

CHAPTER I

GENERAL PROVISIONS

I-A. TITLE

These Regulations shall be known and cited as the “Broadwater County Subdivision Regulations”, hereinafter referred to as “the regulations”.

I-B. AUTHORITY

Authorization for these regulations is contained in the Montana Subdivision and Platting Act of the Montana Codes Annotated (Title 76, Chapter 3, MCA). If the code changes, the code supercedes this document.

I-C. EFFECTIVE DATE, APPLICABILITY

These regulations take effect immediately after resolution adoption. Thereafter, they apply to all new subdivision proposals and subdivision exemption requests.

Pursuant to 76-3-604, MCA, subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat are deemed to contain sufficient information for review. If the regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.

I-D. PURPOSE

Consistent with 76-3-102, MCA, the general purpose of these regulations is to:

1. Promote the public health, safety, and general welfare by regulating the subdivision of land;
2. Prevent the overcrowding of land;
3. Lessen the congestion in the streets and highways;
4. Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress and other public requirements;
5. Require development in harmony with the natural environment;
6. Promote the preservation of open space;

7. Promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
8. Protect the rights of property owners; and
9. Require uniform monumentation of land subdivision and transferring interests in real property by reference to a plat certificate of survey.

Consistent with the Montana Subdivision and Platting Act, as well as §§76-1-606, 76-3-608 and 76-3-501, MCA, these regulations are also intended to reasonably provide for:

10. The furtherance of the goals and objectives of the Broadwater County Growth Policy;
11. The orderly development of the jurisdictional area;
12. The coordination of roads within subdivided land with other roads, both existing and planned;
13. The dedication of land for roadways and for public utility easements;
14. The improvement of roads;
15. The provision of proper physical and legal access to each parcel within the proposed subdivision, including necessary easements within and to the proposed subdivision for utilities;
16. The provision of adequate open spaces for travel, light, air and recreation;
17. The provision of adequate transportation, water and drainage;
18. Subject to the provisions of 76-3-511, MCA, the regulation of sanitary facilities;
19. The avoidance or minimization of congestion;
20. The avoidance of subdivisions which would involve unnecessary environmental degradation;
21. The avoidance of subdivisions which would involve danger of injury to health, safety or welfare by reason of natural hazard, including but not limited to, fire and wildland fire, or the lack of water, drainage, access, transportation or other public services;
22. The avoidance of subdivisions which would necessitate an excessive expenditure of public funds for the supply of public services;
23. The manner and form of making and filing of any plat for subdivided lands;
24. The protection and enhancement of the resources of Broadwater County;

25. The administration of these regulations by defining the powers and duties of approving authorities, including procedures for the review and approval of all plats of subdivisions covered by these provisions.

I-E. DEFINITIONS

The definition of many technical terms and words used in these regulations can be found in Appendix A.

I-F. JURISDICTION

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Broadwater County.

If a proposed subdivision lies within one mile of a third class city or town or within two miles of a second-class city or within three miles of a first class city, the county governing body must submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat must be submitted to, and approved by, both the city or town and the county governing bodies.

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

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

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

I-G. ROLES OF PLANNING BOARD AND PLANNER

1. Pursuant to 76-1-106 and 107, MCA, the planning board serves in an advisory capacity to the governing body. Its duties include advising the governing body on all matters pertaining to the approval or disapproval of plats or subdivisions.
2. Pursuant to 76-1-306, MCA, the planning staff provides technical assistance to the planning board and governing body.
3. In the event a lack of a quorum prevents the planning board from taking action on a subdivision or subdivision-related matter within the statutory dictated times, the local

governing body may review and act on the proposal without recommendation from the planning board.

I-H. SEVERABILITY

Where any word, phrase, clause, sentence, paragraph, section or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

I-I. CONSTRUCTION TIMING

Construction work should not occur on a proposed subdivision until the governing body has given conditional approval of the preliminary plat. Any construction activity begun prior to preliminary plat approval is done at the subdivider's own risk.

I-J. PERMISSION TO ENTER

The governing body or its designated agent(s) or affected agencies identified during the pre-application meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is approved conditionally. The submission of a subdivision application constitutes a grant of permission by the subdivider and the owner of the property proposed for subdivision for the governing body, its agents, and affected agencies to enter the subject property. This consent applies to member of the public attending a noticed public meeting for a site visit.

CHAPTER II.

SUBDIVISIONS SUBJECT TO REVIEW

II-A. PURPOSE

The purpose of this chapter is to outline the subdivision application requirements and review procedures. One standard subdivision process is described, with exceptions noted in accordance with state law. An expedited subdivision review process for first minor subdivision is described at the end of the chapter.

II-B. PRE-APPLICATION PROCEDURE

1. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planner. The Planner (as subdivision administrator) is the authorized agent designated by the governing body to review subdivision applications.
2. At the pre-application meeting:

- a. The Planner shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations and floodplain regulations.
 - b. The Planner shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other organizations that the subdivider must contact in writing to solicit comment on the subdivision application.
 - c. The Planner shall identify particular additional information anticipated to be required for review of the subdivision application. This does not limit the ability of the Planning Department to request additional information at a later time.
3. Also at the pre-application meeting, the subdivider shall provide the Planner with the following items:
 - a. A brief narrative which:
 - 1) describes the proposed subdivision;
 - 2) identifies the landowner (including names of the principals of an LLC or a corporation), subdivider and the subdivider's representative names, addresses and telephone numbers;
 - 3) includes a legal description of the property;
 - 4) if applicable, documents which identify the proposed subdivision as a first minor subdivision;
 - b. A vicinity map showing the location of the proposed subdivision in relation to the nearest city or town.
 - c. A sketch plan of the proposed subdivision. The sketch plan must be legibly drawn, showing the layout of proposed features. The sketch plan may be a freehand sketch made directly on a print of a topographic map. If a topo map is not used as the base map for the sketch plan, the sketch plan shall be accompanied by a United States Geological Survey topographic map with the proposed subdivision located on it. The Planner may request any additional information at their discretion. The sketch plan shall include:
 - 1) Information on existing conditions:
 - a. existing tract and lot boundaries (if applicable);
 - b. description of general terrain;
 - c. natural features on the land, including water bodies;

- d. existing structures and improvements (if applicable);
 - e. existing utility lines and facilities serving the site, including irrigation ditches and other water user facilities (if applicable);
 - f. existing easements and rights of way (if applicable);
 - g. existing conservation easements (if applicable);
 - h. existing covenants or deed restrictions (if applicable);
 - i. adjacent land uses,
- 2) Information on the proposed subdivision:
- a) proposed subdivision tract and lot boundaries;
 - b) proposed land uses;
 - c) proposed public and private improvements;
 - d) proposed easements and rights of way; and
 - e) proposed parkland and/or open space (if applicable).
- d. The subdivider may specifically request a pre-application meeting with the Planning Board. Such meeting shall follow the pre-application meeting with the Planner and be scheduled at the earliest opportunity.
 - e. Unless the subdivider submits a subdivision application within 180 days of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.
 - f. Nothing stated by the Planning Board or Planner during the pre-application process shall bind the governing body in its ultimate decision on the proposed subdivision.

II-C. PRELIMINARY PLAT SUBMITTAL REQUIREMENTS

1. Items and information required.

The subdivider shall submit an application package for the proposed subdivision to the Planner, in accordance with the requirements of Appendix D.

2. Statutory exemptions from Environmental Assessment.

- a. Pursuant to 76-3-609(2), MCA, first minor subdivisions created from a tract of record are exempt from this requirement; and

- b. The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA; and
- c. The governing body has adopted zoning regulations pursuant to sections 76-2-301 through 76-2-328, MCA (municipal zoning); or sections 76-2-201 through 76-2-228, MCA (county zoning pursuant to a growth policy)

When an exemption from preparing any portion of the environmental assessment is sought, the Planner shall prepare a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review and shall be filed with the final plat.

3. Special submittal requirements.

- a. Subdivision created by rent, lease or other conveyance. Pursuant to 76-3-208, MCA, these subdivisions are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approval by the governing body before portions thereof may be rented or leased.

A preliminary plat, therefore, is not required. Instead, the subdivider shall submit a site plan which provides the information needed to evaluate its conformance with the applicable design and development standards outlined in Chapter IV of these regulations. For the remainder of this chapter, preliminary plat references shall pertain also to site plans unless otherwise noted.

- b. Divisions of Land less than 160 acres.

If a proposed subdivision would leave a parcel of less than 160 acres that parcel must and will be treated as an additional proposed lot within the subdivision. For example, a proposed subdivision of five lots plus a tract of land less than 160 acres from the original tract of record will be treated as a six-lot major subdivision unless the tract is otherwise exempt from subdivision review and is reviewed under the exemption process.

- c. Water and sanitation information.

Pursuant to 76-3-622, MCA, the application packet for proposed subdivision that will include new water supply or wastewater facilities shall contain the water and sanitation items listed in Appendix M as applicable.

II-D. PRELIMINARY PLAT REVIEW PROCEDURE

1. Steps

- a. **Submittal.** Two copies of the subdivision application (See Appendix D) in 3-ring binders, including the application fee, must be submitted to the planner for Element Review and Sufficiency Review. The preliminary plat must show all pertinent features of the proposed

subdivision and all proposed improvements and must be accompanied by the preliminary water and sanitation information required under 78-3-622, MCA.

- b. Element review.** Within five (5) working days of receipt of the subdivision application, the planner shall determine whether the application contains all of the required materials (as listed in Appendix C), and shall give written notice to the subdivider or subdivider's representative of such determination.
- 1) If the Planner determines that one or more elements are missing from the application, the planner shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the planner until the application is resubmitted.
 - 2) The subdivider may correct the deficiencies and resubmit the application. If the subdivider corrects the deficiencies and resubmits the application, the planner shall have five (5) working days to notify the subdivider whether the resubmitted application contains all of the required materials.
 - 3) This process shall be repeated until the subdivider submits a complete application, or the application is withdrawn.
- c. Sufficiency review.** Within fifteen (15) working days after the Planner notifies the subdivider or subdivider's representative that the application contains all of the required elements, the Planner shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations, and shall give written notification to the subdivider or subdivider's representative of the planner's determination.
- 1) If the Planner determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the planner shall identify specific required information in its notification and return the application to the subdivider, and no further action shall be taken on the application by the Planner until the material is resubmitted.
 - 2) The subdivider may correct the deficiencies and resubmit the application, or withdraw the application.
 - 3) If the subdivider corrects the deficiencies and resubmits the application, the planner shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.
 - 4) This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of these regulations, or the application is withdrawn.

A determination that an application contains sufficient information for review as provided above does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the Planner, Planning Board, or governing body to request additional information during the review process.

A determination of sufficiency by the planner pursuant to this subsection does not limit the Montana Department of Environmental Quality or County Sanitarian from requiring additional water and sanitation information as part of its review.

- d. Application review and decision deadlines.** After the Planner has notified the subdivider or subdivider's representative that an application contains sufficient information as provided above, the subdivider shall submit the remaining seven (7) subdivision application sets within five (5) working days, and the Planner shall schedule the application review by the Planning Board and governing body. The governing body shall approve, conditionally approve, or deny the proposed subdivision within thirty-five (35) working days for a first minor, and within sixty (60) days for a major subdivision or a subsequent minor or eighty (80) working days if the proposed subdivision contains 50 or more lots. The governing body shall make their recommendation based on its determination of whether the application conforms to the provisions of state law and these regulations, unless:

- 1) The subdivider agrees to an extension or suspension of the review period, not to exceed one (1) year; or
- 2) A subsequent public hearing, as applicable, is scheduled and held as provided in 76-3-615, MCA.

The review period begins on the date of Planner notification to the subdivider that the subdivision application is sufficient for review.

Pursuant to 76-3-504(1)(i), MCA, affected public utilities or agencies of local, state and federal government having a substantial interest in a proposed subdivision may not delay the governing body's action on the plat beyond the statutory time limits, and the failure of any agency to complete a review of a plat shall not be a basis for rejection of the plat by the governing body. However, Broadwater County requires that contacts with agencies be made in a timely manner.

Any review comments received by the Planner shall be made available upon receipt to the subdivider and the general public.

- e. Planner analysis.** Prior to the planning board meeting or public hearing to review the preliminary plat, the planner will provide the planning board with a completed checklist which documents the element review and sufficiency review (See Appendix C).

The Planner will evaluate the subdivision application and any comments received from agency personnel and the public. The planner's evaluation shall include completion of

the Growth Policy Compliance Evaluation Checklist (See Appendix G). A staff report with recommendations shall be submitted to the planning board in advance of the planning board meeting or public hearing. A copy of the staff report shall be provided to the subdivider and the subdivider's representative, prior to the planning board meeting or public hearing to review the proposal.

- f. Public notification and public hearing.** Pursuant to 76-3-605, MCA, the Planning Board shall hold a public hearing on the preliminary plat, except for first minor subdivisions as specified below. When a proposed subdivision is also proposed to be annexed to a municipality, the planning board may hold a joint hearing with the governing body or designated agent of the municipality on the preliminary plat and annexation.
- 1) The Planner shall issue a legal notice of the public hearing by publication in a newspaper of general circulation in the county. Said notice should first appear not less than fifteen (15) days prior to the public hearing. The notice should run for two (2) consecutive weeks.
 - 2) The Planner shall notify the subdivider and each adjoining property owner (including each purchaser under contract for deed of adjoining property) of the hearing by registered or certified mail not less than fifteen (15) days prior to the date of the planning board public hearing. The planner shall also notify lien holders, easement holders, potentially affected water users (if any, and if known), plus any existing property owners association potentially affected by the project as determined by the planner, of the hearing not less than fifteen (15) days prior to the hearing.
 - 3) Where members of the public wish to visit a tract of land proposed for subdivision in order to participate more knowledgeably in the subdivision review process, the subdivider must provide the public a scheduled opportunity to view the site.
 - 4) Pursuant to 76-3-609(2), MCA, the first minor subdivision created from a tract of record is exempted from the public hearing requirements. However, the planning board shall allow public comment at its meeting on the preliminary plat.
- g. Planning Board review.** The planning board shall consider all relevant evidence relating to the public health, safety, and welfare, to determine whether the preliminary plat should be recommended for approval, conditional approval, or disapproval by the governing body. In reviewing the proposed subdivision and arriving at its proposed findings of fact and recommendation, the Planning Board may consider:
- 1) The information submitted by the subdivider, such as the subdivision application and preliminary plat including the environmental assessment, if required;
 - 2) The summary of probable impacts and mitigation;
 - 3) These regulations, including but not limited to the standards set forth in this section;
 - 4) Applicable zoning regulations;

- 5) Other applicable regulations;
 - 6) The information submitted by review agencies and utilities;
 - 7) The information submitted by the public;
 - 8) The Broadwater County Growth Policy Plan;
 - 9) The Planner's staff report and recommendations;
 - 10) Any additional information authorized by law;
 - 11) As applicable, the six (6) public interest criteria pursuant to 76-3-608(3), MCA, namely the effect of the proposed subdivision on:
 - a) agriculture;
 - b) agricultural water user facilities;
 - c) local services;
 - d) the natural environment;
 - e) wildlife
 - f) wildlife habitat, and;
 - g) public health and safety;
 - 12) The effect of the proposed subdivision on other resources in the county;
 - 13) The effect of the proposed subdivision on the local economy;
 - 14) The effect of the proposed subdivision on public services provided by other entities in the county;
 - 15) Compliance with the survey requirements detailed in 76-3-401 et.seq., MCA
 - 16) Compliance with these regulations and the Montana Subdivision and Platting Act;
 - 17) The provision of easements for the location and installation of any planned utilities; and
 - 18) 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 of transfer concerning the parcel.
- h. Planning Board Recommendation** Within ten (10) working days after the public hearing, the planning board shall submit, in writing, to the subdivider and the governing body the following:

- 1) The recommended findings of fact based on the evidence in subsection (g) above that discuss and consider the subdivision's compliance with, and impact on, the items listed in subsection (g) of these regulations;
- 2) A recommendation of approval, conditional approval (including any recommended conditions and/or mitigation measures), or denial of the subdivision application and preliminary plat;
- 3) A recommendation for approval or denial of any requested variances;
- 4) A finding as to whether any public comments or documents presented for consideration at the planning board's public hearing constitute information or analysis of information that the public has not had a reasonable opportunity to comment; and
- 5) All comments regarding water and sanitation.

i. Governing body review and action. Within the statutory time limit for action on the proposed subdivision, the governing body shall meet to review the preliminary plat and all pertinent information, including the planning board's recommendation and public comment.

- 1) **Public Hearing and new information.** Pursuant to 76-3-615, MCA, the governing body shall determine whether public comments or documents presented for consideration at the public hearing constitute new information or an analysis of information regarding the subdivision application that the public has not had a reasonable opportunity to examine and comment upon. If so, the governing body shall determine whether the public comments or documents are relevant and credible with regard to the governing body's decision, pursuant to subsections (d) and (e) below.
 - a) If the governing body determines the new information or analysis of information is either not relevant or not credible, then the governing body shall approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information; or
 - b) If the governing body determines the new information or analysis of information is relevant and credible, then the governing body shall direct the planning board to schedule a subsequent public hearing.
 - c) The planning board shall consider only the new information or analysis of information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.
 - d) New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

e) The governing body's consideration of whether or not the new information or analysis of information is considered to be credible will include, but not be limited to, the following:

- i. Physical facts or evidence;
- ii. Corroborated personal observations;
- iii. Evidence provided by a person with professional competency in the subject matter;
or
- iv. Scientific data.

2) **Subsequent Public Hearing.** If a subsequent public hearing is held pursuant to subsection (b) above, it must be held within forty-five (45) days of the governing body's determination to request a subsequent hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing. If a subsequent public hearing is held, the sixty (60) working day review period is suspended as of the date of the governing body's decision to schedule a subsequent hearing. The sixty-working day review period resumes on the date of the governing body's next scheduled public meeting for which proper notice for the public meeting on the subdivision application can be provided.

1) Notice of the time date and location of the subsequent hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the subsequent hearing.

2) At least fifteen (15) days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified mail to the subdivider and each adjoining landowner to the land included in the preliminary plat application.

3) The governing body may require the notice be posted at a conspicuous place on the site of the proposed subdivision.

3) Pursuant to 76-3-609(2), MCA, the first minor subdivision created from a tract of record is exempted from the public hearing requirements. Once the planning board makes its preliminary plat recommendation, the governing body may consider no new substantive information, except that pertaining to the subdivider's preference regarding mitigation of impacts, as provided in 76-3-608(5), MCA.

4) In arriving at its decision, the governing body shall issue written findings of fact that weigh the criteria in subsection 2. "Review Criteria" below, as applicable.

5) The governing body shall approve, conditionally approve, or disapprove the preliminary plat. Approval or conditional approval of a preliminary plat includes all representations made publicly by the subdivider during the course of the subdivision application and review process. This includes the use(s) proposed to occur in the subdivision.

Pursuant to 76-1-605(2)(b), MCA the governing body may not conditionally approve or deny a subdivision application based solely on compliance with a growth policy plan.

- 6) Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider within 30 working days following the oral decision a dated and signed letter of approval that must be made available to the public. The governing body's approval or conditional approval of a preliminary plat shall be in force for three calendar years.
- 7) Pursuant to 76-3-604, 610 and 620, MCA, in the case of conditional approval of a preliminary plat, the governing body's written notification shall include information regarding the appeal process outlined in Chapter V of these regulations. The letter must also identify the regulations and statutes that are used in reaching the decision and it must explain how they apply to the decision. Further, the letter must provide the facts and conclusions that the governing body relied upon in making its decision, and it must reference documents, testimony, or other materials that form the basis of the decision. Finally, the letter must provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved. The governing body may, in its conditional approval, require that certain conditions be met before other development activity occurs.
- 8) After a preliminary plat is approved, the governing body 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, pursuant to 76-3-610(2), MCA.
- 9) The governing body may withdraw its approval of a preliminary plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.
- 10) **In the case of denial of a preliminary plat.** The governing body shall provide the subdivider with a dated and signed statement of disapproval within 30 working days following the oral decision that must be made available to the public. The letter must contain the items listed in subsection (8)(a) above and pursuant to 76-3-604, 610 and 620, MCA.

2. Review criteria.

The governing body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

- a. Provides easements for the location and installation of any planned utilities;
- b. Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

- c. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section II-G-3 of these regulations;
- d. Assures that the requirements of 76-3-504(1)(j), MCA regarding the disclosure and disposition of water rights as set forth in Section IV-A-13 have been considered and will be accomplished before the final plat is submitted;
- e. Assures that the requirements of 76-3-504(1)(k), MCA, regarding watercourse and irrigation easements as set forth in Section IV-B-2 have been considered and will be accomplished before the final plat is submitted; and
- f. Provides for the appropriate park dedication or cash-in-lieu.

In approving, conditionally approving, or denying a subdivision application and preliminary plat, the governing body shall consider subsection 8 above, and whether the proposed subdivision complies with these regulations, applicable zoning regulations, other applicable regulations and the Montana Subdivision and Platting Act. The governing body may also consider the following as applicable:

- g. The subdivision application and preliminary plat;
- h. The environmental assessment;
- i. The summary of probable impacts and mitigation;
- j. Comments, evidence and discussions at the public hearing(s);
- k. The planner's staff report and recommendations;
- l. Planning board recommendation; and
- m. Any additional information authorized by law.

Pursuant to 76-3-608(3), MCA, a subdivision proposal must undergo review for the following primary criteria:

- n. Impact on Agriculture

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

o. Impact on agricultural water user facilities

Agricultural water user facilities are defined as those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.

p. Impact on local services

Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens including but not limited to police, sheriff, fire, emergency, and public health services, as well as schools, bussing and roads.

q. Impacts on natural environment

The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.

r. Impacts on wildlife and wildlife habitat

Wildlife is defined as those animals that are not domesticated. Wildlife habitats are defined as the place or area where wildlife naturally lives or travels through.

s. Impacts on public health and safety

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

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

II-E. PRELIMINARY PLAT EXTENSIONS

1. Request requirements

At least thirty (30) days prior to the expiration of the preliminary plat approval, the governing body may, at the request of the subdivider, extend the approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing and

dated and signed by the members of the governing body and the subdivider or the subdivider's agent. The governing body may issue more than one extension. The request may address the following points:

- 1) Progress made in complying with the conditions of preliminary plat approval;
- 2) Circumstances which have affected the timing of the subdivision development;
- 3) The extent to which any significant changes in the area have occurred or are expected to occur during the time of the extension period; and
- 4) Whether or not the provision of public facilities and services in the area will be disrupted by the requested extension.

II-F. FINAL PLAT SUBMITTAL REQUIREMENTS

1. Items and information required

The final plat submitted for approval must conform to the preliminary plat as previously reviewed and approved by the governing body and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The subdivider shall submit a final plat application package for the proposed subdivision to the Planner, in accordance with the requirements of this section.

- a. Final Plat Application Form. The subdivider shall complete a Final Plat Application Form (Appendix T);
- b. Final plat review fee;
- c. Final plat, per MCA.
- d. As outlined in Appendix Q, the final plat submitted for approval shall show or contain particular items on the face of the plat or on separate recorded sheets referenced on the face of the plat.

II-G. FINAL PLAT REVIEW PROCESS

1. Submittal

The final plat application package (application form, final plat supplements, checklist and application fee) must be submitted to the Planner thirty (30) days prior to expiration of the preliminary plat approval period.

2. Determination of completeness

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

the Planner determines that the final plat differs substantially from the approved or conditionally approved preliminary plat, the applicant shall be required to submit an amended application.

3. Public improvements guarantee

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

If the subdivider chooses to enter into a subdivision improvements agreement, guaranteeing the public improvements through a bond or letter of credit, three bids for the cost of installation of the public improvements shall be obtained by the subdivider. In lieu of three bids a cost estimate prepared by a Registered Engineer may be accepted by the County. The amount of the guarantee shall be calculated by multiplying 125% by the highest bid. As the public improvements are installed, the subdivider shall provide a letter to the governing body indicating such, and including a copy of the engineered plans. The county engineer or consulting engineer designated by the governing body shall review and certify all public improvements have been installed in conformance with the plans and specifications. Prior to the release of the guarantee, a copy of the plans, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed in the clerk and recorder's office with reference to the final subdivision plat.

The subdivider shall provide one or more of the following financial security guarantees in the amount of a minimum of 125% of the estimated total cost of installing all required improvements:

a. Irrevocable Letter of Credit

Subject to governing body approval, the subdivider shall provide the governing body an irrevocable letter of credit from a bank or other reputable institution or individual certifying the following:

- 1) That the creditor guarantees funds in an amount equal to or greater than 125% of the cost, as approved by the governing body, of completing all required improvements;
- 2) That if the subdivider fails to complete the specified improvements within the required period, the creditor shall immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter;

- 3) That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.

b. Escrow Account

The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body.

Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

- 1) That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period;
- 2) That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

c. Surety Performance Bond

The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the Broadwater County. The bond must be in effect until the completed improvements are accepted by the governing body.

4. Application review and decision process

- a. The governing body shall examine every final subdivision plat and shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations, or deny it.
 - 1) If the final plat is approved, the governing body shall certify its approval on the face of the final plat. When applicable, a certificate of the governing body expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.
 - 2) If the final plat is denied, the governing body shall write a letter stating the reason for denial and forward a copy to the subdivider. The governing body will return the final plat to the subdivider within 10 working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.

- b. The County shall review every final subdivision to ensure that it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations.
- c. The governing body may withdraw approval of a final plat if it determines that material information provided by the subdivider is inaccurate.
- d. The final plat shall be reviewed by the County Examining Land Surveyor according to MCA.

III. SUMMARY TABLES – Subdivision Process

This Chapter provides summary tables of the subdivision application and review procedures outlined in Chapter II of these regulations. These summary tables are a guide, but the more complete procedures in Chapter II are controlling.

Subdivision Application Review Timetable

Example

Step	Statutory and/or County Deadline	Application for “Major” or Subsequent Minor”	Application for “First Minor”
Planner receives written request for Pre-Application meeting		June 1, 2010	June 1, 2010
Pre-Application meeting with planner is held	Within 30 days of receipt of written request	By June 30, 2010	By June 30, 2010
Subdivider submits subdivision application and fee to Planner	Within 90 days of Pre-Application meeting	September 28, 2010	September 28, 2010
Element Review completed by Planner	5 working days of application submittal	October 5, 2010	October 5, 2010
Sufficiency Review completed by Planner	15 working days of Element Review satisfaction	October 27, 2010	October 27, 2010
Application Review “clock” begins	Upon Sufficiency Review satisfaction Decision Deadline: 60/35 working days	October 27, 2010 Deadline: January 24, 2011	October 27, 2010 Deadline: December 16, 2010
Planning Board meeting and recommendation		December 8, 2010 (public hearing) December 22, 2010 (recommendation)	November 24, 2010 (recommendation)
Governing Body review and action		January 3, 2011 Assuming no subsequent public hearing	December 6, 2010

NOTE: **Until the subdivision application is far along in the process, there is no assurance of a decision deadline date.**

IV. DESIGN AND DEVELOPMENT STANDARDS

All subdivision approved by the governing body must comply with the provisions of this section, except where granted a variance pursuant to Section V-B Variances. The governing body may not grant variances from the provisions of Section IV-B-1 Floodplain Provisions. For subdivision created by rent or lease, planned unit developments, and Condominiums, Townhomes or Townhouses refer to Sections IV-B-5 & IV-B-6 of these regulations.

IV-A. GENERAL STANDARDS

1. Conformance with Regulations
 - a. The design and development of a subdivision must conform with any applicable zoning or other regulations.
2. Natural Environment
 - a. The design and development of subdivision must provide satisfactory building sites, which are properly related to topography, and should, to the extent possible, preserve the natural terrain, natural drainage, existing topsoil, trees and other existing vegetation.
3. Lands Unsuitable for Subdivision
 - a. Land that the governing body determines is unsuitable for subdivision because of natural or human caused hazards may not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques.
4. Improvement Design
 - a. Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or a professional land surveyor as their respective licensing laws allow in accordance with the MSPA and these regulations.
5. Lots
 - a. Each lot must contain a satisfactory building site and conform to health department regulations, applicable zoning regulations and these regulations.
 - 1) No lot may be divided by a municipal or county boundary line.
 - 2) No lot less than twenty (20) acres may be divided by a public road, alley, utility right-of-way or easement that creates a physical separation of a lot.

- 3) Each lot must have a minimum of sixty (60) feet abutting a public or private street or road. Alleys may not be used to provide the primary access to a lot.
- 4) Corner lots should be designed to provide acceptable sight distances for safe vehicular movement.
- 5) No lot may have an average dimensional ratio greater than a 3:1 ratio.
- 6) Side lot lines should be at substantially right angles to street or road lines and radial to curved street or road lines.
- 7) Through lots less than twenty (20) acres are prohibited except when they are essential to provide separation of development from traffic arteries or to overcome specific disadvantages of topography or orientation. Alleys are exempt.
- 8) Flag lots may be approved by the Broadwater County Commission as a variance to the subdivision regulation requirements upon meeting the criteria.

6. Blocks

- a. Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
- b. Unless impractical, block length must not be more than 1,600 feet.
- c. Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation, or unless the governing body approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.
- d. Right-of-way for adequate and safe pedestrian access, at least ten (10) feet wide, must be provided where deemed essential to provide circulation to schools, playgrounds, shopping, transportation, and other community facilities.

7. Streets and Roads

Broadwater County Subdivision Road Standards are specifically outlined in Appendix N. The following design and improvement standards are intended as a summary of the information provided in Appendix N.

a. Design

- 1) Roads in subdivisions shall meet appropriate County design specifications in Appendix N.

- 2) The arrangement, type, extent, width, grade and location of all streets must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them.
- 3) Where streets terminate, either a cul-de-sac or “T” turnaround must be provided at the terminus.
- 4) All streets must be dedicated for public use to be owned and maintained by a property owners’ association or an inclusive road maintenance agreement.
- 5) Residential driveways should not have direct access to primary highways. Any vehicular access onto a state highway must be approved by the Montana Department of Transportation.
- 6) Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the governing body may require frontage roads or other treatment as may be necessary to adequately protect residential properties and to separate arterial and local traffic.
- 7) Half streets are prohibited except when they are essential to the development of the subdivision and when the governing body is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.
- 8) The alignment of all streets and roads must provide adequate sight distances.
- 9) Names of new streets or roads aligned with existing streets must be the same as those of the existing streets. Proposed street names may not duplicate or cause confusion with existing street names.
- 10) Proposed road plans and profiles as required by Appendix N are subject to approval by the Planning Department or Road Department prior to construction.

b. Improvements

- 1) All roadway improvements including pavement, curbs, gutters, sidewalks and drainage must be constructed accordance with the specifications and standards prescribed in these regulations using materials approved by the governing body.
- 2) Roadway sub-grades must be free of topsoil, sod, vegetation or organic matter, soft clay and other substandard materials. Subgrades must be properly rolled, shaped and compacted and must be approved by the governing body.
- 3) Streets and roads must be designed to ensure proper drainage. This may require surface crowning, culverts, curbs and gutters, drainage swales and storm drains.

- 4) Where access from a public road to the subdivision will cross properties not owned by the subdivider, the subdivider must obtain proper easements of sufficient width.
 - a) Easements must be granted by each property owner in a signed and notarized document. A model road access easement is included as Appendix N.
 - b) The location of any road easement must be shown on the plat or on a supplemental map. The existence of easements must be noted on the face of the final plat and on any deeds or other instruments conveying lots within the subdivision.
- 5) Existing trees and other vegetation should be preserved whenever appropriate. Plantings may be required for buffering, screening or prevention of soil erosion and are subject to approval by the governing body.
- 6) Street lights may be required subdivisions proposed within or adjacent to areas with existing street lighting. Street lighting may be required in other areas such as intersections when necessary to protect public safety.
- 7) Street or road signs and traffic control devices of the size, shape and height approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the *Manual on Uniform Control Devices* available from the Montana Department of Transportation.
- 8) When required by the United States Postal Service, the subdivider must provide an off-street area for mail delivery.
- 9) When required by the local school district, the subdivider must provide a school bus turnaround.
- 10) Any disturbance or excavation of an existing roadway shall be mitigated by restoring the road to pre-existing conditions or better as approved by the Broadwater County Road Supervisor or his designated representative.

8. Drainage Facilities

- a. The drainage system and facilities required for any surface run-off affecting the subdivision are subject to approval by the governing body. Subdivisions containing lots less than twenty (20) acres in size must also be reviewed and approved under Title 76, Chapter 4, MCA, by the DEQ.
- b. A grading and drainage plan must meet the requirements of current DEQ Regulations and/or be subject to approval by the Planning Department if deemed necessary by the Planning Board.

- c. Curbs and gutters or swales will be required based on the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended in conformance with current specifications of local and state authorities.
- d. Culverts and bridges of adequate size must be provided and installed by the subdivider where drainage channels intersect any street or road right-of-way or easement. All culverts and bridges must be constructed and installed according to applicable local and state standards. Culverts and other drainage facilities must be large enough to accommodate potential run-off from upstream drainage areas.
- e. Each culvert or other drainage facility must be large enough to accommodate potential run-off from upstream drainage areas for the 10-year, 24-hour storm event and be in compliance with Broadwater County Subdivision Road Standards.
- f. The subdivider must provide suitable drainage facilities for any surface run-off affecting the subdivision. These facilities must be located in street rights-of-way or in perpetual easements of appropriate widths.
- g. Drainage systems must not discharge into any sanitary sewer facility.
- h. The governing body may require the subdivider to grant easements to prevent encroachment or disruption of drainageways or facilities. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat.

9. Water Supply Systems

- a. For subdivisions that will create one or more parcels containing less than twenty (20) acres, the proposed method of supplying domestic water to each lot in the subdivision must comply with the design standards adopted by the Montana DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.303 and 17.36.305. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meaning assigned to them in ARM 17.36.101.
- b. The governing body may not approve the final plat of a subdivision containing lots of less than twenty (20) acres in size, unless the subdivision has been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivision Act, Section 76-4-101 *et seq.*, MCA
- c. Any central water supply system must provide adequate and accessible water for fire protection.

10. Sewage Treatment Systems

- a. For subdivision that will create one or more parcels containing less than twenty (20) acres, the proposed method of disposing of sewage from each lot in the subdivision must comply

with the design standards adopted by the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.312 and 17.36.320 through 17.36.326. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.

- b. For subdivision that will create one or more parcels containing less than twenty (20) acres, the subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, Sections 76-4-101 *et seq.*, MCA before the governing body can approve the final plat.
- c. For subdivisions containing parcels twenty (20) acres or greater, the subdivider shall have demonstrated that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot before the governing body may approve the final plat.

11. Solid Waste

- a. For subdivisions that will create one or more parcels less than twenty (20) acres, the proposed method of storing and disposing of solid waste generated within the subdivision must comply with the standards adopted by the DEQ and contained in the Administrative Rules of Montana (ARM) 17.36.309. By this reference this DEQ standard is incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. For subdivisions that will create one or more parcels twenty (20) acres or more, the proposed method of storing and disposing of solid waste generated within the subdivision must comply with the local Solid Waste Department.

12. Utilities

- a. Utility easements located between adjoining lots should be centered on lot lines, and be a minimum of ten (10) feet on either side of the line. When easements are placed in the street, they must be located between the roadway and the right-of-way line.
- b. Utility easements must be a minimum of twenty (20) feet wide unless otherwise specified by a utility company or governing body.
- c. The subdivider must provide easements for the construction and maintenance of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision.
- d. Utilities must be placed underground, wherever practical. Underground utilities, if placed in a street right-of-way, must be located between the roadway and the right-of-way line to

simplify location and repair of lines. Underground facilities must be installed after the street has been brought to grade and before it is surfaced.

- e. Power shall be installed abutting to and available to each lot within the subdivision. Phone service shall be installed to the subdivision.
- f. Where practical, overhead utility lines must be located at the rear property line.
- g. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules and regulations of the appropriate regulatory authorities.
- h. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body or local or state highway department.
- i. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear on the final plat;

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

13. Disposition of Water Rights

If a subdivision will create lots averaging less than five (5) acres in size, the subdivider shall submit evidence with the final plat that the subdivider has;

- a. Reserved all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;
- b. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a landowner’s water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
- c. Reserved and severed all surface water rights from the land proposed for subdivision.

14. Change in Use of Water Rights

Where a change in use to an existing water right is required or necessitated by development, the subdivider shall submit evidence that the proposed change in use has been approved by the Montana Department of Natural Resources and Conservation prior to final plat.

15. New Source of Water Supply

Where a new source of water supply is required for a development, the subdivider shall submit evidence that:

- a. DNRC has been contacted regarding the proposed new source of supply prior to preliminary plat, and
- b. Provide documentation that DNRC has given approval for the proposed new source of supply prior to final plat.

16. Park Land Dedication

- a. Except as provided below, the final plat of a residential subdivision must show that the subdivider has dedicated to the governing body a cash or land donation equal to:
 - 1) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - 2) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and smaller than one acre;
 - 3) 5% of the area of the land proposed to be subdivided into parcels larger than one acre and smaller than three acres; and
 - 4) 2.5% of the area of the land proposed to be subdivided into parcels larger than three acres and smaller than five acres.
- b. A park dedication is not required for:
 - 1) Minor subdivisions;
 - 2) Subdivision lots larger than five acres;
 - 3) Non-residential subdivision lots;
 - 4) Subdivisions in which parcels of land will not be created, other than subdivisions that will provide permanent multiple spaces for recreational camping vehicles, mobile homes or condominiums, townhomes or townhouses; or
 - 5) Subdivisions which will create only one additional parcel.

- c. The governing body, 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 donation is required, the cash donation may not exceed the proportional amount not covered by the land donation. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision.
- d. The governing body will waive the park dedication requirement if it determines that:
 - 1) The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and
 - 2) The area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under Subsection 18.
 - 3) The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interest; or aesthetic values; and
 - 4) The provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under Subsection 18-a above.
 - 5) The area of the land proposed to be subdivided, by virtue of a combination of the provisions of Subsections (d)(1) and (2) above, is reduced by an amount equal to or exceeding the area of the dedication required under Subsection 18-a.
 - 6) The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
 - 7) The area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under Subsection 18.
- e. Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided under subsection 18(a) to a school district, adequate to be used for school facilities or buildings
- f. The governing body will administer funds dedicated to the public under this section in accordance with 76-3-621, MCA, for use in existing public parks located within the County.
- g. For the purposes of this park dedication requirement:

- 1) “cash donation” means the fair market value of the unsubdivided, unimproved land;
and
- 2) “Dwelling unit” means a residential structure in which a person or persons reside.

17. Fire Protection

GENERAL

a. Scope

This section of the Broadwater County Subdivision Regulations presents the minimum planning, construction and maintenance elements for subdivisions to provide for the protection of life and property from emergency incidents.

b. Purpose

All subdivisions must be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit the effective suppression of fires in order to protect persons, property and forested areas.

The placement of structures should be in such a manner so as to minimize the potential for flame spread and to permit efficient access for firefighting equipment.

The presence of adequate fire fighting facilities, including an adequate water supply is vital to the public safety of a subdivision.

FIRE PROTECTION REQUIREMENTS

a. Fire Protection Availability

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

b. Fire Protection Plan

All proposed subdivisions shall provide a Fire Protection Plan approved by the local Fire Protection Authority Having Jurisdiction (FPAHJ) prior to the subdivision application being considered complete by the Broadwater County Planning Department. The FPAHJ is the Fire Chief of the fire service organization providing fire protection services to the proposed subdivision.

c. Fire Protection Review Fees

All subdivisions that are located in or annexed into a fire district or fire service area shall pay the Fire Protection Review Fee per the current fee schedule on file with the Planning Department.

Where technical or engineering review or approval of any fire protection requirement is to be performed by the Fire Protection Authority Having Jurisdiction (FPAHJ), another qualified authority or expert, approved by the FPAHJ, may provide such review or approval at the expense of the applicant.

d. Use of Existing Fire Protection Water Supply System

Credit for the use of existing fire protection water supply systems may be considered by the FPAHJ provided the feature meets the current applicable Broadwater county Subdivision Regulations – Fire Protection Standards, and be approved by the FPAHJ. A written plan shall be provided to and approved by the FPAHJ providing for funding, use, maintenance and future upgrades of the feature. If the proposed plan requires any cooperative agreements, or actions, between the applicant and any other party, those shall be completed prior to the proposed plan being accepted by the FPAHJ. This includes, but is not limited to, contracts, joint ownership, etc.

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

e. Alternative Fire Protection Methods or Systems

Alternative fire protection technologies, means, methods or systems may be approved by the FPAHJ where they provide fire protection equivalent to or greater than required in these regulations.

f. Mapping

A map or electronic file, in the format approved by the FPAHJ, of the subdivision shall be provided to the FPAHJ indicating streets, addresses, street names, fire protections system, lot lines, building envelopes, utilities, easements, etc.

WATER SUPPLY

A water supply of sufficient volume for effective fire control must be provided (See Appendix I). Fire protection water supplies (Example: water systems, draft sites, fill sites, buried tanks or open ponds) must be maintained to their original performance capability in perpetuity by the

property owners. Performance of all fire protection systems shall be certified annually by a licensed P.E. and submitted to the FPAHJ to ensure continued specified capability.

ACCESS AND EVACUATION

Access for emergency responders and the public's evacuation shall be provided for all lots (See Appendix I)

SIGNS

a. General

All access routes and all buildings shall be uniquely designated on signs clearly visible and legible from the roadway on which it is addressed (See Appendix I).

WILDLAND/URBAN INTERFACE

For areas identified as Wildland Urban Interface in Broadwater county special standards are required (See Appendix I).

18. Noxious Weeds

Noxious weeds not only harm the environment, but also affect the land's economic value. Allowed progression of noxious weeds will lead to landowners and surrounding landowners finding much of their previously uninfested ground infested in noxious weeds. The Broadwater County Weed District continues their implementation of a plan to help subdividers and the general public to gain knowledge about noxious weeds and develop skills related to managing and eradicating them. Educating landowners by assisting them with management and revegetation plans and pointing out new weed infestations found on the subdivider's lands will help reach objectives set in this plan. A Noxious Weed Management Plan Application Form is included in Appendix L. The details of the subdivision process for noxious weeds have been outlined below:

- a. Subdividers are first to meet with the County Weed Coordinator. Forms for a weed management plan are to be picked up and an appointment set up for an on-site inspection.
- b. At the time of the inspection, the weed coordinator will provide education material on noxious weeds, show them any infestations on their land and help them fill out their weed management plan. Fees for the subdivision review are to be paid to the Broadwater County Weed District.
- c. A noxious weed management plan acceptable to the County Weed Board is required for all subdivisions, and in addition, wording shall be placed on the plat stating: "Subdivision owners are required to abide by the Broadwater County Noxious Weed Management Plan"

- d. Where property owners' association is required for road maintenance, provisions shall also be provided therein for control of noxious weeds through an annual assessment. Methods and frequency of control measures shall be required by the approved plan. In the event that weed control measures are not undertaken by the property owner as required, the governing body may provide the necessary weed control and charge the owner the cost of the control measures.

19. Improvement Cost Sharing

A payback formula has been developed by Broadwater County that provides cost sharing to individuals who initiate construction activities that benefit future developments. This information is outlined in Appendix S.

20. Right-to-Farm

Sections 27-30-101, MCA affirms the following: "No agricultural or farming operation, place, establishment or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation."

In the interests of supporting the viability of agriculture in Broadwater County and pursuant to 27-30-101, MCA, each subdivision application shall include a Right-to-Farm declaration, to include the notarized signatures of the landowner(s). Such declaration shall be filed along with the final plat. Any covenants designed to provide further protections to agricultural operations in the general vicinity of the proposed subdivision shall be plat approval covenants, also filed with the final plat.

21. Additional Design and Development Standards

The County may require additional design and development standards beyond those listed in this Chapter in order to mitigate the negative impacts of a proposed subdivision.

IV-B. SPECIFIC STANDARDS

1. Floodplain Provisions

- a. All developments shall comply with the most current Floodplain Ordinance adopted by Broadwater County. Copies of this document can be obtained from the office of the Clerk and Recorder.
- b. Land located in the floodway of a 100-year flood event as defined by Title 76, Chapter 5, MCA, or other land determined by the governing body to be subject to flooding may 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.

- c. If any portion of a proposed subdivision is located within the 100-year floodplain, as designated in FEMA's Flood Hazard Boundary maps, the subdivider shall provide in detail to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation, a flood hazard evaluation, including the calculated 100-year frequency water surface elevations and/or 100-year floodplain boundaries. This detailed evaluation must be performed by a licensed professional engineer experienced in this field of work. After the Floodplain Management Section of the Water Resources Division has reviewed and approved the flood hazard evaluation, the subdivider must submit it to the Planning Board (or Planner) along with the Environmental Assessment required for the preliminary plat.
- d. The above requirement is waived if the subdivider contacts the Water Resources Division and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

2. Water Course and Irrigation Easements

- a. Except as noted in subsection (b), below, the subdivision shall establish within the subdivision ditch easements that:
 - 1) Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - 2) Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance and inspection of the ditch; and
 - 3) Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
- a) The subdivider need not establish irrigation easements as provided above if;
- 4) The average lot size in the proposed subdivision will be one (1) acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or
- 5) The water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and

- 6) The fact that the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
- 7) The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and file and record with the county clerk and recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. A reasonable width is required on each side of irrigation canals and ditches for maintenance purposes.

3. Subdivisions created by rent or lease

A subdivision created by rent or lease is dividing by renting or leasing any portion of a tract of land, including a mobile home/manufactured home, recreational vehicle park, or construction of a second or subsequent structure on any tract of land without regard to ownership of the tract of land or the number of titled owners of the tract of land divided by renting or leasing portions of it. The land is owned, however, as one parcel under single ownership (which can include a number of persons owning property in common). Plans, not plats, are required to be submitted to the Planner for review. The plan shows spaces and/or buildings, not lots. The plan must comply with applicable zoning.

a. Additional state regulations

- 1) If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a "trailer court", "work camp", "youth camp" or "campground" as those terms are defined in Section 50-52-102, MCA, the governing body will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA.

b. Additional provisions. When considering subdivisions by rent or lease, the governing body may require provisions, but is not limited to, the following:

- 1) Storage facilities on the lot or in compounds located within a reasonable distance;
- 2) A central area for storage or parking of boats, trailers or other recreational vehicles;
- 3) Landscaping or fencing to serve as a buffer between the development and adjacent properties;

- 4) An off-street area for mail delivery;
 - 5) School bus; and
 - 6) Street lighting
- c. Mobile/Manufactured Home Spaces. Mobile home parks are residential developments containing mobile homes. Mobile home parks do not pertain to residential developments using modular or factory-built buildings.
- 1) Mobile/manufactured home spaces must be arranged to permit the safe and practical placement and removal of mobile homes.
 - 2) All mobile/manufactured homes must be located at least twenty-five (25) feet from any property boundary line abutting upon a public street or highway right-of-way and at least fifteen (15) feet from other boundary lines of the park.
 - 3) The mobile/manufactured home pad must be located at least ten (10) feet from the street that serves it.
 - 4) The size of the mobile/manufactured home pad must be suitable for the general market to be served and must fit the dimensions of mobile/manufactured homes anticipated.
 - 5) A mobile/manufactured home pad may not occupy more than one-third (1/3) of the area of its space. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the area of a space.
 - 6) The governing body may require that the mobile/manufactured home pad be improved to provide adequate support for the placement and tie-down of the mobile home.
 - 7) No mobile/manufactured home or its attached structures, such as awnings and carports, may be located within twenty (20) feet of any other mobile home or its attached structures.
 - 8) No detached structure, such as a storage shed, may be located within five (5) feet of any mobile/manufactured home or its attached structures.
 - 9) A minimum of two (2) off-street parking spaces must be provided on, or adjacent to, each mobile/manufactured home space. The driveway must be located to allow for convenient access to the mobile/manufactured home, and be a minimum of ten (10) feet wide.
 - 10) One guest parking space must be provided for each ten (10) mobile/manufactured home spaces. Group parking may be provided.

- 11) The limits of each mobile/manufactured home space must be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of space limits on the ground must be approximately the same as those shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground.
- 12) Each mobile/manufactured home must be skirted within thirty (30) days after it is moved to a space within the mobile/manufactured home park. The skirting must be of a fire-resistant material similar to that of the mobile/manufactured home exterior.

d. Streets

- 1) Streets within a mobile/manufactured home park must meet the standards specified in Section IV-A-7. Streets must be designed to allow safe placement and removal of mobile homes.
- 2) Streets must be designed to provide safe access to public roads.
- 3) Roads within the mobile/manufactured home park must be designed to provide safe traffic circulation and parking.
- 4) One-way roads must be at least fifteen (15) feet wide; two-way roads must be at least twenty-four (24) feet wide.

e. Electrical Systems

- 1) Electrical systems must be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installations must be designed and constructed in accordance with the applicable state electrical standards.

f. Gas Systems

- 1) Gas equipment and installations must be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation must be designed and constructed in accordance with the applicable provisions of the "National Fuel Gas Code" (NFPA Pamphlet 54) and the "Standard for the Storage and Handling of Liquefied Petroleum Gases" (NFPA Pamphlet 58).
- 2) A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system must be installed near to the point of connection of the liquefied petroleum gas container.
- 3) Each mobile/manufactured home lot must have an accessible, listed gas shutoff installed. This valve must not be located under a mobile home. Whenever the mobile

home lot gas outlet is not in use, the shutoff valve must be plugged to prevent accidental discharge.

g. Recreational Vehicle Park Standards

1) Recreational Vehicle Spaces

- a. Spaces in recreational vehicle parks must be arranged to allow for the safe movement of traffic and access to spaces.
- b. Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking.
- c. Recreational vehicles must be separated from each other and from other structures by at least fifteen (15) feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.
- d. No recreational vehicle space may be located less than twenty-five (25) feet from any public street or highway right-of-way.

4. Condominiums, Townhomes or Townhouses.

Condominium developments must comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA. Unless exempted by section 76-3-203, MCA, all condominium, townhomes or townhouses as those terms are defined in 70-23-103, developments are subdivisions subject to the terms of the MSPA and these regulations, including the following:

a. Review where land will not be divided

- 1) If no division of land will be created by a condominium subdivision, the subdivision must be reviewed under the procedures contained in this section, with the following exception: final approval will not be given until the subdivider has either installed all required improvements, or has entered into a subdivision improvements agreement pursuant to Section II-G-3 Public Improvements Agreement; Guaranty.

b. Review where land will be divided

- 1) If a proposed condominium development will involve a division of land, the subdivision must be reviewed under the procedures set forth in these regulations.

c. Design Standards

- 1) Condominium developments must comply with applicable standards contained in Section IV Design and Development Standards

d. Unit Ownership Act

- 1) Condominium developments must comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA.

5. Planned Unit Developments

a. Intent. The intent of this Section is to provide flexibility in certain areas of the Design and Improvement Standards. By using a Planned Unit Development (PUD), which clusters development, subdivisions may be planned so as to promote creativity in subdivision design; to provide economies in the supply of public services; to enhance and preserve open space and unique natural features; and to enable the planning of a tract for a single use or for a harmonious combination of uses, such as a mixture of residential and commercial.

b. Procedure and Submittal.

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 under common ownership;
 - 3) A description of all proposed waivers or modifications from the Design and Improvement Standards;
 - 4) 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;
 - 5) If common property is to be deeded to a property owners' association, the subdivider shall establish a property owners' association and submit a draft of all covenants and legal documents which will govern the association;
 - 6) A statement of how the proposed PUD would accomplish any or all of the following purposes:
 - a) Preserve to the maximum extent possible, the natural characteristics of the land; including topography, vegetation, streams, and other bodies of water
 - b) Preserve productive agricultural land
 - c) Protect important historic sites or structures or areas of important wildlife habitat
 - d) Provide economies in the provision of roads and public improvements
 - 7) Any additional, reasonable information.

- g. **Site Size.** The total site size, as measured by the boundary perimeter of the PUD, shall be appropriate to the proposed area and design.
- h. **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 areas 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.
- i. **Landscaping.** Landscaping may be required between building sites or on the PUD perimeter where the governing body deems it necessary to provide buffer screening between different land uses.
- j. **Parking Area.** Adequate parking area shall be required for the proposed uses of the development, as determined appropriate by the governing body.
- k. **Pedestrian Access.** Sidewalks, walkways or other forms of pedestrian access shall be required for the proposed uses of the development, as determined appropriate by the governing body.
- l. **Roads.** Collector roads designed to furnish access to adjacent areas shall either be within a public dedicated right-of-way or within a public right-of-way easement. Adequate responsibility for the improvements and maintenance of interior roads is assumed by the property owners' association. Road improvement specifications demonstrate compliance with these Regulations.
- m. **Design Standards.** PUDs must comply with the standards contained in Section IV Design and Development Standards. However, the governing body may modify the design and improvement standards contained in Section IV-A-5 Lots, Section IV-A-6 Blocks, Section IV-A-7 Streets and Roads, and Section IV-A-16 Park Land Dedication upon request of the subdivider when the plan for a PUD includes provisions for efficient traffic circulation, adequate light, air and open space. In such cases, no application for a variance under Section V-B Variances, of these regulations, is necessary.
- n. **Master Plans.** Where development plan necessitate submittal in phases, a master plan will be required. Each phase of the project will be considered as a separate preliminary plat submittal and will be subject to the regulations in effect at the time of each submittal. The master plan will be considered at a public hearing. Material changes from the Master Plan, as determined by the planner or the governing body, will result in an additional public hearing.
- o. **Other Regulations.** Where there are other ordinances or regulations, which require compliance to PUD or other minimum standards, this Section does not authorize the governing body to waive or modify such ordinances or regulations.

These regulations will be subject to change until replaced by a separate County approved Planned Unit Development regulations. AASHTO standards and PUD regulations will be reviewed and utilized in this process.

V. ADMINISTRATIVE PROVISIONS

V-A. SCHEDULE OF FEES

To cover costs of reviewing plans, advertising, holding public hearings, and other activities associated with the review of a subdivision proposal, the subdivider shall pay a non-refundable fee at the time of application for preliminary plat approval. The fees, payable to 'Broadwater County', are as defined in the approved Broadwater County Subdivision Fee Schedule.

The applicant is financially responsible for additional engineering, consulting, professional and/or contracted service fees, etc. that are determined necessary by the County for review of the application.

V-B. VARIANCES

1. Application Requirements.

Where a variance from one or more of the design and development standards outline in Chapter IV of these regulations is sought as a part of the subdivision application, the subdivider shall submit a variance application form (Appendix H) and appropriate variance review fee, along with the subdivision application package.

If a subdivider seeks more than one variance, the subdivision application package shall contain a separate variance application form and fee for each variance request.

2. A variance may be granted when the facts presented meet the following criteria:

- a. The variance will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- b. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced.
- c. The variance will not cause a substantial increase in public costs.
- d. The variance will not in any manner place the proposed subdivision in non-conformance with any adopted zoning regulations. The variance should not place the proposed subdivision in substantial non-compliance with the Broadwater County Growth Policy Plan.

3. Special Application Requirements.

In addition to the variance application requirements outline in Section V-B-1 above, requests for a variance from any of the construction setbacks of these regulations must be

accompanied by information and/or proposed building design restrictions demonstrating that the water quality, floodplain, riparian area and visual resources will be adequately protected.

4. Floodway Provisions Not Authorized.

The governing body will not, by variance, permit subdivision for building purposes in areas located within the floodway of a flood of a 100-year frequency as defined by Title 76, Chapter 5, MCA.

5. Procedure.

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

6. Conditions.

In granting variances, the governing body may impose reasonable conditions to secure the objectives of these regulations.

7. Statement of Facts.

When a variance is granted, the motion to approve the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is base.

V-C. AMENDMENT OF REGULATIONS

Before the governing body amends these regulations, it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than fifteen (15) days or more than thirty (30) days before the date of the hearing.

V-D. TRANSFERS OF TITLE

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision 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 (76-3-303, MCA):

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

2. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder;
3. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
4. That the contracts 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 county clerk and recorder, title to the property cannot be transferred in any manner;"
5. That the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid; and
6. A copy of the contracts and escrow agreement described above must be submitted to the planning board (or Planner). The name of the purchaser and purchase price may be blacked out.

V-E. ENFORCEMENT

Except as provided 76-3-303, MCA, and these regulations, every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner.

1. Unlawful transfers or conveyance.

If unlawful transfers are made, the count attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the MSPA and these regulations. The cost of this action shall be imposed against the party no prevailing.

2. Violations.

- a. Any person, firm, corporation, or other entity who violates any of the provisions of the MSPA or these regulations is guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in a county jail for not more than three (3) months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease or transfer or each separate parcel of land in violation of any provision of the MSPA or these regulations shall be deemed a separate and distinct offense.

3. Actions against the governing body.

- 1) A person who has filed with the governing body an application for a subdivision under the MSPA and these regulations may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to the MSPA that is arbitrary or capricious.
- 2) A party identified in subsection (4) below who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within thirty (30) days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
- 3) For the purposes of this section, “aggrieved” means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.
- 4) The following parties may appeal under the provisions of subsection (2) above:
 - a) The subdivider;
 - b) A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner’s property or its value;
 - c) The county commissioners of the county where the subdivision is proposed; and
 - d) One of the following municipalities:
 - i. A first-class municipality as described in 7-1-4111, MCA, if a subdivision is proposed within three (3) miles of its limits;
 - ii. A second-class municipality, as described in 7-1-4111, MCA, if a subdivision is proposed within two (2) miles of its limits; and
 - iii. A third-class municipality, as described in 7-1-4111, MCA, if a subdivision is proposed within one (1) mile of its limits.

V-F. VACATION OF RECORDED PLATS

Pursuant to 76-3-305, MCA, any recorded plat may be vacated either in whole or in part, as provided by 7-5-2501, 7-5-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and (2) and 7-14-4115, MCA. Upon vacation, the governing body or the district court, as provided in 7-5-2502, MCA, shall determine to which properties the title to the streets and alleys of the vacated portions must revert. The governing body or the district court, as provided in 7-5-2502, MCA, 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.

However, when any utility, 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.

V-G. CORRECTION OF RECORDED PLATS

1. By governing body

Pursuant to 76-3-614, MCA, when a recorded plat does not definitely show the location or size of lots or blocks or the location or width of any street or alley, the governing body may at its own expense cause a new and correct survey and plat to be made and recorded in the office of the Broadwater County clerk and recorder. The corrected plat must, to the extent possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat referring to the original plat and noting the defect existing therein and the corrections made.

2. By landowner

A landowner or landowner's representative may submit a corrected final plat to the governing body for review and approval. Eligible correction(s) are only those drafting or surveying errors that, in the judgment of the governing body, do not materially alter the plat. The plat shall be entitled, "Corrected Plat of the (name of subdivision) Subdivision". The surveyor issuing the corrected plat shall endorse its face, refer to the original plat, note the defect existing therein, and explain the correction(s) made on the face of the new plat.

3. Filing of corrected plats

Once the governing body has reviewed and approved a corrected plat, it may be filed with the Broadwater County clerk and recorder.

V-H. AMENDMENT OF RECORDED PLATS

1. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be in accordance with the most current edition of 76-3, MCA. Any alteration which increases the number of lots or modifies six (6) or more lots, or abandons or alters a public road right-of-way or parkland dedication must be reviewed and approved by the governing body.
2. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The governing body may not approve an amended final plat without the written

consent of the owners and lienholders of all lots which will be modified by the proposed amendment.

3. The governing body may not approve an amendment that will place a lot in non-conformance with the standards contained in Section IV of these regulations or with local zoning regulations unless the governing body holds a public hearing on the amendment and issues a written variance from the standards pursuant to Section V-B, Variances.
4. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats (Appendix Q).

VI. SUBDIVISION EXEMPTIONS

In accordance with MCA 76-3-201 through 76-3-210 and 76-4-125.

VI-A. PURPOSE

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

VI-B. TYPES OF EXEMPTIONS

1. Subdivision Exemptions Within Platted Subdivisions – Subject to Survey Requirements:
 - a. For five (5) or fewer lots, the relocation of common boundaries (commonly called boundary adjustment).
 - b. For five (5) or fewer lots, the aggregation of lots.
 - c. The relocation of a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
 - d. Condominiums, townhomes or townhouses constructed on land divided in compliance with 76-3-101, et seq., MCA.
2. Subdivision Exemptions Outside of Platted Subdivisions – Subject to Survey Requirements:
 - a. The relocation of common boundaries between adjoining properties (commonly called boundary adjustment).
 - b. A single gift or sale to each member of the landowner's immediate family (commonly called a family transfer).
 - c. Land divisions made by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner, that the divided land will be used exclusively for agricultural purposes (commonly called an agricultural exemption).
3. Subdivision Exemptions Within and Outside of Platted Subdivisions – Not Subject to Survey Requirements:
 - a. Is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, Chapter 30.

Pursuant to 76-3-201(2), MCA, before a court of record orders this type of division of land, the court shall notify the governing body of pending division and allow that governing body to present written comment on the division. In preparing its written response on the division, the governing body shall consider:

- 1) Provision of legal and physical access to the land in question;
- 2) Provision of utility easements, including irrigation ditch easements;
- 3) The public interest criteria outlined in 76-3-608(3)(a), MCA;
- 4) The three (3) additional public interest criteria outlined in these regulations;
- 5) Whether or not the division would be in substantial compliance with the Growth Policy Plan; and
- 6) Whether or not the division is legally described and recordable, upon consultation with the Broadwater County clerk and recorder.

The governing body shall also suggest to the court, that it require the landowner to have the land surveyed and then file a certificate of survey, including a legal description and cause number of the court order.

- b. Is created to provide security for construction mortgages, liens, or trust indentures (commonly called a mortgage exemption).
- c. Creates an interest in oil, gas, minerals or water that is severed from the surface ownership of real property.
- d. Creates cemetery lots.
- e. Is created by the reservation of a life estate.
- f. Is created by lease or rental for farming agricultural purposes.
- g. Is a division of state-owned land, unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- h. Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209, MCA. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording (Note: County road easements and rivers may not automatically create property boundaries).
- i. The sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, situated on one or more parcels of land.

- j. Deeds, contracts, leases, or other conveyances executed prior to July 1, 1974.

VI-C. RELOCATION OF COMMON BOUNDARY [76-3-207(1)(a), MCA]

1. Statement of Intent

The intended purpose of this exemption is to allow a change in the location or the elimination of a boundary line between adjoining properties outside of a platted subdivision and to allow a one-time transfer of a tract to effect that relocation or elimination without subdivision review.

2. Required Information

Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and, in case of a relocation, the new boundary. This must be accomplished by representing the existing boundary with a dashed line and the new boundary, if applicable, with a solid line. The appropriate certification set forth in ARM 24-183-1104(1)(f) must be included on the certificate of survey. Certificates of survey showing the relocation of common boundary lines must be accompanied by a quit claim or warranty deed or recordable agreement from adjoining property owners for the entire newly described parcel(s) or that portion of the tract(s) that is being affected.

3. Use of Exemption

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

VI-D. A GIFT OR SALE TO A MEMBER OF THE IMMEDIATE FAMILY [76-3-207(1)(b), MCA]

1. Statement of Intent

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

2. Required Information

A certificate of survey (or recording of an instrument of conveyance) that uses this exemption to create a parcel for conveyance to a family member must show the name of the

grantee, relationship to the landowner, and the parcel to be conveyed under this exemption, and the landowner's certification of compliance [ARM 24.183.1104(1)(f)]. Also, the certificate of survey or instrument of conveyance must be accompanied by a deed or other conveying document.

3. Use of Exemption

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

VI-E. DIVISIONS OF LAND PROPOSED FOR AGRICULTURAL USE ONLY [76-3-207(1)(c), MCA]

1. Statement of Intent

This exemption is intended to allow a landowner to create a parcel for gift, sale or agreement to buy and sell, outside of a platted subdivision, without local review if the parcel will be used only for the production of livestock or agricultural crops and no residential, commercial or industrial buildings, which require water or sewer, will be built upon it.

2. Required Information

A certificate of survey that uses this exemption to create a parcel for agricultural use only requires a covenant running with the land in accordance with 76-3-207(1)(c), MCA, and a signed and acknowledged recitation of the covenant on the face of the survey.

3. Use of Exemption

- a. "Agricultural purpose," for purposes of these evasion criteria, means the use of land for raising crops, livestock or timber and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the DEQ, provided the applicable exemption under the Sanitation in Subdivisions Act is properly invoked by the property owner.
- b. Any change in use of the land for anything other than agricultural purposes subjects the parcel to review as a minor subdivision.
- c. Residential, commercial or industrial structures, including facilities for commercial processing of agricultural products, may not be utilized, constructed or erected on parcels created under this exemption unless the covenant is revoked.

VI-F. RELOCATION OF COMMON BOUNDARIES INVOLVING PLATTED SUBDIVISIONS [76-3-207(1)(d), (e) and (2)(a), MCA]

1. Statement of Intent

- a. The MSPA allows certain revisions to subdivisions platted since July 1, 1973, which include relocation of common boundaries and the aggregation of lots for five or fewer lots within a platted subdivision or the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision (but a restriction or requirement on either continues to apply), without review.
 - b. If a change is made to a platted subdivision which results in an increase in the number of lots or redesigns or rearranges six or more lots, the governing body must review and approve the amended plat and an amended plat must be filed with the clerk and recorder.
2. Use of exemption
Relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision [76-3-207(1)(e), MCA] is allowed, because no additional parcels are created. Subdivision review is not necessary because the relocation does not create any additional division of land.

VI-G. AGGREGATION OF LOTS OR PARCELS [76-3-207(1)(F), MCA]

1. Statement of Intent
 - a. Aggregation of parcels on a certificate of survey or of lots on a subdivision plat is allowed provided the boundaries of the original parcel or lot are eliminated and the boundaries of the larger aggregated parcel or lot are established.
2. Use of exemption
 - a. This exemption may be used without a boundary line relocation but a restriction or requirement on the original platted lot or original unplatted parcel continues to apply. A notarized statement on the amended plat or certificate of survey must reflect these restrictions/requirements, including any applicable zoning, covenants and/or deed restrictions.

VI-H. PROCEDURES AND REVIEW OF SUBDIVISION EXEMPTIONS

1. Submittal
Any person seeking exemption from the requirements of the MSPA shall submit to the planner (1) a certificate of survey or, if a survey is not required, an instrument of conveyance, and (2) evidence of, and an affidavit affirming, entitlement to the claimed exemption. For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner” and “owner” mean the seller of the parcel under the contract-for-deed (ARM 24.183.1104).
2. Review

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

APPENDICES

APPENDIX A - Definitions.....	57
APPENDIX B - Review Agencies and Sources of Information.....	70
APPENDIX C - Preliminary Subdivision Submittal Checklist.....	72
APPENDIX D - Subdivision Application Form.....	75
APPENDIX E - Environmental Assessment.....	82
APPENDIX F - Land Stewardship Plan Outline and Guidelines.....	89
APPENDIX G - Reviewing for Growth Policy Compliance.....	91
APPENDIX H - Variance Application Form.....	93
APPENDIX I - Fire Protection Requirements.....	94
APPENDIX J - Request Form to Lift an Agricultural Exemption.....	98
APPENDIX K - Agricultural Lands – Subdivision Evaluation Criteria.....	99
APPENDIX L - Noxious Weed Management Plan Application Form.....	100
APPENDIX M - County Sanitarian Checklist.....	103
APPENDIX N - County Subdivision Road Standards.....	104
APPENDIX O - County Road Encroachment (Access) Permit Application.....	119
APPENDIX P - Grant of Access Easement.....	124
APPENDIX Q - Sample Certificates.....	125
APPENDIX R - Sample Subdivision Improvements Agreement and Sample Letter of Credit.....	130
APPENDIX S - Payback Formula.....	136
APPENDIX T - Final Subdivision Submittal Application Form.....	137

APPENDIX A. DEFINITIONS

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular, unless otherwise specifically defined in a particular section, includes the plural, and the plural the singular; the word “shall” is always mandatory, and the word “may” indicates use of discretion in making decisions.

1. **ACCESS (LEGAL AND PHYSICAL):** Legal access means that each lot in a subdivision abuts a public (city, county, state, or federal) street or road, or that the subdivider has obtained adequate and appropriate easements across all necessary properties from a public road to each lot in the subdivision. Physical access means that the street or road conforming to the subdivision design standards provides vehicular access from a public street or road to each lot in the subdivision.
2. **ACCESSORY BUILDING OR STRUCTURE** - Any building or structure used incidentally to another building or structure.
3. **ADDRESS IDENTIFICATION SIGNS** - Signs displaying the numeric address (as approved by GIS Administrator) of the structure.
4. **ADJOINING LANDOWNER (ADJACENT PROPERTY OWNER):** The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a road, watercourse or deeded right-of-way.
5. **AGRICULTURE:** All aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.
6. **AGRICULTURAL WATER USER FACILITIES:** Those facilities, which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.
7. **ALTERNATIVE** - A system, condition, arrangement, material, or equipment submitted to the Fire Protection Authority Having Jurisdiction (FPAHJ) as a substitute for a code requirement.
8. **APPROVED (for Fire purposes)** - Acceptable to the Fire Protection Authority Having Jurisdiction.
9. **ASPECT** - Compass direction toward which a slope faces.

10. **ASSET PROTECTION ZONE (Defensible Space)** - An area as defined by the FPAHJ, between an improved property and a potential wildland fire where the combustibles have been removed or modified with the following intent:
 - (1) To protect life and property from wildland fire.
 - (2) To reduce the potential for fire on improved property spreading to wildland fuels.
 - (3) To provide a safe working area for fire fighters protecting life and improved property.
11. **BLOCK:** A group of lots, tracts or parcels within well-defined and fixed boundaries.
12. **BUFFER:** Buffer zones are not setback distances, but rather can be individual or a portion of a setback that is designated for separation between the proposed development and existing adjacent uses. Buffer zones can be designated for developments adjacent to agricultural properties, wetlands, or other uses as determined by the governing body.
13. **BUILDING** - Any structure used or intended for supporting any occupancy.
14. **CERTIFICATE OF SURVEY:** A drawing of a field survey prepared by a professional land surveyor for the purpose of disclosing facts pertaining to boundary locations.
15. **COMBUSTIBLE** - Any material that, in the form in which it is used and under the conditions anticipated, will ignite and burn (see Noncombustible).
16. **COMMUNITY WILDLAND PROTECTION PLAN (CWPP)** - Community Wildfire Protection Plans are authorized and defined in Title I of the Healthy Forests Restoration Act (HFRA) passed by Congress on November 21, 2003 and signed into law by President Bush on December 3, 2003. The Healthy Forests Restoration Act places renewed emphasis on community planning by extending a variety of benefits to communities with a wildfire protection plan in place. Critical among these benefits is the option of establishing a localized definition and boundary for the wildland-urban interface (WUI) and the opportunity to help shape fuels treatment priorities for surrounding federal and non-federal lands.

The CWPP, as described in the Act, brings together diverse local interests to discuss their mutual concerns for public safety, community sustainability and natural resources. It offers a positive, solution-oriented environment in which to address challenges such as: local firefighting capability, the need for defensible space around homes and subdivisions, and where and how to prioritize land management – on both federal and non-federal land.
17. **COMPREHENSIVE PLAN, MASTER PLAN, OR GROWTH POLICY:** means a comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to Title 76, Chapter 1, MCA, before October 1, 1999, or a policy that was adopted pursuant to Title 76, Chapter 1, MCA, on or after October 1, 1999.
18. **CORNER LOT:** A lot located at the intersection of two streets.

19. **CONDOMINIUM:** A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project, with the land and other parts of the project held in common ownership or use with owners of the other units, pursuant to Title 70, Chapter 23, MCA.
20. **COVENANT (RESTRICTIVE COVENANT):** A limitation contained in a deed or other document that restricts or regulates the use of the real property.
21. **CRITICAL WILDLIFE HABITAT:** Habitat that is vital to the health and maintenance of one or a variety of species based on habitat features such as nesting sites, denning sites, food sources, breeding grounds etc.
22. **DEDICATION:** The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted. [76-3-103(3), MCA].
23. **DEMONSTRATE:** To prove by pointing out; to exhibit; to explain by specimens or experiment.
24. **DEQ:** The Montana Department of Environmental Quality.
25. **DIVISION OF LAND:** The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land. [76-3-103(4), MCA].
26. **DRAFT HYDRANT -** An arrangement of pipe permanently connected to a year around water source other than a piped, pressurized water supply system that provides a ready means of water supply for firefighting purposes and that utilizes the drafting (suction) capability of fire department pumps.
27. **DRIVEWAY:** A private road designated for access to not more than two single-family residences that is not intended for public use.
28. **DWELLING UNIT:** Any structure or portion thereof providing complete, independent and temporary or permanent living facilities for one household or in need of septic and/or power.
29. **EASEMENT:** Authorization by a property owner for another to use, or restriction on the right of the owner to use, all or a portion of the owner's property for a specified purpose.
30. **ENGINEER (PROFESSIONAL ENGINEER):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.
31. **EVACUATION -** An organized, phased and supervised withdrawal, dispersal, or removal of civilians from dangerous or potentially dangerous areas and their reception and care in safe areas.

32. **FARMLAND OF STATE WIDE OR LOCAL IMPORTANCE:** This is land, in addition to prime farmlands, that is of statewide importance for the production of food, feed, fiber, forage and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable.
33. **FEMA:** Federal Emergency Management Agency. Agency of the US Government tasked with Disaster Mitigation, Preparedness, Response and Recovery Planning.
34. **FIRE HYDRANT** - A valved connection on a piped year around pressured water supply system having one or more outlets that is used to supply hose and fire department pumpers with water.
35. **FIRE LANE** - A means of access or other passageway designated and identified to provide access for emergency apparatus where parking is not allowed.
36. **FIRE PROTECTION AUTHORITY HAVING JURISDICTION (FPAHJ)** -The organization, office, or individual responsible for approving equipment, an installation, or a procedure.
37. **FIRE RESISTANT LANDSCAPING** - Vegetation management, which removes flammable fuels from around a structure to reduce exposure to radiant heat. The flammable fuels maybe replaced with green lawn; gardens; certain individually spaced, green, ornamental shrubs; individually spaced and pruned trees; decorative rock or stone; or other non-flammable or flame resistant materials.
38. **FIRE RESISTIVE or FIRE RESISTIVE CONSTRUCTION** - Construction to resist the spread of fire, details of which are usually found in a Building Code.
39. **FIRM:** Flood Insurance Rate Maps. A FIRM is a FEMA map that shows areas that have the highest probability for flooding. These maps are used to determine if flood insurance is required and what cost it will be to the buyer.
40. **FIRST MINOR SUBDIVISION:** A proposed minor subdivision from a tract of record that has not been subdivided or created by a subdivision under the MSPA, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA, since July 1, 1973. [76-3-609(2), MCA].
41. **FLAG LOT:** A lot of irregular shape, the bulk of which is normally situated to the rear of other lots, having as its frontage and access a drive connecting it to a street.
42. **FLOOD:** The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage [76-5-103 (8), MCA].

43. FLOOD OF 100 YEAR FREQUENCY: A flood magnitude which has a one percent chance of occurring in any given year , or is a flood magnitude which is expected to recur on the average of once every 100 years [76-5-103 (9), MCA].
44. FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency [76-5-103 (10), MCA].
45. FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage [76-5-103 (11), MCA].
46. FUEL BREAK - An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting.
47. FUEL HAZARD RATING - A measure of the fire behavior and the difficulty of fire control in non-fire-resistive materials. At the discretion of the FPAHJ, applicable references may include, but are not limited to, those available from DNRC, NFPA, and others.
48. FUEL LOADING -The volume of fuel in a given area generally expressed in tons per acre.
49. FUEL MODIFICATION - Any manipulation or removal of fuels to reduce the likelihood of ignition of a wildland fire or lessen the resistance to fire control.
50. FUELS - All combustible material within the wildland/urban interface, including vegetation and structures.
51. GOVERNING BODY: The governing authority of a county, city, town, or consolidated local government organized pursuant to law [76-3-103 (7), MCA].
52. GREENBELT - An area with fire-resistive vegetation (planted or native), maintained to cause a reduction in fire intensity, and used for other than fire protection (golf course, cemetery, park, playground, mowed park, orchard, etc.).
53. GROUND FUELS - All combustible materials such as grass, duff, loose surface litter, tree or shrub roots, rotting wood, leaves, peat, or sawdust that typically support combustion.
54. HAMMERHEAD-T - A roadway that provides a "T" shaped, three point turnaround for emergency equipment that is no narrower than the road that it serves. The top of the "T" shall be a minimum of 40 ft (12.19 m) long (see Turnaround).
55. HAZARD - A fuel complex defined by kind, arrangement, volume, condition, and location that determines the ease of ignition and/or of resistance to fire control.

56. **INHABITABLE PROPERTY** – Any real property that includes a building affixed to land. The building must be designed to be primarily occupied by humans, either as a dwelling or as a place of business.
57. **INTERIOR LOT**: A lot with frontage on only one street.
58. **IMPROVEMENT AGREEMENT**: A contractual agreement that may be required by the governing body to ensure the construction of such improvements as required by local subdivision regulations. The improvement agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.
59. **IRREVOCABLE**: Impossible to revoke, undo or change.
60. **LADDER FUELS** - Fuels that provide vertical continuity allowing fire to carry from surface fuels into the crowns of trees or shrubs with relative ease.
61. **LANDOWNER**: All individuals, groups, or parties with a title interest in the property. For purposes of 76-3-207, MCA, when a parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms “property owner,” “landowner,” and “owner” mean the seller of the parcel under the contract-for-deed (24.183.1104 ARM). For all other purposes of these regulations, the terms “property owner,” “landowner,” and “owner” mean both the seller and the purchaser under a contract for deed.
62. **LAND STEWARDSHIP PLAN**: A long-term management plan that outlines how such things as vegetative health, public access, wildlife livestock grazing, other agricultural uses, recycling, and protection of water resources will be addressed.
63. **LIFE RISK** - Events, actions, or situations created by emergency incidents that have the potential to cause serious injury or death to people.
64. **LIFE SAFETY** - Actions taken to prevent the endangerment of people threatened by emergency incidents or by activities associated with the management.
65. **LISTED for Fire Purposes** - Equipment, materials, or services included in a list published by an organization that is acceptable to the Fire Protection Authority Having Jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets identified standards or has been tested and found suitable for a specified purpose.
66. **LOCAL SERVICES**: Local services are defined as any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens.
67. **LOT**: A parcel, plot, or other land area created by subdivision for sale, rent, or lease.

68. LOT MEASUREMENT:

- a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
- b. Lot Width -- The average width of the lot.
- c. Lot Frontage -- The width of the front lot line.
- d. Lot Area -- The area of a lot determined inclusive of street, highway, alley, road, or other rights-of-way or access easements.

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

70. MATERIAL: Directly relevant to a matter.

71. MITIGATION for Fire Purposes - Action that moderates the severity of a fire hazard or risk.

72. MINOR SUBDIVISION: A subdivision that creates five or fewer lots

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

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

75. MOBILE (MANUFACTURED) HOME PARK: A tract of land that provides or will provide spaces for two or more mobile homes.

76. MOBILE (MANUFACTURED) HOME PAD: That area of a mobile home space, which has been prepared for the placement of a mobile home.

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

78. **MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
79. **MSPA:** Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.
80. **NATURAL ENVIRONMENT:** The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.
81. **NATURAL RESOURCES:** The natural resources of the state and county include land, soils, natural wild and scenic areas, timber and forests, minerals, farm and grazing lands, ground water and surface water, fish and wildlife, and biotic communities.
82. **NON-COMBUSTIBLE** - A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire.
83. **NOXIOUS WEED:** Any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated by administrative rule of the Montana Department of Agriculture or by a weed management district, pursuant to 7-22-201, MCA.
84. **OPEN SPACE:** Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.
85. **ORDINARY HIGH WATER MARK:** For the purposes of these regulations, the ordinary high water mark is defined as 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 may include (but not be limited to) deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value. A flood plain adjacent to surface waters is not considered to lie within the surface water's high water marks.
86. **OVERALL DEVELOPMENT PLAN:** The plan of a subdivision design proposed to be subdivided in stages.
87. **PARKLAND:** Land that is set aside for park and recreational facilities that may be formally developed or set aside as open space.
88. **PLANNED UNIT DEVELOPMENT (P.U.D.):** A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use [76-3-103 (10), MCA].
89. **PLANNER:** The person or persons authorized by the governing body to perform the duties of review and administration set forth in these regulations. ALSO SEE Subdivision Administrator.

90. **PLANNING BOARD:** A planning board formed pursuant to Title 76, Chapter 1, MCA.
91. **PLAT:** A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.
- a. **Preliminary Plat:** A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.
 - b. **Final Plat:** The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).
 - c. **Amended Plat:** The final drawing of any change to a filed platted subdivision , or any lots within a filed platted subdivision.
 - d. **Vacated Plat:** A plat which has been voided under the provisions of MCA 76-3-305, 7-5-2501, 7-5-2502, 7-14-2616 (1) and/or (2), 7-14-2617, 7-14-4114 (1) and/or (2), and 7-14-3115.
92. **PRE-APPLICATION SKETCH (OR DRAWING):** A legible drawing showing approximate boundaries, dimensions, areas, distances and other pertinent information of a proposed subdivision, all as more particularly set forth in section II-A-4(b).
93. **PRIME FARMLAND:** As a designation assigned by U.S. Department of Agriculture is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops.
94. **PUBLIC-ACCESS EASEMENT** - An area in which the right of the general public to use certain streets, highways, paths including thoroughfare.
95. **PUBLIC HEALTH AND SAFETY:** The prevailing healthful, sanitary condition of well being for the community at large. Conditions that relate to public health and safety include but are not limited to: disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards.
96. **PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve more than one lot in a subdivision which is dedicated to the public or otherwise acquired by a government entity for public use. Examples of typical public improvements include parks, streets or roads, sidewalks, curbs, gutters, and street lighting, utilities, and systems for water supply, sewage disposal, drainage, or fire protection.
97. **PUBLIC ROAD OR STREET:** A road or street is public if its right-of-way has been dedicated or acquired for public use.

98. **PRIVATE IMPROVEMENT:** Private improvements are the same types of improvements as defined under **PUBLIC IMPROVEMENTS**, except the structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.
99. **PRIVATE ROAD:** A road is private if its right-of-way has neither been dedicated nor acquired for public use. A private road may be open to use by the general public or public access may be restricted.
100. **RATED ROOF -** A roof constructed with a "roof covering assembly" that is listed as meeting the requirements for Class A, B, or C "roof covering assembly materials."
101. **RECREATIONAL CAMPING VEHICLE:** A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.
102. **RECREATIONAL VEHICLE PARK:** A tract of land available to and principally used by the public for camping, where persons can park recreational vehicles for camping and sleeping purposes.
103. **RECREATIONAL VEHICLE SPACE:** A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.
104. **REVIEWING AUTHORITY:** The DEQ or local Board of Health or Sanitarian as authorized under Title 76, Chapter 4, MCA.
105. **RIGHTS-OF-WAY:** A linear public way established or dedicated for public purposes by a duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority or by operation of law, intended to be occupied by a street, non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, or other similar uses.
106. **ROAD -** Any access way, not including a driveway, which gives access to more than one parcel and is primarily intended for vehicle access.
107. **SETBACK:** The distance from designated areas within which structures are not allowed. Setback distances are measured on a horizontal plane.
108. **SHALL -** Indicates a mandatory requirement.
109. **SHOULD -** Indicates a recommendation or that which is advised but not required.
110. **SHOULDER -** Surface of a road adjacent to the traffic lane.
111. **SLOPE -** Upward or downward incline or slant, usually calculated as a percent of slope [rise or fall per 100 ft (30.45 m) of horizontal distance].
112. **STATE:** The State of Montana.

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

- a. Alley: A public or private way reserved as a secondary means of access to the rear or side of lots which abut on and are served by public roads.
- b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and should provide only limited access to abutting property.
- c. Collector: A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and up to two parking lanes.
- d. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.
- e. Half-Street: A portion of the width of a street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street is to be fully constructed.
- f. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
- g. Loop: A local street which begins and ends on the same street, generally used for access to properties.
- h. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

114. STREET or ROAD IDENTIFICATION SIGNS - Any sign containing words, numbers, directions, or symbols that provides information to emergency responders.

115. STRUCTURE - That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

116. SUBDIVIDER: Any person, firm or corporation, or other entity which causes land to be subdivided, or which proposes a subdivision of land [76-3-103(15), MCA]. When used in these regulations, the term "subdivider" may also include the property purchaser on a contract for deed or its agent, or the landowner's agent, if the landowner has provided the subdivision administrator written notification that the landowner's agent is authorized to act on the landowner's behalf and to receive notices regarding local government decisions concerning the subdivision.

117. **SUBDIVISION:** A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes [76-3-103(16), MCA].
118. **SUBDIVISION ADMINISTRATOR:** The Planner authorized by the governing body to perform the duties of review and administration set forth in these regulations.
119. **SUBSEQUENT MINOR SUBDIVISION:** Any subdivision of five or fewer parcels that is not a first minor subdivision.
120. **SURVEYOR (PROFESSIONAL LAND SURVEYOR):** A person licensed in conformance with the Montana Engineers' and Land Surveyors' Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.
121. **SURVEYOR (EXAMINING LAND SURVEYOR):** A professional land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
122. **SWALE:** A drainage channel or depression designed to direct surface water flow.
123. **THROUGH LOT:** A lot other than a corner lot with frontage on more than one street, excluding alleys. A through lot abutting two streets may be referred to as a double frontage lot.
- TITLE REPORT (ABSTRACT OF TITLE, SUBDIVISION GUARANTEE, OR PLATTING REPORT):** A report from a title service company on the condition of title to the property proposed for subdivision, which identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter.
124. **TOPOGRAPHY:** General term to include characteristics of the ground surface such as plains, hills, mountains, slopes, and other physiographic features.
125. **TOWNHOME or TOWNHOUSE** means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.
126. **TRACT OF RECORD:** An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [76-3-103(17)(a), MCA].
127. **TRAFFIC LANE** – That portion of a roadway that provides a single lane of vehicle travel in one direction.

128. **TURN-A-ROUND** - A portion of a roadway, unobstructed by parking, that allows for a safe reversal of direction for emergency equipment.
129. **TURNOUTS** - A widening in a travel way of sufficient length and width to allow vehicles to pass one another.
130. **VARIANCE**: A device which grants a property owner relief from a regulations standard, where strict enforcement of the standard would create a hardship upon the owner.
131. **VEGETATION MANAGEMENT PLAN** - A vegetation management plan reduces the amount of fuel available for wildland fires, reducing the probability of a rapidly spreading wildland fire. Elements of the plan include removal of slash, snags, other ground fuels, ladder fuels and dead trees, and thinning of live vegetation.
132. **VICINITY SKETCH**: A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.
133. **WATER SUPPLY** - A source of water for firefighting activities.
134. **WILDLAND FIRE** - An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving structures.
135. **WILDLAND URBAN INTERFACE**. -The line area or zone where structures and other human development meet or mingle with wildland or other vegetative fuels.
136. **WILDLIFE**: Those animals that are not domesticated or tamed, or as may be defined in a Growth Policy.
137. **WILDLIFE HABITAT**: The place or area where wildlife naturally lives or travels through.

APPENDIX B. REVIEW AGENCIES AND SOURCES OF INFORMATION

Local	Information	Location/Phone #
County Planner	Subdivision Process	Courthouse – 266-9211
County Road Supervisor	Access from County Roads	Road Shop – 980-2055
County Sanitarian	Wastewater treatment systems	Courthouse – 266-9209
Floodplain Administrator	Building near the floodplain	WWC Eng. – 443-3962
Solid Waste Manager	Solid waste disposal	Transfer Station – 980-2057
County Weed Coordinator	Noxious weed prevention and control	Courthouse – 266-9243
County Sheriff	Emergency services	Jail Facility – 266-9264
Local fire district	Fire prevention and assistance	See Planner for district info
Local ambulance service	Emergency medical services	See Planner for district info
Local school district	Bus routes and school capacity	See Planner for district info

The developer may have to contact the following agencies

State/Federal	Information	Location
MT Bureau of Mines and Geology	Geology, ground water quality and supply, well logs and topographic maps	Butte
MT Dept. of Environmental Quality	Surface and ground water quality, water supply, sewage treatment, solid waste and storm drainage	Helena
MT Dept. of Fish, Wildlife and Parks	Game and non-game species and wildlife habitat, fisheries, state-owned game ranges and fishing access sites and block management program	Townsend office. Local game wardens are based in Townsend. Local wildlife biologists are based in Townsend and Helena.
MT Dept. of Natural Resources and Conservation	Water bodies, floodplains, well logs, water rights and state trust lands	Helena
MT Dept. of Revenue	Assessed valuation and property tax rates	Townsend (Courthouse) and Helena
MT Dept. of Transportation	Access to state highways, traffic counts, planned highway improvements and aerial photographs	Helena office and Butte field office
MT State Historical Society	Historic and cultural resources, resource inventory procedures and preservation programs	Helena

US Army Corps of Engineers	Wetlands permitting	Helena
Farm Services Agency	Aerial photographs, agricultural practices and conservation programs	Townsend
Natural Resources Conservation Service	Soils and soil erosion, flood hazards, water and land conservation practices and programs	Townsend and Helena
US Bureau of Land Management	Vegetation, public lands use, mining claims, proposed land exchanges and conservation activities, topographic and other maps	Billings office and Helena field office
US Forest Service	Vegetation, soils, wildlife, public lands use, proposed conservation activities, topographic and other maps	Townsend and Helena
US Geological Survey	Geology, surface and ground water supply and quality, floodplains and topographic maps	Helena and Bozeman

APPENDIX C. PRELIMINARY SUBDIVISION SUBMITTAL CHECKLIST

Name of Proposed Subdivision _____

Location/Legal Description _____

Date of Completion by Subdivider _____

Date of Element Review by Planner _____

Items and Information, Filled Out by:	Subdivider		Planning Dept.	
	Included	Not Applicable	Included – Complete	Not Complete
1. Completed and signed Subdivision Application Form (Appendix D)				
2. Subdivision Review Fee.				
3. Preliminary Plat Checklist (Appendix C)				
4. Preliminary plat prepared by a professional land surveyor in accordance with Montana Code Annotated and the Administrative Rules of Montana. At least two full-size (18"x 24" or 24"x 36") must be provided. Plat must include: <ul style="list-style-type: none"> a. The proposed subdivision or development name (the title must contain the words "plat" and/or "Subdivision"). b. The legal description, including Section, Township and Range. c. A north arrow. d. The scale used on the plat. e. The certification of a professional land surveyor. f. The date the preliminary plat is completed. If the plat is modified, each version must be identified by date or version number. g. Lots and blocks identified by number or letter. h. All existing and proposed streets, roads, highways, avenues, alleys, and/or easements within or adjacent to the subject property. i. Existing and proposed street names. j. The approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary. k. Approximate area, location, boundaries, and dimensions of all parks, common grounds, and other grounds dedicated for public use. l. The proposed use of each tract if other than single-family residential. m. Locations of all existing buildings, structures and other improvements. n. Existing infrastructure and utilities including: the approximate locations, size and depth of existing and proposed sanitary and storm sewers; the 				

approximate location, size and depth of existing and proposed water mains, lines, wells, and facilities; and the approximate locations of gas lines, fire hydrants or firefighting water storage facilities, electric and telephone lines, and streetlights.				
5. A vicinity map showing the approximate location of the proposed subdivision and the nearest town.				
6. A topographic map that identifies lots and/or tracts with approximate dimensions and/or acreage with contour intervals of 2' where the average slope is less than 10%; intervals of 5' where the average slope is greater than 10% and less than 15%; and intervals of 10' where the average slope is 15% or greater.				
7. Preliminary Engineering plans for all Public and Private improvements; road plans must be prepared in accordance with Appendix N.				
8. Overall development plan if development is in phases.				
9. Platting Certificate of Abstract of Title showing all lienholders' and/or claimants of record.				
10. Lienholders' acknowledgement of the subdivision, if applicable.				
11. Documentation of legal and physical access.				
12. Documentation of existing easements, including those for agricultural water user facilities and historical water conveyance facilities.				
13. Existing and proposed draft covenants and deed restrictions.				
14. Existing water rights within the boundaries of the proposed subdivision.				
15. Names and current mailing address of all adjacent property owners				
16. A proposed road layout that includes: a. Street names b. Right-of-way or easement widths c. For cul-de-sac streets i. widths of turn around radiuses ii. minimum right-way widths at the turnarounds iii. total length of street				
17. Encroachment permit applications from the Montana Department of Transportation or the local jurisdiction.				
18. Proposed easements				
19. Proposed disposition of water rights as required by Section IV-A of the Subdivision Regulations				
20. Proposed disposition of mineral rights, if applicable				
21. Parkland dedication calculations, including a property valuation assessment or appraisal if cash-in-lieu of parkland is proposed.				
22. Environmental Assessment (Appendix D), majors and subsequent minors only.				
23. Agency letters; proof that the subdivider has submitted for review, copies of the subdivision application and environmental assessment to the public utilities and agencies of the local, state and federal				

government identified during the pre-application meeting or subsequently identified as having an interest in the proposed subdivision.				
24. Community Impact Report (Part 2 of Appendix D)				
25. Transportation Impact Analysis or Transportation Plan, (if applicable);				
26. a. A letter submitted to the Fire Board. b. A response from the Fire Board.				
27. Weed Management Plan and Re-Vegetation Plan (Appendix L).				
28. Agricultural Lands - Subdivision Evaluation Criteria (Appendix K)				
29. Articles of Incorporation and By-Laws of proposed property owners' association and/or road maintenance agreements.				
30. Upon request, water, sanitation and storm water information as required by the Montana Department of Environmental Quality and/or Broadwater County Environmental Health Office in accordance with MCA 76-3-622.				
31. Letter requesting a revocation of agricultural covenants, (if applicable).				
32. Provide documentation of CRP status.				
33. Letter addressing locations of cultural and/or historic resources.				
34. Variance request or approval (Appendix H), (if applicable).				
35. Re-zoning application or approval, (if required).				
36. Flood hazard evaluation prepared in accordance with DNRC regulations and certified by a registered professional engineer, (if applicable).				
37. Map showing the location of the proposed subdivision with respect to the Broadwater county Airport Impact Zone and a description of the potential impacts resulting from the proximity of the proposed subdivision to the Airport Impact Zone (if located within 5 miles of the Airport Impact Zone).				
38. Proposed mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting.				
39. Such additional relevant and reasonable information as identified by the Subdivision Administrator and approved by the Planning Board.				

Subdivider Explanatory Comments: _____

Planner Explanatory Comments: _____

APPENDIX D. SUBDIVISION APPLICATION FORM

COVER SHEET

Name of Proposed Subdivision _____

Date of Pre-Application Meeting _____

Contents of Subdivision Application Package

_____ Preliminary Plat

_____ Subdivision Application Form

_____ Environmental Assessment (majors and subsequent minors only)

_____ Preliminary Plat Checklist

_____ Subdivision Review Fee

_____ Any request for variance

SUBDIVISION APPLICATION

PART 1. GENERAL DESCRIPTION AND INFORMATION

1. Name of the proposed subdivision _____
2. Location (City and/or County) _____
Legal description: _____ 1/4 _____ 1/4 of Section _____ Township _____ Range _____
3. Type of water supply system:
 - a. Individual surface water supply from spring _____
 - b. Multiple-family water supply system (3-14 connections and fewer than 25 people) _____
 - c. Service connection to multiple-family system _____
 - d. Service connection to public system _____
 - e. Extension of public main _____
 - f. New public system _____
 - g. Individual well _____
4. Type of wastewater treatment system:
 - a. Individual or shared on-site septic system _____
 - b. Multiple-family on-site system (3-14 connections and fewer than 25 people) _____
 - c. Service connection to multiple-family system _____
 - d. Service connection to public system _____
 - e. Extension of public main _____
 - f. New public system _____
5. Name of solid waste garbage disposal site and hauler: _____
6. Is information included which substantiates that there will be no degradation of state waters or that degradation will be non-significant? _____
8. Descriptive Data:
 - a. Number of lots or rental spaces _____
 - b. Total acreage in lots being reviewed _____
 - c. Total acreage in streets or roads _____
 - d. Total acreage in parks, open space, and/or common facilities _____
 - e. TOTAL gross acreage of subdivision _____
 - f. Minimum size of lots or spaces _____
 - g. Maximum size of lots or spaces _____
9. Indicate the proposed use(s) and number of lots or spaces in each:
_____ Residential, single family
_____ Residential, multiple family
_____ Types of multiple family structures and numbers of each (e.g. duplex)
_____ Planned Unit Development (Number of units _____)
_____ Condominium (Number of units _____)
_____ Mobile Home Subdivision (Number of spaces _____)
_____ Recreational Vehicle Subdivision (Number of spaces _____)
_____ Commercial or Industrial
_____ Other (please describe) _____

10. Provide the following information regarding the development:

- a. Current land use _____
- b. Existing zoning or other regulations _____
- c. Depth to ground water at the time of year when water table is nearest to the natural ground surface within the drainfield area _____
- d. Depth to bedrock or other impervious material in the drainfield area _____
- e. If a tract of land is to be subdivided in phases, an overall development plan indicating the intent for the development of the remainder of the tract.
- f. Drafts of any covenants and restrictions to be included in deeds or contracts for sale. Drafts of homeowners' association bylaws and articles of incorporation, if applicable. (Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DEQ to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DEQ can issue final approval.)
- g. Indicate whether the mineral rights have been severed from the property:
Yes_____ No_____
- h. Indicate whether water rights have been severed from the property:
Yes_____ No_____

11. Is the applicant claiming an exemption of the subdivision regulations from the requirement to prepare an environmental assessment?

Yes_____ No_____

Name, address, and telephone number of designated representative, if any (e.g., engineer, surveyor).

Name

Phone

Address (Street or P.O. Box, City, State, Zip Code)

Name, address, and telephone number of owner(s).

Name

Signature of owner

Address (Street or P.O. Box, City, State, Zip Code)

Date

Phone

Name, address, and telephone number of subdivider if different than owner(s).

Name

Signature of subdivider

Address (Street or P.O. Box, City, State, Zip Code)

Date

Phone

The application must be signed by the owner of the land proposed for subdivision or the responsible officer of the corporation offering the same for sale. The application along with all the required supplements must be submitted in a three-ring notebook.

PART 2. COMMUNITY IMPACT REPORT

Provide a community impact report containing a statement of estimated number of people coming into the area as a result of the subdivision, anticipated needs of the proposed subdivision for public facilities and services, the increased capital and operating cost to each affected unit of local government. Provide responses to each of the following questions and provide reference materials as required.

1. Education and Busing

- a. Describe the available educational facilities which would serve this subdivision.

- b. Per the Broadwater County Growth Policy Plan, it is estimated that there will be 1.5 school age children per lot. How many total children will reside in this proposed subdivision? Provide a statement from the administrator of the affected school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.

- c. Will a school bus turnaround/access be created? (A school bus turnaround/access may be required.)

2. Roads and Maintenance

- a. Estimate how much daily traffic the subdivision, when fully occupied will generate on existing streets and arterials. (Utilize 8 vehicle trips per day per lot)

- b. Describe the closing or modification of any existing roads.

3. Utilities

- a. Indicate the utility companies involved in providing electrical power, natural gas, or telephone service.

- b. Identify on the preliminary plat or overlay the locations of any needed utility easements.

- c. Will this proposed subdivision have adequate utility service (power, telephone, solid waste disposal)?

- d. Has the preliminary plat been submitted to affected utilities for review?

4. Water, Sewage, and Solid Waste Facilities

- a. Briefly describe the water supply and sewage treatment systems to be used in serving the proposed subdivision (e.g. methods, capacities, locations).

- b. Where hook-up to an existing system is proposed, describe estimated impacts on the existing system, and show evidence that permission has been granted to hook up to the existing system.
- c. Describe the proposed method of collecting and disposing of solid waste from the development.
- d. If use of an existing collection system or disposal facility is proposed indicate the name and location of the facility.

5. Fire and Police Protection

- a. Describe the fire and police protection services available to the residents of the proposed subdivision including number of personnel and number of vehicles or type of facilities for:
 - 1) Fire protection – is the proposed subdivision in which fire district? Describe what fire protection procedures are planned?

6. Effects on the Historic or Natural Environment

- a. Describe any known or possible historic, paleontological, archaeological or cultural sites, structures or objects which may be affected by the proposed subdivision.
- b. How would the subdivision affect surface and groundwater, soils, slopes, vegetation, historical or archaeological features within the subdivision or on adjacent land? Describe plans to protect these sites.
 - 1) Would any streambanks or lake shorelines be altered, streams rechanneled or any surface water contaminated from sewage treatment systems, run-off carrying sedimentation, or concentration of pesticides or fertilizers? (If so, all applicable County, State and Federal laws must be abided by.)
 - 2) Do soils, vegetation, and FEMA Floodplain maps indicate that the land includes any riparian areas, wetlands or flood-prone areas? If so, is the proposed subdivision designed to avoid construction (buildings and/or roads) in these areas?
 - 3) Identify on the map areas of 25% slope or greater. Is the proposed subdivision designed to avoid these steep slopes? Will construction of the subdivision reasonably maintain the natural topographic features of the land?
 - 4) Is the proposed subdivision designed to maintain significant open space by clustering homesites? Is it designed to avoid ridge tops and visual encroachment into river corridors? Is it designed to conserve any views and vistas which are identified in an adopted land use plan?

- 5) Describe possible natural hazards the subdivision could be subject to (e.g. natural hazards such as flooding, rock, snow or land slides, high winds, severe wildfires or difficulties such as shallow bedrock, high water table, unstable or expansive soils or excessive slopes).
-

APPENDIX E. ENVIRONMENTAL ASSESSMENT

This section applies only to major subdivision and subsequent minor subdivisions.

The subdivider must submit, for review, letters with a preliminary plat and vicinity map to the public utilities and agencies of the local, state and federal jurisdiction identified during the pre-application meeting or subsequently identified as having an interest in the proposed subdivision. Also, an explanation of how the subdivider has responded to the comments of the planner at the pre-application meeting.

The purposed of the environmental assessment is to assist the subdivider and governing body in evaluating the potential effects, positive and negative, of the proposed subdivision.

Impacts should be considered at three levels: (1) the immediate site of the proposed subdivision, (2) the general vicinity or neighborhood and (3) the county.

ENVIRONMENTAL ASSESSMENT CHECKLIST

Required Information

Subdivider Checklist

Planner Checklist

Discussion regarding the five (5) public interest criteria (Questions are attached):		
1. Effect on agriculture		
2. Effect on agriculture water user facilities		
3. Effect on wildlife and wildlife habitat		
4. Effect on public health and safety		
Public utilities and agencies notification letters		
Response to comments and/or questions presented by Planner during the pre-application meeting		
Discussion regarding the four (4) environmental features (Questions are attached):		
1. Effect on surface water		
2. Effect on groundwater		
3. Effect on topography, geology and soils		
4. Effect on vegetation		

DISCUSSION OF PUBLIC INTEREST CRITERIA

The following questions are intended to be used as a guide for addressing the public interest criteria. The subdivider must demonstrate, through the environmental assessment, that the proposed subdivision has been designed with consideration of these criteria.

1. Effect of proposed subdivision on agriculture

- a. How is the land currently used, and what are the proposed uses?

- b. What percentage of this land is considered “prime or unique farmland” (according to Natural Resource Conservation Service definition), or “prime farmland” (according to US Forest Service definition)?

- c. Is the proposed subdivision designed to keep a portion of the land in agricultural use?

- d. Will irrigation water rights be conveyed with the proposed lots? If so, is there a plan for the distribution of water to the lots?

- e. Are upslope or down slope properties currently irrigated? If so, how will the proposed subdivision affect them? How will they affect the proposed subdivision?

- f. Describe the adjacent land uses?

- g. Is the majority of adjacent land in agricultural use?

- h. Is the majority of adjacent land subdivided into lots less than 20 acres?

- i. What measures will be taken to ensure that the proposed subdivision will not conflict with nearby agricultural operations (e.g., perimeter fencing, strategies to control wildlife populations and prevent wildlife displacement or attraction, restrictive covenants pertaining to domestic pets, etc.)?

2. Effect of proposed subdivision on agricultural water user facilities

- a. Are there irrigation ditches, canal, and other water user facilities (and associated easements) on this land? If so, have affected water users been notified of the proposed subdivision, and have they expressed any concern about its effect on their facilities?

- b. Are the easements adequate to protect water user facilities and allow for routine maintenance?

- c. Will water rights stay with the land proposed for subdivision? If so, how will distribution of the subdivision water be managed?

3. Effect of proposed subdivision on wildlife and wildlife habitat

- a. What types of wildlife are found (or likely to be found) in the habitat where this proposed subdivision is located? Consider both game species and non-game species of animals, birds, reptiles, amphibians and fish. Consider both permanent and seasonal wildlife populations.

- b. Is the proposed subdivision likely to displace wildlife in a way that will create problems for adjacent landowners?

4. Effect of proposed subdivision on public health and safety

- a. Have any test wells been drilled on-site and been found to produce water in accordance with state standards?

- b. Is the proposed subdivision located in an area of natural hazard? (e.g., flooding, earthquake zone, steep slopes/unstable soils/slides, high water table, high fire hazard or designated wildland/urban interface area, habitat for potentially dangerous wildlife such as bears and mountain lions.)

- c. Is the proposed subdivision located in an area of manmade hazard? (e.g., high voltage line, high pressure gas line, dilapidated structures, shooting range or public hunting grounds, airport, heavy industrial activity, heavy traffic volume, unmaintained/seasonal public road, polluted air or water supply.)

- d. Will the proposed subdivision attract potentially dangerous wildlife such as bears and mountain lions? If so, is the subdivision designed to mitigate any such hazards?

- e. Does the proposed subdivision itself include any activity or facility which could potentially endanger the public? (e.g., commercial fuel storage tank, airport activity, irrigation canal, ponds, etc.) If so, what measures will be taken to reduce, eliminate, or overcome the hazard?

PUBLIC INTEREST CRITERIA – SUMMARY EVALUATION

Note: A proposed subdivision may have both positive and negative effects on any one of these criteria.

Potential Effects of Proposed Subdivision	Positive	Neutral	Negative	Comments
1. Effect on agriculture.				
2. Effect on agricultural water user facilities.				
3. Effect on wildlife and wildlife habitat.				
4. Effect on public health and safety.				

DISCUSSION OF ENVIRONMENTAL FEATURES

1. Surface Water

Locate on a plat overlay or sketch map:

- a. Any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicate the names and sizes of each).
- b. Any artificial water systems such as canals, ditches, aqueducts, reservoirs and irrigation systems (also indicate the names, sizes and present uses of each).
- c. Time when water is present (seasonally or all year).
- d. Any areas subject to flood hazard or in delineated 100-year floodplain.
- e. Describe any existing or proposed streambank alteration from any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type and purpose of alteration and permits applied for.

2. Groundwater

Using available data provide the following information:

- a. The depth to water table and identify dates when depths were determined.

3. Topography, Geology and Soils

- a. Provide a map of the topography of the area to be subdivided, and an evaluation of suitability for the proposed land uses. On the map identify any areas in excess of 15% grade. Identify the lots or areas affected. Address conditions such as:
 - 1) Shallow bedrock
 - 2) Unstable slopes
 - 3) Unstable or expansive soils
 - 4) Excessive slopes
- b. Locate on an overlay or sketch map any known hazards affecting the development:
 - 1) Falls, slides or slumps – soil, rock, mud, snow, etc.
 - 2) Rock outcroppings

3) High water table

- c. Describe measures proposed to prevent these dangers.
- d. Describe the location and amount of any cut or fill more than three (3) feet in depth. Indicate these cuts or fills on a plat overlay or sketch map. Where cuts or fills are necessary, describe plans to prevent erosion and to promote vegetation such as replacement of topsoil and grading.

4. Vegetation

a. On a plat overlay or sketch map:

- 1) Indicate the distribution of the major vegetation types, such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest, etc.

5. Wildlife and Wildlife Habitat

Using available data provide the following information:

Species on property

Species that migrate through or near property

Seasonally present species

Habitat on property and potential impacts to habitat

ENVIRONMENTAL FEATURES – SUMMARY EVALUATION

Note: A proposed subdivision may have both positive and negative effects on any one of these features.

Potential Effects of Proposed Subdivision	Positive	Neutral	Negative	Comments
1. Surface Water				
2. Groundwater				
3. Topography, Geology and Soils				
4. Vegetation				

APPENDIX F. LAND STEWARDSHIP PLAN OUTLINE AND GUIDELINES

Submittal of a land stewardship plan is a new requirement of the subdivision application package. The Land Stewardship Plan is intended to demonstrate that the subdivider has considered and, to the extent possible, provided for the long-term care and management of the land. The Plan does not have to be lengthy, but it should address at least the major points listed below.

- **Vegetative Health**

In part, this item will be covered by the noxious weed management plan. In part, this item will also be covered by best management practices for grazing and other agricultural uses (see below).

Revegetation of disturbed ground and other landscaping requirements may be required or advisable. In such cases, native seed and plantings are encouraged.

Suggested contacts: County Extension Agent, County Weed Coordinator, Natural Resource Conservation Service, Local Conservation District.

- **Public access**

Where a proposed subdivision will permit public access to recreational resources, identify measures that will be taken to minimize the potential for trespass, litter and environmental damage.

Suggested contacts: MT Department of Fish, Wildlife and Parks, County Sheriff

- **Wildlife**

Where a subdivision is proposed in an area rich in wildlife resources, identify measures that will be taken to avoid habituating the wildlife, harassing the wildlife, obstructing wildlife migration patterns, unnecessarily attracting dangerous wildlife and/or causing game damage on adjoining properties. Building and road location, fencing options, garbage containment, pets and landscaping may all impact wildlife.

Suggested contacts: MT Department of Fish, Wildlife and Parks, County Extension Agent, Natural Resource Conservation Service, Local Conservation District

- **Livestock grazing**

Where a proposed subdivision will allow livestock grazing, including horses, identify measures that will be taken to prevent overgrazing, provide adequate forage and promote healthy vegetation.

Where a proposed subdivision will prohibit livestock grazing on large tracts of land, identify how the land will be managed to prevent wildfire and promote healthy vegetation.

Suggested contacts: Natural Resource Conservation Service, Local Conservation District, County Extension Agent

- **Other agricultural uses**

Where a proposed subdivision will allow other agricultural uses, identify what measures will be taken to promote soil health and water conservation.

Suggested contacts: Natural Resource Conservation Service, Local Conservation District, County Extension Agent

- **Recycling**

If solid waste recycling practices will be promoted, identify how.

Suggested contact: County Solid Waste Manager

- **Protection of water resources**

In part, this item will be covered by sanitation and floodplain information as well as previous discussions of wildlife, livestock grazing and other agricultural uses.

Where a proposed subdivision is located along a water body, identify what measures will be taken to protect surface water, groundwater, floodplain and riparian area resources.

Suggested contacts: Natural Resource Conservation Service, Local Conservation District or Watershed Council, County Extension Agent

APPENDIX G. REVIEWING FOR GROWTH POLICY COMPLIANCE

EVALUATION CHECKLIST

Note: If an item is not pertinent to the proposed development, place N/A in the far right column	Project is Consistent			Project is Not Consistent			Comments on Consistency, Proposed/Potential Mitigation Measures
	Low	Moderate	High	Low	Moderate	High	
GUIDING PRINCIPLES							
Locate new development close to existing services and communities							
Protect our river corridors							
Preserve our most productive agricultural lands							
Respect private property rights							
GOALS & OBJECTIVES							
Land Use. Support a variety of activities in ways that accommodate growth, minimize conflict among adjacent land uses, promote efficient use of land, protect public health and safety and reflect the ‘Guiding Principles’.							
Environment. Protect the quality of our air, groundwater, surface waters, soils, vegetation, fish and wildlife habitat, scenic views, and cultural and historic resources.							
Public Services. Provide public services to residents and visitors in safe, fair and cost-effective ways.							
LAND DEVELOPMENT POLICIES							
Surface water and groundwater quality should not be degraded							
Site shall be accessible to emergency services							
Adequate legal and physical access shall be provided							
Subdivision should respect neighboring land uses							

	Project is Consistent			Project is Not consistent			Comments on Consistency, Proposed/Potential Mitigation Measures
	Low	Moderate	High	Low	Moderate	High	
Subdivision should preserve scenic views and vistas from public lands and rights-of-way							
Where agricultural land is being converted, where possible, subdivision should encourage the continuation of ag practices on the land							
Transportation and utility improvements should support, not negatively impact, agriculture							

Conclusions:

As proposed, the project DOES/DOES NOT substantially comply with the Broadwater County Growth Policy Plan.

Additional mitigation measures ARE/ARE NOT needed to bring the project into substantial compliance with the Broadwater County Growth Policy Plan.

Evaluated by _____ Date _____

APPENDIX H. VARIANCE APPLICATION FORM

2. Project Name _____

3. Landowner Information

Name: _____

Address: _____

Telephone: _____

Signature: _____ Date _____

4. Describe the requested variance _____

5. Describe how the requested variance meets each of the following criteria (Attach additional pages as needed):

- a. The variance will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- b. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced.
- c. The variance will not cause a substantial increase in public costs.
- d. The variance will not in any manner place the proposed subdivision in non-conformance with any adopted zoning regulations. The variance should not place the proposed subdivision in substantial non-compliance with the Broadwater County Growth Policy Plan.

6. As appropriate, discuss whether or not the variance is a part of an innovative development proposal which does not circumvent the purpose of the Broadwater County Subdivision Regulations.

APPENDIX I. FIRE PROTECTION REQUIREMENTS

I-1 General Fire Protection Requirements

1. **Fire Protection Availability.** Every subdivision shall be provided with fire protection through a rural fire district, fire service area, or other means, of fire protection services adequate to respond to fires that may occur within a subdivision.
2. **Fire Protection Plan.** All proposed subdivisions shall provide a Fire Protection Plan approved by the local Fire Protection Authority Having Jurisdiction (FPAHJ) prior to the subdivision application being considered complete by the Broadwater County Planning Department. The FPAHJ is the Fire Chief of the fire service organization providing fire protection services to the proposed subdivision. The Fire Protection Plan should, at a minimum, pending approval by the FPAHJ, include the following:
 - a. Description and confirmation of fire protection service/arrangement as required under this section.
 - b. Describe compliance with general fire protection requirements as outlined under Section IV-A-17, General Fire Protection Requirements.
 - c. For major residential subdivisions, fire protection packages as outlined under Section I-2-1.
 - d. For minor residential subdivisions, fire protection packages as outlined under Section I-2-2.
 - e. For commercial subdivisions and buildings, fire protection packages as outlined under Section I-2-3.
 - f. A description of how the proposed subdivision is meeting the requirements for access and evacuation outlined in Section I-3.
 - g. For subdivisions identified as being located within a Wildland Urban Interface by the Broadwater County Community Wildfire Protection Plan and the FPAHJ, compliance with fire protection requirements for subdivisions in Structure-Wildland Interface as outlined under Section I-4.

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

I-2. Water Supply

A water supply of sufficient volume for effective fire control must be provided as follows:

1. **Fire Protection Requirements for Major Residential Subdivisions.** (6 or more lots) For major residential subdivisions, the applicant shall provide one of the following fire protection packages, as recommended by the FPAHJ:

- a. Fire protection water supply system capable of 1,000-gallons-per-minute at 20 psi minimum through an approved public water system with fire hydrants(s), for a minimum of 120 minutes. The distribution of fire hydrants shall meet the requirements of the current edition of the Fire Code, as adopted by the State of Montana; **OR**
 - b. Fire protection water tank(s), constructed from plastic, concrete, fiberglass, or ponds approved by the FPAHJ. The capacity of the tanks shall be a minimum of 30,000 gallons with a pump capable of delivering 500-gallons-per-minute at 20 psi from an approved fire hydrant. The maximum travel distance to the edge of the lot line furthest from a hydrant on a route approved by the FPAHJ shall be 1,000 feet. The tank(s) shall have an automatic water supply to maintain the required capacity; **OR**
 - c. A fee in lieu of water supply may be paid in the amount of \$1,000.00 per lot
- 2. Fire Protection Requirements for Minor Residential Subdivisions.** (1 to 5 lots) For a minor residential subdivision, the applicant shall provide one of the following fire protection packages, as recommended by the FPAHJ:
- a. A storage tank(s) or pond of 30,000 gallons with a pump capable of delivering 500- gallons-per-minute at 20 psi from an approved fire hydrant. The maximum approved travel distance from the lot most distant from the hydrant to the hydrant shall be 1,000 feet. The tank(s) shall have an automatic water supply to maintain the required capacity. The tank(s) can be underground, on the ground, or elevated; **OR**
 - b. A fee in lieu of water may be paid in the amount of \$1,000.00 per lot
- 3. Fire Protection Requirements for commercial Subdivisions and Buildings.** Commercial buildings and buildings which are used for purposes other than as dwellings or as lodging houses which accommodate 10 persons or more shall provide the following fire protection water supply or fire suppression equipment:
- a. A fire protection water supply shall be provided that meets or exceeds the minimum required fire flow and flow duration for buildings as described in the current edition of the Fire Code, as adopted by the State of Montana.
 - b. All commercial structures that are required to provide fire detection and/or fire protection sprinkler systems, either by code or as part of the Fire Protection Plan, shall have the plans reviewed and approved by the FPAHJ. These systems shall comply with the current edition of the Fire Code, as adopted by the State of Montana, for design and installation.
 - c. All structures shall be built meeting or exceeding the requirements of the current editions of the Fire and Building codes, as adopted by the State of Montana.
- 4. Expansion of water supply systems.** The FPAHJ may require expansion, and/or improvement, of a water supply system to serve off-site developments.
- 5. Back-Up-Power Requirements for Water Distribution Systems Providing Fire Protection Water Supply.** Back-up power is required for water distribution systems supplying fire hydrants or fire

sprinkler systems if there are not any storage tanks or ponds as part of the system. If there are storage tanks or ponds as a part of the water distribution systems, back-up power or a draft hydrant connection to the system, meeting requirements of the FPAHJ, is required.

- 7. Locations of Fire Protection Water Supply System.** Locations of fire protection water supplies shall be approved by the FPAHJ.
- 7. Maintenance of Fire Protection Water Supply.** (Example: water systems, draft sites, fill sites, buried tanks or open ponds.) – Fire protection water supplies must be maintained to their original performance capability in perpetuity by the property owners. Performance of all fire protection system shall be certified annually by a licensed P.E. and submitted to the FPAHJ to ensure continued specified capability.

I-3. ACCESS & EVACUATION

Access for emergency responders and the public's evacuation shall be provided for all buildings.

1. Roads

- a. All roads shall meet or exceed Broadwater County road standards, including but not limited to construction, width and grade. The access routes shall be approved by the FPAHJ.
- b. All major subdivisions should provide a minimum of two ingress/egress roads, at the recommendation of the FPAHJ that are integral to and have approaches directly connected to the subdivision, to assure adequate escape routes for residents and access for fire fighting and other emergency response vehicles.

I-4. WILDLAND/URBAN INTERFACE

For areas identified as Wildland Urban Interface in Broadwater County special standards are required.

- 1. Additional Requirements:** For subdivisions proposed in areas that are classified, by the Community Wildland Protection Plan, CWPP, as Wildland Urban Interface Area or as indicated as High or Extreme Hazard by the Wildland Fire Risk and Hazard Severity Assessment Form (See Attachment 1), the following standards shall apply:
 - a. **Water Supply** - An additional 500-gallons-per-minute shall be included in the base fire flow requirement.
 - b. **Access and Evacuation** -
 - 1) Road rights-of-way shall be cleared of construction slash. The required clearance of the right-of-way shall be maintained, in perpetuity, in a fire-resistive state.
 - 2) All bridges and cattle guards should be constructed of noncombustible materials.
 - 3) Subdivisions shall be designed to allow emergency vehicle access to wildland areas behind structures by:

- Providing a fuel break that has been reviewed and approved by the FPAHJ, and accessible to fire apparatus.
- c. Fuel Breaks & Greenbelts - Open space, park land and recreation areas (including greenbelts, riding or hiking trails) should be located, where appropriate, to separate communities, groups of structures, or residences and other buildings from densely forested areas. These breaks can slow or stop the spread of an oncoming wildland fire.
- Fuel Breaks & Greenbelts - If the FPAHJ determines it is necessary to reduce the threat of wildland fires to life or improved property, fuel modification outside of the defensible space should be considered.

2. Wildland/Urban Interface Fire Protection Covenants

The following standards will be included as a requirement of the Fire Protection Plan to mitigate potential threats from fire:

- a. Maintenance of Fire Protection Water Supply (for example: water systems, draft sites, fill sites, buried tanks or open ponds) – Fire protection water supplies must be maintained to their original performance capability in perpetuity by the property owners. Performance of all fire protection system shall be certified annually by a licensed P.E. and submitted to the FPAHJ to ensure continued specified capability.
- b. Maintenance of Fire Protection System (for example: defensible spaces, Driveway routes, fuel breaks, fuel modification plan, greenbelts, etc.) - Fire protection system must be maintained to their original performance capability in perpetuity by the property owners.

APPENDIX J. REQUEST FORM TO LIFT AN AGRICULTURAL EXEMPTION

Part 1. Landowner Information

Name _____

Address _____

Telephone _____ Date of Request _____

Signature _____

Part 2. Property Information

Location/Legal Description _____

Part 3. Please describe your reason for requesting the agricultural exemption be lifted

Note: In order to have your agricultural exemption lifted, you must go through the subdivision process and have the parcel created as a subdivided lot.

Part 4. Governing Body Decision

This request is hereby: _____ **Approved** _____ **Denied**

Reason: _____

Signature of County Commission Chairperson

Date

APPENDIX K. AGRICULTURAL LANDS – SUBDIVISION EVALUATION CRITERIA

The following information shall form the basis of findings of fact and a weighing of the review criteria as part of the determination whether to approve, conditionally approve or deny a proposed subdivision.

1. *Critical Agricultural Land*
 - a. Prime farmland
 - b. Prime if irrigated

2. *Economic Status as an Agricultural Unit*
 - a. Whether the parcel is part of an economically viable farm unit
 - b. Percent of site in agricultural use
 - c. Compatibility with surrounding uses

3. *Conflicts Between the Proposed Subdivision and Adjacent Farm or Ranch Operations*
 - a. Interference with irrigation systems and facilities
 - b. Diminishing availability or quality of water for irrigation or stock watering
 - c. Interference with movement of livestock, farm machinery
 - d. Maintenance of fences
 - e. Proliferation of weeds

APPENDIX L. NOXIOUS WEED MANAGEMENT PLAN APPLICATION FORM

1. Attach a map of the area, or copy of the subdivision plat, with legal description.
2. Which noxious weeds (if any) are present on the property? Identify location and size of infestation on map.

3. Specify the types of measures and frequency you will use to control the weeds already present or that may appear during the construction / development / disturbance of the property. Be Specific!

4. Describe the type of revegetation to be used following land disturbance activities. Seed and mulch, if used, must be free of noxious weed seeds. Land disturbance is defined as an activity, which displaces soil from its original placement/condition (building of houses, water & septic lines, roads, driveways, etc.).

5. Explain your strategies to prevent weeds from re-infesting disturbed lands.

6. Is there live or open water on the property? If so please outline on your map.

7. If subdivision plan includes remainder tracts, will adjoining land be divided at a later date?

8. Is there a current weed management plan for the remainder tracts?

THE APPLICANT CERTIFIES THAT THE FORGOING IS TRUE AND CORRECT.

Signature of Property Owner

Date

Name of Subdivision _____
Name of Property Owner _____
Address _____
Phone _____

Land Description (Legal and Descriptive)
1/4 _____ 1/4 _____ Section _____ Township _____ Range _____

Subdivision Type _____ Minor _____ Major _____ No. of Lots _____ No. of acres _____

THE APPLICANT CERTIFIES THAT THE STATEMENTS APPEARING HEREIN ARE TO THE BEST OF HIS/HER KNOWLEDGE TRUE AND CORRECT, AND AUTHORIZES THE INSPECTION OF THE PROJECT SITE BY THE WEED BOARD OR ITS REPRESENTATIVE.

Signature of Property Owner _____ Date _____

Return completed form with the proposed
plan and notification of disturbance to: BROADWATER COUNTY WEED DISTRICT
515 Broadway Townsend, MT 59644
Phone: (406) 266-9243

* * * * *

To be completed by the Broadwater County Weed Board:

The Weed Management Plan:	The review fees:
____ is accepted	____ have not been paid
____ is accepted with modifications	____ have been paid
____ is not accepted	

Comments: _____

WEED BOARD SIGNATURES:	DATE _____
_____	_____
_____	_____
_____	_____

Site Inspection by _____ Date _____

Information about Weed Management Plan

1. Landowners/Subdividers are to first meet with the County Weed Coordinator. Forms for a weed management plan are to be picked up and an appointment set up for an onsite inspection
2. Completed Weed Management Plans shall be received by the 1st of the month in which they will be reviewed by the weed board.
3. An inspection of the property with the landowner and/or landowner's agent and the County Weed Coordinator must be made prior to development of a weed management plan. Weeds detected during inspection may not reflect the entire scenario due to season of growth, current climatic conditions, and previous cropping or grazing practices. If landowner is aware of additional weeds present, he/she must make it known at the time of inspection or in the development of the weed plan.
4. The initial subdivision weed management plan is in effect for three years and includes monitoring, control methods and revegetation practices. Annual evaluations may be conducted by the County Weed Coordinator and/or District Weed Board members. Landowners are obligated to comply with the Broadwater County Noxious Weed Management Plan and the weed management plan for their subdivision.
5. Obligation for subsequent owners is to be stated on the plat or the covenants, to include both private property and road rights-of-way, and to be a part of any road maintenance agreement. Submit a copy of the covenants or the wording on the plat with your application, which sets forth this obligation. Wording on the plat should state: "Weed Control Regulations: Landowners within a subdivision are required to abide by the Broadwater County Noxious Weed Management Plan and the specific weed management plan for this subdivision".
6. The subdivider is responsible for ensuring noxious weeds are controlled in the subdivision until all lots are sold or responsibility is turned over to the homeowners' association.
7. The weed management plan must be approved by the Weed Board prior to the submission of the subdivision application. The Board reserves the right to inspect the property prior to issuing a final letter of approval.
8. An integrated weed management approach is recommended by using a combination of several weed control tools to suppress the noxious weed species and stimulate the competitive vigor of the desired plant community. No single method should be used in managing noxious weeds, rather a combination of methods should be used to achieve an integrated management plan, which addresses prevention as well as management. In cases where eradication of noxious weed species is not a practical or economically reasonable goal, containing and reducing infestations to manageable levels should be the objective.

THE APPLICANT CERTIFIES THAT HE/SHE HAS READ AND UNDERSTANDS THE ABOVE INFORMATION ABOUT A SUBDIVISION WEED MANAGEMENT PLAN.

Signature _____ Date _____

Printed Name _____

APPENDIX M. COUNTY SANITARIAN CHECKLIST

Broadwater County Environmental Health Office
515 Broadway, Townsend, MT 59644
Phone: (406) 266-9209 Fax (406) 255-3674

This section applies only to those subdivision lots that are greater than twenty (20) acres and less than one-hundred sixty (160) acres in size.

1. Lot layout (minimum scale 1 inch = 200 feet) with contour intervals
 - a. Location of existing and proposed:
 - 1) Buildings
 - 2) Driveways
 - 3) Wells with 100' isolation zone (shall be staked and identified on each tract)
 - 4) Drainfields and 100% replacement areas
 - 5) Soil profile test pits (shall be staked and identified on each tract)
 - b. Location of any surface waters, irrigation ditches, intermittent streams or drainage areas, ravines, rock outcroppings and slopes > 25%
2. Three (3) well logs (minimum) within 1 mile radius of proposed subdivision
3. Map showing the location of these wells in relationship to proposed subdivision
4. Results of water sample collected from one of these wells (tested for Nitrates + Nitrites as N and specific conductivity)
5. Bacteriological results of water sample(s) collected from any existing wells (domestic use only) within the proposed subdivision
6. Soils information (available from *Soil Survey of Broadwater County* or internet sites)
7. Detailed soil profiles taken from 8-foot test pits
8. Approximate depth to groundwater or bedrock
9. Copies of septic permits for existing wastewater treatment systems in proposed subdivision or if existing systems were not permitted by the County a report/statement from a licensed septic pumper that the septic tank has been pumped and that the drainfield appears to be functional
10. Floodplain map (if applicable)
11. Aerial photo
12. Fee (\$100 per lot/tract)

County sanitarian should be notified at least 48-hours prior to excavation of soil test pit(s) for evaluation. Test pits are required on all proposed lots (specifically those with groundwater or bedrock concerns) **unless** the topography and soil information is consistent across the proposed subdivision; then at least two test pits shall be excavated within the proposed subdivision. Test pits shall be excavated to provide safe ingress/egress by the sanitarian.

APPENDIX N. COUNTY SUBDIVISION ROAD STANDARDS

These are subdivision road standards and are not intended to be the standards for county roads.

I. Road Classification

The purpose of a functional classification system for county roads is to provide for the safe and efficient movement of people and goods while preserving residential areas and maintaining the economic vitality of commercial and industrial areas. The system classifies transportation facilities according to an appropriate integrated network. It is intended to link land use development activities with transportation facilities for optimum utilization of both. The County's functional classification system is intended to be in compliance with the Federal classification system. Roadways within the county are classified as:

1. Local Road – 1-400 ADT. Roadways used primarily for direct access to residential, commercial, industrial, or other abutting property. The average daily traffic (ADT) would be projected to be 1-400. If the roadway is located in a development with urban density, then paving could be required.
2. Local Road – 401-1500 ADT. Roadways used primarily for direct access to residential, commercial, industrial, or other abutting property. The average daily traffic (ADT) would be projected to be 401-1500. All local roads with 401-1500ADT shall be paved.
3. Minor Collector. Minor collector streets serve the dual functions of distributing traffic between local roads and arterials, and providing access to abutting properties. Therefore, higher traffic volumes and higher speeds are the norm. Minor collector streets would carry average daily traffic volumes of 1,500-3,500. Minor Collector streets connect arterial networks and also connect neighborhoods to commercial areas; fixed route transit service is low while bicycle and pedestrian activities range from moderate to high. All collector streets shall be paved.
4. Major Collector. Major collector streets serve the dual functions of distributing traffic between local roads and arterials, and providing access to abutting properties. Therefore, higher traffic volumes and higher speeds are the norm. Major collector streets would carry average daily traffic volumes greater than 3,500. Major collector streets connect arterial networks and also connect neighborhoods to commercial areas; fixed route transit service is low while bicycle and pedestrian activities range from moderate to high. All collector streets shall be paved.
5. Arterial. That part of the roadway system serving as the principal network for through traffic flow. The routes connect areas of principal traffic generation and important rural highways entering the city. Typically, a subdivision proposal does not require an arterial roadway. Therefore, no county-specific standards are included herein. If an arterial roadway standard is needed, the Montana Department of Transportation (MDT) standards for the appropriate roadway shall be used.

II. Design Controls & Criteria.

1. Standard Specifications.
 - a. The standards for Broadwater County subdivision roads and bridges, and all other construction within publicly owned right-of-way, shall consist of:

- 1) The Broadwater County Subdivision Roadway Standards which are the design criteria herein.
 - 2) The current published edition of the Montana Public Works Standard Specifications as published and distributed by the Montana Contractors Association.
- b. Reference Standards: To implement the above standards, the following publications and their subsequent revisions shall apply:
- 1) The current version of the Montana Roadway Design Manual, published by the MDT.
 - 2) The current version of the Standard Specifications for Road and Bridge Construction, published by the MDT.
 - 3) The current version of the Policy of Geometric Design of Highway and Streets, published by the American Association of State Highway and Transportation Officials (AASHTO).
 - 4) The current version of the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration.
- c. In the event of conflict with any of the specifications, the County shall specify, in writing, which of the standard specifications will apply.
2. Plans for Construction of Roads and Utilities. Prior to construction the Design Engineer shall submit plans and specifications for street and utility construction for the proposed development to the County for review. The plans and specifications shall include a vicinity map, a plan and profile, special provisions, and reference to the standards specifications including typical sections.
- a. The Plan. The 11" x 17" submittal plan shall include the road alignment at a scale of not less than 1" to 100' showing centerline stationing on all intersection streets, with bearing on centerlines, curve data on all horizontal curves; right-of-way; relevant topography; existing and proposed utility location; street names in the development and adjoining the development; typical roadway section showing placement of utilities, existing and proposed drainage and storm water features; sidewalk ramp locations; flood plain and wetland boundaries; signalization, canalization, striping and signing; and further data as may be required by the County
 - b. The Profile. The profile shall show the relevant original ground lines using the same stationing as in the plan, control elevations, grade line showing the proposed grades, vertical curves; all bench marks, the vertical datum, and such further information as may be reasonably required. For new streets, the relevant original ground lines will show the ground line at centerline at a minimum and also at the edges of the right-of-way if grade differences are significant (or alternatively surveyed contour lines on the plan view). For existing streets, the Design Engineer shall provide elevations at the edge of the existing pavement or face of curb, whichever is applicable. The profile lines for roads extending to the perimeter of any development shall be extended a minimum of three hundred (300') feet beyond the perimeter to include any change in contours which would affect the profile of the extension of the proposed road.
 - c. Special Provisions. Any special technical provisions shall be shown or referenced on the plans.

- d. **Format.** The cover sheet of all plans shall include a statement identifying which standard specifications will apply to the project. Plan and profile may be shown on the same sheet with profiles shown on the bottom half of the sheet. Submitted sheets shall measure 11" x 17" based on being a true 1/2 size of a 24" x 36" drawing. The 24" x 36" original (not submitted) drawing shall have a borderline of 2 1/2" on the left side of the length of the sheet and 1/2" on remaining sides, so that the true 11" x 17" drawing is proportioned correctly. When more than two plan sheets are used, an overall development layout shall be submitted showing the relationship of roads and utilities.
 - 1) A north arrow shall be shown on each plan view sheet and adjacent to any other drawing which is not oriented the same as other drawings on the sheet.
 - 2) Letter size shall not be smaller than 0.12 of an inch high which equates to a 0.06 of an inch height for the submitted 11" x 17" drawing.
 - 3) All detail drawings, including standard drawings, shall be included in the drawings unless the county standards are referenced with appropriate dimensions clearly supplied in the drawings.
 - e. A title block shall appear on each sheet of the plan set and shall be placed in the lower, right-hand corner of the sheet, across the bottom edge of the sheet or across the right-hand edge of the sheet. The title block shall include the name of the project, the engineering firm, the sheet title and the owner if not shown on the first sheet.
3. **Design Criteria.** The Broadwater County roadway design criteria are set out in Table J-1. Such criteria are applicable to roads located within and adjacent to a development. These criteria are intended for normal conditions. The County may require higher standards for unusual site conditions.

III. Typical Roadway Section.

The typical roadway section shall be as shown on the Typical Road Section in Figure 1, 2, 3 and 4 and shall be detailed on the construction plans submitted for each new roadway or improvement to an existing roadway.

The following sections contain information relative to descriptions of the roadway structural section elements:

1. **Asphalt Seal Coat.** When asphalt paving is used as the wearing surface, this item shall consist of a single application of asphalt material on the prepared asphalt surface, followed by spreading seal coat aggregate. The asphalt material and application rates shall meet the requirements of the appropriate sections of the latest addition of MPWSS. The aggregate shall meet the gradation as set forth in Table B-1 and shall be spread per the rate of the latest addition of MPWSS.
2. **Asphalt Paving.** This consists of hot plant mix asphalt concrete consisting of mineral aggregate and asphalt material mixed at a central hot plant. The mineral aggregate and asphalt material shall meet the requirements of the appropriate sections of the latest addition of MPWSS.
3. **Crushed Top Surfacing.** This consists of crushed gravel, stone or other similar material consisting of hard, durable particles of fragments of stone, free of excess of flat, elongated, soft

or disintegrated pieces, dirt or other deleterious matter. This is the surface course on gravel roads and streets. The material shall meet the gradation as set forth in Table B-2.

4. Crushed Base Course. This consists of crushed gravel, stone or other similar material consisting of hard, durable particles or fragments of stone, free of excess of flat, elongated, soft or disintegrated pieces, dirt or other deleterious matter. This is the layer immediately below either a crushed top surfacing or the asphalt paving. The material shall meet the gradation as set forth in Table B-3.
5. Select Base Course. This consists of crushed or non-crushed sub-base material of hard, durable stone, gravel or other similar materials mixed or blended with sand, stone dust, or other binding or filler materials produced from sources that provide a uniform mixture. The material shall meet the gradation as set forth in Table B-4.

IV. Utility Location

If any utilities are to be installed within the right-of-way, they should be installed within ten (10) feet of either right-of-way. Any utility requiring a crossing of the improved roadway shall install conduits prior to surface grading and surfacing.

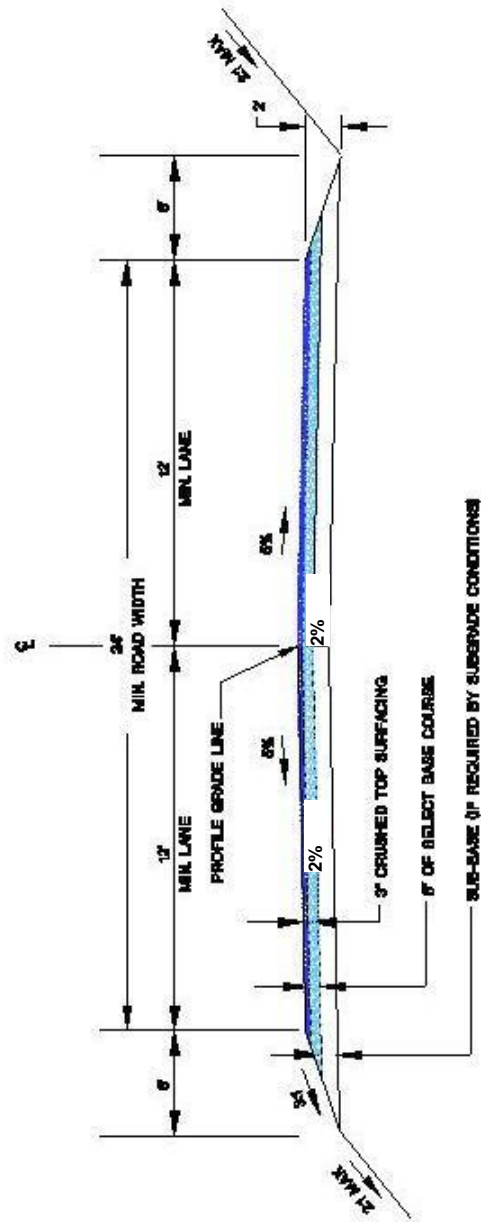
Table A-1. Broadwater County Road Design Criteria

	Terrain	Major Collector	Minor Collector	Local Road Med to High Density	Local Road Low Density
Average Daily Trips (ADT)	-	Greater than 3,500	1,500 – 3,500	401 - 1500	24 - 400
Design Speed (MPH)	Level	55		30	40
	Rolling	45	40	25	30
	Mountainous	45	30	20	20
Curvature-Minimum at Centerline (feet)	Level	575	575	250	250
	Rolling	440	440	175	175
	Mountainous	330	300	110	110
Minimum Stopping Sight Distance (feet)	Level	per AASHTO	425	200	200
	Rolling	"	305	150	150
	Mountainous	"	200	110	110
Maximum Grade	Level	per AASHTO	6%	6%	6%
	Rolling	"	8%	9%	9%
	Mountainous	"	10%	11%	11%
Min. Roadway Width (feet)		36-40	28-32	24	24
Length of Max. Grade (feet)		per AASHTO	per AASHTO	per AASHTO	per AASHTO
Minimum Grade		0.5%	0.5%	0.5%	1%
Superelevation		per AASHTO	per AASHTO	N/A	N/A
Minimum Intersection Spacing (feet)		500 (or as determined by state agency)	275	100	150
Driveway Spacing (feet)		45	45	40	40
Max. length between turnarounds on a cul-de-sac (feet)		Not Allowed	Not Allowed	1500 (recommended)	1500 (recommended)
Min. Radius of Cul-de-Sac (feet)		Not Allowed	Not Allowed	40	40
Min. Radius of cul-de-sac right-of-way width (feet)		Not Allowed	Not Allowed	50	50
Sight Distance Triangle (feet)	Level	300	255	120	170
	Rolling	210	170	95	120
	Mountainous	210	120	80	80
Min. Right of Way Width (feet)		100	80	60	60
Vertical Clearance (feet)		16.5	16.5	14.5	14.5
Intersection Curb Return Radii (feet)		25	25	15	15
Min. Sidewalk Width (feet)		5	5	5	5
Sidewalk Offset From Back of Curb (feet)		5-10	5-10	5	N/A
Bike Lane Width (feet)		4-8	4-8	N/A	N/A
Min. Culvert Diameter (inches)		18	15	15	15
Min. Culvert Cover (feet)		Supplier's Recommendation	Supplier's Recommendation	Supplier's Recommendation	Supplier's Recommendation
Min. Culvert Grade		0.5%	0.5%	0.5%	0.5%
Culvert Material		Support HS-20 Loading	Support HS-20 Loading	Support HS-20 Loading	Support HS-20 Loading

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

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

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



NOTES: 1) ALL SURFACING COURSES, INCLUDING THE SUBGRADE, SHALL BE COMPACTED PER MPMSS.

TYPICAL ROAD SECTION - #1 LOCAL ROAD - 24 - 400 ADT *

* IF URBAN DENSITIES OCCUR
THEN USE FIGURE 2

FIGURE 1

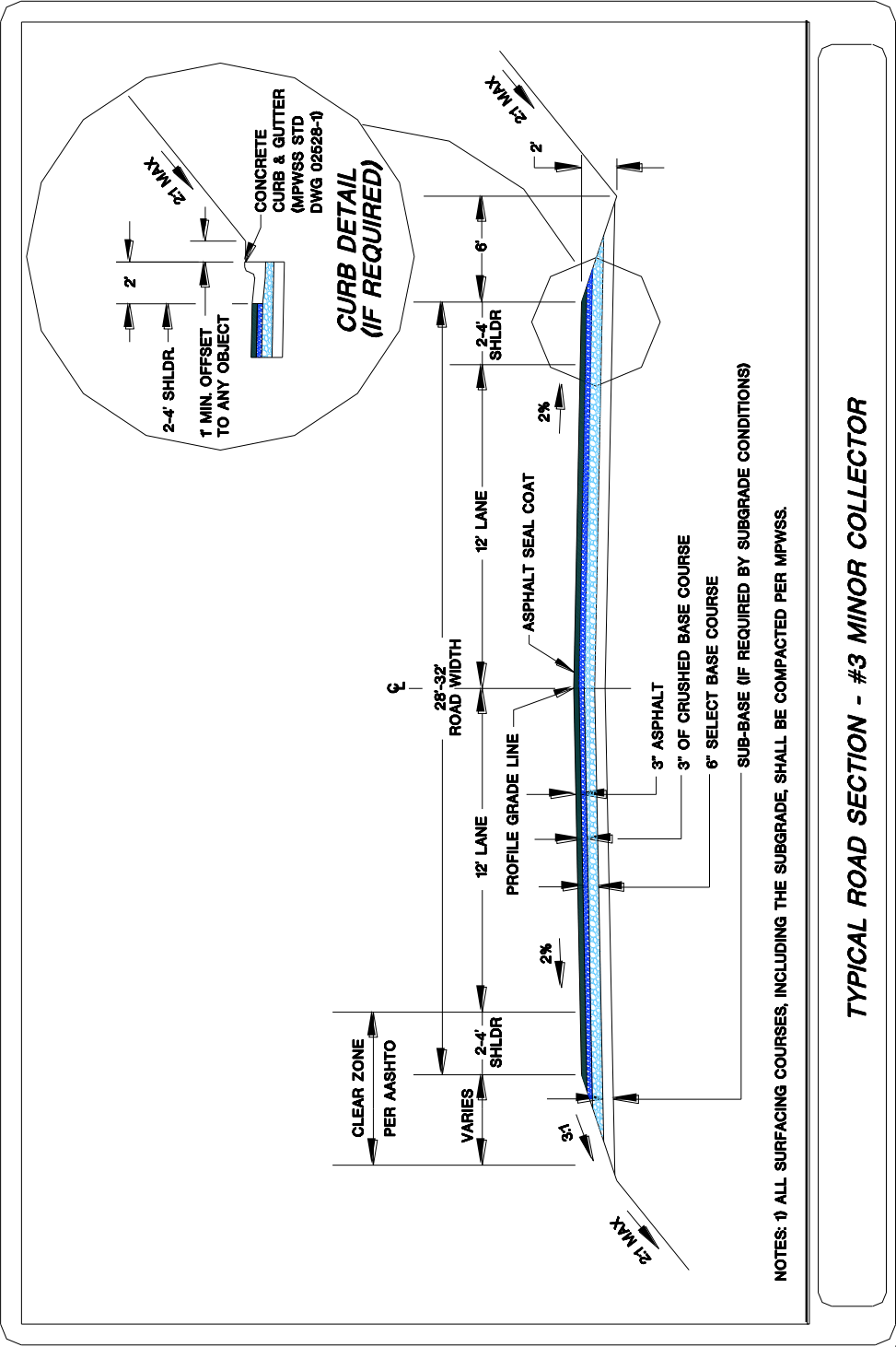
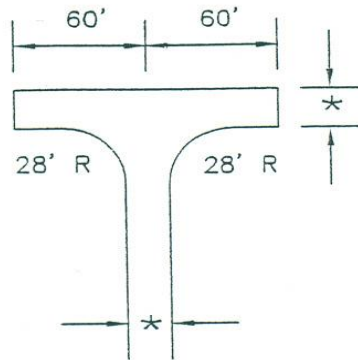
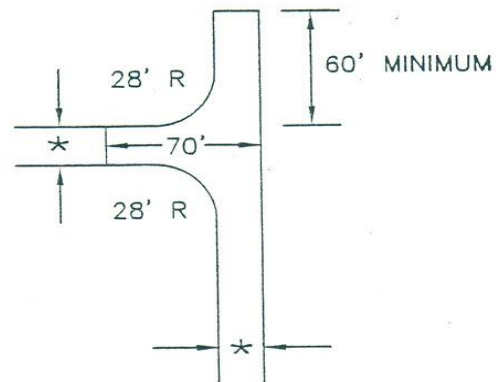


FIGURE 3

ACCEPTABLE TURNAROUNDS

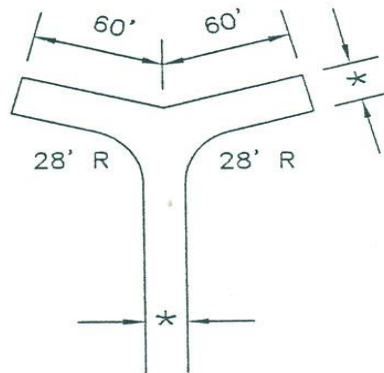


120' HAMMERHEAD

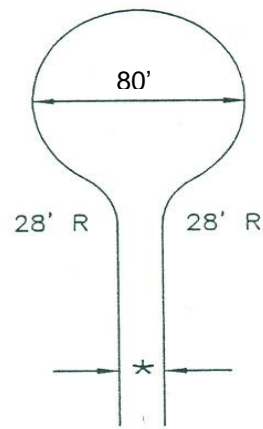


ACCEPTABLE ALTERNATIVE
TO 120' HAMMERHEAD

ALL STREET DIMENSIONS ARE BASED ON CITY
STREET STANDARDS AND ARE FROM FACE OF CURB.



ACCEPTABLE ALTERNATIVE
TO 120' HAMMERHEAD



80' CUL-DE-SAC

TURNAROUNDS ARE BASED ON THE INTERNATIONAL
FIRE CODE INSTITUTE APPLICATION MANUAL (1995 E

Figure 5

TABLE B-1
SPECIFICATION FOR CHIPS - ASPHALT SEAL COAT MATERIAL
 3/8" Asphalt Seal Coat Aggregate

TABLE OF GRADATIONS	
Percentage by Weight Passing Square Mesh Sieves (Montana Test Method MT-202)	
Sieve Size	Grade 2
1/2" sieve	100%
3/8" sieve	85-100%
#4 sieve	10-30%
#10 sieve	0-10%
#40 sieve	0-2%

- * The material from which aggregate is to be produced shall have a wear factor not to exceed 50 percent at 500 revolutions, as determined by MT-209. The abrasion test shall be run using a 5000-gram sample charge material between 3/8 inch and #4 sieves and an abrasive charge of eight balls.
- * At least 50 percent by weight of the aggregate retained on the #4 sieve shall have at least one mechanically fractured face.

TABLE B-2
SPECIFICATION FOR CRUSHED TOP SURFACING

TABLE OF GRADATIONS	
Sieve Size	Grade 2
1" sieve	
3/4" sieve	100%
1/2" sieve	
No. 4 sieve	40-80%
No. 10 sieve	25-60%
No. 200 sieve	8-20%

Meet the following requirements for crushed top surfacing, including added binder or blending material:

- * Dust Ratio: the portion passing the No. 200 sieve cannot exceed two-thirds of the portion passing the No. 40 sieve.
- * The maximum liquid limit and plasticity index for the material passing the No. 40 sieve must not exceed 35, while the plasticity index may vary from 3 to 10.
- * A wear factor not exceeding 50% at 500 revolutions.

At least 20 percent by weight of the aggregate retained on the No. 4 sieve must have on fractured face.

TABLE B-3
SPECIFICATION FOR CRUSHED BASE COURSE

TABLE OF GRADATIONS			
Percentages by weight passing square mesh sieve			
Passing	1 ½" Minus	1" Minus	¾" Minus
2" sieve	--		
1 ½" sieve	100		
1" sieve	--	100	
¾" sieve	--	--	100
½" sieve	--	--	--
No. 4 sieve	25-60	40-70	40-70
No. 10 sieve	--	25-55	25-55
No. 200 sieve (not more than)	0-8	2-10	2-10

- * A tolerance of 5 percent, by weight, up to the next above-specified gradation (2 ½" for 2" max.) is allowed. The produced material passing the maximum screen opening and retained on the No. 4 sieve shall be reasonably well graded in its grading between those limits within 5 percent.
- * Suitability of the aggregate for its particular use is determined by the final gradation required for grading, as established by the Design Engineer, within the limits allowed in the table for the particular grading specified.
- * That portion of the fine aggregate passing the No. 200 sieve must be less than 60 percent of that portion passing the No. 40 sieve.
- * The liquid limit for that portion of the fine aggregate passing a No. 40 sieve cannot exceed 25, nor the plasticity index exceed 6, as determined by AASHTO T89 and T90.

TABLE B-4
SPECIFICATION FOR SELECT SUB-BASE COURSE

TABLE OF GRADATIONS					
Percentages by weight passing square mesh sieve					
Passing	4" Minus	3" Minus	2 ½" Minus	2" Minus	1 ½" Minus
4" sieve	100%				
3" sieve	--	100%			
2 ½" sieve	--	--	100%		
2" sieve	--	--	--	100%	
1 ½" sieve	--	--	--	--	100%
No. 4 sieve	25-60%	25-60%	25-60%	25-60%	25-60%
No. 200 sieve (not more than)	2-12%	2-12%	2-12%	2-12%	2-12%

- * A tolerance of 5 percent, by weight, up to the next above-specified gradation (2 ½" for 2" max.) is allowed. The produced material passing the maximum screen opening and retained on the No. 4 sieve shall be reasonably well graded in its grading between those limits within 5 percent.
- * Suitability of the aggregate for its particular use is determined by the final gradation required for grading, as established by the Engineer, within the limits allowed in the table for the particular grading specified.
- * The liquid limit for that portion of the fine aggregate passing a No. 40 sieve cannot exceed 25, nor the plasticity index exceed 6, as determined by AASHTO T89 and T90.

V. Intersections. Intersections shall be designed to meet the standards provided in Table A, Section 2-Design Controls and Criteria of these standards. The following additional items shall also be incorporated into design and construction.

1. Roads shall be laid out so as to intersect at an angle as near to a right angle (ninety degree angle) as practicable within plus or minus 5 degrees.
 - a. Intersections shall have a minimum corner radius of 15 feet along the right-of-way lines of local roads and a minimum corner radius of 25 feet at the right-of-way line at the intersection of collector or arterial roads, unless road improvements require a greater radius.
 - b. On collector and arterial roads, the dedication of right-of-way on corners shall include the chord of the radius. The County will accept an easement for this chord instead of dedication of right-of-way.
 - c. Opposing intersection of major collector roads and /or arterial roads shall either be aligned or will be separated by the minimum distance specified in Table A.
 - d. No more than two streets may intersect at one point.
 - e. Intersection design shall provide acceptable visibility for traffic safety.
 - f. Hilltop and swale intersections are discouraged and will not be allowed where adequate sight distance (per Table A) cannot be assured.
 - g. The approaching roadway shall not have a grade exceeding 3% for 50' from the edge of the through roadway, or for 20' outside of the through roadways right-of-way line, whichever is a lesser distance.
 - h. Intersections of local streets with major collector streets or arterial streets shall be kept to a minimum.
2. Dead End Roads. The maximum length for a dead-end road is 1500 feet. All dead end roads shall be provided with cul-de-sac or other approved turn-a-round area. The cul-de-sacs shall be limited to a length and radius as shown in Table A. See Figure 5 for illustrations of acceptable hammerhead Ts and cul-de-sacs, which have been adopted from the City of Helena road standards.
3. Turnouts. A widening in a travel way of sufficient length and width to allow vehicles to pass one another. All turnouts shall be constructed of the same material as the roadway/driveway that it serves. Turnouts shall be 50 feet long and be of sufficient width that when the turnout and the road surface are added together that a total width of 20 feet is provided.

4. Driveways. The following items shall also be incorporated into design and construction.
- a. All driveway approaches shall conform to the Road Approach Permit Requirements of the County Road Department. On paved roads the driveway approaches should be paved for 15' from the shoulder of the road and local road approaches should be paved for 30' from the shoulder of the road.
 - b. Access on horizontal curves shall only be allowed if sight distance for the design speed of the roadway can be achieved.
 - c. Driveway approaches shall have a minimum corner radius of 10 feet.
 - d. Driveway turns shall have a turning radius no less than 30 feet.
 - e. Driveway approaches shall be designed so that drainage from the driveway does not drain onto the main roadway.
 - f. All driveways, including driveway bridges, shall be designed and constructed with an all-weather surface or posted that they are deficient.
 - g. A driveway or other means of emergency vehicle access shall be required when any point of the building is more than 150 ft (45.75 meters) from a roadway.
 - h. Driveways, including bridges and cattleguards, shall be a minimum of 12 ft (3.66 m) in width and have a vertical clearance of at least 14.5 ft (4.42 meters) over its full width.
 - i. Driveway bridges and cattle guards need to meet HS20 load rating standards.
 - j. All driveway gates shall be located a minimum of 30 ft (9.2 m) from the public right-of-way and shall open inward. Gate openings shall provide a clear opening of not less than 12 feet.
 - k. Fire department personnel shall have ready access to locking mechanisms, on any gate restricting access on a driveway.
 - l. Driveways shall be a minimum of 20 feet wide to accommodate the traveled way, vegetation modification, and other local requirements.
 - m. Driveway grades shall be no greater than 11 percent.
 - n. Every dead-end driveway more than 300 ft (91.44 m) in length shall be provided with a turnaround at the terminus having a minimum radius of 45 ft

(15.24 m) to the center line OR a "hammerhead-T" turnaround to provide emergency vehicles with a three-point turnaround ability.

VI. Road Certification. Certification that new roads are constructed to County Subdivision Road Standards shall be provided by the subdivider's registered professional engineer. Upon completion of the inspection, the engineer shall file with the Board of County Commissioners a statement certifying that the improvements have been completed in the required manner. In addition to the certification, the engineer shall submit density tests, material gradations and other quality control tests as necessary to verify materials specified in these road standards meet the conditions of Montana Public Works Standards (MPWS).

VII. Road Maintenance Policy. Broadwater County will accept no new roadways for maintenance.

1. Trails. Maintenance of trails, non-motorized paths and bicycle paths will not be provided by Broadwater County without written approval and development of a separate maintenance funding mechanism
2. Homeowners' Association. The Homeowners' Association bylaws shall provide for the maintenance of the internal subdivision roads. In the absence of a Homeowners' Association a road maintenance agreement shall be created.

VIII. Signs. All road signs must be designed, constructed, and located according to the standards in the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration. Signs identifying pertinent information such as "dead-end road," "bridge out," and so forth shall be appropriately located as designated by the MUTCD.

IX. Road Naming and Addressing Standards. These shall follow the recommendations of the Broadwater County GIS Department.

X. Bridges and Cattleguards. On county subdivision roads, bridges and cattleguards shall be constructed of non-combustible materials. The width of the cattleguard must be equal or greater than the driving surface of any road.

APPENDIX O. COUNTY ROAD ENCROACHMENT (ACCESS) PERMIT APPLICATION

INSTRUCTIONS CONCERNING USE OF THIS FORM

If the approach accesses a County Road and is not part of or directly related to a subdivision, applicant should complete and deliver this form in duplicate to the Broadwater County Road & Bridge Operations Manager, 515 Broadway, Townsend, MT 59644. The approach permit fee is \$125 per approach, made payable to "Broadwater County Treasurer", and must be submitted with the application. Failure to do so will delay approval of your permit.

The Road & Bridge Operations Manager will contact you concerning conducting a pre-review. When approach is constructed and ready for final review, the applicant will then contact the Road & Bridge Ops Manager on 406-266-3429 and advise of the status.

After satisfactory completion of the approach, the forms will be signed. One original signed copy will be retained by the Clerk & Recorder's Office and one original signed copy will be returned to the applicant. The approach should be scaled onto existing plan and profile sheets showing existing road right-of-way (see attached).

Note to County Treasurer:

please receipt into 2110-343380-000 Road Inspection Fee

=====

\$ 125.00 Fee per Approach

Make payable to:

Broadwater County Treasurer

To be filled in by Broadwater County Authorized Personnel:

Date Received: _____

DRAINAGE DETERMINED BY BROADWATER COUNTY

TYPE - Plastic or Steel SIZE - 18" Minimum LENGTH – 20' Minimum

APPLICANT (Property Owner)

Name: _____

Phone: _____

Mailing Address: _____

Herein termed the applicant, requests permission to construct approach(es) described and shown on attached plot plan or plan and profile and hereby made a part of this application.

Please indicate if permits or approaches are required from units of government other than Broadwater County. Write the number of permits required on the line:

_____Federal Government _____State _____County _____City _____N/A

Is AccessPrivate: _____ Public: _____

Use of Property or Facility: _____
(Residence, Trailer Court, Gas Station, Field Access, Type of Business, Etc.)

LOCATION: City or Town: _____
(If rural give approximate location and distance to nearest town)

Street Name, if any _____

ROADWAY OR HIGHWAY:

How far can you see to the: Left _____ Right _____

Surface of the Highway _____ Width _____

APPROACH:

Estimated number of trips per day: _____

Width: _____ Flare: _____ Side of Roadway: _____

Subject to the following terms and conditions, the permit applied for and attached hereto is hereby granted.

1. **TERM:** This permit shall be in full force and effect from the date hereof until revoked as herein provided.
2. **REVOCATION:** This permit may be revoked by County upon giving thirty (30) days notice to Permittee by ordinary mail, directed to the address shown in the application hereto attached, but the County reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.
3. **COMMENCEMENT OF WORK:** No work shall be commenced until Permittee notifies the Board of Commissioners when he proposes to commence work.
4. **CHANGES IN ROAD:** If the County changes the road, or there are other changes to adjoining streets, alleys, etc. which necessitate alterations in structures or installations installed under this permit, Permittee shall make the necessary alterations at Permittee's sole expense or in accordance with a separate agreement.
5. **COUNTY SAVED HARMLESS FROM CLAIMS.** In accepting this permit the Permittee, its/his successors or assigns, agree to protect the county and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right of way, and in case any suit or action is brought against the State and arising out of, or by reason of, any of the above causes, the Permittee, its/his successors or assigns, will upon notice to it/him of the commencement of such action, defend the same at its/his sole cost and expense and satisfy any judgment which may be rendered against the County in any such suit or action.
6. **PROTECTION OF TRAFFIC.** Insofar as the interests of the County and the traveling public are concerned all work performed under this permit shall be done under the supervision of the Board of Commissioners and its authorized representatives, and he/they shall indicate barriers to be erected, the lighting thereof at night, placing of flagmen and watchmen, manner in which traffic is to be handled, and shall specify to Permittee how road surface is to be replaced if it is disturbed during operations, but said supervision shall in no way operate to relieve or discharge Permittee from any of the obligations assumed by acceptance of this permit, and especially those set forth under Section 6 thereof.
7. **ROAD DRAINAGE;** If the work done under this permit interferes in any way with the drainage of the State Highway or County Road effected, Permittee shall, at its/his own expense, make such provisions as the County may direct to take care of said drainage.

8. RUBBISH AND DEBRIS. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and the roadside left in a neat and presentable condition satisfactory to the County
9. DRAINAGE: Minimum diameter of culverts will be 18"
10. WORK TO BE SUPERVISED BY COUNTY: All work contemplated under this permit shall be done under the supervision of and to the satisfaction of the authorized representative of the County and the County hereby reserves the right to order the change of location or removal of any structure or installation authorized by this permit at any time, said change or removal to be made at the sole expense of the permittee.
11. COUNTY'S RIGHT NOT TO BE INTERFERED WITH: all such changes, reconstructing or relocation shall be done by Permittee, in such a manner as will cause the least interference with any of the County's work and the county shall in no wise be liable for any damage to the Permittee by reason of any such work by the County, its agents, contractors or representatives, or by the exercise of any rights by the county upon the highways by the installations or structures placed under this permit.
12. REMOVAL OF INSTALLATIONS OR STRUCTURES: Unless waived by the County, upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
13. MAINTENANCE AT EXPENSE OF PERMITTEE: Permittee shall maintain, at its/his sole expense the installations and structure for which this permit is granted, in a condition satisfactory to the County.
14. COUNTY NOT LIABLE FOR DAMAGE TO INSTALLATIONS: In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by a contractor working for the County or by any County employee engaged in construction, alteration, repair, maintenance or improvement of the County, shall be at the sole expense of the Permittee
15. COUNTY TO BE REIMBURSED FOR REPAIRING ROADWAY: Upon being billed, Permittee agrees to promptly reimburse County for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage roadway as a result of the work performed under this permit.
16. OTHER CONDITIONS AND/OR REMARKS:
All approach side slopes will be constructed on not less than 6 to 1 slope, unless otherwise approved. No private signs or devices etc. will be constructed or installed within the Highway Right of Way limits.

This permit is valid only if approach construction is completed within ____ months from date of issue.

The undersigned, the "Permittee" mentioned in the foregoing instrument, hereby accepts this permit, together with all of the terms and conditions set forth therein.

Permittee:

(Signature of Permittee)

(Printed Name of Permittee)

Broadwater County:

Approved this _____ day of _____ 20__.

Pre-install inspected by:

Authorized Broadwater County Personnel

Title

Completed approach approved by:

Authorized Broadwater County Personnel

Title

APPENDIX P. GRANT OF ACCESS EASEMENT

THIS INDENTURE, made and entered into this ____ day of _____, 20 ____, by and between _____, of _____, Montana, hereinafter referred to as the "Grantor", and (subdivider) of _____, Montana, hereinafter referred to as the "Grantee."

THE GRANTOR does hereby give, grant and convey unto the Grantee, its successor and assigns, the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and to travel upon and use, a road and its necessary fixtures and appurtenances through, over, and across a corridor, __ feet wide, shown on the attached subdivision plat, extending across the following described tract(s) of land:

(legal description of Grantor's property over which easement is granted)

THIS GRANT of right and authority shall run with the said property and be binding on the Grantor, its successors, all subsequent owners and any parties having right, title, or interest in the said property.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this ____ day of _____, 20 ____.

Grantor

STATE OF MONTANA)
) ss.
County of _____)

On this ____ day of _____, 20 ____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this ____ day of _____, 20 ____.

Notary Public for the State of Montana
Residing at _____, Montana
My commission expires _____

APPENDIX Q. SAMPLE CERTIFICATES

Certificate of Completion of Public Improvements

Certificate of Surveyor – Final Plat

Certificate of Dedication – Final Plat

Certificate of Consent to Dedication by Encumbrances

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

Certificate of Examining Land Surveyor Where Required – Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval – County

Certificate of Filing by Clerk and Recorder

Certificate of Completion of Public Improvements Agreement
(To be submitted with application for approval of final subdivision plat)

CERTIFICATE OF COMPLETION

I, (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), a registered professional engineer licensed to practice in the State of Montana, hereby certify that the following public improvements, required as a condition of approval of (Name of Subdivision), have been installed in conformance with the attached engineering specifications and plans: (List the improvements actually installed.)

Signature of Subdivider

Date

Signature of Professional Engineer

Date

Registration No. _____

Address

(Engineers Seal)

Certificate of Surveyor – Final Plat

STATE OF MONTANA)
) ss.
County of _____)

I, (Name of Surveyor), a Professional Land Surveyor, do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this _____ day of _____, 20 ____.

(Seal)

(Signature of Surveyor)
Registration No. _____
(Address)

Certificate of Dedication – Final Plat

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in Broadwater County , to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this _____ day of _____, 20 ____.

(Acknowledged and notarized signatures of all record owners of platted property)

Consent to Dedication by Encumbrances, If Any

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this _____ day of _____, 20 ____.

(Acknowledged and notarized signatures of all encumbrancers of record)

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

I, County Clerk and Recorder of Broadwater County, Montana, do certify that the following order was made by the Governing Body of Broadwater County at a meeting thereof held on the _____ day of _____, 20 __, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the Broadwater County Commissioner that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of Broadwater County, Montana this _____ day of _____, 20 ____.

(Seal)

(Signature of Clerk) _____

Broadwater County Clerk & Recorder

Certificate of Examining Land Surveyor Where Required – Final Plat

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for Broadwater County, Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this _____ day of _____, 20 ____.

(Signature)

(Name of Surveyor)

Registration _____ No.

(City or County)

Certificate of County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) have been paid:

(legal description of land)

Dated this _____ day of _____, 20 ____.

(seal)

Broadwater County Treasurer,
Broadwater County, Montana

Certificate of Final Plat Approval – County

The County Commission of Broadwater County, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 20 ____.

(Signatures of Commissioners)

(Seal of County)

ATTEST: _____
(Broadwater County Clerk and Recorder)
Broadwater County, Montana

Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)
) ss.
County of _____)

Filed for record this _____ day of _____, 20 ____, at _____ o'clock.

(Signature of Clerk and Recorder)
County Clerk and Recorder, Broadwater County, Montana

APPENDIX R. SAMPLE SUBDIVISION IMPROVEMENTS AGREEMENT AND SAMPLE LETTER OF CREDIT

ACCEPTABLE FORMS OF IMPROVEMENT GUARANTEES

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. Each of these preferred forms of subdivision improvement guarantee are described in more detail in Section II-D of these regulations.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125% of the contractor's, engineer's, etc. estimated total cost of installing all required improvements.

1. Irrevocable Letter of Credit
2. Escrow Account
3. Property Escrow
4. Surety Performance Bond

SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT

The parties to this Subdivision Improvements Agreement (“this agreement”) are _____ (“the subdivider”) and Broadwater County.

WHEREAS, the subdivider desires to defer construction of improvements described in Attachment (___); and

WHEREAS, the purpose of this Agreement is to protect the County and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the Subdivision, or for the benefit of lot or home buyers in the Subdivision; and

WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by state law and the County subdivision regulations.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Effective Date: The effective date of this Agreement is the date that final subdivision plat approval is granted by the County.
2. Attachments: The Attachments cited herein are hereby made a part of this Agreement.

Subdivider’s Obligations

3. Improvements: The Subdivider shall construct and install, at his own expense, those subdivision improvements listed in Attachment (___) of this Agreement. The Subdivider’s obligation to complete the improvements arises upon approval of the final subdivision plat, is not conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and is independent of any obligations of the County contained in this Agreement.
4. Security: To secure the performance of his obligations under this Agreement, the Subdivider shall deposit with the County on or before the effective date, an Irrevocable Letter of Credit (or other financial security acceptable to the local officials) in the amount of \$_____. The letter of credit shall be issued by (lending institution) , be payable at sight to the County at any time upon presentation of (1) a sight draft drawn on the issuing lending institution in the amount up to \$ _____, (2) a signed statement or affidavit executed by an authorized County official stating that the Subdivider is in default under this Agreement; and (3) the original copy of the letter of credit.
5. Standards: The Subdivider shall construct the required improvements according to the standards and specifications required by the County as specified in Attachment (___) of this Agreement.
6. Warranty: The Subdivider warrants that each and every improvement shall be free from defects for a period of 1 year from the date that the County accepts the dedication of the last improvement completed by the Subdivider.
7. Commencement and Completion Periods: The Subdivider shall complete all of the required improvements within (2) years from the effective date of this Agreement.

8. Compliance with Law: The Subdivider shall comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.

County's Obligations

9. Inspection and Certification:
- a. The County shall provide for inspection of the improvements as they are completed and, where found acceptable, shall certify those improvements as complying with the standards and specifications set forth in Attachment (___) of this Agreement. The inspection and certification, shall occur within 14 days of notice by the Subdivider that the improvements are complete and that he desires County inspection and certification. Before requesting County certification of any improvement the Subdivider shall present to the County valid lien waivers from all persons providing materials or performing work on the improvement.
 - b. Certification by the County does not constitute a waiver by the County of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.
10. Notice of Defect: The County shall provide timely notice to the Subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment (___), or is otherwise defective. The Subdivider shall have 30 days from the date the notice is issued to remedy the defect. The County may not declare a default under this Agreement during the 30 day remedy period unless the Subdivider clearly indicates he does not intend to correct the defect. The Subdivider shall have no right to correct the defect in, or failure of, any improvement found after the County accepts dedication of the improvements
11. Reduction of Security: After the acceptance of any improvement, the amount that the County is entitled to draw on the letter of credit shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment (___). At the request of the Subdivider, the County shall execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all of the improvements the balance that may be drawn under the credit shall be available to the County for the one-year warranty period plus an additional 90 days.
12. Use of Proceeds: The County shall use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

Other Provisions

13. Events of Default: The following conditions, occurrences or actions constitute a default by the Subdivider during the completion period:
- a. failure to complete construction of the improvements within two years of final subdivision plat approval;

- b. failure to remedy the defective construction of any improvement within the remedy period;
 - c. insolvency of the Subdivider or the filing of a petition for bankruptcy;
 - d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.
14. Measure of Damages: The measure of damages for breach of this Agreement is the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment (___) is prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the Subdivider's liability. The County may complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.
15. Local Government Rights Upon Default:
- a. Upon the occurrence of any event of default, the County may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost [as shown in Attachment (___)] of all improvements previously certified by the County. The County may complete improvements itself or contract with a third party for completion, or the County may assign the proceeds of the letter of credit to a subsequent subdivider who has acquired the Subdivision and who has the same rights of completion as the County if and only if the subsequent subdivider agrees in writing to complete the unfinished improvements.
 - b. In addition, the County may suspend final plat approval. During this suspension the Subdivider may not sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the County until the improvements are completed and certified by the County.
16. Indemnification: The Subdivider agrees to indemnify and hold the County harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Subdivider is not an employee or agent of the County.
17. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the County and by the Subdivider.
18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, is entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each shall bear its own costs in their entirety.
19. Third Party Rights: No person or entity who is not party to this Agreement has any right of action under this Agreement, except that if the County does not exercise its rights within 60

days following an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the County to exercise its rights.

20. Scope: The Agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this Agreement is binding on the parties.
21. Time: For the purpose of computing the commencement and completion periods, and time periods for County action, times in which war, civil disasters, acts of God or extreme weather conditions occur will not be included if the events prevent the Subdivider or the County from performing the obligations under this Agreement.
22. Assigns: The benefits of this Agreement to the Subdivider may not be assigned without the express written approval of the County. Such approval may not be withheld unreasonably, but any unapproved assignment is void. There is no prohibition on the right of the County to assign its rights under this Agreement.

The County shall release the original Subdivider's letter of credit if it accepts a new security from any subdivider or lender who obtains the property. However, no action by the County constitutes a release of the original subdivider from his liability under this Agreement.

23. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal the illegality shall not affect the validity of any other part, term or provision, and the rights of the parties shall be construed as if the part, term or provision were never part of the Agreement.

Dated this ____ day of _____, 20____.

County Official

Subdivider

MODEL

IRREVOCABLE LETTER OF CREDIT

Letter of Credit No. ____

 Name of Local Government Date
 Address

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # ____ for the account of (Subdivider) available by your drafts at sight up to an aggregate amount of \$ _____. Should (Subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for (name of subdivision) we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to expiration date and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

“Drawn under (lending institution) , Letter of Credit # ____ dated _____,” and the amount drawn endorsed on the reverse hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts shall be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

 Lending Institution

 Signature and Title of Lending Institution Official

APPENDIX S. SAMPLE PAYBACK FORMULA

Broadwater County Sample Payback Formula

Broadwater County has developed a payback formula that provides cost sharing benefits to subdividers that initiate construction activities that benefit future developments. The payback formula can be utilized for a variety of improvements such as roads, fire fill sites, water supply, water treatment facilities, wastewater treatment facilities, or other facilities as determined by Broadwater County.

The payback for facilities other than road improvements shall be a proportional direct cost share that will take into account the overall initial cost of the facility, number of lots of each development involved and the use of each lot involved (commercial, residential, etc.).

The payback formula for road improvements shall be a proportional direct cost share that will take into account the overall length of road utilized (measured from the farthest corner of land within the subdivision or entity that is adjacent to the road right-of-way), the number of lots, the type of lots (commercial, residential, etc.), and the average daily traffic as determined by the Institute of Transportation Engineers Trip Generation Manual.

The duration of payback formula incentives shall be set by the Broadwater County Commissioners and shall be effective from the date of completion of the construction improvements.

APPENDIX T. FINAL SUBDIVISION SUBMITTAL APPLICATION FORM

Applicant Information:

Landowner(s)

Name _____

Signature(s) _____ Date _____

Landowner Representative

Name _____

Signature _____ Date _____

Name of Preliminary Plat:

Location:

_____ 1/4 Section _____ Township _____ Range _____

Date of Preliminary Plat Approval: _____

Descriptive Data:

a. Total area in acres _____

b. Total acreage in lots (or spaces or units) _____

c. Total acreage in parks, open space and/or common facilities _____

d. Total number of lots (or spaces or units) _____

e. Maximum size of lots (or spaces or units) _____

f. Minimum size of lots (or spaces or units) _____

Land Use(s) Indicate the number of lots or spaces in each:

_____	Residential, single family
_____	Residential, multiple family: Indicate types of multiple family structures and number of each (e.g. duplex, four-plex, etc.)_____
_____	Mobile Home Park
_____	Recreational Vehicle Park
_____	Condominiums, townhomes or townhouses: Indicate types of structures and number of each
_____	_____
_____	Planned unit development: Indicate types of structures and number of each (e.g., single-family homes, multiple family structures, commercial buildings)
_____	_____
_____	Commercial
_____	Industrial
_____	Other (Please describe)
_____	_____
_____	Final Plat is enclosed.
_____	Final Plat Supplements are enclosed.
_____	Final Plat review fee is enclosed.

