1	_____
2. Slope 10% to 20%	4	_____
3. Slope 21% to 30%	7	_____
4. Slope 31% to 40%	8	_____
5. Slope >41%	10	_____

WILDLAND FIRE RISK AND HAZARD SEVERITY ASSESSMENT FORM (continued)**Element****Points****D. Additional Rating Factors (rate all that apply)**

1. Topographical features that adversely affect wildland fire behavior	0-5	_____
2. Areas with a history of higher fire occurrence than surrounding area due to special situations (e.g., heavy lightning, railroads, escaped debris burning, and arson)	0-5	_____
3. Areas that are periodically exposed to unusually severe fire weather and strong dry winds	0-5	_____

4. Separation of adjacent structures that can contribute to fire spread	0-5	_____

E. Roofing Assembly

1. Class A Roof	0	_____
2. Class B Roof	3	_____
3. Class C Roof	15	_____
4. Non-rated	25	_____

F. Building Construction

1. Materials (predominate)		
a. Noncombustible/fire-resistive siding, eaves, and deck (see Chapter 8)	0	_____
b. Noncombustible/fire-resistive siding and combustible deck	5	_____
c. Combustible siding and deck	10	_____
2. Building Setback Relative to Slopes of 30% or More		
a. >9.14 m (30 ft.) to slope	1	_____
b. <9.14 m (30 ft) to slope	5	_____

G. Available Fire Protection

1. Water Source Availability		
a. Pressurized water source availability		
1892.7 L /min (500 gpm) hydrants ≤304.8 m (1000 ft) apart	0	_____
946.4 L/min (250 gpm) hydrants ≤304.8 m (1000 ft.) apart	7	_____
b. Non-pressurized water source availability (off site)		
≥946.4 L/min (250 gpm) continuous for 2 hours	3	_____
<946.4 L/min (250 gpm) continuous for 2 hours	5	_____
c. Water Unavailable	10	_____
2. Organized Response Resources		
a. Station ≤8 km (5 mi.) from structure	1	_____
b. Station >8 km (5 mi.) from structure	3	_____

3. Fixed Fire Protection

- a. NFPA 13, 13R, 13D sprinkler system 0 _____
- b. None 5 _____

H. Placement of Gas and Electric Utilities

1. Both underground 0 _____
2. One underground, one above ground 3 _____
3. Both above ground 5 _____

I. Totals for Home or Subdivision (Total of all points)

Hazard Assessment Total Points

- Low Hazard <40
- Moderate Hazard 40 – 69
- High Hazard 70 -112
- Extreme Hazard >1

TABLE 1: Fire Protection Water Supply Options by Type of Residential Subdivisions

Type of Residential Subdivision	Fire Protection Water Supply Options (as described in Table 2 below)
Major Subdivision (49 or less lots/units)	Select from one of the following options: i. A ii. E iii. I and either D or F
	Select from one of the following options: i. A ii. I and either B or D
Minor Subdivision (1 lot/unit)	Select from one of the following options: i. G ii. I
Minor Subdivision (2 to 5 lots/units) * See also Section 5 of Appendix I .	Select from one of the following options: i. E ii. I and either H or C

Note: Specific details for each option are described in [Table 2](#) below and within the text of [Sections 2–5](#) of Appendix I. In accordance with the content of Appendix I, further requirements may apply depending on the specifics of the project (size of lots, location within the Wildland/Urban Interface, mixed-use development, etc.). The Fire Protection requirements for commercial subdivisions are described in [Section 6 of Appendix I](#).

TABLE 2: Summary of Fire Protection Water Supply Options for Residential Subdivisions.

Option	Means of Protection	Water Tank Size (Gallons)	Flow (gpm)	Duration of Flow (Minutes)	Hydrant Spacing (Feet)	Travel Distance (Feet)	Standard
A	Public Water Supply		1,000 @ 20 psi	120	Per Fire Code		Per Fire Code
B	Public Water Supply		1,000 @ 20 psi	60	< 1000		P.E.

C	Water Supply		1,000 @ draft	120		< 5,000	P.E.
D	Water Supply		500 @ 20 psi	120	< 1000		P.E.
E	Water Storage Tank or Pond	30,000	1,000 @ 20 psi			< 1,000	P.E.
F	Water Storage Tank or Pond	30,000	500 @ 20 psi			< 5,000	P.E.
G	Water Storage Tank or Pond	10,000	1,000 @ draft			< 1,000	P.E.
H	Water Storage Tank or Pond	10,000	500 @ 20 psi			< 5,000	P.E.
I	Automatic Fire Sprinklers						P.E. & NFPA

APPENDIX K: COMMONLY REQUIRED CONDITIONS OF APPROVAL AND COVENANTS

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 1st 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.
- d. Until such time that the Owners' Association assumes responsibility for the requirements described herein, such requirements shall be the responsibility of the developer.
- e. 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.
- f. 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.)

- g. 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.
- h. 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](#).