

TITLE 11
SUBDIVISION REGULATIONS

Subject	Chapter
General Provisions	1
General Procedures	2
Review Procedures For Major Subdivisions	3
Summary Review Procedures For Minor Subdivisions	4
Plan And Plat Information Requirements	5
Design And Improvement Standards, General	6
Design And Improvement Standards, Roads	7
Improvement Procedures	8
Environmental Assessment	9
Flood Hazard Evaluation	10
Planned Unit Development (PUD)	11
Subdivisions Created By Rent Or Lease And Condominiums	12
Administrative Provisions	13
Subdivision Exemptions	14
Design Standards And Specifications Policy	15

CHAPTER 1

GENERAL PROVISIONS

SECTION:

- 11-1-1: Title
- 11-1-2: Authority
- 11-1-3: Jurisdiction
- 11-1-4: Purpose; Intent
- 11-1-5: Severability Clause
- 11-1-6: Conditions
- 11-1-7: Definitions

11-1-1: **TITLE:** These regulations shall be known as *BELGRADE CITY SUBDIVISION REGULATIONS*. (Ord. 2004-1, 4-5-2004)

11-1-2: **AUTHORITY:** Authorization for adopting these regulations is the Montana subdivision and platting act, Montana Code Annotated title 76, chapter 3. (Ord. 2004-1, 4-5-2004)

11-1-3: **JURISDICTION:** These regulations govern the division of land within the city limits. (Ord. 2004-1, 4-5-2004)

11-1-4: **PURPOSE; INTENT:**

- A. 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 streets and highways; provide 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 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 survey¹.

- B. Intent: Further, to support the purposes of Montana Code Annotated section 76-3-102, these regulations are intended to promote and to provide for the:
1. Orderly development of the city.
 2. Coordination of roads within subdivided land with other roads, both existing and planned.
 3. Dedication of land for roadways and for public utility easements.
 4. 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 unnecessary environmental degradation.
 9. Encouragement of subdivision development 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 services.
 11. Avoidance of excessive expenditure of public funds for the supply of public 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. (Ord. 2004-1, 4-5-2004)

1. MCA § 76-3-102.

CENTRAL SEWAGE SYSTEM:	A "public sewage system" as defined in Montana Code Annotated section 75-6-102 and ARM 16.16.101.
CENTRAL WATER SYSTEM:	A "public water supply system" as defined in Montana Code Annotated section 75-6-102 and ARM 16.16.101.
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.
CITY:	City of Belgrade.
CITY ATTORNEY:	City of Belgrade attorney.
CITY ENGINEER:	City of Belgrade engineer.
CLERK AND RECORDER:	Gallatin County clerk and recorder.
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.
CONTIGUOUS TRACT:	A parcel of land next to, abutting, adjacent to, adjoining or touching another individual parcel of land, including tracts which are separated by public rights of way.
COUNCIL:	The city council of the city of Belgrade, Montana.
COVENANT:	An agreement or restriction, in writing, of two (2) or more parties by which any of the parties pledge to the others that something is done or shall be done.
DATE OF SUBMISSION:	The date at which the plat and all required supplementary information is received and certified as complete by the planning department.

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.
DIRECTOR OF PUBLIC WORKS:	City of Belgrade director of public works.
DISTRICT COURT:	Gallatin County district court.
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 these subdivision regulations and the Montana subdivision and platting act; provided, that where required by these regulations and the act, the land upon which an improvement is situated has been subdivided in compliance with the regulations and the act, the sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of these regulations and the act.
DWELLING UNIT:	Any building or portion thereof providing complete, independent and permanent living facilities for one family.
EASEMENT:	A grant by a property owner to specific persons or to the public of a right to use land for a specific purpose or purposes, in which said property owner agrees not to build, create or construct any obstruction, building, engineering works or other structures over, under, or that would interfere with said use.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER):	A person licensed in conformance with the Montana professional engineers registration act (Montana Code Annotated sections 37-67-101 through 37-67-332) to practice engineering in the state of Montana (engineer).
GOVERNING BODY:	The Belgrade city council.
GROWTH POLICY:	A "master plan" as defined in Montana Code Annotated section 76-1-103.
HEALTH AUTHORITIES:	The Montana department of environmental quality, local health officer, local sanitarian, or other authorized representative.
HEALTH DEPARTMENT:	Gallatin County city-county environmental health department.
IRREGULARLY SHAPED TRACT OF LAND:	A parcel of land other than an 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.
LIMITED ACCESS:	A way or means of allowing physical entrance to land at controlled locations or points. A "no access" strip or line may be placed on a plat as a means of limiting access.
LIMITED ACCESS ROADWAY:	A road especially designed for through traffic over which abutting landowners have no right to direct access.
LOT:	A parcel, plot or other land area created by subdivision for sale, lease, or rent.
LOT MEASUREMENTS:	
Lot Area:	The area of a lot determined exclusive of highway, alley, road, or other right of way.
Lot Depth:	The average distance from the front lot line to the rear lot line.

Lot Frontage:	The width of the front lot line.
Lot Width:	The average distance between side lot lines.
LOT TYPES:	
Corner Lot:	A lot located at the intersection of two (2) roads.
Double Frontage Lot:	A lot with both front and rear lot lines abutting a road.
Interior Lot:	A lot with frontage on only one road.
MDEQ:	Montana department of environmental quality.
MINOR SUBDIVISION:	A subdivision containing five (5) or fewer parcels where proper access to all lots is provided and where no land in the subdivision will be dedicated to public use for parks or playgrounds.
MOBILE HOME:	Any dwelling unit over thirty two feet (32') long and eight feet (8') wide which is either wholly or substantially manufactured at an off site location, without permanent foundation, and is constructed to be towed on its own chassis. This includes a portable dwelling composed of a single unit or one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or two (2) or more units separately towable but designed to be joined into one integral unit.
MOBILE HOME LOT:	A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.
MOBILE HOME PARK:	A tract of land providing two (2) or more mobile home lots for lease or rent to the general public.
MOBILE HOME STAND:	That area of a mobile home lot which has been prepared for the placement of a mobile home.

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).
NRCS:	Natural resources conservation services.
OPEN SPACE:	A land or water area devoid of buildings and other physical structures except where accessory to the provision of recreation.
ORDINARY HIGH WATER MARK:	The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to, deprivation of the 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 (Montana Code Annotated section 23-2-301).
PHYSICAL ACCESS:	Either a public road, maintained by Gallatin County; or a road built to the standards of section 11-7-9, tables 1 and 2 of this title.
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 prearranged relationship to each other and having open space and community facilities in a common ownership or use.
PLANNING BOARD:	Belgrade city-county planning board.
PLAT:	A graphic representation of a subdivision showing the division of land into lots, parcels, blocks, roads, and alleys, and other divisions and dedications.

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.
PUBLIC IMPROVEMENT:	Any structure or facility constructed to serve the residents of a subdivision or the general public such as parks, roads, sidewalks, curbs, gutters, sewage disposal and drainage.
PUBLIC ROAD:	A dedicated right of way or public road easement.
PUBLIC SEWAGE SYSTEM:	A system for collection, transportation, treatment and disposal of sewage designed to serve either ten (10) or more living units for at least sixty (60) days out of the calendar year, or twenty five (25) or more persons at least sixty (60) days out of the calendar year (Montana Code Annotated section 76-4-101 and ARM 16.16.101).
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 that is designed to serve ten (10) or more living units for at least sixty (60) days out of the calendar year, or twenty five (25) or more persons at least sixty (60) days out of the calendar year (Montana Code Annotated section 76-4-101 and ARM 16.16.101).
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.
REGULATIONS:	Belgrade city subdivision regulations.
RIGHT OF WAY:	A strip of land dedicated or acquired for use as a public way.

ROAD TYPES:	For the purposes of these regulations, road types are defined as follows (terms "street" and "road" may be used interchangeably):
Alley:	A road used primarily for vehicular access to the rear of properties which abut on and are served by public roads.
Arterial:	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 limited access to adjacent land.
Cul-De-Sac:	A road having only one outlet for vehicular traffic and terminating in a turnaround area.
Dead End Roads:	A road having only one outlet for vehicular traffic.
Frontage Access (Service Road):	A local or minor collector road, usually parallel and adjacent to an arterial or major collector road, which provides access to abutting properties and control of traffic access to arterials or collectors.
Half Road:	A portion of the width of a road, usually along the outside perimeter of a subdivision, where the remaining portion of the road must be located on adjacent property.
Loop:	A local road which begins and ends on the same road, generally used for access to properties and controls traffic access to arterials or collectors.
Major Collector:	A road that carries more than three hundred (300) trips per day having the equally important functions of moving traffic and providing access to adjacent land, including the principal and secondary entrance roads of a residential development and roads for circulation within a development.

- Minor Collector:** A road that carries more than one hundred (100) trips per day but less than three hundred (300) trips per day having the equally important functions of providing access to adjacent land and moving traffic, including roads for circulation within a development and entrance roads of a residential development.
- Minor Roads:** A road that carries less than one hundred (100) trips per day having the primary function of serving abutting properties, and the secondary function of moving traffic, including direct access to abutting properties and roads for circulation within a development.
- 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.
- STRUCTURE:** A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, or below the surface of land or water.
- SUBDIVIDER:** Any person, firm, or corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land.
- SUBDIVISION:** A division of land, or land so divided, which creates one or more parcels containing less than one hundred sixty (160) acres that cannot be described as a one-fourth ($\frac{1}{4}$) aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and shall include any resubdivision; and shall further include any condominium or area, regardless of its size, which provides or will provide multiple space for recreational camping vehicles, or mobile homes. A subdivision shall comprise only those parcels less than one hundred sixty

	(160) acres which have been segregated from the original tract, and the plat thereof shall show all such parcels whether contiguous or not. Provided, however, condominiums constructed on land previously divided in compliance with the Montana subdivision and platting act are exempt from the provision of these regulations and the act.
SURVEYOR (REGISTERED LAND SURVEYOR):	A person licensed in conformance with the Montana professional engineers' registration act (Montana Code Annotated sections 37-67-101 through 37-67-332) to practice surveying in the state of Montana.
SWALE:	A drainage channel or shallow depression designed to direct surface water flow.
TRACT:	Land area proposed to be subdivided.
TRACT OF RECORD:	A parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.
TREASURER:	Gallatin county treasurer.
USGS:	United States geological survey.
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.
WEED DEPARTMENT:	Gallatin County weed control department. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

CHAPTER 2

GENERAL PROCEDURES

SECTION:

- 11-2-1: Construction Timing
- 11-2-2: Transfers Of Title
- 11-2-3: Permission To Enter
- 11-2-4: Appeals

11-2-1: **CONSTRUCTION TIMING:** The subdivider shall not proceed with any construction work on the proposed subdivision, including grading and excavating, relating to improvements, until the council has given preliminary plat approval and only if the construction is in accordance with the conditions of preliminary plat approval. (Ord. 2004-1, 4-5-2004)

11-2-2: **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:

- A. Escrow Agent: 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.
- B. Distribution Of Payments: 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.
- C. Failure To File Final Plat: 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 (2) years of the preliminary

plat approval, the escrow agent shall immediately refund, to each purchaser, any payment made under the contract.

- D. Real Property Taxes: The treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent.
- E. Required Language: 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.

- F. Instruments Which Transfer Title: Under Montana Code Annotated section 76-3-302, 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. (Ord. 2004-1, 4-5-2004)

11-2-3: **PERMISSION TO ENTER:** The council or its designated agents may conduct such investigations, examinations and site evaluations as they deem necessary to verify information supplied. The submission of material or a plat for review shall constitute a grant of permission to enter the subject property. (Ord. 2004-1, 4-5-2004)

11-2-4: **APPEALS:**

- A. Definition: 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 specifically and injuriously affected by the decision.
- B. Time Limitation: A party who is aggrieved by a decision of the council to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within thirty (30) days after the decision, appeal to the district court. The petition must specify the grounds upon which the appeal is made.

C. Who May Appeal: The following parties may appeal under the provisions of this section:

1. The subdivider.

2. A landowner with a property boundary contiguous to the proposed subdivision or a private landowner within the county where the subdivision is proposed, if that landowner can show a likelihood of material injury to the landowner's property or its value.

3. The county commissioners.

4. Municipalities:

a. A first class municipality, if a subdivision is proposed within three (3) miles of its limits.

b. A second class municipality, if a subdivision is proposed within two (2) miles of its limits.

c. A third class municipality, if a subdivision is proposed within one mile of its limits. (Ord. 2004-1, 4-5-2004)

CHAPTER 3

REVIEW PROCEDURES FOR MAJOR SUBDIVISIONS

SECTION:

- 11-3-1: General
- 11-3-2: Presubmittal Meeting
- 11-3-3: Preapplication Plan
- 11-3-4: Concurrent Review
- 11-3-5: Preliminary Plat
- 11-3-6: Final Plat

11-3-1: **GENERAL:** Subdivisions containing six (6) or more lots, and subdivisions containing five (5) or fewer lots that do not qualify as first minor subdivisions, shall be reviewed under the procedures of this chapter. This procedure is a four (4) step process: presubmittal meeting, preapplication plan, preliminary plat and final plat. (Ord. 2004-1, 4-5-2004)

11-3-2: **PRESUBMITTAL MEETING:** The subdivider shall meet with the planning department prior to submitting a plan or plat. 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. (Ord. 2004-1, 4-5-2004)

11-3-3: **PREAPPLICATION PLAN:**

- A. Presubmittal Meeting: After the requirement for a presubmittal meeting has been satisfied and prior to submittal of a preliminary plat, the subdivider shall submit an application for preapplication review, the appropriate fee, and all required preapplication information as set forth in these regulations.

B. Planning Department Review:

1. Number Of Copies: Six (6) copies of the preapplication materials are required.

2. Time For Review: The planning department shall review the preapplication plan, and within fifteen (15) working days, advise the subdivider as to whether the plans and data meet the goals and objectives of applicable city approved plans and these regulations.

C. Optional Planning Board Review:

1. Request; Number Of Copies: The subdivider may request, in writing, that the planning board review preapplication plans. The letter of request and fourteen (14) copies of the preapplication materials are required.

2. Time For Review: The request should be received at least eighteen (18) days prior to the planning board meeting at which it is to be considered. A copy of the approved minutes of the planning board meeting will be forwarded to the subdivider. (Ord. 2004-1, 4-5-2004)

11-3-4: **CONCURRENT REVIEW:** The subdivider has the option of submitting a MDEQ/local government joint application form in the place of a preliminary plat application form, and to request concurrent subdivision review by the MDEQ and the city¹. (Ord. 2004-1, 4-5-2004)

11-3-5: **PRELIMINARY PLAT:**

A. Required:

1. Compliance Required: After the requirement for preapplication review has been satisfied, the subdivider shall submit a preliminary plat. Preliminary plats are submitted to the planning department and must conform to the requirements of these regulations. The preliminary plat shall be prepared by a surveyor licensed to practice in Montana.

1. MCA § 76-4-129.

2. Time For Review: The council shall approve, conditionally approve, or disapprove the preliminary plat within sixty (60) days of the submission of a completed application, unless the subdivider consents, in writing, to an extension of the review period.

B. Application:

1. Submittal: The subdivider shall submit an application for preliminary plat review, the appropriate fee, and all required preliminary plat information and supplementary information as set forth in these regulations.

2. Number Of Copies: Within the jurisdictional area of the planning board: Fifteen (15) copies.

3. Affected Agencies: The planning department may submit copies of the preliminary plat and supplementary information to the affected utilities and public agencies for review and comment. Review by public agencies or utilities shall not delay the council consideration of the preliminary plat beyond the statutory sixty (60) day review period.

C. Submittal: All applications should be submitted to the appropriate planning department at least thirty one (31) days prior to the next available planning board meeting. The planning department shall review the application within three (3) working days to determine if it is complete. The review period shall begin on the date that the planning department determines the application is complete. An application is complete only if it contains all of the information required by these regulations. If the application is incomplete, the application, review fee and a written deficiency notice will be returned to the subdivider.

1. Public Hearing Notice: Notice of the time and date of the preliminary plat public hearing shall be published in a newspaper of general circulation in the city not less than fifteen (15) days prior to the date of the hearing. The subdivider, each property owner of record, and each recorded purchaser under contract for deed immediately adjoining the land included in the plat shall be notified of the hearing by certified mail not less than fifteen (15) days prior to the hearing.

2. Planning Board Review: The planning board shall conduct a public hearing and review the proposed subdivision.

a. The planning board shall consider:

- (1) Relevant evidence relating to the public health, safety, and welfare.
- (2) The environmental assessment.
- (3) Other regulations in effect in the area of the proposed subdivision.
- (4) Whether the preliminary plat conforms to the provisions of:
(Ord. 2004-1, 4-5-2004)
 - (A) Any officially adopted growth policy for the area involved. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
 - (B) Applicable zoning regulations.
 - (C) The Montana subdivision and platting act.
 - (D) Subdivision regulations.

b. Within ten (10) days of the public hearing and planning board review, the planning board shall submit, in writing, to the council:

- (1) Its advice regarding the items under subsection C2a of this section.
- (2) A recommendation for approval, conditional approval, or disapproval of the plat, or no official recommendation.

D. Approval: The council shall conduct a public hearing and review the proposed subdivision. The council shall approve, conditionally approve, or disapprove the preliminary plat within sixty (60) days of determination that the application is complete, unless there is a written extension from the subdivider.

1. Basis For Decision: The basis for the council's decision shall be whether or not the preliminary plat, environmental assessment, planning board advice and recommendation, and additional information demonstrate that development of the subdivision would meet the requirements of the act. The council may not deny approval of a subdivision based solely on the subdivision's impact on educational services.

2. Findings Of Fact:

a. Criteria Discussed: The council shall issue a written findings of fact that discusses and weighs the following criteria pursuant to Montana Code Annotated section 76-3-608:

(1) Effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and the public health and safety.

(2) Compliance with the survey requirements of the act.

(3) Compliance with these local subdivision regulations and the review process of these regulations.

(4) The provision of easements for the location and installation of any necessary utilities.

(5) The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.

b. Written Findings: The written findings of fact shall include:

(1) The reason for the denial or condition imposition.

(2) The evidence that justifies the denial or condition imposition.

(3) Information regarding the appeal process for the denial or condition imposition.

3. Mitigation: The council may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these regulations. The city council shall issue written findings to justify the reasonable mitigation required by these regulations.

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

b. When requiring mitigation under this subsection, the council shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

4. Subdivision Proposed In Master Plan Area: When a subdivision is proposed in an area where a master plan has been adopted pursuant to Montana Code Annotated section 76-1-101 et seq., and the proposed subdivision will comply with the master plan, the subdivision is exempt from the review criteria contained in these regulations but is subject to applicable zoning regulations.

a. In order for a master plan to serve as the basis for the exemption provided in this subsection, the plan must, at a minimum, contain:

(1) Housing, transportation, and land use elements sufficient for the council to protect public health, safety and welfare.

(2) A discussion of physical constraints on development that exist within the area encompassed by the proposed subdivision.

- E. Approval Period: Upon approving or conditionally approving a preliminary plat, the council shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than three (3) calendar years or less than one calendar year. At the end of this period, the council may, at the request of the subdivider, extend its approval for no more than one calendar year, except that the council may extend its approval for a period of more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the city and the subdivider.
- F. Additional Conditions After Approval: After the preliminary plat is approved, the council may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided in this title. (Ord. 2004-1, 4-5-2004)

11-3-6: FINAL PLAT:

- A. Required: After the conditions of preliminary approval and the requirements for the installation of improvements have been satisfied, the subdivider shall cause to be prepared a final plat.

1. The final plat shall conform to the uniform standards for final subdivision plats.
2. All certificates, with the exception of council 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.
3. Plans and data shall be prepared under the supervision of a registered surveyor as licensing laws allow.
4. One signed cloth backed copy, one signed reproducible copy on a stable base polyester film or equivalent, one digital copy of the survey on three and one-half inch (3¹/₂") DS/DD disk, and six (6) copies shall be submitted.
5. The horizontal scale shall not be less than two hundred feet to the inch (200' = 1"), 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.

B. Review:

1. Review Of Abstract And Covenants: The certificate of a licensed title abstractor, a copy of the covenants, and the conditions of preliminary approval shall be submitted to the city attorney's office at least thirty (30) days prior to scheduling a hearing for final plat approval.
2. Final Plat Submittal: The final plat and all supplementary documents shall be submitted to the planning department at least thirty (30) days prior to the expiration of preliminary plat approval or any extension thereto, and no less than ten (10) days prior to the date of the final plat shall be presented to the council for approval. The submittal shall include an application for final review, the appropriate fee, and all required information, and a written explanation of how each of the conditions of preliminary plat approval has been satisfied.
3. Review By Planning Department: The planning department shall then review the final plat to ascertain that all other conditions and requirements for final approval have been met.

C. Approval:

1. Approval By Council: The council shall examine every final plat and, within thirty (30) days of the date of submission to the planning department, shall approve it if it conforms to the conditions of preliminary approval and the terms of these regulations.

a. If the final plat is approved, the council shall so certify in a printed certificate on the plat.

b. If the final plat is disapproved, the council shall write the subdivider a letter stating the reasons therefor.

2. Filing: The subdivider shall file the approved, signed final plat and all other required certificates and documents with the clerk and recorder within sixty (60) days of the date of final approval. (Ord. 2004-1, 4-5-2004)

CHAPTER 4

**SUMMARY REVIEW PROCEDURES FOR
MINOR SUBDIVISIONS**

SECTION:

- 11-4-1: General
11-4-2: First Minor Subdivision
11-4-3: Subsequent Minor Subdivisions

11-4-1: **GENERAL:** Subdivisions containing five (5) or fewer lots in which proper access to all lots is provided and in which no land is to be dedicated to public use for parks and playgrounds, shall be reviewed under the procedures of this chapter. (Ord. 2004-1, 4-5-2004)

11-4-2: **FIRST MINOR SUBDIVISION:** For a first minor subdivision created from a tract of record, the requirements for a public hearing and preparation of an environmental assessment do not apply.

- A. **Time For Review:** The council shall approve, conditionally approve, or disapprove the first minor subdivision from a tract of record within thirty five (35) days of the submission of a completed application, unless the subdivider consents, in writing, to an extension of the review period.
- B. **Presubmittal Meeting:** To provide assistance in the minor subdivision review process, the planning department is available to meet with the subdivider prior to submitting a subdivision application. The purpose of this meeting is to discuss the 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. If necessary, the planning department will assist the subdivider in obtaining copies of available surveys and/or plats from the clerk and recorder's office.

- C. **Preapplication Plan:** It is highly recommended that prior to submittal of a preliminary plat, the subdivider submit an application for preapplication review. The application for preapplication review should provide all of the information as set forth in these regulations. Six (6) copies of the preapplication materials should be submitted. The planning department shall review the preapplication plan and, within fifteen (15) working days, advise the subdivider as to whether the plans and data meet the goals and objectives of applicable city approved plans and these regulations.
- D. **Application:** The subdivider shall submit an application for minor subdivision review, the appropriate fee, and all required preliminary information as set forth in these regulations. Fifteen (15) copies of the application materials are required.
- E. **Submittal:**
1. **Determination Of Completeness:** All minor subdivision applications should be submitted to the planning department at least eighteen (18) days prior to the next regular planning board meeting. The planning department shall review the application within three (3) working days to determine if it is complete. The review period will begin on the date that the planning department determines the application is complete. The application shall be heard by the planning board at its next regular meeting following the determination of the completeness of the application. If the application is determined to be incomplete, the application, review fee and a written deficiency notice will be returned to the subdivider.
 2. **Planning Board Review:** The planning board shall review the proposed subdivision.
 - a. The planning board shall consider whether the preliminary plat conforms to the provisions of: (Ord. 2004-1, 4-5-2004)
 - (1) Any officially adopted growth policy for the area involved. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
 - (2) Applicable zoning regulations.
 - (3) The Montana subdivision and platting act.
 - (4) Subdivision regulations.

b. Within ten (10) days after the planning board review, the planning board shall submit, in writing, to the council:

(1) Its advice regarding the items under subsection E2a of this section.

(2) A recommendation for approval, conditional approval or disapproval of the plat, or no official recommendation.

F. Approval: The council shall approve, conditionally approve, or disapprove the preliminary plat of a first minor subdivision within thirty five (35) days of determination that the application is complete, unless there is a written extension from the subdivider.

1. Basis For Decision: The basis for the council decision shall be whether the preliminary plat, planning board advice and recommendation, and additional information demonstrate that development of the subdivision meets the requirements of the act. The council may not deny approval of a subdivision based solely on the subdivision impacts on educational services.

2. Findings Of Fact:

a. Criteria Weighed: The council shall issue written findings of fact that weigh the following criteria:

(1) The effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety.

(2) Compliance with the survey requirements of the act.

(3) Compliance with these local subdivision regulations and the review process of these regulations.

(4) The provision of easements for the location and installation of any necessary utilities.

(5) The provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument transferring the parcel.

b. Written Findings: The written findings of fact shall include:

- (1) The reason for the denial or condition imposition.
- (2) The evidence that justifies the denial or condition imposition.
- (3) Information regarding the appeal process for the denial or condition imposition.

3. Mitigation: The council may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these regulations. The council shall issue written findings to justify the reasonable mitigation required by these regulations.

a. In reviewing a subdivision under this chapter and when requiring mitigation under this subsection, the council may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.

b. When requiring mitigation under this subsection, the council shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider. (Ord. 2004-1, 4-5-2004)

4. Subdivision Proposed In Growth Policy Area: When a minor subdivision is proposed in an area where a growth policy has been adopted pursuant to Montana Code Annotated section 76-1-101, et seq., and the proposed subdivision will comply with the master plan; the subdivision is exempt from the review criteria contained in these regulations but is subject to applicable zoning regulations. In order for a growth policy to serve as the basis for the exemption provided in this subsection, the policy must, at a minimum, contain: (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

a. Housing, transportation, and land use elements sufficient for the council to protect public health, safety and welfare.

b. A discussion of physical constraints on development that exist within the area encompassed by the proposed subdivision.

- G. **Approval Period:** Upon approving or conditionally approving a preliminary plat, the council shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than three (3) calendar years nor less than one calendar year. At the end of this period, the council may, at the request of the subdivider, extend its approval for no more than one calendar year, except that the council may extend its approval for a period of more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the council and the subdivider.
- H. **Additional Conditions After Approval:** After the preliminary plat is approved, the council may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above.
- At the request of the subdivider and with the concurrence of the subdivider, the council may modify a condition of preliminary plat approval consistent with these regulations at a regularly scheduled meeting of the council
- I. **Final Plat:** The final plat shall follow the requirements of the major subdivision section. (Ord. 2004-1, 4-5-2004)

11-4-3: SUBSEQUENT MINOR SUBDIVISIONS:

- A. **Requirements And Procedures:** For second or subsequent minor subdivisions from a tract of record, the requirements for a public hearing and environmental assessment apply. The procedures of the major subdivision section apply to a second or subsequent minor subdivision.
- B. **Time For Review:** The council shall approve, conditionally approve, or disapprove the second or subsequent minor subdivision from a tract of record within sixty (60) days of the submission of a completed application, unless the subdivider consents, in writing, to an extension of the review period. (Ord. 2004-1, 4-5-2004)

CHAPTER 5

PLAN AND PLAT INFORMATION REQUIREMENTS

SECTION:

- 11-5-1: Submittal
- 11-5-2: Preapplication Plan
- 11-5-3: Preliminary Plat
- 11-5-4: Preliminary Plat Supplements
- 11-5-5: Final Plat

11-5-1: **SUBMITTAL:** All applications and supplemental material shall be bound in sets ready for distribution. All copies of plats, other maps and/or supplemental material, shall be folded to approximately eight and one-half inches (8 $\frac{1}{2}$ ") to nine inches by eleven inches (9" x 11") or eight and one-half inches (8 $\frac{1}{2}$ ") to nine inches by fourteen inches (9" x 14") in sets ready for distribution. (Ord. 2004-1 4-5-2004)

11-5-2: **PREAPPLICATION PLAN:** The preapplication plan may be a freehand sketch, legibly drawn, showing approximate boundaries, dimensions, areas and distances. The plan may be drawn directly on a print of a topographic survey required for the preliminary plat and shall include:

A. Sketch Map: A sketch map showing:

1. The name of adjoining subdivisions and numbers of adjoining certificates of survey.
2. 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.

3. Location of any existing structures, including buildings, railroads, power lines, towers, and improvements inside and within one hundred feet (100') of the proposed subdivision.
 4. Zoning classification within the proposed subdivision and adjacent to it. Proposed zoning for the subdivision if a change is contemplated.
- B. Topographic Features: Topographic features of the proposed subdivision and adjacent tracts land, including:
1. A current USGS topographic map at the largest scale available with the subdivision clearly outlined.
 2. Embankments, watercourses, drainage channels, areas of seasonal water ponding, areas within the designated floodway, marsh areas, rock outcrops, wooded areas and areas of active faults.
- C. Utilities: The existing and proposed utilities located on and adjacent to the proposed subdivision including:
1. Location, size, and depth of sanitary and storm sewers, water mains and gas lines.
 2. Location of fire hydrants, electric lines, telephone lines, sewage and water treatment, and storage facilities.
- D. Subdivision Layout: The proposed layout of the subdivision showing the approximate:
1. Subdivision blocks, tracts, and lots, with numbers, dimensions, and areas for each.
 2. Road location, right of way width, and name.
 3. Easement location, width and purpose.
 4. Sites to be dedicated or reserved as park, common open space or other public areas; with boundaries, dimensions and areas.
 5. Sites for commercial centers, churches, schools, industrial areas, condominiums, mobile home parks, and uses other than single-family residences.

- E. Development Plan: An overall development plan indicating future development of the remainder of the tract if the tract is to be developed in phases.
- F. Name And Location: A title block indicating the proposed name, quarter section, township, range, principal meridian, and county of subdivision.
- G. Notations: Scale, north arrow, name and addresses of owners and subdividers and date of preparation.
- H. Variances: A list of variance requests which will be submitted with the application for preliminary plat approval. (Ord. 2004-1, 4-5-2004)

11-5-3: **PRELIMINARY PLAT:** The preliminary plat shall be legibly drawn at the horizontal scale of not less than two hundred feet (200') to the inch; and may show 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" x 36"). 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 plat submittal shall include the following:

- A. Preapplication Information: All information required with the preapplication plan.
- B. Subdivision Information: Name and location of the subdivision, scale, scale bar, north arrow, date of preparation, lots and blocks (designated by number or letter), and the dimensions and area of each lot.
- C. 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 highways.
- D. Adjoining Subdivisions: The names of adjoining platted subdivisions and numbers of adjoining certificates of survey.
- E. 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.

- F. Section Corner: The approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.
- G. Contours: Ground contours shall be provided for the tract according to the following requirements:

Where Average Slope Is	Contour Intervals Shall Be
Under 10 percent	2 feet (If lots are over 1 acre in size, 5 feet intervals may be used)
Between 10 percent and 15 percent	5 feet
Between 15 percent and 25 percent	10 feet
25 percent or greater	A reasonable contour for the lot sizes

- H. Phased Improvements: If the improvements required are to be completed in phases after the final plat is filed, the approximate area of each phase shall be shown on the plat. (Ord. 2004-1, 4-5-2004)

11-5-4: **PRELIMINARY PLAT SUPPLEMENTS:** The following supplemental information shall be submitted with the preliminary plat:

- A. Environmental Assessment, Community Impact And Flood Hazard Evaluations: Environmental assessment, community impact and flood hazard evaluations are to be submitted as required in these regulations.
- B. Area Map: A map showing all adjacent sections of land, subdivision, certificates of survey, and roads.
- C. Subdivision Map: Map of entire subdivision on either an eight and one-half inch by eleven inch (8¹/₂" x 11") or an eleven inch by seventeen inch (11" x 17") sheet.

- D. Variances: A written statement describing the requested variance(s) and the facts of hardship upon which the request is based.
- E. Property Owners: Certified list of adjoining property owners and addresses, and property description. List of adjoining property owners and addresses on self-adhesive address labels; one list for first minor subdivisions and three (3) lists for all other subdivisions, including those across public rights of way and/or easements.
- F. Documents And Certificates: Draft or copy of the following documents and certificates to be printed on or accompany the preliminary plat:
1. Covenants, restrictions and articles of incorporation for the homeowners' association.
 2. Encroachment permits or a letter indicating intention to issue a permit where new roads, easements, rights of way or driveways intersect state, county, or city highways or roads.
 3. A letter of approval from the council or other appropriate authority where a zoning change is necessary.
 4. A draft of such other appropriate certificates.
 5. Provision for maintenance of all roads (including emergency access), parks, and other required improvements.
 6. Drafts of public improvements agreement and guarantee.
- G. Profile Sheets: Profile sheets for road grades greater than five percent (5%).
- H. Application Form: Completed preliminary plat application form.
- I. Fee: The required fee according to the fee schedule in these regulations.
- J. Weed Management And Revegetation Plan: A noxious weed management and revegetation plan approved by the weed control district for control of noxious weeds upon preliminary plat approval and during the construction of improvements. Prior to final plat approval, a memorandum of understanding shall be entered into by the weed control district and the subdivider. (Ord. 2004-1, 4-5-2004)

11-5-5: FINAL PLAT:

- A. **Compliance With Preliminary Plat; Real Property Taxes:** A final subdivision plat may not be approved by the council nor filed by the clerk and recorder unless all conditions of preliminary plat approval and all subdivision regulations as required by the council have been met. This shall include the treasurer's certificate that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.
- B. **Compliance With Uniform Standards:** A final subdivision plat may not be approved by the council nor filed by the clerk and recorder unless it complies with the following uniform standards for final subdivision plats requirements:
1. Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be twenty four inches by thirty six inches (24" x 36") overall to include a one and one-half inch (1¹/₂") margin on the binding side.
 2. One signed cloth backed or opaque Mylar copy and one signed reproducible copy on a stable based polyester film or equivalent shall be submitted.
 3. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
 4. Changes to a filed subdivision plat must be filed with the clerk and recorder as an amended plat. An amended plat may not be filed unless it meets the filing requirements for a final subdivision plat specified in these rules, except that approval by the council is not required where waived by Montana Code Annotated subsection 76-3-207(1) for relocation of common boundary lines or aggregation of five (5) or fewer lots.
- C. **Required Information:** The final plat submitted for approval shall show or contain on its face or on separate sheets referenced on the plat:
1. A title block indicating the quarter section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision".

2. Name(s) of the owner(s) of the land surveyed and the name(s) of any adjoining platted subdivision and numbers of any adjoining certificates of survey previously recorded and ties thereto.
3. North point.
4. Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing).
5. All monuments found, set, reset, replaced, or removed describing their kind, size, location and giving other data relating thereto.
6. Witness monuments, basis of bearing, bearings and lengths of lines.
7. The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.
8. Data on all curves sufficient to enable the reestablishment of the curves on the ground. The data shall include:
 - a. Radius of curve.
 - b. Arch length.
 - c. Notation of nontangent curves.
9. Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.
10. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.
11. All lots and blocks in the subdivision, designated by number or letter, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not Included In This Subdivision" or "Not Included In This Plat", as appropriate, and the boundary completely indicated by bearings and distances.)
12. All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights of way; and the names of all streets, roads and highways.

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

14. Acreage of the subdivision, gross and net.

15. A metes and bounds legal description of the perimeter boundary of the tract surveyed.

16. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the position of any corner or boundary indicated on the plat must be clearly shown.

17. The signature and seal of the registered land surveyor responsible for the survey. The affixing of his seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the act¹, and the regulations adopted pursuant thereto.

18. Memorandum of oaths administered pursuant to Montana Code Annotated section 76-3-405.

19. Certification by the council that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local government review under Montana Code subsection 76-3-207(1). Where an amended plat qualifies for such a waiver, the plat must contain a statement that pursuant to Montana Code Annotated subsection 76-3-207(1), approval by the council is not required for relocation of common boundary lines or for aggregation of lots.

D. Certifications: The following original documents shall be on the face of the approved final plat when filed with the clerk and recorder. All documents shall be properly notarized or sealed where applicable:

1. Certification of dedication of roads, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable.

1. MCA §§ 76-3-101 - 76-3-625.

2. Certification by the subdivider indicating which required public improvements have been installed and any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.

3. Certification by the council expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification.

4. Certification of examining land surveyor, where applicable.

5. Treasurer's certificate that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

E. Additional Documents; Recording Required: The following original documents shall accompany and be recorded with the approved final plat when filed with the clerk and recorder. All documents shall be properly notarized or sealed where applicable:

1. Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land. Certificate shall be accompanied by city attorney's certificate.

2. Covenants or deed restrictions required by the council.

3. Certification by the MDEQ that it has approved the plans and specifications for sanitary facilities, when required.

4. Articles of incorporation and bylaws for any property owners' association. (Ord. 2004-1, 4-5-2004)

CHAPTER 6

DESIGN AND IMPROVEMENT STANDARDS, GENERAL

SECTION:

11-6- 1:	General Standards
11-6- 2:	Lots
11-6- 3:	Blocks
11-6- 4:	Easements
11-6- 5:	Fire Protection Requirements
11-6- 6:	Grading And Drainage
11-6- 7:	Park Requirements
11-6- 8:	Sanitary Sewers
11-6- 9:	Utilities
11-6-10:	Water Supply System
11-6-11:	Mail Delivery
11-6-12:	Noxious Weeds

11-6-1: **GENERAL STANDARDS:**

- A. Conformance: The design and development of a subdivision shall conform with adopted growth policies, zoning ordinances and other resolutions and regulations. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
- B. Natural Environment: The design and development of the subdivision shall, insofar as it is possible, preserve or enhance the natural terrain, natural drainage, existing topsoil, trees, and natural vegetation.
- C. Lands Unsuitable For Subdivision: Land which the council has found to be unsuitable for subdivision because of potential hazards such as flooding, landslides, excessive slopes, rock falls, snow avalanches, subsidence, high water tables, polluted or nonpotable 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.

- D. **Revegetation:** All areas disturbed during construction shall be reseeded with vegetation types approved by the weed control supervisor.
- E. **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 any applicable floodplain regulations or applicable zoning regulations.

1. **Setback:** The subdivider shall provide the following setbacks, which parallel the ordinary high water mark of the watercourse. A one hundred foot (100') setback shall be provided between the ordinary high water mark and any residential or commercial structure.

2. **Watercourse Mitigation Plan:** The subdivider shall submit a plan and propose measures to mitigate the impacts of the subdivision on the watercourse. The plan shall evaluate the potential effects of the proposed subdivision on the watercourse; to include consideration of wildlife and fish habitat, water quality, vegetation, and watercourse health. The mitigation measures might include setbacks, building envelopes, landscaping, type and/or location of septic systems, streambank stabilization, etc. (Ord. 2004-1, 4-5-2004)

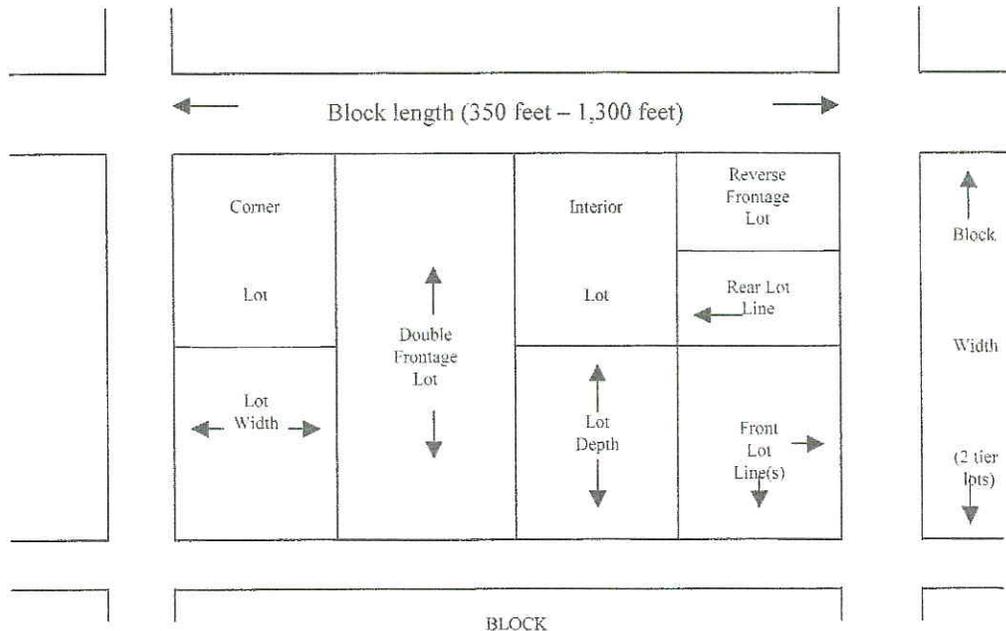
11-6-2: **LOTS:** See figure 1 of this section.

- A. **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 growth policies where officially adopted, and to the regulations of MDEQ. Slopes in excess of twenty five percent (25%) shall be presumed unsuitable for building sites unless otherwise proved by the subdivider. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

- B. 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.
- C. Double Frontage: Double frontage lots shall be avoided except where essential to:
1. Provide separation of residential development from arterial roads.
 2. Provide access to development adjacent to limited access roads.
 3. Overcome topography or other physical conditions.
 4. Overcome specific disadvantages of existing design and orientation.
- D. Corner Lots: Corner lots shall have sufficient width to permit appropriate building setback from both roads and provide acceptable visibility for traffic safety.
- E. Width: Lots shall have a width sufficient to allow normal construction without the construction encroaching on property lines.
- F. Depth: No lot shall have an average depth greater than three (3) times its average width.
- G. Side Lot Lines: Side lot lines shall be, whenever practical, at right angles or radial to road lines.
- H. 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.

(see following page)

FIGURE 1
SUBDIVISION LOT TERMS



(Ord. 2004-1, 4-5-2004)

- 11-6-3: **BLOCKS:** See section 11-6-2, figure 1 of this chapter.
- A. 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.
 - B. 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.
 - C. Block Width: Blocks shall be wide enough to allow for two (2) 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. Rights Of Way For Pedestrians: Rights of way for pedestrian walks, not less than ten feet (10') wide, shall be required where deemed

essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. (Ord. 2004-1, 4-5-2004)

11-6-4: **EASEMENTS:**

- A. Required Easements: Where determined to be necessary, the council shall require that easements be provided for utilities, drainage, vehicular or pedestrian access, and planting screens. All easements shall be shown on the plat.
- B. Utility Easements: Utility easements shall meet the following standards:
1. 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.
 2. Utility easements shall be twenty feet (20') wide; except the council may require easements for sanitary sewer, storm sewer, and water lines to be thirty feet (30') wide.
 3. 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.
 4. 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.
- C. Drainage And Irrigation Maintenance Easements: Where a subdivision is traversed by a watercourse, drainageway, channel, ditch, or stream, easements or rights of way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance. Irrigation canals/ditches shall require a minimum width

of such easement to be twenty feet (20'); fifteen feet (15') on one side and five feet (5') on the other side of the watercourse, or the width required by the owner of the waterway for maintenance purposes. Before any maintenance or improvements are performed on any watercourse, drainageway, channel, ditch, or canal, the owner of the waterway must give written permission for the work to be done. (Ord. 2004-1, 4-5-2004)

- D. Avigation Easement: An avigation easement shall accompany and be filed at the Gallatin County clerk and recorder with the final plat for the entire subdivision. The required avigation easement language is attached to the ordinance codified herein as appendix F. (Ord. 2006-2, 6-5-2006)

11-6-5: **FIRE PROTECTION REQUIREMENTS:** All subdivisions shall provide adequate fire protection in accordance with National Fire Protection Association (NFPA) standards for hydrant systems and city standards (see appendix A adopted by reference in section 11-15-1 of this title). All fire protection requirements must be reviewed and approved by the fire chief and the director of public works prior to final plat approval. (Ord. 2004-1, 4-5-2004)

11-6-6: **GRADING AND DRAINAGE:**

- A. Plan Required: 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.
- B. Drainage System And Facilities: The drainage system and facilities required for any surface runoff affecting the subdivision shall meet the minimum standards of MDEQ, as required by Montana Code Annotated title 76, chapter 4, and all regulations adopted pursuant thereto, and are subject to the approval of the council.
1. Drainage systems shall not discharge into any sanitary sewer facility.
 2. 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 council. (Ord. 2004-1, 4-5-2004)

11-6-7: PARK REQUIREMENTS:

- A. Dedications: Except as provided in subsections B, C, and F of this section, a subdivider shall dedicate to the city a cash or land donation equal to:
1. Eleven percent (11%) of the area of the land proposed to be subdivided into parcels of one-half ($\frac{1}{2}$) acre or smaller.
 2. Seven and one-half percent (7.5%) of the area of the land proposed to be subdivided into parcels larger than one-half ($\frac{1}{2}$) acre and not larger than one acre.
 3. Five percent (5%) of the area of the land proposed to be subdivided into parcels of one acre or larger but not larger than three (3) acres.
 4. Two and one-half percent (2.5%) of the area of the land proposed to be subdivided into parcels of three (3) acres or larger but not larger than five (5) acres. (Ord. 2004-1, 4-5-2004)
- B. Power Of Council To Establish: When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under Montana Code Annotated title 76, chapter 1, or pursuant to zoning regulations under Montana Code Annotated title 76, chapter 2, the council may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection A of this section and may not exceed three-hundredths (0.03) acre per dwelling unit. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)
- C. Dedication Not Required: A park dedication may not be required for:
1. A minor subdivision.
 2. Land proposed for subdivision into parcels larger than five (5) acres.
 3. Subdivision into parcels that are all nonresidential.
 4. A subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums.

5. A subdivision in which only one additional parcel is created.
- D. Location Of Parks And Playgrounds: The council, 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.
1. A "cash donation" is the fair market value of the unsubdivided, unimproved land.
 2. Where cash has been accepted in lieu of land dedication, the amount of cash donation shall be stated on the final plat.
 3. Where cash has been accepted in lieu of land dedication, the council shall record in the minutes of the meeting upon the proposed subdivision why the dedication of land for parks and playgrounds was undesirable.
 4. 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.
- E. Residential Subdivisions: All subdivisions shall be considered to be residential subdivisions and park dedication requirements shall be satisfied unless there are adopted zoning restrictions which prohibit residential development or it can be shown that the subdivider has immediate plans for nonresidential development.
- F. Criteria For Waiver: The council shall waive the park dedication requirement if:
1. 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.
 2. 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.

3. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections F1 and F2 of this section, is reduced by an amount equal to or exceeding the area of the dedication required.

G. Park Fund:

1. The council shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

2. The council may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easement only if:

a. The park, recreational area, open space, or conservation easement is within reasonably close proximity to the proposed subdivision.

b. The council has formally adopted a park plan that establishes the needs and procedures for use of the money.

3. The council may not use more than fifty percent (50%) of the dedicated money for park maintenance. (Ord. 2004-1, 4-5-2004)

11-6-8: **SANITARY SEWERS:** The subdivider shall install complete sanitary sewer system facilities in accordance with the requirements of the city and MDEQ. The subdivider shall submit plans and specifications for the proposed facilities to the director of public works and to MDEQ, and shall obtain their approvals prior to undertaking any construction. (Ord. 2004-1, 4-5-2004)

11-6-9: **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. (Ord. 2004-1, 4-5-2004)

11-6-10: **WATER SUPPLY SYSTEM:** The subdivider shall install complete water system facilities in accordance with the requirements of the city and MDEQ. The subdivider shall submit plans and specifications for the proposed facilities to the director of public works and to MDEQ, and shall obtain their approval prior to undertaking any construction. (Ord. 2004-1, 4-5-2004)

11-6-11: **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. It shall not be the responsibility of the city to maintain or plow any mail delivery area constructed within a city road right of way. (Ord. 2004-1, 4-5-2004)

11-6-12: **NOXIOUS WEEDS:** Noxious weeds shall be controlled as directed by the weed control district in accordance with the Montana county noxious weed control act.

- A. **Noxious Weed Control And Revegetation Plan:** Prior to application for preliminary plat approval, the subdivider shall design a noxious weed control and revegetation plan, and the subdivider shall submit the plan to the district for approval. This plan ensures the control of noxious weeds upon preliminary plat approval and the revegetation of any land disturbed during the construction of subdivision improvements.
- B. **Submission Of Plan:** The subdivider shall submit the approved plan at the time of application for preliminary plat approval.
- C. **Memorandum Of Understanding:** Prior to application for final plat approval, the subdivider shall enter into a memorandum of understanding (MOU) with the weed district. The MOU shall be signed between the weed district and the subdivider prior to final plat approval.

- D. Submission Of MOU: The subdivider shall submit the signed MOU at the time of application for final plat approval.
- E. Covenant: The subdivider shall ensure that after final plat approval the property owner(s) and/or property owners' association shall be responsible for the control of county declared noxious weeds by placing a covenant on the property. (Ord. 2004-1, 4-5-2004)

CHAPTER 7

DESIGN AND IMPROVEMENT STANDARDS, ROADS

SECTION:

11-7-1:	General Design
11-7-2:	Road Dedications
11-7-3:	Intersections
11-7-4:	Names
11-7-5:	Definitions And Design Standards
11-7-6:	Primary Access Road Standards
11-7-7:	Lot Access Standards
11-7-8:	Paving Requirements
11-7-9:	Improvement Standards

11-7-1: **GENERAL DESIGN:**

- A. Roads: The arrangement, type, extent, width, grade, and location of all roads shall be considered in their relation to existing and planned roads, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such roads.
- B. Relation To Unsubdivided Areas:
1. When a new subdivision adjoins unsubdivided land and access to the unsubdivided land must pass through the new subdivision, the subdivider shall provide rights of way and construct roads so as to allow suitable access to the unsubdivided land.
 2. This requirement may be waived by the public works department if one of the following criteria is met:
 - a. Topography or other physical condition would make it impracticable to provide access to adjacent unsubdivided property.
 - b. Adequate public access is otherwise available to the adjacent unsubdivided property.

c. When the adjoining unsubdivided property is under a conservation easement, public ownership, or other legally restrictive covenants.

3. The public works department must review and approve all proposed waivers.

- C. **Relation To Subdivided Areas:** The subdivider shall arrange the roads to provide for the continuation of roads between adjacent subdivided properties when such continuation is necessary for the convenient movement of traffic, effective provision of emergency services, and efficient provision of utilities.
- D. **Separation Of Through And Local Traffic:** Where a subdivision abuts or contains an existing or proposed arterial or collector road, the subdivider may be required to provide frontage roads, reverse frontage with a reservation prohibiting access along the rear property line, screen planting, or such other treatment as may be necessary for protection of residential properties and to afford separation of through and local traffic.
- E. **Distance Between Parallel Rights Of Way:** Where a subdivision borders on or contains a railroad, limited access highway, canal, ditch, or stream right of way, the subdivider may be required to provide a road approximately parallel to and on each side of such right of way at a distance suitable to allow for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation.
- F. **Dead End Roads:**
1. No dead end roads shall be permitted without an approved turn around. Where streets terminate, the subdivider shall provide either a cul-de-sac or "T" turnaround at the terminus. Cul-de-sacs and "T" turnarounds must conform to the design specification of section 11-7-9, table 1 of this chapter. Where it is planned that a dead end road will be extended in the future, a temporary cul-de-sac or "T" turnaround shall be provided.
 2. "T" turnarounds shall include two (2) straight backup lengths of thirty feet (30') each, shall have an inside turning radius of twenty six feet (26'), and shall have an outside turning radius of thirty eight feet (38').

- G. Half Roads: Half roads may be permitted only when it is shown they are beneficial to the city and are approved by the public works department.
- H. Second Or Emergency Access: To facilitate traffic, the provision of emergency services, and the placement of utility easements, the subdivider shall provide all subdivisions with six (6) or more lots with a second means of access. If, in the judgment of the council, a second dedicated right of way cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access, built to the standards in these regulations. The subdivider may be required to provide a second or emergency access for minor subdivisions if the maximum cul-de-sac length standard is exceeded or if topography or physical conditions so warrant.
- I. Road Design Standards, General: The design standards contained in these regulations shall apply to all construction, reconstruction, and paving of roads dedicated to the public or within the city maintained road system, and to roads improved through the special improvement district process. The variance procedure and standards of these regulations shall apply to the above roads.
- J. Bridges: Bridges shall be provided and installed by the subdivider where drainage channels intersect any road rights of way.
1. Bridges shall be built to water load standards and approved by the public works department.
- K. Culverts: Culverts shall be provided and installed by the subdivider where drainage channels intersect any road rights of way.
1. All culverts shall, at a minimum, extend across the entire improved width of the road cross section. The size and length of the culvert and the amount of backfill over the culvert shall be determined by a registered engineer, when determined necessary by the public works department.
 2. Each culvert or other drainage facility shall be large enough to accommodate potential runoff from upstream drainage areas. The minimum capacity of a culvert shall be equivalent to a circular diameter of fifteen inches (15").

- L. Encroachment Permits: The subdivider shall be required to obtain encroachment permits for all access to county roads and state highways. (Ord. 2004-1, 4-5-2004)

11-7-2: **ROAD DEDICATIONS:** All roads within or providing access to the proposed subdivision shall be dedicated to the public or, if the criteria of this section are met, by a public road easement. Roads dedicated to the public are accepted for public use.

- A. The easement shall be approved by the city attorney.
- B. The easement shall be recorded with the clerk and recorder.
- C. The easement shall clearly grant to the public an unrestricted right of ingress and egress from a public road to the property to be subdivided.
- D. Documented proof of maintenance of the easement must be provided. (Ord. 2004-1, 4-5-2004)

11-7-3: **INTERSECTIONS:** The following requirements apply to road intersections:

- A. The intersection of more than two (2) roads at one point shall be avoided.
- B. Roads shall be laid out so as to intersect as nearly as possible at right angles and no road shall intersect any other road at less than a seventy five degree (75°) angle.
- C. Two (2) roads meeting a third road from opposite sides shall meet at the same point, or their centerline shall be offset at least two hundred feet (200'). (Ord. 2004-1, 4-5-2004)

11-7-4: **NAMES:** The following requirements apply to road names:

- A. Existing Roads: New roads aligned with existing roads shall have the same name as the existing roads.
- B. Approval Required: All road names must be approved by the public works department prior to preliminary plat approval in order to avoid

duplication and confusion with names of existing roads. (Ord. 2004-1, 4-5-2004)

11-7-5: DEFINITIONS AND DESIGN STANDARDS:

ARTERIAL ROADS:	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 limited access to adjacent land. Generally, arterials are secondary state highways. Primary and community arterial roads shall have a minimum eighty foot (80') wide right of way and meet such other design standards as may be required by the council.
MAJOR COLLECTORS:	Roads that carry more than three hundred (300) trips per day, and have the equally important function of moving traffic and providing access to adjacent land. (See section 11-7-9, table 1 of this chapter.)
MINOR COLLECTORS:	Roads which carry more than one hundred (100) trips per day but less than three hundred (300) trips per day, and have the equally important functions of providing access to adjacent land and moving traffic. (See section 11-7-9, table 1 of this chapter.)
MINOR ROADS:	Local roads, which carry less than one hundred (100) trips per day. The primary function of a minor road is to serve abutting property, with a secondary function of moving traffic. (See section 11-7-9, table 1 of this chapter.)
MOUNTAINOUS ROADS:	Roads located on mountainous terrain. Mountainous terrain has a cross slope exceeding fifteen percent (15%).
NONMOUNTAINOUS ROADS:	Roads not located on mountainous terrain. Mountainous terrain has a cross slope exceeding fifteen percent (15%).

PRIMARY ACCESS: The major access to a subdivision. The major access generally carries the most traffic as determined by the traffic engineering study. (Ord. 2004-1, 4-5-2004)

11-7-6: **PRIMARY ACCESS ROAD STANDARDS:** All off site roads providing primary access to the proposed subdivision shall meet the following standards:

- A. Right Of Way Width And Construction Standards: Right of way width and construction standards contained in this regulation shall apply.
- B. Access Roads Dedicated To Public: Access roads shall be dedicated to the public or shall have a public easement which meets the criteria of this regulation.
- C. Primary Access Roads And Interior Subdivision: Primary access roads and interior subdivision roads shall be paved. Paving shall be done in accordance with the standards in these regulations and the city specifications (design standards and specifications adopted in section 11-15-1 of this title). (Ord. 2004-1, 4-5-2004)

11-7-7: **LOT ACCESS STANDARDS:** Lot accesses shall comply with title 10 of this code. (Ord. 2004-1, 4-5-2004)

11-7-8: **PAVING REQUIREMENTS:** All roads within the subdivision shall be built to the paving standards in these regulations and city specifications (design standards and specifications adopted by reference in section 11-15-1 of this title) and in accordance with the timing requirements below. Trips per day will be calculated based on an average of eight (8) trips per day per household. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

- A. Timing Requirements: The subdivider shall meet one of the following requirements for completion of paving. The option shall be specified in the preliminary plat submittal. If the option in subsection A2 of this section is chosen, the subdivider shall enter into an improvement agreement as set forth below:
 1. The subdivision roads shall be paved prior to final plat approval; or

2. Paving shall be completed within three (3) years of the date of final plat approval of the subdivision, or within one year of homes being built on fifty percent (50%) of the lots within the subdivision, whichever occurs first.

B. Paving Improvement Agreements: The purpose of improvement guarantees is to ensure the paving requirements of this section are met.

1. If the timing requirement in subsection A2 of this section is chosen, the council shall require an improvements agreement as a condition of final plat approval. The improvements agreement shall meet the following standards:

a. The length of time of the agreement shall not exceed three (3) years from the date of final plat approval.

b. Security in the amount equal to one hundred twenty five percent (125%) of the cost of the paving shall be included. Such security shall be in the form of a certificate of deposit, letter of credit, cash, or other reasonable security approved by the council.

c. The required security shall not be reduced or paid out until all paving requirements are met.

d. The agreement and security shall be satisfactory to the city attorney as to form and manner of execution.

2. The subdivider shall do either of the following to meet the paving requirement:

a. Pave according to the requirements of these regulations; or

b. Initiate a special improvement district (SID) to meet the paving requirements of these regulations. If the SID fails, the subdivider shall comply with subsection B2 of this section. (Ord. 2004-1, 4-5-2004)

11-7-9: **IMPROVEMENT STANDARDS:**

A. Road Construction Standards: All roads shall meet the following standards and standards contained in appendix A adopted by reference in section 11-15-1 of this title. Any deviation from these

standards must be designed by a licensed engineer and approved by the city engineer and the public works department.

TABLE 1
STREET DESIGN STANDARDS

Terrain ¹	Major/Minor Collectors		Minor Roads	
	Ordinary	Mountainous	Ordinary	Mountainous
Right of way width	60 to 100 feet	-	60 feet	-
Centerline radius on curves	300 feet	-	150 feet	-
Tangent length between reverse curves	100 feet	-	50 feet	-
Stopping sight distance	300 feet	-	200 feet	-
Angle of intersecting centerlines	75 degrees	-	75 degrees	-
Curb radius at intersections	25 feet	-	15 feet	-
Length of cul-de-sac	-	-	1,000 feet ²	-
Outside radius on cul-de-sac ROW	-	-	50 feet	-
Grade, maximum	7 percent	-	10 percent ³	-
Grade, minimum	0.5 percent	-	0.5 percent	-
Maximum grade within 150 feet of intersecting centerlines	3 percent	-	-	-
Maximum grade within 75 feet of intersecting lines	-	-	3 percent	-

Notes:

All standards are minimum standards unless noted.

1. "Mountain terrain" is defined as terrain that has a cross slope exceeding 15 percent.
2. Cul-de-sac roads that provide access to unsubdivided land may exceed this length.
3. Grades of over 10 percent shall not exceed 100 feet in length.

TABLE 2
PAVING AND STREET WIDTH STANDARDS

Average Daily Trips	Finished Gravel Width	Paving Width
Nonmountainous terrain:		
8	-	28 feet
16	-	28 feet
24	-	28 feet
32 to 99	-	28 feet
100+	-	28 feet
Major collectors and arterials	-	As approved by the council

- B. Road Signs: Road signs of the size, shape, and height as approved by the public works department, shall be placed at all intersections by the subdivider.
- C. Road Sign Standards: Location of road signs shall be designated on road plans, which are submitted for review and approval.
1. Posts: See the city specifications (design standards and specifications adopted by reference in section 11-15-1 of this title).
 2. Signs: See the city specifications (design standards and specifications adopted by reference in section 11-15-1 of this title). (Ord. 2004-1, 4-5-2004)

CHAPTER 8

IMPROVEMENT PROCEDURES

SECTION:

- 11-8-1: Improvements
- 11-8-2: Improvement Procedures
- 11-8-3: Approval Of Improvement Plans And Specifications
- 11-8-4: Bonding Requirements To Ensure Completion

11-8-1: **IMPROVEMENTS:**

- A. General: It shall be the responsibility of the subdivider to comply with the following procedures and standards for the installation of subdivision improvements.
- B. 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 council shall be prepared by an engineer or a registered land surveyor as their respective licensing laws allow.
- C. Scope Of Work:
 - 1. 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.
 - 2. The subdivider shall furnish the plans, specifications and typical section for approval by the city engineer and public works department. It shall be understood that the work to be done will not necessarily be limited to within the right of way boundaries.
 - 3. The council shall have authority to make or cause to be made any reasonable changes, alternations, amendments and additions to the

standard specifications for subdivision roads and roads not to exceed twenty five percent (25%) of the cost of the work. (Ord. 2004-1, 4-5-2004)

11-8-2: APPROVAL OF IMPROVEMENT PLANS AND SPECIFICATIONS:

- A. 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:
1. Submittal: Engineering plans and specifications for all improvements required by these regulations shall be submitted to the public works department and to MDEQ, if appropriate.
 2. Review: Plans and specifications shall be locally reviewed by the public works department and city engineer, to ascertain that the engineering plans and specifications meet the requirements of this regulation and other adopted rules and regulations. And, when determined by the public works department to be necessary, by:
 - a. Planning department to ascertain that there have been no significant deviations from the preliminary plat as approved.
 - b. Other affected local agencies and utilities.
 3. Comments And Recommendations: Written comments and recommendations from the local reviewing agencies shall be forwarded to the public works department within fifteen (15) days of submission.
 4. 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 director of public works shall either approve the plans and specifications or shall inform the subdivider, in writing, as to what additional requirements must be met to receive approval.
 5. Preconstruction Meeting: Prior to beginning construction of required road or pathway improvements, the subdivider or a representative, the subdivider's engineer, and the contractor who will install the improvements shall meet with the public works department

to ensure that improvements will be installed in accordance with approved plans and specifications.

6. 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 public works department prior to the approval of the final plat or in accordance with the terms of an executed improvements agreement.

7. Improvement Agreement: All improvement agreements shall meet the following standards:

a. The length of time of the agreement shall not exceed three (3) years from the date of final plat approval.

b. Security in the amount equal to one hundred twenty five percent (125%) of the cost of the improvement shall be included. The council 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 security shall be in the form of a certificate of deposit, letter of credit, cash, or other reasonable security approved by the council.

c. The agreement and security shall be satisfactory to the city attorney as to form and manner of execution.

d. Security for improvements, other than internal subdivision roads, shall be reduced only upon recommendation of the director of public works and approval by the council, upon request by the subdivider. Requests for partial release of security shall only be in amounts such that the security will always equal one hundred twenty five percent (125%) of the value of the uncompleted work, as determined by the city engineer, and such that not more than ninety percent (90%) of the security is released prior to completion of improvements.

e. The improvements agreements and, when needed, the security shall be placed in the keeping of the director of finance.

B. Design Standards:

1. 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 city engineer and the public works department.

a. Construction materials specified may be substituted with other appropriate materials with the approval of the city engineer.

b. Roads within mobile home and recreational vehicle parks shall meet or exceed the standards with the exception of the roadway width requirements.

c. Following the completion of all required improvements, the subdivider shall have an as built plan prepared. The as built plan 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.

2. Emergency Access Standards:

a. All emergency access roads shall be built to the standard specified with the exception that the minimum width shall be fourteen feet (14'), and a minimum of nine inches (9") of pit run shall be required.

b. All plans shall be submitted to the public works department for review and approval.

c. Provisions for maintenance of the emergency access shall be included.

- C. **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 council 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 council may require the subdivider to post a surety to guarantee repair of damages.
- D. **Control Of Work; Requirements Of Engineer:** 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 improve-

ments have been inspected and found to have been constructed in accordance with plans and specifications approved by the city engineer and public works department. The engineer shall notify and receive written approval or disapproval from the city engineer for any changes in approved plans or specifications.

- E. **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. (Ord. 2004-1, 4-5-2004)

11-8-3: ACCEPTANCE OF IMPROVEMENTS:

- A. **Acceptance Of Subdivision Roads And Bridges To City Road System:**

1. **City Standards:** Before any subdivision road or bridge can be accepted into the city road system by the council, it shall be built to meet or exceed the standards set by the city. Existing roads or bridges shall be improved to meet or exceed the standards set by the city.

2. **Maintenance Of Roads:** If a public subdivision road has been built to a paved standard approved by the public works department, the city will then accept responsibility for maintenance and snow removal of that subdivision road. (Ord. 2004-1, 4-5-2004)

11-8-4: BONDING REQUIREMENTS TO ENSURE COMPLETION:

- A. **Completion Required:** The subdivider shall complete required improvements within the subdivision prior to the approval of final plat, except as provided in these regulations.
- B. **Bond:** In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the subdivider shall provide, or cause to be provided, a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the council, providing for and securing the construction and installation of the improvements within a period specified by the council and expressed in the bonds or other security. The council shall reduce bond requirements commensurate with the completion of improvements, subject to these regulations. The bond shall be placed in the keeping of the city director of finance.

- C. Incremental Payment Or Guarantee Plan: In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements, the council may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior improvement must be satisfied before development of future increments. (Ord. 2004-1, 4-5-2004)

CHAPTER 9

ENVIRONMENTAL ASSESSMENT

SECTION:

11-9-1:	Responsibility To Submit
11-9-2:	Exemptions
11-9-3:	Contents Of Environmental Assessment
11-9-4:	Environmental Description Contents
11-9-5:	Summary Of Probable Impacts Criteria
11-9-6:	Community Impact Report Contents

11-9-1: **RESPONSIBILITY TO SUBMIT:** It shall be the responsibility of the subdivider to submit the information required by this chapter with the preliminary plat. (Ord. 2004-1, 4-5-2004)

11-9-2: **EXEMPTIONS:**

A. Criteria For Waiver: The requirement for preparing an environmental assessment pursuant to Montana Code Annotated subsection 76-3-504(1), shall be waived when:

1. The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to Montana Code Annotated section 76-1-606.

2. City zoning pursuant to a growth policy has been adopted pursuant to Montana Code Annotated sections 76-2-301 through 76-2-328.

3. A long range development program of the public works projects has been adopted pursuant to Montana Code Annotated subsection 76-1-601(4).

4. The proposed subdivision is the first minor subdivision from a tract of record.

B. **Criteria For Granting Variance:** The planning board may grant a variance to exempt the subdivider from the completion of all or any portion of the environmental assessment when:

1. The proposed subdivision is in an area covered by a growth policy adopted pursuant to Montana Code Annotated sections 76-1-101 through 76-1-606 and the proposed subdivision will be in compliance with the policy.

2. The subdivision will contain fewer than ten (10) parcels and less than twenty (20) acres.

a. The subdivider may request the variance for an exemption as a part of the preapplication process.

b. When such variance for an exemption is granted, the planning board shall prepare and certify a written statement of the reasons for granting the variance for an exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted for review. (Ord. 2004-1, 4-5-2004; amd. 2009 Code)

11-9-3: **CONTENTS OF ENVIRONMENTAL ASSESSMENT:** The environmental assessment must accompany the preliminary plat and must include the required information.

A. **Major Subdivision:** An environmental assessment must accompany the preliminary plat and must include the following information:

1. 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.

2. A summary of the probable impacts of the proposed subdivision based on the criteria described in Montana Code Annotated section 76-3-608.

3. 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.

4. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under Montana Code Annotated section 76-3-501.

B. Second Or Subsequent Minor Subdivision: An environmental assessment must accompany the preliminary plat and must include the following information:

1. A summary of the probable impacts of the proposed subdivision based on the criteria described in Montana Code Annotated section 76-3-608.

C. First Minor Subdivision From Tract Of Record: The first minor subdivision from a tract of record is exempt from any environmental assessment requirement¹. (Ord. 2004-1, 4-5-2004)

11-9-4: ENVIRONMENTAL DESCRIPTION CONTENTS:

A. Surface Water:

1. 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:

a. Natural water systems such as streams, lakes, rivers, or marshes.

b. Artificial water systems such as canals, ditches, aqueducts, reservoirs, irrigation or drainage systems.

2. Description:

a. 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.

b. Describe proximity of proposed construction (such as buildings, sewer systems, roads) to surface waters.

3. Water Body Alteration: Describe any existing or proposed stream bank or shoreline alterations or any proposed construction or

1. MCA § 76-3-609(3).

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.

4. Wetlands: When the soil survey maps indicate hydric soils are present, the subdivider shall provide a wetlands investigation completed by a certified consultant, using the U.S. army corps of engineers' wetlands 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.

B. Ground Water:

1. 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.

2. Steps To Avoid Degradation: Describe any steps necessary to avoid the degradation of ground water and ground water recharge areas.

C. Geology; Soils; Slopes:

1. Geologic Hazards: Identify geologic hazards affecting the proposed subdivision which could result in property damage or personal injury due to rock falls or slides; land, mud or snow slides; surface subsidence (e.g., settling or sinking); and seismic activity.

2. 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.

3. 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, high water table, unstable or

expansive soil conditions, and slope. On a map identify any slopes in excess of fifteen percent (15%) grade.

4. Soils Map: The subdivision shall be overlaid on the Gallatin County soil survey maps obtained from the NRCS. The maps are one to twenty four thousand (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 (5) 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 from the NRCS:

a. The physical properties and engineering indexes for each soil type.

b. Soil limitations for sanitary facilities, building site development, and water features for each soil type.

c. 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.

d. The subdivider shall provide any special design methods planned to overcome the above limitations.

5. Cuts And Fills:

a. Describe the location and amount of any cut or fill three (3) or more feet in depth. These cuts and fills should be indicated on a plat overlay or sketch map.

b. Where cuts or fills are necessary, describe any plans to prevent erosion and to promote revegetation such as replacement of topsoil and grading.

D. Vegetation:

1. Vegetation Map: On a plat overlay or sketch map:

a. Indicate the distribution of the major vegetation types such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest.

b. 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.

c. 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.

2. Protective Measures: Describe measures to preserve trees and critical plant communities (e.g., design and location of roads, lots and open spaces).

E. Wildlife:

1. Species: Describe species of fish and wildlife which use the area affected by the proposed subdivision.

2. 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.

3. 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 marshlands as undeveloped open space).

4. Department Of Fish, Wildlife And Parks: 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.

F. Historical Features:

1. 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.

2. Protective Measures: Describe any plans to protect such sites or properties.

3. Impact Discussion: 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.

- G. Visual Impact: 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 revegetation or earthworks). (Ord. 2004-1, 4-5-2004)

11-9-5: **SUMMARY OF PROBABLE IMPACTS CRITERIA:**

- A. Agriculture: The effect on agriculture and proposed mitigation of impacts.
1. Number of acres in type of production.
 2. Agricultural operations in the vicinity.
 3. Additional information as needed.
- B. Agricultural Water: The effect on agricultural water user facilities and proposed mitigation of impacts.
1. Type, description, ownership, and users of facilities.
 2. Additional information as needed.
- C. Local Services: The effect on local services and proposed mitigation of impacts.
1. Methods of water supply and sewage disposal.
 2. Provision of law enforcement services and fire protection services, and projected costs to providers.
 3. Costs of upgrading or extending off site public roads. Costs of annual road maintenance.
 4. Provision of educational services and projected costs to providers.
 5. Current amount of local property taxes, projected amount land and improvements will pay in local property taxes.

6. Provision of utilities and easements.
 7. Additional information as needed.
- D. Natural Environment: The effect on the natural environment and proposed mitigation of impacts.
1. Road drainage and erosion.
 2. Terrain and surface runoff effects.
 3. Grading and drainage plan.
 4. Effects on native vegetation, soils, quality or quantity of surface or ground waters.
 5. Weed control.
 6. Additional information as needed.
- E. Wildlife And Wildlife Habitat: The effect on wildlife and wildlife habitat and proposed mitigation of impacts.
1. Proximity to area of significant wildlife habitat or critical wildlife areas.
 2. Expected effects of pets and human activity on wildlife.
 3. Effects on fisheries.
 4. Effects on public access to public lands, trails, hunting or fishing areas.
 5. Additional information as needed.
- F. Public Health And Safety: The effect on public health and safety and proposed mitigation of impacts.
1. Potential natural hazards, i.e., flooding, snow or rock slides, high winds, wildfire, excessive slopes, etc.
 2. Potential manmade hazards, i.e., high voltage power lines, high pressure gas lines, nearby industrial or mining activity, high traffic volumes, lack of fire protection, inadequate traffic safety, etc.

3. Additional information as needed. (Ord. 2004-1, 4-5-2004)

11-9-6: **COMMUNITY IMPACT REPORT CONTENTS:**

A. Water Supply:

1. Description Of Use: Describe how water will be provided for household use and fire protection.

2. 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?

3. State Standards: Indicate whether the plans for water supply meet the standards of MDEQ for quality, quantity and construction criteria.

4. Existing Public System: If the subdivider proposes to connect to an existing water system:

a. Identify and describe that system.

b. Provide written evidence that permission to connect to that system has been obtained.

c. State the approximate distance to that system.

d. State the cost of extending or improving the existing water system to service the proposed development.

e. Show that the existing water system is adequate to serve the proposed subdivision.

5. New Public System: If a separate public water system is to be installed, discuss:

a. Who is to install that system and when it will be completed.

b. Who will administer and maintain the system at the beginning of subdivision development and when subdivision is completed.

c. Provision of evidence that the water supply is adequate in quantity, quality, and dependability.

6. 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.

B. Sewage Disposal:

1. Method: Describe the proposed method of sewage disposal.

2. 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.

3. Existing System: If the development will be connected to an existing public sewer system, include:

a. A description of that system and approximate distance from proposed subdivision.

b. Written evidence that permission to connect to that system has been obtained.

4. New System: If a new public sewage disposal system is to be installed, discuss:

a. When the system will be completed, and how it will be financed.

b. Who is to administer and maintain the proposed system at the beginning of subdivision development and when development is completed.

C. Solid Waste Disposal:

1. Collector System: Describe the proposed system of solid waste collection and disposal for the subdivision including:

a. Evidence that existing systems for collection and facilities for disposal are available and can handle the anticipated additional volume.

b. A description of the proposed alternative where no existing system is available.

c. Whether the proposed method of solid waste disposal meets the standards of MDEQ.

D. Roads:

1. Description: Describe any proposed new public or private access roads or substantial improvements of existing public or private access roads.

2. 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.

3. Modification Of Existing Roads: Explain any proposed closure or modification of existing roads.

4. Dust: Describe provisions considered for dust control on roads.

5. Pollution And Erosion: Explain how road maintenance will be provided to meet MDEQ guidelines for prevention of water pollution and erosion.

6. Installation And Maintenance: Indicate who will pay the cost of installing and maintaining dedicated and private roadways.

7. Traffic Generation: Discuss how much daily traffic will be generated on existing local and neighborhood roads and main arterials, when the subdivision is fully developed.

8. 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.

9. 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.

10. Private Access: Indicate ownership of any private access to the subdivision.

E. Utilities:

1. Affected Utilities: Indicate whether the subdivision preliminary plat has been submitted to affected utilities for review; if so, include a copy of response.

2. Furnishing, Placement Of Utilities: Include a description of:

a. The method of furnishing electric, natural gas or telephone service, where provided.

b. The extent to which these utilities will be placed underground.

c. Estimated completion of each utility installation.

d. The subdivider shall provide a written statement from the utility companies that the proposed subdivision can be provided with service.

F. Emergency Services:

1. Describe the emergency services available to the subdivision such as:

a. Fire protection. Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?

b. Police protection.

c. Ambulance service.

d. Medical services.

2. Give the estimated response time of the above services.

3. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?

a. If not, what additional expense would be necessary to make these services adequate?

b. At whose expense would the necessary improvements be made?

c. Indicate whether the subdivision preliminary plat has been submitted to affected above agencies; if so, include copy of response.

d. 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.

G. Schools:

1. Available Facilities: Describe the available educational facilities which would service this subdivision.

2. Schoolchildren: Estimate the number of schoolchildren that will be generated from the proposed subdivision.

3. Accommodation Of Concerns; Mitigation: 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.

H. Land Use:

1. 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.

2. 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.).

3. Adjacent Land Use: Describe the effect of the subdivision on adjacent land use.

4. 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.

5. Nuisance: Describe any on site or off site land uses creating a nuisance, such as unpleasant odors, unusual noises, dust or smoke.

I. Housing:

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

a. Residential, single-family.

b. Residential, multiple-family. Types of multiple-family structures and numbers of each (e.g., duplex, fourplex).

c. Planned unit development (number of units).

d. Condominium (number of units).

e. Mobile home park.

f. Recreational vehicle park.

g. Commercial or industrial.

h. Other (please describe).

2. Is the subdivision planned as a second home or recreational subdivision?

J. Parks And Recreation Facilities: Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

K. Taxation:

1. Acreage: Include a list of the number of acres in each land assessment classification prior to subdivision.

2. Existing Taxes: Describe any existing tax and existing or proposed special assessments which will affect the subdivision.

3. Anticipated Taxes: Estimate the increased amount of taxes that will be generated by the subdivision at full development using existing valuations and mill levies.

L. 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 schools						
High school						

M. Effects On Agriculture: Supply the following information:

1. The number of acres in production of crops.
2. The productivity of the land.
3. Whether or not the property is part of a viable farm unit. Was the property under production during the last regular season?
4. The other uses of land in the general locality.
5. What measures will be taken, if any, to control family pets.
6. 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 ensure that the owners of the subdivision will share with the owner of the agricultural lands in the continued maintenance of the fence.

11-9-6

11-9-6

N. Effects On Agricultural Water User Facilities:

1. Type, description of facility.
2. Ownership, users of facility. (Ord. 2004-1, 4-5-2004)

CHAPTER 10

FLOOD HAZARD EVALUATION¹

SECTION:

- 11-10-1: Use Restricted
11-10-2: Procedure
11-10-3: Waiver Of Requirement

11-10-1: **USE RESTRICTED:** Land subject to being flooded by a "flood of 100-year frequency" as defined by Montana Code Annotated title 76, chapter 5, or land deemed to be subject to flooding by the council, 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. (Ord. 2004-1, 4-5-2004)

11-10-2: **PROCEDURE:**

- A. Evaluation Required: If any portion of a proposed subdivision is within two thousand (2,000) horizontal feet and less than twenty (20) vertical feet of a watercourse draining an area of twenty five (25) square miles or more, and no official floodplain or floodway delineation (study) of the stream has been made, the subdivider shall provide, in detail, the calculated 100-year frequency water surface elevations and/or 100-year floodplain boundaries. This detailed information shall be performed by a licensed professional engineer experienced in this field of work.
- B. Submission Of Report: This information shall be submitted at the time of preliminary plat application. This information may be submitted, upon the request of the commission, to the floodplain management section, water resources division, department of natural resources and conservation (DNRC) for review and concurrence.

1. See also title 12 of this code.

C. Detailed Information: The detailed information to be submitted, shall include the following:

1. Certification: Certification by a registered professional engineer.
2. Overall Plan View: An overall scaled plan view (project map) with identified scale for vertical and horizontal distance showing the following:

- a. Watercourse.
- b. Floodplain boundaries.
- c. Location of property.
- d. Contours.
- e. Cross sections.
- f. Bridges or other contractions in the floodplain.
- g. USGS gauging stations, if any.

3. Bench Marks: The location and elevation of temporary bench mark established within the subdivision and referenced to mean sea level with appropriate elevation adjustment.

4. Cross Sectional Information¹:

a. Cross section elevations and stations should be determined at points representing significant breaks in ground slope and at changes in the hydraulic characteristics of the floodplain (e.g., points where ground cover, soil, or rock conditions change). Elevations must be reported in NAVD 88 or NGVD 29 datum.

b. Each cross section shall cross the entire floodplain. The cross section alignment should be perpendicular to the general flow of the watercourse (approximately perpendicular to contour line). Occasionally, wide floodplains require a dogleg alignment to be perpendicular to the anticipated flow lines. Shots should be taken at the water's edge and measurement taken (if elevation shots cannot

1. Photogrammetric methods may be used in lieu of cross sections whenever appropriate, and when the use has been reviewed and approved in advance by the city engineer.

be taken) to determine the channel bottom shape. Cross sections shall be accurately located on a USGS seven and one-half (7¹/₂) minute quad sheet.

c. The number of cross sections needed and the distance between cross sections will vary depending on the site, the slope of the watercourse, the slope of the channel, and the hydraulic characteristics of the reach. A minimum of four (4) cross sections are required over the entire reach with at least two (2) cross sections at the property where the elevations are desired. Additional cross sections must be taken at bridges, control structures, or natural constrictions in topography.

5. Bridges: Descriptions and sketches of all bridges within the reach, showing unobstructed waterway openings and elevations.

6. Water Surface: Elevation of the water surface is to be determined by survey as part of each valley cross section.

7. Supporting Documentation: Engineering report of computer computations, calculations, and assumptions that may include:

a. Hydrology (research of published hydrology or calculations showing how hydrology was derived).

b. Input files (hard copy and on diskette).

c. Output files (diskette only). (Ord. 2004-1, 4-5-2004)

11-10-3: **WAIVER OF REQUIREMENT:** The council shall waive this requirement where the subdivider contacts the water resources division, NRCS, and that agency states, in writing, that data indicates that the proposed subdivision is not in the "flood hazard area" as defined in this chapter. (Ord. 2004-1, 4-5-2004)

CHAPTER 11

PLANNED UNIT DEVELOPMENT (PUD)

SECTION:

- 11-11-1: Intent
11-11-2: Procedure And Submittal
11-11-3: PUD Criteria

11-11-1: **INTENT:** The intent of this chapter 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. (Ord. 2004-1, 4-5-2004)

11-11-2: **PROCEDURE AND SUBMITTAL:** The requirements of these regulations and title 10, chapter 4 of this code shall be followed, with the addition of the following information:

A. Preapplication Plan:

1. A layout plan showing the proposed location and use of lots and structures and the location and number of parking spaces, if appropriate.
2. A description of measures to be taken to assure permanence and maintenance of open space and other facilities to be under common ownership.
3. A description of all proposed waivers or modifications from the design and improvement standards.
4. Any additional, reasonable information.

B. Preliminary Plat:

1. A schedule showing the time when improvements required by these regulations will be completed where a plan calls for a development time of eighteen (18) months or more for improvements.
2. If common property is to be deeded to a property owner's association, the subdivider shall establish a property owner's association and submit a draft of all covenants and legal documents which will govern the association.
3. A description of all proposed waivers or modifications from the design and improvement standards.
4. Any additional information found to be necessary during preapplication plan review. (Ord. 2004-1, 4-5-2004)

11-11-3: **PUD CRITERIA:** The council may establish or approve a PUD and waive or modify the design and improvement standards for lots, blocks, roads, and parks, if the following criteria are met or exceeded¹:

- A. Conformance Required: The plan shall conform to the intended purposes of these regulations, the special intent of this chapter, and one or more of the following:
1. Preserve, to the maximum extent possible, the natural characteristics of the land; including topography, vegetation, streams and other bodies of water.
 2. Preserve productive agricultural land.
 3. Protect important historic sites or structures or areas of important wildlife habitat.
 4. Provide economies in the provision of roads and public improvements.

1. See also title 10, chapter 4 of this code.

- B. Site Size: The total site size, as measured by the boundary perimeter of the PUD, shall be appropriate to the proposed area and design.
- C. 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.
- D. Landscaping: Landscaping may be required between building sites or on the PUD perimeter where the council deems it necessary to provide buffer screening between different land uses.
- E. Parking Areas: Adequate parking areas shall be required for the proposed uses of the development, as determined appropriate by the council.
 - 1. Collector roads designed to furnish access to adjacent areas are dedicated.
 - 2. Adequate responsibility for the improvement and maintenance of private roads is assumed by the property owners' association.
 - 3. Road improvement specifications are met in compliance with these regulations.
- F. Other Regulations: Where there are other ordinances or regulations which require compliance to PUD or other minimum standards, this chapter does not authorize the council to waive or modify such ordinances or regulations. (Ord. 2004-1, 4-5-2004)

CHAPTER 12

**SUBDIVISIONS CREATED BY RENT OR
LEASE AND CONDOMINIUMS**

SECTION:

- 11-12-1: Survey Requirements; Review And Approval
- 11-12-2: Procedure
- 11-12-3: Plans And Data
- 11-12-4: Standards For Mobile Home Parks And Recreational Vehicle
Parks
- 11-12-5: Standards For Condominiums

11-12-1: **SURVEY REQUIREMENTS; REVIEW AND APPROVAL:**
Subdivisions created by rent or lease (e.g., mobile home parks) and condominiums are exempt from the survey requirements of these regulations, but must be submitted for review and be approved before possession of any portion thereof may be conveyed in any manner. (Ord. 2004-1, 4-5-2004)

11-12-2: **PROCEDURE:** The procedures as outlined in the major subdivision chapter and title 10, chapter 8 of this code shall be followed except as follows:

A. Final Approval Procedure:

1. The subdivider shall submit an original and three (3) copies of the plan, with required revisions, together with all signed certificates and documents as required.

2. Before any portion of a rental or lease subdivision may be rented or leased, the subdivider shall have installed all required improvements. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the public works department for approval prior to the construction of improvements. The council may provide for inspection of all required

improvements in order to assure conformance with the approved construction plans and specifications.

3. The planning department shall review the plan to ascertain that all conditions of preliminary approval have been met.

4. The council shall examine the plan within thirty (30) days of the date of submission and shall approve it if it conforms to the conditions set forth on the preliminary plan and the terms of this title. If approved, the council shall so certify in a printed certificate on the plan and provide the subdivider with one copy thereof. The original shall be filed with the public works department and one copy of the approved plan shall be retained in the planning department. If disapproved, the council shall write the subdivider a letter stating the reasons therefor. (Ord. 2004-1, 4-5-2004)

11-12-3: **PLANS AND DATA:** Plans and supplemental information required in these regulations and title 10, chapter 8 of this code shall be submitted with the following exemptions and additions:

- A. **Boundary Lines:** All plans may show approximate boundary, lot, right of way, or other lines including the plan submitted for final approval.
- B. **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):
 - 1. Covenants, restrictions, or lease and rental agreements.
 - 2. 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.
 - 3. Certificates of installation of improvements by engineer.
 - 4. Certificate of the council.
 - 5. A letter of approval from the council where a zoning change is necessary (with plan for final approval only).
 - 6. Certificate of approval by MDEQ (with plan for final approval only). (Ord. 2004-1, 4-5-2004)

11-12-4: **STANDARDS FOR MOBILE HOME PARKS AND RECREATIONAL VEHICLE PARKS:** The design and improvement standards of the regulations of title 10, chapter 8 of this code shall be complied with. (Ord. 2004-1, 4-5-2004)

11-12-5: **STANDARDS FOR CONDOMINIUMS:**

- A. Condominium Developments: Condominium developments shall meet the minimum standards of the MDEQ, adopted pursuant to Montana Code Annotated sections 76-4-101 through 76-4-128.
- B. Design And Improvement Standards: The design and improvement standards of these regulations shall be complied with, except where noted below.
- C. Exemptions: Subdivision review and approval requirements shall not apply where:
 - 1. Condominium buildings are being constructed on land divided in compliance with the act.
 - 2. An adopted zoning ordinance permits multiple-family use of the density proposed in the growth policy.
- D. Unit Ownership Act: Condominium development shall comply with all provisions of the unit ownership act, Montana Code Annotated sections 70-23-102 through 70-23-703, and all regulations adopted pursuant thereto.
- E. Other Requirements: The subdivider shall comply with all other standards and requirements of these regulations and other local and state regulations, including title 10 of this code. Condominium applications shall show the proposed location of buildings, snow storage, parking, and internal access. (Ord. 2004-1, 4-5-2004)

CHAPTER 13

ADMINISTRATIVE PROVISIONS

SECTION:

- 11-13-1: Variances
- 11-13-2: Amendments
- 11-13-3: Administration
- 11-13-4: Fees
- 11-13-5: Corrections, Amendments Or Vacation Of Recorded Final Plats
- 11-13-6: Inaccurate Or Incomplete Information
- 11-13-7: Changes To Conditions After Approval
- 11-13-8: Additional Conditions After Approval
- 11-13-9: Waivers

11-13-1: **VARIANCES:**

- A. **Hardship:** The council may grant reasonable variances from these regulations where it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety, and general welfare.
- B. **Procedure:** The subdivider shall include with the submission of the preliminary plat a written statement describing the requested variance and the facts of hardship upon which the request is based. The council shall then consider each variance at the public hearing on the preliminary plat.
- C. **Conditions:** In granting variances, the council may require such conditions as will, in its judgment, secure the objectives of these regulations.
- D. **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.

- E. Planned Unit Development: Where the standards and requirements of these regulations may be modified by the council in the case of a planned unit development, no application for a variance shall be necessary. (Ord. 2004-1, 4-5-2004)

11-13-2: **AMENDMENTS:**

- A. Power To Amend: For the purpose of providing for the public health, safety, and general welfare, the council may amend the provisions of these regulations.
- B. Hearing: Provided further, that such amendments shall not become effective until after a public hearing has been held before the council, legal notice of which shall have been given in a newspaper of general circulation in the city not less than fifteen (15) days nor more than thirty (30) days prior to the date of hearing.
- C. Amendments To Act: The council may hold a public hearing for amendments to these regulations because of amendments to the act and the administrative rules of Montana. (Ord. 2004-1, 4-5-2004)

11-13-3: **ADMINISTRATION:**

- A. Violation: Any person, firm, corporation or other entity who shall violate the provisions of this title shall be guilty of a misdemeanor.
- B. Penalties: Any violation of the provisions of this title is an offense punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment in the county jail for not more than three (3) months, or by both fine and imprisonment. Each sale or transfer, or offer of sale or transfer, of each separate parcel of land in violation of any provision of this title shall be deemed a separate and distinct offense.
- C. Enforcement:
 - 1. Every final plat must be filed for record with the clerk and recorder before title to the subdivided land can be sold or transferred in any manner or offered for sale or transfer.
 - 2. If illegal transfers or offers of any manner are made, the city attorney shall commence action to enjoin further sales or transfers or offers of sale or transfer and to compel compliance with all

provisions of these regulations, the cost of such action being imposed against the person or entity committing the illegal act. (Ord. 2004-1, 4-5-2004)

11-13-4: **FEES:** Review fees shall be paid to the planning department for each subdivision plat reviewed according to the fee schedule in these regulations (see appendix adopted by reference in section 11-15-1 of this title). (Ord. 2004-1, 4-5-2004)

11-13-5: **CORRECTIONS, AMENDMENTS OR VACATION OF RECORDED FINAL PLATS:**

A. Correction Of Errors:

1. Corrections of errors that, in the council's opinion, will not materially alter the plat may be made by the submission of a corrected final plat for the council's approval. The plat may be filed under the procedures for first minor subdivision plats.

2. The plat shall be entitled "amended plat of the (name of subdivision) subdivision" and the reason for the correction shall be stated on the face of the plat.

B. Material Alterations:

1. Amendments that materially alter the final plat or any portion thereof, shall be made by the filing of an amended plat showing all alterations. The amended plat shall be approved by the council under the major or minor subdivision procedure as is appropriate. Prior to such approval, the amended plat shall be reviewed by the planning department. The council may not approve an amendment which will place the plat in nonconformance with the standards contained herein unless a public hearing is held on the plat and a written variance from the standards issued pursuant to procedures contained herein for such variances.

2. The plat shall be entitled "amended plat of (the name) subdivision", and the reason for the amendment shall be stated on the face of the plat.

C. Vacating Recorded Plats:

1. Any plat prepared and recorded as provided herein required may be vacated, either in whole or in part, as provided by Montana Code Annotated sections 7-5-2501, 7-5-2502, 7-14-2617 and 7-14-4115; and subsections 7-14-2616(1) and (2), and 7-14-4114(1) and (2). Upon vacation, the council or the district court, as provided in Montana Code Annotated section 7-5-2502, shall determine to which properties the title to the streets and alley of the vacated portions shall revert. The council or the district court, as provided in Montana Code Annotated section 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.

2. When any pole line, 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. (Ord. 2004-1, 4-5-2004)

11-13-6: **INACCURATE OR INCOMPLETE INFORMATION:** The council 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.

- A. **Submission Of Information And Proof:** Within thirty (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.
- B. **Investigation Of Claim:** The planning department shall investigate the claim, the accompanying information and proof, and make a report to the council.
- C. **Council Consideration; Hearing:** Within fifteen (15) days after receipt of the information, the planning department shall present the report to the council at a regular meeting of the council. Notice of the

meeting shall be given to the claimant and the subdivider. At the meeting, the council shall consider the information and proof. (Ord. 2004-1, 4-5-2004)

11-13-7: **CHANGES TO CONDITIONS AFTER APPROVAL:** Upon written request of the subdivider, the council may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal.

- A. The written request shall be submitted to the planning department.
- B. The council shall conduct a public hearing on the request.
- C. Notice of the public hearing shall be given in accordance with these regulations.
- D. The council may approve the requested change if it meets the criteria set forth in these regulations, except that written findings of fact are not required. (Ord. 2004-1, 4-5-2004)

11-13-8: **ADDITIONAL CONDITIONS AFTER APPROVAL:** After the preliminary plat is approved, unless inaccurate or incomplete information has been found or a change to a condition has been requested, the council may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided in these regulations. (Ord. 2004-1, 4-5-2004)

11-13-9: **WAIVERS:**

- A. Power To Grant: In planned unit developments, the council may grant reasonable waivers from these regulations where it is found that these regulations allow a waiver to be requested and granted.
- B. Procedure: The subdivider shall include with the submission of the preliminary plat a written statement describing the requested waiver and the reasons upon which the request is based. The council shall then consider each waiver on the preliminary plat. (Ord. 2004-1, 4-5-2004)

CHAPTER 14

SUBDIVISION EXEMPTIONS

SECTION:

- 11-14- 1: Purpose
- 11-14- 2: Procedures And General Requirements
- 11-14- 3: Exemptions As Gift Or Sale To Member Of Immediate Family
- 11-14- 4: Agricultural Exemption
- 11-14- 5: Relocation Of Common Boundary Lines
- 11-14- 6: Aggregation Of Lots And/Or Relocation Of Common Boundaries Within Platted Subdivision
- 11-14- 7: Security For Construction Financing
- 11-14- 8: Court Order
- 11-14- 9: Correction Of Errors
- 11-14-10: Uniform Standards For Certificate Of Survey

11-14-1: **PURPOSE:**

- A. The state of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the act, Montana Code Annotated section 76-3-101 et seq.
- B. The following procedures, criteria and requirements shall be used to review an exemption from subdivision review and to determine whether the division of land is for the purpose of evading the act. (Ord. 2004-1, 4-5-2004)

11-14-2: **PROCEDURES AND GENERAL REQUIREMENTS:**

- A. Designation As Agent: The council designates the planning department as its agent for purposes of these regulations. All certificates of survey claiming an exemption shall be submitted to the planning department. The procedures and requirements of these regulations are limited to the exemptions specified in these regulations.

- B. **Claim For Exemption:** A claimant seeking an exemption under the act 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. Four (4) paper copies of the certificate of survey shall be submitted with the claim and shall be folded to fit in a standard eight and one-half inch (8 $\frac{1}{2}$ ") to nine inch by eleven inch (9" x 11") or eight and one-half inch (8 $\frac{1}{2}$ ") to nine inch by fourteen inch (9" x 14") folder.
- C. **Hearing:** If a hearing is required, the claimant or the claimant's representative shall be notified of the date and time of the hearing provided for in these regulations.
- D. **Review Of Claim For Exemption:** The planning department, the clerk and recorder, and the city attorney's office shall review the claimed exemption. The planning department shall make a report to the city manager who may approve exemptions on behalf of the council (city). The claimant and/or the city manager may request that the exemption be reviewed by the council at a regularly scheduled council meeting.
- E. **Time Limitation:** The city shall allow or disallow the exemption within thirty (30) days of its submission to the planning department unless the claimant has requested an extension, in which case, this time limit shall not apply.
- F. **Rebuttable Presumption:** Where a rebuttable presumption is declared in this title, the presumption may be overcome by the claimant with evidence contrary to the presumption. If the city concludes that the evidence overcomes the presumption and that, from all the circumstances, the exemption is justified, the city will allow the exemption. On the other hand, if the city concludes that the presumption is not overcome and, that from all the circumstances, the exemption is not justified, the city will disallow the exemption.
- G. **Evaluation Of Circumstances:** In assessing the claimant's purpose, the city will evaluate all relevant circumstances including the nature of the claimant's business, the prior history of the particular tract in question and the proposed configuration of the tract if the proposed exempt transactions are completed.
- H. **Allowance Of Claim:** If the exemption is allowed, the city shall so certify, in a printed certificate, on the certificate of survey.

- I. **Disallowance Of Claim:** If the exemption is disallowed, the city shall provide written notification of its decision to the person claiming the exemption and the clerk and recorder.
- J. **Certificate Of Survey:** A certificate of survey of a division of land which is exempted from review may not be filed by the clerk and recorder unless it bears the certificate of the person having a recorded interest claiming the exemption stating that the division of land is exempted from review as a subdivision and citing the applicable exemption.
- K. **Certificate Required:** Each newly created parcel less than one hundred sixty (160) acres, shall have a certificate of exemption.
- L. **Exceptions:** This title shall not be applicable to deeds, contracts, leases or other conveyances executed prior to July 1, 1974.
- M. **Payment Of Taxes And Special Assessments Required:** An exemption may not be made under this section, except for security for construction financing and court orders, unless the treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid. (Ord. 2004-1, 4-5-2004)

11-14-3: EXEMPTIONS AS GIFT OR SALE TO MEMBER OF IMMEDIATE FAMILY:

- A. **Definitions:** 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.
- B. **Proper Use Of Exemption:** 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; providing, that the use of the exemption creates no more than one additional parcel of less than one hundred sixty (160) acres in size. The parcel involved in the division must be outside of a platted subdivision. Each exemption under this section will be reviewed by the city under this title.
- C. **Certificate Of Survey:** A certificate of survey for a family transfer may include more than one exempt parcel providing all parcels meet the criteria of this section.

- D. **Creation Of New Parcels:** 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.
- E. **Rebuttable Presumption:** The city makes a rebuttable presumption that a family transfer is adopted for the purpose of evading the act if it is determined that one or more of the following conditions exist:
1. The exempted parcel would leave more than one additional parcel of less than one hundred sixty (160) acres.
 2. The member of the landowner's immediate family would have received more than one exempted parcel in Gallatin County. (Ord. 2004-1, 4-5-2004)

11-14-4: AGRICULTURAL EXEMPTION:

- A. **Definition:** An "agricultural exemption" is a division of land made outside of a platted subdivision by gift, sale or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land, revocable only by mutual consent of the city and the transferee/property owner, that the divided land will be used exclusively for agricultural purposes.
- B. **Building Or Structure Requiring Water Or Sewer Prohibited:** No building or structure requiring water or sewer facilities shall be utilized on such a parcel.
- C. **Located Outside Subdivision:** The parcel involved in the division must be outside of a platted subdivision.
- D. **Change In Use:** A change in use of the land for anything other than agricultural purposes subjects the division to these regulations. (Ord. 2004-1, 4-5-2004)

11-14-5: RELOCATION OF COMMON BOUNDARY LINES:

- A. **Proper Use Of Exemption:** The proper use of the exemption for relocating common boundary lines is to:

1. Establish a new boundary between adjoining parcels of land, without creating an additional parcel; or
 2. 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.
- B. Certificate Of Survey: A certificate of survey for the relocation of common boundary lines may include five (5) or fewer parcels and/or lots.
- C. Additional Documents Required: Certificates of survey showing the relocation of common boundary lines must be accompanied by:
1. A deed exchanging recorded interest from every person having a recorded interest in adjoining properties for the entire newly described parcel(s) that is acquiring additional land; and
 2. Documentation showing the need or reason for the relocation, i.e., structure encroachment, surveyor error or enhancement of the configuration of the property.
- D. Rebuttable Presumption: The city makes a rebuttable presumption that a proposed relocation of common boundary lines is adopted for the purpose of evading the act, if the city determines that the documentation submitted according to this chapter does not support the stated reason for relocation or created an additional parcel. (Ord. 2004-1, 4-5-2004)

**11-14-6: AGGREGATION OF LOTS AND/OR RELOCATION OF
COMMON BOUNDARIES WITHIN PLATTED SUB-
DIVISION:**

- A. Proper Use Of Exemption: The proper use of the exemption for aggregation of lots and/or relocation of common boundaries is to rearrange and/or aggregate five (5) 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 filed with clerk and recorder.
- B. Additional Documents Required: The amended plat showing the aggregation of lots and/or relocation of common boundary within a platted subdivision must be accompanied by:

1. A deed exchanging recorded interest from every person having a recorded interest in adjoining properties for the entire newly described parcel(s) that are acquiring additional land; and
 2. Documentation showing the need or reason for the relocation, i.e., structure encroachment, surveyor error or enhancement of the configuration of the property.
- C. **Rebuttable Presumption:** The city makes a rebuttable presumption that a proposed aggregation of lots and/or relocation of common boundaries within a platted subdivision is adopted for the purpose of evading the act if it determines that six (6) or more lots are affected by the proposal.
- D. **Review And Approval Required:** Any division of lots which results in an increase in the number of lots or which redesigns or rearranges six (6) or more lots must be reviewed and approved by the council prior to the filing of the final plat. (Ord. 2004-1, 4-5-2004)

11-14-7: SECURITY FOR CONSTRUCTION FINANCING:

- A. **Proper Use Of Exemption:** The proper use of the exemption is to provide security for construction mortgages, liens, or trust indentures, when a survey of the parcel has been required.
- B. **Rebuttable Presumption:** The city makes a rebuttable presumption that a division of land that is created to provide security is adopted for the purpose of evading the act under the following conditions:
1. If the division of land is created for the purpose of conveyance; or
 2. The financing is for construction on land other than on the exempted parcel.
- C. **Additional Documents Required:** When the security for construction financing exemption is to be used, the landowner shall submit, in addition to such other documents as may be required, a written statement explaining:
1. How many parcels within the original tract will be created by use of the exemption.
 2. Who will have title to and possession of the remainder of the original parcel.

3. 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.

- D. Filing Of Written Statement And Instruments: The written statement and the instruments creating the security shall be filed at the same time with the clerk and recorder. (Ord. 2004-1, 4-5-2004)

11-14-8: **COURT ORDER:** The proper use of this exemption is when the division of land is created by order of any court of record in this state or by operation of law or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, when a survey of the parcel has been required. (Ord. 2004-1, 4-5-2004)

11-14-9: **CORRECTION OF ERRORS:** Corrections of errors may be made by the submission of a corrected certificate of survey for city approval. (Ord. 2004-1, 4-5-2004)

11-14-10: **UNIFORM STANDARDS FOR CERTIFICATE OF SURVEY:**
A certificate of survey may not be filed by the clerk and recorder unless it complies with the following requirements:

- A. Size: Certificates of survey shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be eighteen inches by twenty four inches (18" x 24") overall to include a one and one-half inch (1 $\frac{1}{2}$ ") margin on the binding side.
- B. Required Copies: One signed cloth backed or opaque Mylar copy and one signed reproducible copy on a stable base polyester film or equivalent, and one digital copy of the survey on a three and one-half inch (3 $\frac{1}{2}$ ") DS/DD disk shall be submitted.
- C. Additional Sheets: Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certification shall be shown or referenced on one sheet.

- D. Required Information On Face: The certificate of survey shall show or contain on its face or on separate sheets referenced on its face the following information only:
1. A title block including the quarter section, section, township, range, principal meridian and county of the surveyed land. Space shall be provided on the certificate of survey for clerk and recorder filing information. A certificate of survey shall not bear the title "plat", "subdivision", or any other title other than "certificate of survey".
 2. Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.
 3. Date survey was completed and a brief description of why certificate of survey was prepared, such as creation of a new parcel, retracement of section line, retracement of existing tract of land.
 4. North point.
 5. Scale bar (scale shall be sufficient to legibly represent the required data on the certificate of survey submitted for filing).
 6. All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data related thereto.
 7. The location of any corners of sections or divisions of sections pertinent to the survey.
 8. Witness monuments, basis of bearing, bearings and length of lines.
 9. The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse shall be given.
 10. Data on all curves sufficient to enable the reestablishment of the curves on the ground. This data shall include:
 - a. Radius of curve.
 - b. Arc length.
 - c. Notation of nontangent curves.

11. Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.

12. A legal description of the perimeter boundary of the tract surveyed.

13. All parcels created by the survey, designated by number or letter, and the dimensions and area of each parcel. (Excepted parcels shall be marked "not included in this survey".)

14. The signature and seal of the registered land surveyor responsible for the survey. The affixing of his seal constitutes a certification by the surveyor that the certificate of survey has been prepared in conformance with the act¹, and the regulations adopted pursuant thereto.

15. Memorandum of oaths administered pursuant to Montana Code Annotated section 76-3-405.

E. Procedures For Divisions Of Land Exempted From Public Review As Subdivision: Certificates of survey for divisions of land meeting the criteria set out in Montana Code Annotated section 76-3-207, must meet the following requirements:

1. Certificates of survey of a division of land which would otherwise be a subdivision but which is exempted from public review under Montana Code Annotated section 76-3-207, may not be filed by the clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision and citing the applicable exemption.

2. Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it bears a signed and acknowledged copy of the covenant.

3. For an exemption as a gift or sale to a member of the immediate family, the certificate of survey must also indicate the name of the grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.

1. MCA §§ 76-3-101 - 76-3-625.

4. For an exemption as a relocation of a common boundary line, the certificate of survey must bear the signatures of all landowners whose parcels are changed by the relocation. The certificate of survey must show that the exemption was used only to change the location of a boundary line dividing two (2) parcels, and must clearly distinguish the prior boundary location, i.e., shown by a dashed or broken line or a notation, from the new boundary, i.e., shown by a solid line or notation.

- F. Procedures For Filing Certificates Of Survey Of Divisions Of Land Entirely Exempted From Requirements Of Act: The divisions of land described in Montana Code Annotated sections 76-3-201, 76-3-205, and 76-3-209, are not required to be surveyed nor must a certificate of survey or subdivision plat thereof be filed with the clerk and recorder. A certificate of survey of such a division may, however, be filed with the clerk and recorder if it meets the requirements for form and content for certificates contained in this chapter and bears a certificate of the surveyor performing the survey stating the applicable exemption from the act. (Ord. 2004-1, 4-5-2004)

CHAPTER 15

DESIGN STANDARDS AND SPECIFICATIONS POLICY

SECTION:

11-15-1: Adoption

11-15-1: **ADOPTION:** The "city of Belgrade design standards and specifications policy, 2004", adopted as appendices to ordinance 2004-1, is hereby incorporated by reference as fully as if set forth in full and at length. Copies are on file in the city office. (2009 Code)

