

DRAFT RESOLUTION 2013 - 118

**RESOLUTION TO AMEND THE SUBDIVISION REGULATIONS
FOR LEWIS AND CLARK COUNTY**

WHEREAS, local governing bodies are required to adopt subdivision regulations, pursuant to Section 76-3-501, MCA; and,

WHEREAS, the Lewis and Clark County Community Development and Planning staff (Staff), upon the direction of the County Commission (Commission) and the Helena/Lewis and Clark County Consolidated Planning Board (Board), proposed amendments to the Subdivision Regulations adopted on May 18, 2010, (Regulations), all in accord with the provisions of the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA); and,

WHEREAS, after due and proper notice, the Commission conducted a public hearing at a joint public meeting with the Board on October 15, 2013, to review the proposed Staff amendments and to hear the public comment thereon; and,

WHEREAS, on November 7, 2013, the Board recommended the Commission adopt amendments to the Regulations as proposed by Staff and with recommendations to exchange the word *property* to *land* Nos. 2 and 3 and to not amend a citation in Appendix K, 18-4.2.a as shown in Staff proposed amendment No. 89; and,

WHEREAS, on December 6, 2013, Staff presented the proposed amendments in Lincoln, Montana, during Lincoln Government Day; and,

WHEREAS, on December 13, 2013, Staff presented the proposed amendments in Augusta, Montana, during Augusta Government Day; and,


WHEREAS, on December 19, 2013, the Commission convened, considered the Board's recommendation and adopted amendments to the Regulations.

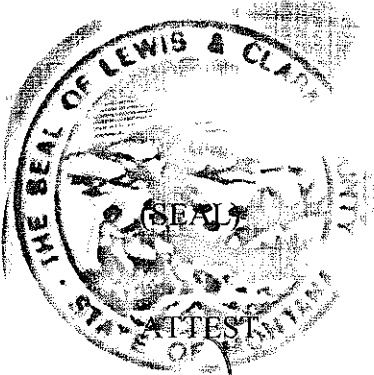
NOW, THEREFORE, BE IT RESOLVED that the Regulations as amended by Commission action, which amendments are documented in Exhibit A, are adopted, as of December 19, 2013.



DATED this 19th day of December, 2013.

BOARD OF COUNTY COMMISSIONERS
LEWIS AND CLARK COUNTY


Michael A. Murray, Chairman



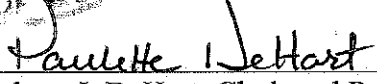

Paulette J. DeHart, Clerk and Recorder

EXHIBIT A:
**Amendments to the May 18, 2010 Lewis and Clark County Subdivision
Regulations**

The amendments are presented with a page number, chapter, and section to facilitate review. Additions to the Subdivision Regulations are ‘underlined’, while deletions are indicated with ‘~~strike marks~~’. Community Development and Planning Staff recommends that the amendments be reviewed in consultation with the May 18, 2010 Subdivision Regulations.

CHAPTER I: GENERAL PROVISIONS

1. Page I-1, Item I.C: Purpose

~~Lewis and Clark County allows only one development right per parcel without the subdivision review and the approval of the Board of County Commissioners; possible additional development of a parcel is what is being assessed during the subdivision review process.~~

2. Page I-4, Item I.D: Jurisdiction and Applicability

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Lewis and Clark County.

Under Montana law, land in Lewis and Clark County may not be subdivided without first being reviewed and approved by the governing body. Land use/development that constitutes “subdivision” is defined in Appendix A of these regulations.

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 subdivision application and preliminary plat to the city or town governing body or its designated agent for review and comment. If the proposed subdivision is situated within a rural school district, as described in Section 20-9-615, MCA, the governing body shall provide a summary of the information contained in the subdivision application and preliminary plat to school district trustees. If a proposed subdivision lies partly within an incorporated city or town, or partly within an adjacent County, the subdivision application and preliminary plat must be submitted to and approved by both the city or town and the county governing bodies. When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible. Helena is a first class city; East Helena is a third class town city.

CHAPTER II: ADMINISTRATIVE PROVISIONS

3. Page II-2,3, Item II.D: Violations, Enforcement, Violation and Criminal Penalties, Remedies

1. Violations

Subdividing land without review and approval by the Lewis and Clark County Commission is a violation of the Montana Subdivision and Platting Act and these regulations.

12. Enforcement

- a. 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 (except as noted in Chapter III, section B.15, and Chapter IV, sections C.7 and E.7 of these regulations). Subdivisions that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed created by rent, lease or other conveyance must have received final approval and be filed in the planning Community Development and Planning office prior to rent, lease, transfer, or occupancy in any manner.
- b. Lewis and Clark County will enforce these regulations and the Montana Subdivision and Platting Act.
- bc. The Director of Community Development and Planning (or his or her designee) shall serve as the designated agent of the governing body for the jurisdictional area. The Director shall have the authority to administer, interpret, and enforce the Montana Subdivision and Platting Act and these regulations. Decisions of the Director will be in writing, and may be appealed to the governing body within 15 working days following the decision.
- ed. The County Attorney may commence civil or criminal action to enjoin any unlawful action violation of, or compel compliance with all the provisions of the Montana Subdivision and Platting Act and these regulations. Subdividing land without review and approval by the governing body is a violation of the Montana Subdivision and Platting Act and these regulations.

23. Violations and Criminal Penalties

As detailed in Section 76-3-105, MCA, any person, firm, corporation, or other entity that violates any of the provisions of the Montana Subdivision and Platting Act or these regulations shall be guilty of a misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment in jail for not more than three months, or by both fine and imprisonment. Each sale, lease, or transfer--or offer of sale, lease, or transfer--of each separate parcel of land in violation of any provision of the Montana Subdivision and Platting Act, or these regulations, shall be deemed a separate and distinct offense.

34. Remedies

The governing body may not deny or condition a subdivision approval unless it provides a written statement to the applicant detailing the circumstances of the subdivision denial or condition impositions. The statement must include:

- a. information regarding the appeal process for the denial or imposition of conditions;
- b. identification of the regulations and statutes used in reaching the governing body's decision and explanation of how they apply to the decision to deny or impose conditions;
- c. the facts and conclusions that the governing body relied upon in making its decision to deny or impose condition and reference documents, testimony, or other materials that form the basis of the decision;; and;
- d. the conditions that apply to the preliminary plat approval and that must be satisfied before final plat may be approved.

A party, who is aggrieved by a decision of the governing body to approve, conditionally approve, or ~~deny~~ ~~disapprove~~ a proposed subdivision application and preliminary plat or final subdivision plat may, within 30 days from the date of the written decision, appeal the decision to the district court. The petition to the court must specify the grounds upon which the appeal is made.

4. Page II-5, Item II.E: Restrictive Covenants

The County may not approve a subdivision proposal that violates restrictive covenants or deed restrictions governing use of the affected property, unless the covenants are amended prior to or as part of the approval process. Any change to restrictive covenants must follow the procedures outlined in the specific covenants in question. This provision pertains to both covenants put in place by the County, as well as those held by the private landowners. The property owner is responsible for supplying private covenants to the County with the preliminary plat subdivision application.

CHAPTER III: PROCEDURES FOR MAJOR SUBDIVISIONS

5. Page III-1: Overview of Major Subdivision Review Process

~~Overview of Major Subdivision Review Process~~

~~(Subdivision Application Review Process for Major Subdivisions)~~

~~STEP 1:~~

- ~~A. Initial contact with County Permit Coordinator to set up a pre-application conference.~~
- ~~B. Applicant develops design.~~
- ~~C. Pre application conference: (Applicant obtains guidelines, forms, and regulations, discusses proposal and sketch plan with the County Planning and Environmental Health staff).~~
- ~~D. Preparation of formal subdivision application based on regulations and pre-application conference.~~

~~STEP 2:~~

- ~~A. The complete and sufficient subdivision application and the review fee must be submitted to the Planning Office by the application deadline. The planning staff reviews the subdivision application for completeness and sufficiency. In the event the subdivision application is not complete or~~

sufficient, the applicant shall be notified in writing as to the missing elements required for the application.

- ~~B. — At least 15 calendar days prior to the public hearing, a notice of hearing is published, and certified letters are mailed to adjacent property owners, the applicant, and subdividers, as required by MCA.~~
- ~~C. — Staff analysis of application and comments, with recommendation to Planning Board.~~
- ~~D. — Planning Board public hearing conducted and subdivision reviewed.~~
- ~~E. — Planning Board recommendation for approval, conditional approval, or denial of subdivision application submitted in writing to the governing body and the applicant.~~
- ~~F. — Governing body meeting to approve, conditionally approve or deny the subdivision application.~~
- ~~G. — If new comments or evidence from the Applicant or other interested parties are presented at or after the Planning Board public hearing, but before the governing body's decision, a subsequent public hearing on the new evidence before the Planning Board may be required.~~
- ~~H. — The governing body shall prepare a written notice of their decision to approve, conditionally approve, or deny to the Applicant.~~

~~Applicant may request in writing an extension of the subdivision application and preliminary plat review process time limit at any stage.~~

~~(Final Plat Review Process for Major Subdivisions)~~

~~STEP 3:~~

- ~~A. — Applicant submits a final plat application and has met all the Conditions of Approval as delineated in his/her approval letter.~~
- ~~B. — Final plat submittal to the planning staff must occur in accordance with the stipulated time frame.~~
- ~~C. — Final plat reviewed by governing body and planning staff. Final plat approval by governing body when plat conforms to the conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.~~
- ~~D. — Final plat and supplementary documents filed with the County Clerk and Recorder by the subdivider.~~

~~The applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.~~

6. Page III-2, Item III.A: Introduction

~~Lewis and Clark County allows only one development right per parcel without the approval of the Board of County Commissioners (BOCC); possible additional development of a parcel is what is being assessed during the subdivision review process.~~

7. Page III-5, Item III.B.2: Subdivision Application Submissions and Distribution

~~The applicant shall submit the following application information to the planning staff as one submittal:~~

- a. Parts I, II, and III of the Montana Department of Environmental Quality/Local Government Joint Application Form;
- b. The required review fee;
- c. Five (5) copies of the preliminary plat or site plan and related supplements;
- d. All supplements required by Appendix B;
- e. A property title report prepared by a title company within six months of the date of subdivision plat application submittal; and
- f. The preliminary plat or site plan must conform to the design and improvement standards set forth in Chapter XI of these regulations. If any design features or improvements do not conform to these standards, the applicant shall submit a written request for variances with the subdivision application, pursuant to the procedures in these regulations; and
- g. ~~The application materials must be submitted by the monthly deadline.~~

The planning staff will review the application materials and determine the completeness and sufficiency of the application. The planning staff has ~~5~~ five working days to determine whether the application contains all of the listed elements found in Appendix B of these regulations and shall give written notice to the applicant or, with the applicant's written permission, the applicant's agent of the planning staff's determination of completeness. If elements are missing from the application, planning staff shall identify those elements in the written notification. The applicant must provide all missing elements before the review process will restart.

Within 15 working days after the applicant has been notified in writing that the application contains all the required elements, planning staff shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow review of the proposed subdivision, and shall give written notification to the applicant or, with the applicant's written permission, the applicant's agent of the determination by staff. If planning staff determines that information in the application is not adequate for review of the proposed subdivision, the insufficiencies of the application shall be identified in the written notification ~~to the applicant~~. The applicant must provide all necessary information required in the sufficiency notification letter before the review process will restart.

~~A subdivision application shall be submitted on, or prior to, the monthly subdivision application deadline. Planning staff shall review the subdivision application for completeness and sufficiency in accordance with the monthly subdivision application deadline. Applications submitted after the monthly subdivision application deadline will not be reviewed for completeness and sufficiency until the next monthly subdivision application deadline.~~ A 60 working day review period for major subdivision applications with 49 or less lots commences on the first working day after planning staff determines that the subdivision application is complete and sufficient. An 80 working day review period for major subdivision applications with 50 or more lots commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.

The review period may be suspended based on the applicant's written concurrence or request. The applicant may verbally concur or request a suspension before the governing body during a public meeting. A suspension of the review period shall not exceed 1 year from the date of request or concurrence.

8. Page III-10, Item III.B.6: Public Hearing

Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the county not less than 15 calendar days prior to the date of the hearing. The applicant and each property owner of record immediately adjoining the land included in a plat shall be notified of the hearing by certified or registered mail, not less than 15 calendar days prior to the date of the hearing. For subdivisions that involve non-residential uses, all property owners within 500 feet of the project property boundary shall be sent a notice by certified or registered mail. The planning staff shall post notice of the hearing at a conspicuous place on the boundary of the proposed subdivision.

9. Page III-13, Item III.B.9 Subsequent Public Hearings on New Evidence Provided After the Planning Board Hearing

The governing body shall provide notice of the subsequent hearing as follows:

1. Notice of the time and date of the subsequent hearing shall be published in the newspaper not less than 15 calendar days prior to the date of the subsequent hearing.
2. At least 15 calendar days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified mail to the applicant, and each adjoining property owners. For subdivisions that involve non-residential uses, all property owners within 500 feet of the project property boundary shall be sent a notice by certified or registered mail.
3. The governing body may require the notice be posted at a conspicuous place on the site of the proposed subdivision application.

10. Page III-14, Item III.B.10: Governing Body Action on Subdivision Application

If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the decision in writing within 30 working days following the decision. The letter shall include a copy of the plat and shall state the reason(s) for denial or enumerating the conditions of approval. The written decision shall include:

- 1) information regarding the appeal process for the denial or imposition of conditions;
- 2) identification of the regulations and statutes relied upon in reaching the decision to deny or impose conditions and explains how they apply to the decision to deny or impose conditions;

- 3) the facts and conclusions the governing body relied upon in their decision and reference documents, testimony, or other materials that form the basis of the decision;
- 4) the conditions of preliminary plat approval that must be satisfied before the final plat may be approved; and
- 5) the duration of the approval period of the subdivision application (~~three years~~).

11. Page III-17, Item III.B.11: Subdivision Application Approval Period

Upon approving or conditionally approving a subdivision application, the governing body shall provide the applicant with a dated and signed statement of approval. This approval shall be in force for not more than 3 calendar years or less than 1 calendar year. At the end of this period the governing body may, at the request of the applicant, extend its approval for no more than 1 calendar year, ~~except that the governing body may extend its 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 applicant or applicant's agent period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider, according to Section 76-3-507, MCA. Except as provided in Section 76-3-507, MCA, A~~after the subdivision application and preliminary plat is approved, the governing body ~~and its subdivisions~~ may not impose any additional conditions as a prerequisite to final plat approval providing said approval is obtained within the original or extended approval period as provided in Section 76-3-610(1), MCA. Approval of the major subdivision application and preliminary plat does not constitute approval of the major subdivision final plat.

12. Page III-17, Item III.B.12: Process for Modifying the Conditions of Approval, Approval Statement, or Preliminary Plat for a Subdivision Application

If proposed modifications to the subdivision application's conditions of approval, approval statement, or preliminary plat are substantial, the entire application must be resubmitted and go through the entire subdivision review process again, including payment of fees, staff review, Planning Board hearing and BOCC's meeting. The Director of Community Development and Planning or his or her designee ~~Planning staff~~ shall make a determination whether the proposed modification is substantial ~~and the decision may be reviewed by the Director of Community Development and Planning or his or her designee~~. If the subdivider disagrees with ~~staff's~~ the Director's determination the subdivider can make a written appeal to the BOCC. The following modifications, although not an exclusive list, may be considered substantial if they affect the findings of the BOCC of compliance with the subdivision standards and approval criteria:

- a. reconfiguration or number of lots;
- b. lot uses and or layouts;
- c. road layout;
- d. storm water drainage;
- e. water and wastewater treatment proposals;
- f. fire protection proposals;

- g. parkland and open space;
- h. easements; and
- i. access.

Changes to the conditions of approval, approval statement, or preliminary plat that will not substantially change the original conditional approval in terms of the findings of the BOCC of compliance with the subdivision standards and approval criteria, may be submitted to the governing body BOCC for review and approval. Notice of the application for approval of changes to the preliminary approval conditions shall be published per public notice requirements and with notification of adjacent property owners as provided in Section b. below. ~~The process was developed to assure due process and equal protection, and requires two major actions by the BOCC (a. and b. below):~~

a. Action Item One (Optional for Applicant)

- 1) The subdivider ~~shall~~ may send a letter to the BOCC asking that it ~~reconsider a~~ modify specific condition/s of approval, ~~preliminary plat,~~ or in some cases, ~~reconsider~~ modify the governing body's ~~decision approval statement.~~
- 2) At a public meeting, the BOCC ~~shall~~ will make a determination as to whether the subdivider's request ~~merits~~ warrants consideration. In order to warrant consideration, the subdivider ~~must~~ should make a reasonable argument in writing describing why the terms of subdivision application approval should be ~~reconsidered~~ modified, stating the following:
 - What circumstances have changed?
 - How will the applicant(s) benefit from the changes?
 - What impacts (both positive and negative) will there be on neighbors, the public in general, and the surrounding environment?
- 3) This process step allows the subdivider to obtain an initial indication of the acceptability of requested modifications prior to paying the required application fee and preparing documentation in support of desired changes.

b. Action Item Two

- 1) The subdivider may apply directly to the BOCC for consideration of modifications of the preliminary approval conditions subject to the following requirements.
- 2) ~~If the BOCC decides to reconsider the specific condition/s of approval,~~ If the subdivider must submit the appropriate fee to the Planning Department and additional information as required by the BOCC. Once the application fee is paid and, if applicable, the additional information is submitted, public notice must be given and a public hearing before the BOCC on the matter will be scheduled. In addition, landowners adjacent

to the subject subdivision will be notified via the mail of the proposed modification/s and about the public hearing.

- 3) A staff report and recommendations will be completed, based upon the analysis of all the evidence provided by the subdivider and/or available to staff.
- 4) The BOCC holds a public hearing on the request. At that hearing, the staff report and recommendations will be presented and the subdivider will have the opportunity to make a presentation. The public will have an opportunity to provide testimony on the proposed modification.
- 5) After the public hearing, the BOCC shall make a final decision.
- 6) A letter outlining the BOCC's decision and rationale shall be sent to the subdivider.

13. Page III-21, Item III.C.4: Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements, or shall enter into a subdivision improvements agreement guaranteeing the construction and installation of all such improvements. No construction or placement of structures on the lots shall occur until engineered plans have been approved for the following improvements related to public health, safety, and general welfare including but not limited to: roads except for paving, community multi-user and public water and sewer wastewater treatment systems, other utilities, street identification signs, traffic control signs, address plaques, and fire-fighting facilities, and these improvements have been installed in accordance to the approved plans. Alternative methods of for guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E of these regulations.

14. Page III-22, Item C.5: Final Plat Approval or Denial

The governing body shall examine the major subdivision final plat and shall approve or deny the final plat within 35 working days after the applicant has submitted a final plat application and has demonstratively met all of the conditions of approval set forth in the preliminary subdivision approval. when all the requirements and conditions of the subdivision application are met.

~~The governing body shall examine the final subdivision plat and approve it only when it conforms to the conditions of approval set forth on the preliminary plat. The final plat must also conform to the terms of the Montana Subdivision and Platting Act and these regulations. The major subdivision final plat shall conform in all major respects to the subdivision application and preliminary plat previously reviewed and approved by the governing body, and shall incorporate all required modifications. The governing body may approve a final plat which, in their determination, has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment since the time of subdivision application review and approval.~~

The governing body shall approve a major subdivision final plat if it conforms to the approved subdivision application and preliminary plat, and if the subdivider applicant has completed met all required modifications or conditions, and met or exceeded all

standards and requirements of these regulations. ~~The governing body shall approve the final plat when all of the requirements and conditions of the subdivision application are met.~~ Approval shall be certified by the governing body on the face of the major subdivision final plat.

If the major subdivision final plat is denied, the ~~findings of fact and conclusions of law~~ reasons for denial shall be stated in a ~~letter~~ for the records of the governing body, and a copy shall be sent to the applicant. The governing body shall return the opaque mylar copy, the reproducible copy, and digital, when available, to the subdivider applicant within ~~ten~~ (10) working days of the action. The applicant may then make the necessary corrections and resubmit the final plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

15. Page III-23, Item III.C.7: Property Owners' Association

If a common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana and the articles of incorporation and by-laws shall be filed with the Clerk and Recorder. ~~a maintenance district and appropriate Rural Improvement District(s) (RID) shall be established.~~

CHAPTER IV: PROCEDURES FOR MINOR SUBDIVISIONS

16. Page IV-1, Overview of First Minor Subdivision Review Process

~~Overview of First Minor Subdivision Review Process~~

~~(Subdivision Application Review Process for First Minor Subdivisions)~~

~~STEP 1:~~

- ~~A. Initial contact with the County Permit Coordinator to set up a pre-application conference.~~
- ~~B. Applicant develops concept.~~
- ~~C. Pre-application conference: Applicant obtains guidelines, forms, and regulations, discusses proposal and sketch plan with the County Planning and Environmental Health staff.~~
- ~~D. Preparation of formal minor subdivision application based on pre-application conference and regulations.~~

~~STEP 2:~~

- ~~A. Submittal of complete and sufficient subdivision application and review fee to the planner by the application deadline.~~
~~— The application and supplements will be distributed for review to agencies, utilities, individuals, and other parties with an interest in the proposal.~~
- ~~B. If requested by the Planning staff, the Planning Board may hold a work session on the application at its next regular meeting. Planning staff~~

recommendation is submitted in writing to the governing body and the applicant.

- C. ~~Public meeting before the governing body action to approve, conditionally approve or deny a minor subdivision.~~
- D. ~~The governing body shall prepare a written notice of their decision to approve, conditionally approve or deny to the Applicant.~~

(Final Plat Review Process for First Minor Subdivisions)

STEP 3:

- A. ~~Applicant prepares final plat and satisfies all conditions placed upon the approved application for minor subdivision.~~
- B. ~~Final plat submitted to planning staff within three years of first minor subdivision application approval.~~
- D. ~~Final plat approval by governing body when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.~~
- E. ~~Final plat and supplementary documents filed with the clerk and recorder by the subdivider.~~

17. Page IV-2, Overview of Subsequent Minor Subdivision Review Process

Overview of Subsequent Minor Subdivision Review Process

(Subdivision Application Review Process for Subsequent Minor Subdivisions)

STEP 1:

- A. ~~Initial contact with the County Permit Coordinator to set up a pre-application conference.~~
- B. ~~Applicant develops concept.~~
- C. ~~Pre Application conference: Applicant obtains guidelines, forms, and regulations, discusses proposal and sketch plan with the County Planning and Environmental Health staff.~~
- D. ~~Preparation of formal subsequent minor subdivision application based on pre-application conference and regulations.~~

STEP 2:

- A. ~~Submittal of complete and sufficient subdivision application and review fee to the planner by application deadline.~~
~~The application and supplements will be distributed for review to agencies, utilities, individuals, and other parties with an interest in the proposal.~~
- B. ~~If requested by the planning staff, the Planning Board may hold a work session on the application at its next regular meeting. Planning staff recommendation is submitted in writing to the governing body and the applicant.~~
- C. ~~Public hearing before the governing body action to approve, conditionally approve or deny a subsequent minor subdivision.~~
- D. ~~The governing body shall prepare a written notice of their decision to approve, conditionally approve, or deny to the Applicant.~~

(Final Plat Review Process for Subsequent Minor Subdivisions)

STEP 3:

- A. ~~Applicant prepares final plat and satisfies all conditions placed upon the approved application for subsequent minor subdivision.~~
- B. ~~Final plat submitted to planning staff within three years of subsequent minor subdivision application approval.~~
- C. ~~Final plat approval by governing body when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.~~
- D. ~~Final plat is filed following final plat approval. Plat and supplementary documents filed with the clerk and recorder by the subdivider.~~

18. Page IV-3, Item IV.A: Introduction

~~Lewis and Clark County allows only one development right per parcel without the approval of the BOCC; possible additional development of a parcel is what is being assessed during the subdivision review process.~~

19. Page IV-6, Item IV.B.2: Subdivision Application Submissions and Distribution for First Minor Subdivision

The applicant shall submit the following application information to the planning staff as one submittal:

- a. Parts I of the Montana Department of Environmental Quality/Local Government Joint Application Form;
- b. The required review fee;
- c. Three (3) copies of the preliminary plat or site plan and related supplements;
- d. All supplements required by Appendix B;
- e. A property title report prepared by a title company within six months of the date of subdivision application submittal; and
- f. The preliminary plat or site plan must conform to the design and improvement standards set forth in Chapter XI of these regulations. If any design features or improvements do not conform to these standards, the applicant shall submit a written request for variances with the subdivision application, pursuant to the procedures in these regulations; and
- g. ~~The application materials must be submitted by an established deadline for first minor subdivisions.~~

The planning staff will review the application materials and determine the completeness and sufficiency of the application. The planning staff has 5 five working days to determine whether the application contains all of the listed elements found in Appendix B of these regulations and shall give written notice to the applicant or, with the applicant's written permission, the applicant's agent of the planning staff's determination of completeness. If elements are missing from the application, planning staff shall identify those elements in the written notification. The applicant must provide all missing elements before the review process will restart.

Within 15 working days after the applicant has been notified in writing that the application contains all the required elements, planning staff shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow review of the proposed subdivision, and shall give written notification to the applicant or, with the applicant's written permission, the applicant's agent of the determination by staff. If planning staff determines that information in the application is not adequate for review of the proposed subdivision, the insufficiencies of the application shall be identified in the written notification ~~to the applicant~~. The applicant must provide all necessary information required in the sufficiency notification letter before the review process will restart.

~~A subdivision application shall be submitted on, or prior to, the established subdivision application deadline. Planning staff shall review the subdivision application for completeness and sufficiency in accordance with the established subdivision application deadline. Applications submitted after the established subdivision application deadline will not be reviewed for completeness and sufficiency until the next established subdivision application deadline. The A thirty-five (35) working day review period commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.~~

20. Page IV-10, Item IV.B.7: Governing Body Action Meeting on Subdivision Application

Notice of the time, date, and location of the meeting shall be given not less than 15 calendar days prior to the date of the meeting by publication in a newspaper of general circulation in the county and by certified or registered mail to the applicant and each property owner of record immediately adjoining the land included in the subdivision application. For subdivisions that involve non-residential uses, all property owners within 500 feet of the project property boundary shall be sent a notice by certified or registered mail. The planning staff shall post notice of the public meeting on the boundary of the proposed subdivision.

21. Page IV-12, Item IV.B.9: Governing Body Action on Subdivision Application

If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the decision in writing within 30 working days following the decision. The letter shall include a copy of the plat and shall state the reason(s) for denial or enumerating the conditions of approval. The written decision shall include:

- 1) information regarding the appeal process for the denial or imposition of conditions;
- 2) identification of the regulations and statutes used in the decision;
- 3) the facts and conclusions the governing body used in their decision and reference documents, testimony, or other materials that form the basis of the decision;
- 4) the conditions of subdivision application approval that must be satisfied before the final plat may be approved; and

- 5) the duration of the approval period of the subdivision application. ~~(three years)~~

22. Page IV-14, Item IV.B.10: Subdivision Application Approval Period

Upon approving or conditionally approving a subdivision application, the governing body shall provide the applicant with a dated and signed statement of approval. This approval shall be in force for~~The governing body will establish a term of approval of not more than three calendar years or less than one calendar year. At the end of this period the governing body may, at the request of the applicant extend its 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 applicant or applicant's agent. period of one year. The governing body may extend the approval for more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the governing body and the subdivider, according to Section 76-3-507, MCA.~~

Except as provided in Section 76-3-507, MCA, A~~after the subdivision application and preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period, as provided in Section 76-3-610(1), MCA, above. Approval of the first minor subdivision application and preliminary plat does not constitute approval of the first minor subdivision final plat.~~

23. Page IV-15, Item IV.B.12: Process for Modifying the Conditions of Approval, Approval Statement, or Preliminary Plat for a Subdivision Application

~~Changes to the conditions of approval that are based on new evidence may be submitted to the governing body for review and approval.~~

If proposed modifications to the subdivision application's conditions of approval, approval statement, or preliminary plat are substantial, the entire application must be resubmitted and go through the entire subdivision review process again, including payment of fees, planning staff review, and Board of County Commissioner's meeting. The Planning Director of Community Development and Planning or his or her designee shall make a determination whether the proposed modification is substantial. If the Applicant subdivider disagrees with the planning staff's Director's determination the Applicant subdivider can make a written appeal to the BOCC. The following modifications, although not an exclusive list, may be considered substantial if they affect the findings of the BOCC of compliance with the subdivision standards and approval criteria:

- a. reconfiguration or number of lots;
- b. lot uses and or layouts;
- c. road layout;
- d. storm water drainage;
- e. water and wastewater treatment proposals;
- f. fire protection proposals;
- g. parkland and open space;

- h. easements; and
- i. access.

Changes to the conditions of approval, approval statement, or preliminary plat that will not substantially change the original ~~conditional~~ approval in terms of the findings of the BOCC of compliance with the subdivision standards and approval criteria, may be submitted to the ~~governing body~~ BOCC for review and approval. Notice of the application for approval of changes to the preliminary approval conditions shall be published per public notice requirements and with notification of adjacent property owners as provided in Section b. below ~~The process was developed to assure due process and equal protection, and requires two major actions by the BOCC (a. and b. below):~~

a. Action Item One (Optional for Applicant)

- 1) The subdivider ~~shall~~ may send a letter to the BOCC asking that it ~~reconsider a modifying~~ specific condition/s of approval, ~~preliminary plat,~~ or in some cases, ~~reconsider~~ modify the governing body's decision approval statement.
- 2) At a public meeting, the BOCC ~~shall~~ will make a determination as to whether the subdivider's request merits consideration. In order to warrant consideration, the subdivider ~~must~~ should make a reasonable argument in writing describing why the terms of subdivision application approval should be ~~reconsidered~~ modified, stating the following:
 - What circumstances have changed?
 - How will the applicant(s) benefit from the changes?
 - What impacts (both positive and negative) will there be on neighbors, the public in general, and the surrounding environment?
- 3) This process step allows the subdivider to obtain an initial indication of the acceptability of requested modifications prior to paying the required application fee and preparing documentation in support of desired changes.

b. Action Item Two

- 1) The subdivider may apply directly to the BOCC for consideration of modifications of the preliminary approval conditions subject to the following requirements.
- 2) ~~If the BOCC decides to reconsider the specific condition/s of approval,~~ The subdivider must submit the appropriate fee to the Planning Department and additional information as required by the BOCC. Once the application fee is paid and the additional information is submitted, public notice must be given and a public meeting on the matter will be scheduled. In addition, landowners adjacent to the subject subdivision will be notified via the mail of the proposed modification(s) and about the public meeting.
- 3) A staff report and recommendations will be completed, based upon the analysis of all the evidence provided by the applicant and/or available to staff.
- 4) The BOCC holds a public meeting on the request. At that meeting, the staff report and recommendations will be presented and the applicant will have the opportunity to make a presentation. The public will have an opportunity to provide comment on the proposed modification.
- 5) After the public meeting, the BOCC shall make a final decision.
- 6) A letter outlining the BOCC's decision and rationale shall be sent to the applicant.

24. Page IV-18, Item IV.C.3: Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements, or shall enter into a subdivision improvements agreement guaranteeing the construction and installation of all such improvements. No construction or placement of structures on the lots shall occur until engineered plans have been approved for the following improvements related to public health, safety, and general welfare including but not limited to: roads except for paving, community multi-user and public water and sewer wastewater treatment systems, other utilities, street identification signs, traffic control signs, address plaques and fire-fighting facilities, and these improvements have been installed in accordance to the approved plans. Alternative methods of for guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E of these regulations.

25. Page IV-18, Item IV.C.4: Property Owners' Association

If a common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana and the articles of incorporation and by-laws shall be filed with the Clerk and Recorder, a maintenance district and appropriate Rural Improvement District(s) (RID) shall be established.

26. Page IV-18, Item IV.C.5: Final Plat Approval or Denial

The governing body shall examine the first minor subdivision final subdivision plat and shall approve or deny the plat within 35 working days after the applicant has submitted a final plat application and has demonstratively only if the subdivider has met all of the conditions of approval set forth in the preliminary subdivision approval.

The first minor subdivision final plat shall conform in all major respects to the subdivision application and preliminary plat previously reviewed and approved by the governing body, and shall incorporate all required modifications. The governing body may approve a final plat which, in their determination, has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment since the time of subdivision application review and approval.

The governing body shall approve a first minor subdivision final plat if it conforms to the approved subdivision application and preliminary plat, and if the subdivider applicant has ~~completed~~ met all required modifications or conditions, and met or exceeded all standards and requirements of these regulations. Approval shall be certified by the governing body on the face of the first minor subdivision final plat.

If the first minor subdivision final plat is denied, the reasons for denial shall be stated in the records of the governing body, and a copy ~~forwarded~~ shall be sent to the applicant. The governing body shall return the opaque and reproducible mylar and digital copies, when available of the final plat to the subdivider applicant within ~~(40)~~ 10 working days of the action. The applicant may then make the necessary corrections and resubmit the plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

27. Page IV-22, Item IV.D.2: Subdivision Application Submission and Distributions for Subsequent Minor Subdivision

The applicant shall submit the following subdivision application information to the planning staff as one submittal:

- a. Part I, II, and III of the Montana Department of Environmental Quality (DEQ) Local Government Joint Application Form;
- b. The required review fee;
- c. Five (5) copies of the preliminary plat or site plan and related supplements;
- d. All supplements required by Appendix B;
- e. A property title report prepared by a title company within six months of the date of subdivision application submittal; and
- f. The preliminary plat or site plan must conform to the design and improvement standards set forth in Chapter XI of these regulations. If any design features or improvements do not conform to these standards, the applicant shall submit a written request for variances with the subdivision application, pursuant to the procedures in these regulations; and
- g. ~~The application materials must be submitted by the established deadline.~~

The planning staff will review the application materials and determine the completeness and sufficiency of the application. The planning staff has five (5) working days to determine whether the application contains all of the listed elements found in Appendix B of these regulations and shall ~~notify the~~ give written notice to the applicant or, with the applicant's written permission, the applicant's agent of the planning staff's determination of completeness. If elements are missing from the application, planning staff shall identify those elements in the written notification. The applicant must provide all missing elements before the review process will restart.

Within 15 working days after the applicant has been notified in writing that the application contains all the required elements, planning staff shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow review of the proposed subdivision, and ~~notify shall give written notification to the applicant or, with the applicant's written permission, the applicant's agent~~ of the determination by the planning staff. If planning staff determines that information in the application is not adequate for review of the proposed subdivision, the insufficiencies of the application shall be identified in the notification ~~to the applicant~~. The applicant must provide all necessary information required in the sufficiency notification letter before the review process will restart.

~~A subdivision application shall be submitted on, or prior to, the established subdivision application deadline. Planning staff shall review the subdivision application for completeness and sufficiency in accordance with the established subdivision application deadline. Applications submitted after the established subdivision application deadline~~

~~will not be reviewed for completeness and sufficiency until the next established subdivision application deadline. The A thirty-five (35) working day review period commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.~~

28. Page IV-27, Item IV.D.7: Governing Body Action Hearing on Subdivision Application

Notice of the time, date, and location of the meeting shall be given not less than 15 calendar days prior to the date of the meeting by publication in a newspaper of general circulation in the county and by certified or registered mail to the applicant and each property owner of record immediately adjoining the land included in the subdivision application. For subdivisions that involve non-residential uses, all property owners within 500 feet of the project property boundary shall be sent a notice by certified or registered mail. The planning staff shall post notice of the public meeting on the boundary of the proposed subdivision.

29. Page IV-29, Item IV.D.9: Governing Body Action on Subdivision Application

If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the decision in writing within 30 working days following the decision. The letter shall include a copy of the plat and shall state the reason(s) for denial or enumerating the conditions of approval. The written decision shall include:

- 1) information regarding the appeal process for the denial or imposition of conditions;
- 2) identification of the regulations and statutes used in the decision;
- 3) the facts and conclusions the governing body used in their decision and reference documents, testimony, or other materials that form the basis of the decision;
- 4) the conditions of subdivision application approval that must be satisfied before the final plat may be approved; and
- 5) the duration of the approval period of the subdivision application.~~(three years)~~

30. Page IV-31, Item IV.D.10: Subdivision Application Approval Period

Upon approving or conditionally approving a subdivision application, the governing body shall provide the applicant with a dated and signed statement of approval. This approval shall be in force for~~The governing body will establish a term of approval of not more than three calendar years or less than one calendar year. At the end of this period the governing body may, at the request of the applicant extend its 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 applicant or applicant's agent. period of one year. The governing body may extend the approval for more than one year if that approval period is included as a specific condition of a written subdivision improvements agreement between the governing body and the subdivider, according to Section 76-3-507, MCA.~~

Except as provided in Section 76-3-507, MCA, Aafter the subdivision application and preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period, as provided in Section 76-3-610(1), MCA, above. Approval of the subsequent minor subdivision application and preliminary plat does not constitute approval of the subsequent minor subdivision final plat.

31. Page IV-32, Item IV.D.12: Process for Modifying the Conditions of Approval, Approval Statement, or Preliminary Plat for a Subdivision Application

If proposed modifications to subdivision application's conditions of approval, approval statement, or preliminary plat are substantial, the entire application must be resubmitted and go through the entire subdivision review process again, including payment of fees, planning staff review, and BOCC hearing. The Director of Community Development and Planning or his or her designee shall make a determination whether the proposed modification is substantial. If the subdivider disagrees with staff's the Director's determination the Applicant subdivider can make a written appeal to the BOCC. The following modifications, although not an exclusive list, may be considered substantial if they affect the findings of the BOCC of compliance with the subdivision standards and approval criteria:

- a. reconfiguration or number of lots;
- b. lot uses and or layouts;
- c. road layout;
- d. storm water drainage;
- e. water and wastewater treatment proposals;
- f. fire protection proposals;
- g. parkland and open space;
- h. easements; and
- i. access.

Changes to the conditions of approval, approval statement, or preliminary plat that will not substantially change the original ~~conditional~~ approval in terms of the findings of the BOCC of compliance with the subdivision standards and approval criteria, may be submitted directly to the governing body BOCC for review and approval. Notice of the application for approval of changes to the preliminary approval conditions shall be published per public notice requirements and with notification of adjacent property owners as provided in Section b. below ~~The process was developed to assure due process and equal protection, and requires two major actions by the BOCC (a and b below):~~

- a. Action Item One (Optional for Applicant)
 - 1) The Applicant shall may send a letter to the BOCC asking that it reconsider modifying a specific condition(s) of approval, preliminary plat, or in some cases, reconsider modify the governing body's decision approval statement.
 - 2) At a public meeting, the BOCC shall will make a determination as to whether the applicant's request merits consideration. In order to warrant consideration, the applicant ~~must~~ should make a reasonable argument in writing describing why the terms of subdivision application approval should be ~~reconsidered~~ modified, stating the following:

- What circumstances have changed?
 - How will the applicant(s) benefit from the changes?
 - What impacts (both positive and negative) will there be on neighbors, the public in general, and the surrounding environment?
- 3) This process step allows the subdivider to obtain an initial indication of the acceptability of requested modifications prior to paying the required application fee and preparing documentation in support of desired changes.
- b. Action Item Two
- 1) The subdivider may apply directly to the BOCC for consideration of modifications of the preliminary approval conditions subject to the following requirements.
 - 2) ~~If the BOCC decides to reconsider the specific condition(s) of approval,~~ The applicant must submit the appropriate fee to the Planning Department and additional information as required by the BOCC. Once the application fee is paid and the additional information is submitted, public notice must be given and a public hearing before the BOCC on the matter will be scheduled. In addition, landowners adjacent to the subject subdivision will be notified via the mail of the proposed modification(s) and about the public hearing.
 - 3) A staff report and recommendations will be completed, based upon the analysis of all the evidence provided by the applicant and/or available staff.
 - 4) The BOCC holds a public hearing on the request. At that hearing, the staff report and recommendations will be presented and the applicant will have the opportunity to make a presentation. The public will have an opportunity to provide comment on the proposed modification.
 - 5) After the public hearing, the BOCC shall make a final decision.
 - 6) A letter outlining the BOCC's decision and rationale shall be sent to the applicant.

32. Page IV-34, Item IV.E.3: Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements, or shall enter into a subdivision improvements agreement guaranteeing the construction and installation of all such improvements. No construction or placement of structures on the lots shall occur until engineered plans have been approved for the following improvements related to public health, safety, and general welfare including but not limited to: roads except for paving, community multi-user and public water and sewer wastewater treatment systems, other utilities, street identification signs, traffic control signs, address plaques and fire-fighting facilities, and these improvements have been installed in accordance to the approved plans. ~~Alternative methods of~~ Methods of for guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E of these regulations.

33. Page IV-35, Item IV.E.4: Property Owners' Association

If a common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana and the articles of

incorporation and by-laws shall be filed with the Clerk and Recorder, a maintenance district and appropriate Rural Improvement District(s) (RID) shall be established.

34. Page IV-35, Item IV.E.5: Final Plat Approval or Denial

The governing body shall examine the subsequent minor subdivision final plat and shall approve or deny the subsequent minor subdivision final plat within thirty five (35) 35 working days after the applicant has submitted a final plat application and has demonstratively having met all the conditions of approval set forth in the preliminary subdivision approval. of the subdivision application.

The subsequent minor subdivision final plat shall conform in all major respects to the subdivision application and preliminary plat previously reviewed and approved by the governing body, and shall incorporate all required modifications. The governing body may approve a final plat which, in their determination, has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment since the time of subdivision application review and approval.

The governing body shall approve a subsequent minor subdivision final plat if it conforms to the approved subdivision application and preliminary plat, and if the ~~subdivider~~ applicant has ~~completed~~ met all required modifications or conditions, and met or exceeded all standards and requirements of these regulations. Approval shall be certified by the governing body on the face of the subsequent minor subdivision final plat.

If the subsequent minor subdivision final plat is denied, the reasons for ~~disapproval~~ denial shall be stated in the records of the governing body, and a copy ~~forwarded~~ shall be sent to the applicant. The governing body shall return the opaque and reproducible mylar and digital copies, when available of the final plat to the ~~subdivider~~ applicant within 10 working days of the action. The applicant may then make the necessary corrections and resubmit the plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

CHAPTER V: CORRECTING OR AMENDING FILED FINAL PLATS

35. Page V-1, Item V.A: Correcting Filed Final Plats

Corrections of drafting or surveying errors that will not materially alter the plat (see B.1. below) shall be made by the submission of a corrected final plat for the governing body's approval. The plat shall be entitled "Corrected Plat of the (name of the subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat. The plat may be filed under the procedures for review of final plats for first minor subdivisions, Chapter IV, Section C of these regulations.

36. Page V-1, Item V.B.1: Material Alterations

Changes that materially alter any portion of the filed plat, its land divisions, or improvements (as determined by the County Planning Department and/or County Attorney) shall be made by the filing of an amended plat showing all alterations. Within a platted subdivision, any division of lots which results in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the governing body, and an amended plat must be filed with the County Clerk and Recorder.

The amended plat shall be subject to procedures for major or minor subdivisions, as is appropriate. (See Chapter III of these regulations for major subdivisions or Chapter IV for minor subdivisions.)

The governing body may not approve an amendment that will place the plat in non-conformance with the standards contained herein unless a public hearing or meeting is held on the plat and a written variance from the standards issued pursuant to Chapter II, section B (Variance).

The governing body may not approve an amendment unless it ~~is consented to in writing~~ by provides prior written notice to all affected property owners within the subdivision meeting the notice requirements for initial approval of subdivisions.

CHAPTER VI: PROCEDURES FOR SUBDIVISIONS CREATED BY RENT, LEASE OR OTHER CONVEYANCE

This title shall be changed to "Procedures for Subdivisions Created by Rent or Lease"

37. Page VI-1, Item VI.A: General Procedures

A. General Procedures

1. A subdivision created by rent, or lease ~~or other conveyance~~ (such as spaces for mobile or manufactured homes (see Chapter VII) and recreational vehicles (RV) (See Chapter VIII) ~~parcels, space for an additional dwelling unit, or space for a non-residential use when there is an existing development right~~) is any tract of land divided by renting, or leasing, ~~or otherwise conveying~~ portions thereof. It is owned, however, as one parcel under single ownership. Placement of two or more mobile or manufactured homes on a parcel with an existing residential or non-residential use constitutes a mobile or manufactured home park under DEQ regulations. Subdivisions created in this manner are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review, and approved by the governing body before portions thereof may be conveyed. As such, no final plat is required for subdivisions created by rent or lease. Preliminary Approval must be based on the criteria in Chapter III, section B.10 (a-jk) of these regulations.

2. Major subdivisions created by rent, or lease, ~~or other conveyance~~ shall comply with the appropriate procedures in Chapter III. Minor subdivisions may receive review as provided for in Chapter IV, either as a first minor or subsequent minor subdivision.
3. For all rental or lease subdivisions, the applicant shall submit a site plan conforming to the requirements for preliminary plats. Subdivision application forms, contents and supplements are contained in Appendix B. The preliminary site plan shall show the lot layout and the typical location of the unit(s) space(s) on the lot(s). The applicant shall submit the site plan to the planning staff.
4. The governing body shall approve, conditionally approve, or deny the subdivision application site plan of a rental or lease subdivision within sixty (60) working days of a complete and sufficient application if it is a major subdivision, and within thirty-five (35) working days if it is a minor subdivision, unless the applicant requests and consents to a suspension of the review period. A suspension of the review period shall not exceed 1 year from the date of the request.
5. If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the decision in writing. The letter shall include a copy of the site plan and shall state the reason(s) for denial or enumerating the conditions of approval.
6. Before any portion of a rental or lease subdivision may be occupied or ~~conveyed~~ transferred, the subdivider shall have installed all required improvements. Except where deemed unnecessary by planning staff, preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be certified by an engineer registered in Montana, and submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

38. Page VI-2, Item VI-B: Guest Houses and Cabins

~~B. Guest Houses and Cabins.~~

~~Lewis and Clark County allows only one development right per parcel; possible additional development of a parcel is what is being assessed during the subdivision review process. However, a guesthouse or cabin is a permitted accessory use, provided the guesthouse or cabin is not a permanent and fully equipped residence and the use meets the following criteria:~~

- ~~1. Serves a secondary use that is clearly subordinate to the principal dwelling on the same lot;~~
- ~~2. Is under 1,000 square feet of living space;~~
- ~~3. Is occupied no more than 90 total days in any given calendar year;~~
- ~~4. Has no permanent kitchen or cooking facilities (such as a stove, refrigerator, or sink or water line located outside of a bathroom);~~
- ~~5. Has no more than two bedrooms;~~
- ~~6. Has the same address as the principal dwelling;~~
- ~~7. The above restrictions are placed on the deed;~~
- ~~8. The subject lot is one acre or more in size; and~~

- ~~9. There is sufficient area on the lot for an additional principal drainfield and replacement area as required by DEQ and the Environmental Health Department.~~

39. Page VI-3, Item VI-C: Family Declarations

~~C. Family Declarations~~

~~A family declaration is a contract between the County and a property owner that temporarily permits an additional non-permanent dwelling for an immediate family member (parent, child, and grandparent) on a lot for reasons of hardship. The temporary occupancy cannot include any sale, rent, lease, other conveyance, or any compensation, consideration, or in-kind service. The family declaration contract has a two-year term and must be renewed at the end of the two years if the hardship continues. When the contract or the hardship ends, the family declaration is voided and the non-permanent structure must be removed. The temporary use is not transferable to another family member or any other person.~~

~~The procedure for creating a family declaration is as follows:~~

- ~~1. Applicant makes an appointment with the Permit Coordinator to set up a pre-application conference.~~
- ~~2. Applicant provides documents to support the family declaration request. Such documentation may include: deed of the property, certificate of survey, covenants, birth certificates, or marriage licenses.~~
- ~~3. Pre-application conference: Applicant explains the hardship that warrants the request and discusses proposal with the County Planning and Environmental Health staff.~~
- ~~4. If the hardship is deemed valid, Planning staff will prepare a family declaration contract for the Applicant. The Planning Department may require the contract contain conditions for approval.~~
- ~~5. The contract must be notarized and returned to the Permit Coordinator.~~
- ~~6. The family declaration and any other required documents (such as DEQ approvals) shall be filed with the Clerk and Recorder's Office.~~
- ~~7. Upon permitting the temporary use, the applicant may place one additional non-permanent dwelling on the property.~~
- ~~8. When the hardship for which the family declaration ends, the family declaration is void and the non-permanent structure must be removed.~~
- ~~9. The non-permanent structure may be permitted to remain, provided the additional development right is approved by the governing body through the complete subdivision process, as outlined in Chapter IV.~~

CHAPTER VII: GENERAL STANDARDS FOR MOBILE AND MANUFACTURED HOME PARKS

40. Page VII.1, Item VII.A.1: Overview

Mobile and manufactured home parks (See definition for "mobile home park" in Appendix A) created by rent, or lease, or other conveyance (except recreational vehicle

parks) shall comply with the following provisions of the Chapter XI: Design and Improvement Standards in these regulations, unless otherwise addressed in Chapter VII, section C. Placement of two or more mobile or manufactured homes on a parcel with an existing residential or non-residential use constitutes a mobile or manufactured home park. Such subdivisions shall also comply with all applicable rules and regulations of the Montana Department of Environmental Quality (DEQ) and the Department of Public Health and Human Services (DPHHS). These provisions also supplement applicable standards for major and minor subdivisions covered in chapters III and IV of these regulations.

CHAPTER VIII: GENERAL STANDARDS FOR RECREATIONAL VEHICLE PARKS

41. Page VIII.4, Item VIII.E: Water Supply

All water supply systems shall meet or exceed the minimum water quality and design regulations of the Montana DEQ and DPHHS. Water supply systems shall be subject to approval by the governing body. The governing body may require that any ~~central~~ public water supply system that is installed be designed to provide an adequate accessible water supply for fire protection purposes.

CHAPTER X: CONDOMINIUMS AND TOWNHOUSES

42. Page X-1, Item X.A: Condominium Development

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act (MSPA), except those exempted by 76-3-203, MCA as described in paragraphs 1 and 2, below. In order to be eligible for the exemption, the condominiums must be constructed on land subdivided in compliance with the MSPA.

1. The approval of the original subdivision of land expressly contemplated the construction of the condominiums, and any applicable park dedication requirements in 76-3-621, MCA, are complied with; or
2. The condominium proposal is in conformance with applicable local zoning regulations where local zoning regulations are in effect.

Where no division of land is created by a condominium development, the subdivision shall be reviewed under the procedures contained in Chapter VI (Procedures for Subdivisions Created by Rent, or Lease, or other Conveyance).

Where division of land takes place in a condominium development, the subdivision shall be reviewed under the procedures contained in Chapters III (major subdivision) or IV (minor subdivision) of these regulations, whichever is applicable.

CHAPTER XI: GENERAL DESIGN AND IMPROVEMENT STANDARDS

43. Page XI-2, NEW Item XI.C.6 Lands Unsuitable for Development or Requiring Mitigation

6. In cases where a subdivision is proposed in areas subject to institutional controls, the developer may be required to comply with the institutional controls, e.g., *Regulations Governing Soil Displacement and Disposal in the East Helena Superfund Area in Lewis and Clark County.*

44. Page XI-4, Item XI.D.6: Floodplain Provisions

The above information (number 5) may be submitted, upon the request of the ~~G~~governing ~~B~~body, to the Floodplain Management Section, Water Resources Division, Department of Natural Resources and Conservation (DNRC) for review and concurrence. The DNRC ~~f~~Floodplain ~~m~~Management ~~s~~Section may review any detailed flood study or water surface profile analysis for accuracy when requested by the local Floodplain Administrator, County Sanitarian, County Planner, or ~~County Commissioners~~ governing body. The applicant shall in all cases subsequently submit the information to the County, along with any environmental assessment required for the ~~preliminary plat~~ subdivision application.

45. Page XI-5, Item XI.F.4: Lots

Each lot shall abut and have legal and physical access to a public street or road. Alleys may not be used to provide the primary means of access to a lot. A subdivision in which only lots or spaces for rent, or lease ~~or other conveyance~~ are created for the location of a wireless communication facility or an off-premise sign is not required to meet the design, level of service, or maintenance requirements of Chapter XI.H.

46. Page XI-7, Item XI.H.1: Streets and Roads

Roads located within a subdivision, shall meet appropriate County design specifications in Appendix J. The appropriate road design classification standard shall be determined through a traffic impact study analysis by a professional engineer registered in the State of Montana (See Appendix B).

47. Page XI-7, Item XI.H.3: Streets and Roads - Adjacent and Off-Site Road Improvements

Adjacent and Off-Site Road Improvements:

- a. Maintaining Level of Service. The level of service (LOS), as defined by the current edition of the Highway Capacity Manual, of all roads, sections segments of roads, and/or intersections within the subdivision's traffic-impact corridor shall not be lowered because of traffic generated by the subdivision. For the purposes of these regulations, a 'segment of road' is a section of road between one road intersection and the next closest road intersection. A segment of road does not include sections of roads outside the jurisdiction of Lewis and Clark County.

The applicant shall be required to complete all improvements necessary to ensure that the projected LOS at full build out of the subdivision is at or above the existing LOS at the time of submission of a complete and sufficient application.

~~At a minimum, a~~ The traffic impact corridor includes:

1. adjacent roads (including intersections) that are impacted by the proposed subdivision;
 2. two ingress-egress routes (including intersections) for proposed major and subsequent minor subdivisions, and one ingress-egress route (including intersections) for a proposed first minor subdivision, to the nearest State or federal highway/road, Helena city limits, East Helena city limits, or to the boundary of Lewis and Clark County and;
 3. off-site roads, exclusive of (1) and (2) where projected traffic from the proposed subdivision will account for at least ~~ten~~ 10 percent of the annual average daily traffic on those roads; and
 4. intersections, exclusive of (1) and (2) where projected traffic from the proposed subdivision will account for at least ~~five~~ 5 percent of the traffic volume on any approach leg of the intersection.
- b. Payment for Other Costs Directly Attributable to the Subdivision. When any road or ~~section~~ segment of road within the traffic impact corridor will not meet or exceed the Lewis and Clark County road standards in Appendix J at the time of full build out of the subdivision, the governing body shall require the subdivider to pay or guarantee payment of the costs of improving the road or ~~section~~ segment of road so that it meets the standards in Appendix J. The subdivider shall be required to pay or guarantee payment of costs that reflect the expected impacts directly attributable to the subdivision, as described below.

If an engineer, licensed in the State of Montana, certifies that ~~all roads~~ a road or segment of road within a subdivision's traffic impact corridor will meet or exceed the applicable Lewis and Clark County road standards in Appendix J at full build out of the subdivision, the subdivider shall not be required to contribute to the cost of improving ~~the that~~ road or segment of road.

- c. Determining Costs Directly Attributable to the Subdivision. A Preliminary Engineering Report (PER), prepared and certified by an engineer licensed in the State of Montana, shall provide estimated costs of improvements necessary to make a road or segment of road meet or exceed the Lewis and Clark County road standards in Appendix J. The PER shall describe the existing and proposed conditions within the traffic impact corridor to the extent necessary so that all components can be quantified and assigned an estimated cost. Estimated costs shall include the following:

1. estimated preliminary and final engineering costs including, but not limited to, design plans and specifications, material testing during construction, inspection and administration;
2. estimated costs of obtaining and completing necessary permits;
3. estimated surveying costs;
4. estimated right-of-way acquisition costs;
5. estimated utility relocation costs;
6. estimated costs for geotechnical and miscellaneous design related site testing and laboratory analysis;
7. estimated costs for road construction/improvements including materials, turning lanes, horizontal alignment and vertical grade adjustments, construction staking, temporary and permanent erosion control, road ~~upgrade~~ subgrade stabilization including geotextiles and subbase, sidewalks, curb and gutter, topsoil salvage and replacement, revegetation, weed management, traffic signals, signal timing changes, temporary traffic control, traffic control, approaches, bridges, guardrails, signage and/or pavement markings, ~~approaches~~; non-motorized facilities, provisions for stormwater drainage, and contingencies to bring the facility into compliance to these regulations; and
8. estimated costs for any other items necessary to improve the road.

Estimated costs shall not be older than six months at the time of final plat application. The burden of proof for estimated costs is the responsibility of the subdivider. Estimated costs must be prepared and certified by an engineer licensed in the State of Montana. Estimated costs shall be submitted to the County Public Works Department for review and recommendation. The governing body may, at the subdivider's expense, require a third party, designated by the governing body, to review estimated costs as described in the PER.

With preliminary approval of the subdivision application, the governing body shall determine a percentage of the costs described above by comparing projected annual average daily traffic (AADT) at full build out of the subdivision with existing AADT, which includes projected AADTs from any preliminary approved and final platted subdivisions within the County. This percentage reflects the expected impacts directly attributable to the subdivision. The percentage of costs shall be calculated for each segment of road(s) ~~impacted~~ using the following formula:

$$\frac{P}{(P + E)} * (100) = I$$

Where:

P = Projected AADT

E = Existing AADT

I = Percentage of Impact (the percentage of impact shall be rounded to the nearest hundredth of a percent, i.e. 36.746% is rounded to 36.75%)

- d. Use of Funds. Upon receipt of funds related to estimated costs, the County shall place funds in an interest bearing reserve account, held and used by the County strictly for the impacted roads or ~~sections~~ segments of road within the subdivision's traffic impact corridor. The County shall complete the construction or improvement of all impacted roads within the traffic impact corridor in compliance with the Lewis and Clark County road standards when sufficient funds become available.

In the event an RID is subsequently created to make the same improvements that the subdivider has contributed to, under this section, the lots within the subdivision shall be considered to have already contributed to the RID.

48. Page XI-10, Item XI.H.7: Streets and Roads

All internal roads and streets within ~~either major or minor~~ subdivisions shall be maintained by creating and properly funding a rural improvement district.

In all subdivisions, property owners shall sign a waiver of right to protest joining a rural improvement district. A waiver of the right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the County Clerk and Recorder. Where a rural improvement district exists, the subdivider shall enter into said district.

At a minimum, rural improvement districts shall provide for road maintenance, dust control, weed control, and maintenance of turnouts, traffic control signs, and drainage ~~structures~~ facilities.

49. Page XI-11, Item XI.H.11: Streets and Roads

~~A dead-end street, road or cul-de-sac shall be proposed as part of a future integrated network including the extension of a County road easement, and shall be constructed to the road design standards identified in Appendix J.~~

A dead-end street must include a cul-de-sac or hammerhead turnaround constructed in accordance with Appendix J unless the dead-end road is proposed as part of a future road connection pursuant to XI.H.16.

A dead-end street or cul-de-sac shall not be greater than 700 feet in length, unless the existing or proposed road can meet one of the following two exceptions:

- a) Maximum of a 1,300-foot cul-de-sac or hammerhead turnaround is permitted if:
- the topography of the property is classified as level (slope range of 0 to 8.0 percent); and
 - the ~~fire~~ fuel hazard rating for the property is classified as low ~~by~~ per an on-site inspection by a recognized fire ~~fuel~~ or fuel management specialist or as indicated on the Wildland Fuel Hazard Rating Map prepared by the Tri-County Fire Working Group for Broadwater, Jefferson, and Lewis & Clark Counties; and

- the cul-de-sac or hammerhead turnaround is proposed as part of a future road connection ~~integrated network~~ including the extension of a County road easement; ~~and~~
 - ~~road does not exceed the maximum grade standards identified in Table A of Appendix J.~~
- b) Maximum of 1,000-foot cul-de-sac or hammerhead turnaround is permitted if:
- the topography of the property is classified as rolling (slope range of 8.1 to 15.0 percent); and
 - the fire fuel hazard rating for the property is classified as low to moderate per an on-site inspection by a recognized fire fuel or fuel management specialist or as indicated on the Wildland Fuel Hazard Rating Map prepared by the Tri-County Fire Working Group for Broadwater, Jefferson, and Lewis & Clark Counties; and
 - the cul-de-sac or hammerhead turnaround is proposed as part of a future road connection ~~integrated network~~ including the extension of a County road easement; ~~and~~
 - ~~road does not exceed the maximum grade standards identified in Table A of Appendix J.~~

50. Page XI-12, Item XI.H.15: Streets and Roads

Each major subdivision and subsequent minor subdivision shall provide at least two different ingress-egress vehicular access routes, and provide standard legal and physical access.

The exceptions to ~~this~~ the requirement to provide at least two different ingress-egress vehicular access routes would be major subdivisions and subsequent minor subdivisions that meet all of the following criteria:

- access provided by a cul-de-sac or hammerhead turnaround that is 700 feet or less in length and the subject cul-de-sac or hammerhead turnaround accesses a local, collector or arterial road that is not classified as a dead end road; and
- ~~the cul-de-sac serves 10 lots or less;~~
- does not present an evident threat to public health and safety and will not inhibit evacuation ~~or~~ of residents in the event of an emergency; ~~and~~
- ~~provisions are provided to incorporate the cul-de-sac into a future road network that would provide for a second access route to the subdivision, such as extension of county road easements or access to public land. Access routes shall provide standard legal and physical access.~~

51. Page XI-12, Item XI.H.16: Streets and Roads

When county road easements are extended to exterior property boundaries within a subdivision for a future road connections, the roadway shall be constructed built to the minimum in accordance with the County Road Standards in Appendix J. ~~to ensure that adjacent property owners do not construct improvements within the county road easement.~~ These easements and roadways shall not exceed the depth of one adjacent lot

unless a county road easement is provided for a cul-de-sac or hammerhead turnaround and the cul-de-sac or hammerhead turnaround is constructed in accordance with the County Road Standards in Appendix J.

52. Page XI-14, Item XI-I.8 Improvements

Prior to construction of any public improvements, and after receiving preliminary approval, County Planning must review and approve all plans for public improvements required to be submitted by the subdivider, and the subdivider must obtain all necessary permits, which may include but are not limited to: a weed management plan, approach permits, encroachment permits, ~~water rights for public~~ provisional permits for water supply systems, and floodplain development permits, as well as any permits required by state and federal agencies.

53. Page XI-15, Item XI.J.2 Mailbox Placement and Design

On collectors and arterials, mail delivery will occur outside the travel way. ~~Responsibility for maintenance of the road surface of the turnout shall be the homeowners' association, if one exists.~~ Where a turnout is used, it shall comply with the requirements for turnouts found in Appendix J be no less than 10 feet wide, from the edge of the travel lane to the far side of the turnout. If the shoulder is 10 feet or more in width, a turnout is not necessary. No turnout may be constructed without contacting approval of the managing road authority. Responsibility for maintenance of the turnout shall be of the rural improvement district, if one exists or is required.

54. Page XI-21, Item XI.M: Water Supply System

1. All water supply systems (including ~~both~~ individual wells, shared wells, multi-user, and community public water supply systems) shall meet applicable regulations and design standards of the Montana Department of Environmental Quality (DEQ) and the Department of Public Health and Human Services (DPHHS), and comply with existing water rights and water rights regulations. The proposed method of supplying domestic water to each lot in the subdivision must comply with the applicable current Administrative Rules of Montana (ARM). 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.
2. The water supply system shall be subject to approval by the governing body, which may require that any proposed ~~central-public water supply system~~ provide adequate and accessible water for fire protection.
3. Where the subdivision is within the service area of a public water supply system, the subdivider shall submit plans and specifications for the proposed water system to the water district involved and DEQ, and shall obtain their approval prior to undertaking any construction to install such facilities. In cases when the proposed development is within 500 feet of an existing public system, the applicant must provide evidence that the public water supplier has been contacted and the applicant can meet the appropriate standards. If connection to an existing public system is denied, then the landowner must submit plans and specification for the proposed water systems to the County for review and approval.

4. Where the subdivision could be served by a ~~centralized~~ multi-user or public water supply system in the future, the governing body may require a restrictive covenant on the property, waiving the right to protest joining a district to fund the installation and/or maintenance of such a system. A waiver of the right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the County Clerk and Recorder.
5. All pump tests for ground water wells must comply with all applicable requirements and standards set by DEQ.
6. All water service connections in public and multi-user systems must be equipped with a viable water-metering device.
7. Prior to final plat approval by the governing body, subdivisions containing lots of less than 20 acres in size, 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.
8. Prior to final plat approval by the governing body, subdivisions containing lots from 20 to 160 acres in size must meet applicable local and state regulations for water supply systems. This demonstration to the BOCC is to evaluate the ability to develop lots at the platting stage and is not a guarantee that a source of water or a location for a septic system or drainfields will be available when the lots are developed.
9. For proposed subdivisions that include new water supply or wastewater facilities, the Applicant shall provide as part of the subdivision application all applicable information required under 76-3-622, MCA.
10. A subdivision that is served by a ~~community~~ water supply system which will utilize more than 35 gallons per minute or 10 acre feet per year must demonstrate a sufficient water supply prior to final plat approval. If a permit to appropriate water has not been issued by Montana Department of Natural Resources and Conservation (DNRC) to serve the entire subdivision, the governing body shall require a restrictive covenant notifying future property owners that a permit to appropriate water has not been issued by DNRC.
11. Any ~~centralized~~ public water supply system must provide adequate and accessible water for fire protection, unless an alternative fire-fighting water supply system is approved for use by the governing body and recommended for use by the Fire Protection Authority Having Jurisdiction (FPAHJ).

55. Page XI-23, Item XI.N.4: Wastewater Treatment Systems

Where the subdivision could be served by a ~~central~~ multi-user or public wastewater treatment system in the future, the governing body may require a restrictive covenant on the property, which waives the right to protest joining a district to fund the installation and/or maintenance of such a system. A waiver of the right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the County Clerk and Recorder.

56. Page XI-25, RELOCATED ITEMS, Items XI.P.5 and XI.P.6: Other Utilities

5. To the extent feasible and practical, utility lines shall cross the roadway in a perpendicular manner. Utility crossings that are likely to require future servicing or expansion shall be encased or installed in conduits to permit servicing without

disrupting the traffic flow or requiring open digging into the roadway surface.

6. On new construction, no utility shall be situated under any part of the pavement, except where it must cross the roadway. Utility poles, vent standpipes, and other above-ground utility features that would constitute hazards are not allowed within the roadway clear-zone.

57. Page XI-25, Item XI.Q.1.2: Utility Easements

1. Easements within and to the proposed subdivision shall be provided for utilities in all locations where utilities are installed and where needed for future extensions of service.
2. If required, Utility utility easements shall be located along front and side lot lines, wherever required. Lots larger than an acre also require a rear setback (see 3 below). If the easements are placed along the street, they shall be located between the edge of the roadway and the right-of-way line. Installation shall be as close to the right-of-way line as practicable, in order to provide a safe environment for traffic operation and preserve space for future roadway improvements or other utility installations.

~~To the extent feasible and practical, utility lines shall cross the roadway in a perpendicular manner. Utility crossings that are likely to require future servicing or expansion shall be encased or installed in conduits to permit servicing without disrupting the traffic flow or requiring open digging into the roadway surface.~~

~~On new construction, no utility shall be situated under any part of the pavement, except where it must cross the roadway. Utility poles, vent standpipes, and other above-ground utility features that would constitute hazards are not allowed within the roadway clear-zone.~~

58. Page XI-30 Item XI.S: Fire Protection

All subdivisions shall be planned, designed, constructed, and maintained in compliance with the fire protection standards described in Appendix K to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas.

59. Page XI-30, Item XI.U: Weed Control

Pursuant to Section 7-22-2121, MCA of the County Weed Law, anyone significantly disturbing soil must ~~obtain~~ submit a written weed management and re-vegetation plan to the County Weed District. The plan shall be ~~submitted to,~~ approved, and certified by the County Weed Board District prior to final plat approval any soil disturbance. All requirements and specifications of an approved plan shall be met prior to approval of the final subdivision plat. An approved weed management plan shall remain in effect for the five-year management period, regardless of any changes in property ownership.

60. Page XI-37, Item XI.Y.5: Non-Residential Development Standards

In order to reduce noise and visual impacts of non-residential developments located in, ~~or~~

adjacent to, or near existing residential or agricultural areas, shall provide the governing body may require natural screening, fencing, or a combination of both natural screening and fencing around parking, loading, service, and outside storage areas as needed to mitigate adverse noise and visual impacts to existing adjacent or nearby residential properties areas and lot line perimeters. Screening shall be accomplished through the use of trees or shrubs planted to provide a continuous barrier. Said natural screening and fencing when required shall not interfere with safe sight distances along roadways for exiting traffic. A plan for continuous maintenance and watering of the natural screening and fencing shall be submitted with the subdivision application. The use of "xeriscaping" with plants that require minimal water is recommended.

In order to reduce noise and visual impacts non-residential developments located in or adjacent to residential or agricultural areas shall provide natural screening around parking areas and lot line perimeters. Screening shall be accomplished through the use of trees or shrubs planted to provide a continuous barrier.

APPENDIX A: DEFINITIONS

61. Page A-1, Adding a definition for AADT

AADT: Annual average daily trips made by vehicles in a calendar year.

62. Page A-2, Application Deadline Definition

~~APPLICATION DEADLINE: The periodic deadlines (approximately semi-monthly or monthly), established by the governing body or its designee for application submittals to be considered within a particular review timeframe. Such deadlines are necessary for efficient administration of the Montana Subdivision & Platting Act and these regulations.~~

63. Page A-2, Cabin Definition

~~CABIN: (See Chapter VI, section B for definition, also see definition of "kitchen" in this chapter)~~

64. Page A-4, Development Right Definition

~~DEVELOPMENT RIGHT: The right to own or develop one residence or one commercial operation per parcel of land without subdivision review.~~

65. Page A-4, Division of Land Definition

~~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 Montana Subdivision and Platting Act. Provided that where required by the Act the land upon which an improvement is situated has been subdivided in compliance with the Act, the sale, rent, lease or other conveyance of one or more parts of a building, structure or other improvement situated on one or more parcels of land is not a division of land and is~~

not subject to the terms of the Act. 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.

66. Page A-6, Guest House Definition

GUEST HOUSE: ~~a second dwelling on a parcel that is clearly subordinate to the principal dwelling for the occupation of not more than 90 days in a given calendar year. (See Chapter VI, section B for the complete definition of a guest house, also see definition of "kitchen" in this Appendix)~~

67. Page A-6, Home Occupation Definition

HOME OCCUPATION: ~~Any use conducted entirely within a dwelling or in an accessory structure that is clearly incidental and secondary to the use of the dwelling for residential purposes. Such use may include, but is not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts, provided that the use does not involve more than one third of the total square footage of the dwelling or the equivalent of not more than one third of the total square footage of the dwelling in the case of home occupations conducted in accessory structures, and does not generate substantial additional traffic. Automobile repair, auto painting businesses, tourist homes or other traffic generating uses are not home occupations. The home occupation shall not involve more than one person who does not live in the residence. Vehicle trips directly associated with the home occupation shall not exceed an average of ten per day on a weekly basis, including deliveries.~~

68. Page A-7, Improvement Definition

IMPROVEMENT: The addition of one or more structures or utilities on a parcel of land (see also definition for infrastructure).

69. Page A-7, Adding a Definition for Institutional Controls

INSTITUTIONAL CONTROLS: Non-engineered instruments, such as administrative and legal controls, that help minimize the potential for human exposure to contamination and/or protect the integrity of the remedy, e.g., *Regulations Governing Soil Displacement and Disposal in the East Helena Superfund Area in Lewis and Clark County.*

70. Page A-7, Kitchen Definition

KITCHEN: ~~A room or area equipped for the preparation and cooking of food, which may include a refrigerator, a freezer, a stove, or a sink or waterline outside of a bathroom.~~

71. Page A-14, Subdivision Definition

SUBDIVISION: A division of land or land so divided, which creates one or more parcels containing less than one hundred sixty (160) acres that cannot be described as a one-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 ~~transferred~~, and includes any resubdivision; 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. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or

lease on which recreational camping vehicles or mobile homes will be placed. A subdivision comprises only those parcels containing less than one hundred sixty (160) acres that have been segregated from the tract of record. The subdivision plat must show all the parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with the Montana Subdivision and Platting Act are exempt from the provisions of the Act 76-3-203, MCA, under certain circumstances.

APPENDIX B: SUBDIVISION APPLICATION FORM, CONTENTS, AND SUPPLEMENTS

72. Page B-3, Item B.3.a.2: Subdivision Application Supplements

A vicinity map or maps and electronic copies showing conditions on adjacent land. Lands separated from the exterior boundary of the subdivision by public or private right-of-way are deemed to be adjacent for the purpose of this requirement. The map(s) shall include:

- 1) The names of platted subdivisions and numbers of certificates of survey previously recorded.
- 2) ~~The ownership of lands adjacent to the exterior boundaries of the subdivision and to any~~ Any access road leading from a present public right-of-way to the boundary of the proposed subdivision.
- 3) Location of any buildings, railroads, power lines, towers, roads, and other land uses.
- 4) Any existing or proposed zoning.

73. Page B-3, Item B.3.b: Subdivision Application Supplements

~~List of the names and addresses of owners of record of adjacent property depicted on the sketch and each purchaser under contract for deed of property immediately adjoining the land.~~

All remaining items in this list shall be renumbered.

74. Page B-4, Item B.3.o: Subdivision Application Supplements

- o. Detailed traffic impact analysis study certified by an engineer, licensed in the State of Montana, based upon the current editions of *Institute of Transportation Engineers* (ITE) standards and the *Highway Capacity Manual* that provides for the following:
 - existing traffic volumes;
 - existing traffic conditions: lanes, traffic control, access control, etc.;
 - projected traffic volumes (based upon ITE standards) of internal, adjacent, and off-site roads within the traffic impact corridor as described in Chapter XI.H.3;
 - projected traffic distribution and assignment on adjacent, and off-site roads within the traffic impact corridor as described in Chapter XI.H.3;
 - traffic analysis, including existing and projected Levels of Service (LOS) etc. of internal, adjacent, and off-site roads and intersections within the traffic impact corridor as described in Chapter XI.H.3; and

- conclusions and recommendation.

In lieu of using the Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition), specific trip generation studies that have been conducted for a particular land use for the purposes of estimating peak-hour and average daily traffic trip-generating characteristics may be utilized. The Lewis and Clark County Public Works Director (or his/her designee) shall approve the use of these studies prior to their inclusion in a traffic impact analysis. A site specific trip generation study must be certified by an engineer licensed in the State of Montana.

75. Page B-5, Item B.4.b: Additional Supplements for Non-residential Units

- b) location, dimensions, area, and plant descriptions of all landscaping features accompanied by a plan for continuous maintenance and watering of required natural screening;

76. Page B-6, Item B.5: Presentation of Subdivision Application and Supplements

The preliminary plat or site plan, subdivision application, and supplements shall be submitted in an organized format with a cover sheet, table of contents, identification tabs for each section and shall be bound in a three ring binder or with a comb binder. Five bound copies shall be submitted for major or subsequent minor subdivision applications and three bound copies shall be submitted for first minor subdivision applications. The Applicant shall also provide Planning Staff with a copy in an electronic form (*read only* PDF). The materials submitted in electronic format shall utilize folder and file names reflective of their content.

APPENDIX D: STANDARDS FOR FINAL SUBDIVISION PLATS

77. Page D-1 through D-5: APPENDIX D: Standards for Final Subdivision Plats

1A. A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:

1. The plat complies with the requirements contained in Appendix D.B.;
2. The plat includes a Conditions of Approval sheet(s) that complies with the requirements in Appendix D.D.; and
3. The plat is accompanied by documents listed in Appendix D.E.

B. A plat must comply with the following requirements:

- a1. Final subdivision plats shall be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and shall be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1-1/2 1/2 inch margin on all sides ~~the binding side~~.

- b2. Two copies on 3 mil or heavier matte stable-base polyester film or equivalent and 2 copies on 24 lb. white bond paper or equivalent ~~opaque-mylar copies and two blue-line copies~~ shall be submitted.
- e3. Whenever more than one sheet must be used to accurately portray the land surveyed ~~subdivided~~, each sheet must show the number of that sheet and the total number of sheets included. Except as provided in Appendix D.D.2. All all certifications must be placed on sheet number one of the plat shall be shown or referenced on one sheet.
- d4. A survey document that results in an increase in the number of lots or modifies six or more lots on a filed plat must be entitled "amended plat of (lot block, and name of subdivision being amended)", and unless it is exempt from subdivision review by Section 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must meet the filing requirements for final subdivision plats specified in these regulations. Changes to a filed subdivision plat must be filed with the county clerk and recorder as an amended plat. An amended plat may not be filed unless it meets the filing requirements for a final subdivision plat specified in these rules, except that approval by the local governing body is not required where waived by Section 76-3-207 (1)(d) or (e), MCA, for relocation of common boundary lines or aggregations affecting five or fewer lots.
25. The final plat submitted for approval shall show or contain, ~~on its face or on separate sheets referenced on the plat~~ the following information:
- a. A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and either "subdivision:" or "addition".
 - b. Name(s) of the person(s) who commissioned the survey, the Name(s) name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, surveyed and the names of any adjoining plats, platted subdivisions and the document numbers of any adjoining certificates of survey previously filed recorded and ties thereto.
 - c. North arrow.
 - d. Scale bar (scale shall be sufficient to legibly represent the required information and data on the plat submitted for filing).

- e. The location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101:
 - i. If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).
 - ii. All monuments found during the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).
 - iii. Witness and reference monuments must be clearly shown.
- f. The location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as control in the survey.
- g. Basis of bearing. For purposes of these regulations, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined.
- h. The bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.
 - i. The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
 - ii. For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.
 - iii. If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown.

and each segment must at least include distance.

- i. Data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled.
- e. ~~Witness monuments, basis for bearing, bearings and lengths of lines.~~
- f. ~~The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bound by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.~~
- g. ~~Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:~~
 - (i) ~~Radius of curve~~
 - (ii) ~~Arc length~~
 - (iii) ~~Notation of non-tangent curves~~
- h. Lengths of all lines shall be shown to be at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.
- k. At least one record measurement reference for each line and curve, if available, must be shown.
- i. ~~The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.~~
- j. All lots and blocks in the subdivision, designated by number, the bearings, distances, and curve data dimensions of each lot and block, the area of each lot, and the total acreage area of all lots. (Excepted lands must be labeled parcels shall be marked "Not included in this subdivision" or "Not included in this plat;" "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT"). as appropriate, and the boundary completely indicated by bearings and distances).
- m. All existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision;

their names and widths from public record (if ascertainable); the bearings, distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown.

- kn. All rights -of-way for streets, alleys, avenues, roads and highways that will be created by filing of the plat; their names, widths, distances, curve data, and area. bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways. The name(s) of a road or roads created as part of the subdivision shall be approved by the Address Coordinator prior to submittal of the final plat application and shown on the plat. A certificate of dedication of county roads, streets, alleys, parks, playgrounds, other public improvements, common areas and drainage and other easements shall be shown on the face of the plat.
- lo. Except as provided in Appendix D.B.5.m. and n., the location, dimensions bearings, distances, curve data, and areas of all parks, common areas, and all other grounds dedicated for public use, or non-buildable area.
- np. The total acreage area of the subdivision.
- nq. A narrative legal description of the subdivision perimeter boundary of the tract surveyed.
 - i. The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:
 1. If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land;
 2. If the plat depicts the division of one or more parcels shown on a previously filed certificate of survey or plat, the narrative legal description may be the number of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel(s) previously surveyed;
 3. The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or
 4. If the narrative legal description does not fall within Appendix D.B.5.q.i.1 or 2, the narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.

- ii. When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.

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

- pr. The dated signature and seal of the registered land surveyor responsible for the survey. The affixing of the seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto. The land surveyor's signature and certification do not include certification of the Conditions of Approval sheet(s).

- qs. Memorandum of oaths administered pursuant to Section 76-3-405, MCA.

- t. The dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of this regulation, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.

- ~~ru. Certification by the governing body that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local governing review under Section 76-3-207(1)(d) or (e), MCA. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207(1)(d) or (e), MCA, approval by the local governing body is not required for relocation of common boundary lines or aggregations of lots which affect five or fewer lots.~~

- v. If applicable, the landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements.

- w. If applicable, the landowner's statement(s) as follows:

- i. A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the Conditions of Approval sheet or as otherwise stated.
- ii. A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the Community Development and Planning Department and become informed of any limitations on the use of the property prior to closing.
- iii. A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to Section 76-3-507, MCA, secure the future construction of any remaining public improvements to be installed.

- x. If applicable, a certificate of the governing body accepting any dedicated land, easements, or improvements.
- y. If applicable, the certificate of the examining land surveyor.
- z. Space for the clerk and recorder's filing information.

- aa. A minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in Appendix D.E.

- sbb. The dollar value of cash payment in-lieu-of parkland dedication or parkland ownership status shall be shown on the final plat, if applicable.

- tcc. The location of utility easements shall be shown on the plat with dashed lines, in addition to the following statement: "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing an offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."

- 6. The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.

C. The following certifications of final plat approval must appear on the plat or on the Conditions of Approval sheet as contained in Appendix D.D., or recorded or filed as contained in Appendix D.E.:

1. A certification by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid and, if applicable, certification of the local health officer having jurisdiction.

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

1. Any text and/or graphic representations of requirements by the governing body for final plat approval including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;
2. A certification statement by the landowner that the text and/or graphics shown on the Conditions of Approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and
3. A notation stating that the information shown is current as of the date of the certification required in Appendix D.D.2., and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.

3E. If applicable, The the following documents shall accompany the final plat when submitted for review to the Community Development and Planning Department ~~county planning department~~ for purposes of approval by the governing body and shall be filed with the plat as specified by the ~~county~~ clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:

- a1. A property title report prepared by a title company within six months of the date of final plat application submittal showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.
- b2. Copies of any covenants or deed restrictions relating to the subdivision. ~~public improvements that the applicant will file with the final plat.~~

- e3. For lots less than 20 acres in size, exclusive of public roadways, a certification Certification by the Montana Department of Environmental Quality (DEQ) that it has approved the plans and specifications for water supply and sanitary facilities pursuant to Section 76-4-104(2), MCA. if applicable.
- 4. If required by the governing body, for lots of 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA.
- 5. A copy of any security requirements, pursuant to 76-3-507, MCA, securing the future construction of any remaining public improvements to be installed.
- 6. Copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer that all required improvements which have been installed are in conformance with the attached plans. The governing body may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, and file them with the Community Development and Planning Department. If the approved plans and specifications are or will be filed with the Community Development and Planning Department, then a document or a statement on the Conditions of Approval sheet states where the plans can be viewed.
- 7. If a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit.
- d8. Copies of articles of incorporation and by-laws for any property owners' association, if applicable.
- e. ~~Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.~~
- f. ~~Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.~~
- g. ~~Certification by the governing body expressly accepting any dedicated land, easements, and improvements. Acceptance of dedication shall be ineffective without such certification.~~

- ~~h. Certification of examining land surveyor where applicable.~~
- ~~i. Copy of the state highway permit when a new street or road access will intersect with a state highway, or a county approach permit, when required.~~
- ~~j. A declaration of covenant, if the governing body has waived park dedication under the 5 acre, single family dwelling exemption, in accordance with Section 76-3-621(3)(b), MCA.~~
- ~~k. Certification by the County Treasurer that no real property taxes are delinquent on the subject property.~~
- 9. A letter of approval from the County Weed District Board, confirming that the applicant has prepared a weed control and revegetation plan for the property.
- 10. Written notification from the Address Coordinator that each road in the subdivision has a name approved by the Addressing Coordinator.
- 11. Written notification from the Address Coordinator that Each each lot on the final plat shall have has been assigned an address by the County Address Coordinator.
- ~~o. Soil Erosion Control Plan approved by the Lewis and Clark Soil Conservation District.~~
- 12. Final plat application filing fee.
- ~~q. A letter of consent from all parties having an interest in the property.~~
- 13. Certification that the local governing body will not be required to improve or maintain any proposed private road within or providing access to the subdivision.
- ~~s. Certification of park or playground dedication or of cash donation in lieu of land dedication, if applicable.~~
- 14. Floodplain Development Permit approved by the County Floodplain Administrator, if applicable.

APPENDIX E: SUBDIVISION IMPROVEMENT GUARANTEES

78. **Page E-1, Appendix E Title: SUBDIVISION IMPROVEMENTS GUARANTEES: Improvements to be Completed Prior to Approval of the Final Plat:**

79. Page E-2, Item D: Improvement Agreement

The subdivider shall enter into an improvements agreement with the BOCC. The improvement agreement shall include:

1. A commitment to complete the improvements within the specified time;
2. The projected costs of the improvements as approved by the BOCC;
3. A guarantee acceptable to the BOCC and in a value greater than or equal to 125 percent of the approved projected costs of the improvements and;
4. A warranty against defects in the improvements for a period of one year from the date of completion and BOCC's acceptance.

80. Page E-2, Item E: Improvement Guarantee

The subdivider shall provide a financial guarantee securing the construction and installation of the improvements within the period specified in the improvement agreement. The guarantee shall be for a period sufficient to allow the County to inspect the improvements and to draw on the security if the improvements are not satisfactory. ~~The subdivider shall provide a guarantee that the improvements will be satisfactorily completed and are guaranteed for twelve (12) months.~~ The guarantee shall have a value equal to the projected costs of completing the improvements, as stated in Section D., above. The guarantee shall specify procedures for the BOCC to obtain the funds, should the subdivider fail to satisfactorily complete the improvements, or otherwise default under the agreement. The types of guarantees acceptable to the BOCC are described in Section I., below. The method of guarantee shall be subject to approval of the BOCC.

81. Page E-3, Item G: Reduction and Release of Guarantee

~~Only after the inspecting engineer certifies that improvements are complete and free from defect, and after receipt of the statements detailed above in Section F, the BOCC or its designee shall release the subdivider from the subdivision improvement agreement.~~

The BOCC or its designee may, upon application by the subdivider, release a portion of the collateral corresponding to the value of the installed improvements.

~~Upon the certification of completion of all of the required improvements, the County shall retain ten (10) percent of the improvement guarantee for a period of one year as a guarantee against defect.~~

APPENDIX J: LEWIS AND CLARK COUNTY ROAD STANDARDS

82. Page J-15, Item 3.3: Dead End Roads

Dead End Roads. The maximum length for a dead-end road is 700 feet unless otherwise allowed pursuant to Chapter XI.H.11. The length of the dead-end road is measured from the edge of the pavement of the intersecting road to the center of the radius of the cul-de-sac or to the center of the intersection of the hammerhead turnaround. All dead end roads shall be provided with cul-de-sac or hammerhead ~~other approved~~ turnaround area unless otherwise allowed pursuant to Chapter XI.H.16. The cul-de-sacs shall be limited to a length, radius, and right-of-way for the roadway and turnaround as shown in Table A.

See Figure 5 for illustrations of acceptable hammerhead Ts turnarounds and cul-de-sacs, which have been adopted from the City of Helena road standards. The county right-of-way road easement width for a hammerhead shall be 60 feet.

83. Page J-15, Item 3.4: Turnouts

Turnouts. A widening in a travel way of sufficient length and width to allow vehicles to pass one another; to provide an area for mail delivery; to provide an area for transit and school bus users; or to provide an area for the provision of emergency services, such as fire protection. All turnouts shall be constructed of the same material as the roadway/driveway that it serves. Turnouts shall be no less than 50 feet long with a minimum travel lane width of 10 feet for a minimum length of 20 feet and be of sufficient width that when the travel lane of turnout and the road surface are added together that a total width of 20 feet is provided. Turnouts shall be located at least 40 feet from the closest edge of the turnout to the closest edge of the nearest road right-of-way or county road easement.

84. Page J-16, Item 3.5.1: Driveways

All driveway approaches shall conform to the Road Approach Permit Requirements of the County Public Works Department. On paved roads the driveway approaches should shall be paved hard surfaced for 15' from the shoulder of the road and local road approaches should be paved for 30' from the shoulder of the road.

85. Page J-16, NEW ITEMS Item 3.5.15 and Item 3.5.16

3.5.15 Driveway access shall be located at least 15 feet from the closest edge of turnouts and shall not be located on a turnout.

3.5.16 Driveway access shall be at a location that does not conflict with the requirements of XI.F.5, XI.F.6, XI.F.10, and XI.H.10 in these regulations.

APPENDIX K: FIRE PROTECTION STANDARDS

86. Page K-6, Item 18-4: Water Supplies for Fire Protection

At a minimum, every Class I or Class II subdivision shall be provided with a water supply, either on-site or off-site, for the purpose of fire fighting, meeting the requirements of 18-4. ~~When utilizing off-site water, the BOCC shall approve of the location and the subdivider shall secure any necessary easements and/or agreements from the affected property owner(s) and/or homeowners association and a rural improvement district (RID) must be established prior to final plat application. When necessary to provide volume, pressure, and distribution for a subdivision in accordance with these regulations, an existing off-site water supply system shall be upgraded and/or expanded.~~

~~When proposing to utilize an existing off-site water supply system, the Applicant shall submit with the subdivision application, at the Applicant's expense, current performance data for the water supply system based on current field measures, certified by a professional engineer licensed in the State of Montana. In addition, the Applicant shall~~

submit, with the subdivision application, as built specifications and drawings to the FPAHJ and County Community Development and Planning Department.

87. Page K-9, Item 18-4.1.B.5.b: One- and Two-family Dwellings, Class I subdivisions, one dwelling per .25 to .49 acre

5. One dwelling per .25 to .49 acre
 - a) 1000 gpm for two hours and
 - b) Fire hydrant Hydrant spacing every 1000 feet (fire hydrant spacing shall be measured along a route of legal access)

88. Page K-10, Item 18-4.1.B.6.b: One- and Two-family Dwellings, Class I subdivisions, one dwelling per < .25 acre

6. One dwelling per < .25 acre
 - a) 1500 gpm for two hours and
 - b) Fire hydrant Hydrant spacing every 500 feet (fire hydrant spacing shall be measured along a route of legal access)

89. Page K-11, Item 18-4.4: Proportionate Reimbursement

If subsequent subdivisions will be served by an existing water supply, the County Commission ~~shall~~ may include reimbursement of a portion of the original water supply improvement costs as a condition of final approval of any subsequent subdivision. This reimbursement condition shall be in effect for ten (10) years from the date the County Commission directs the original subdivider to construct a water supply. Ongoing maintenance of the original water system shall be provided by an RID.

90. Page K-11, Item 18-4.5: Reimbursement Methodology

The original subdivider ~~shall~~ may forward the total costs of improvements for the water supply to the planning department within 60 days of the completion of the improvements. If required, Ssubsequent subdividers shall pay their proportionate reimbursement to Lewis & Clark County. The Lewis & Clark County Treasurer shall then make disbursements within 60 days of receiving reimbursement funds. Funds shall be disbursed to the original subdivider.

91. Page K-11, NEW ITEM, Item 18-4.6: Off-Site Water Supply System

The BOCC may consider the utilization of an existing off-site water supply system under the following conditions:

1. The applicant has secured any necessary easements and/or agreements from the affected property owner(s) and/or homeowners association;
2. A rural improvement district (RID) for the maintenance of the off-site water supply system that includes the subdivision is established prior to final plat approval;
3. Use of an existing off-site water supply system does not diminish the fire protection provided to the subdivision it was originally built to serve or it is upgraded and/or expanded to provide volume, pressure, and distribution in accordance with these regulations for both subdivisions;

4. The off-site water supply system is located no longer than one county road mile from an existing or proposed internal access road for the subdivision; and
5. The utilization of the off-site water supply system does not require the FPAHJ to travel on arterial or major collector roads, cross railroad crossings, or travel on roads with grades in excess of 11 percent to deliver water from the off-site water supply system to the subdivision.

When proposing to utilize an existing off-site water supply system, the applicant shall submit with the subdivision application, at the Applicant's expense, current performance data for the water supply system based on current field measures, certified by a professional engineer licensed in the State of Montana. If available, the applicant shall submit, with the subdivision application, as built specifications and drawings to the FPAHJ and County Community Development and Planning Department.

92. Page K-11, NEW ITEM, Item 18-4.7 Fire Protection Authority Having Jurisdiction (FPAHJ) Approval of Water Supplies for Fire Protection

The subdivider shall provide a certification from an engineer, licensed in the State of Montana, stating that any new or improved fire protection water supplies serving the subdivision comply with the requirements of preliminary approval. The subdivider shall also submit a written verification from the Fire Protection Authority Having Jurisdiction (FPAHJ) stating that the FPAHJ has inspected and tested the fire protection water supplies serving the subdivision. The FPAHJ's inspection and testing must occur after the subdivider submits to the FPAHJ a certification from an engineer, licensed in the State of Montana, stating that any new or improved fire protection water supplies serving the subdivision comply with the requirements of preliminary approval.

93. Page K-14, Item 18.7.5.1 and 18.7.5.2

~~18-7.5.1 A vegetation management plan shall be prepared in accordance with 18-10. by a recognized fire or fuels management specialist selected from a list of "qualified fire protection professionals" maintained by the County Planning Department. The intent of the vegetation management plan is to reduce fuel loading and hazard rating and provide continuous maintenance of the fuel load:~~

- ~~• To protect life and property.~~
- ~~• To reduce the potential for a fire on improved property from spreading to wildland fuels and from a fire in wildland fuels from spreading to the structures.~~
- ~~• To provide a safe working area for emergency responders.~~

~~**18-7.5.2 Vegetation Management Plan**—Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the development. A vegetation management plan shall include at least the following information:~~

- ~~a. A copy of the site plan for the development.~~

- b. ~~Methods and timetables for controlling, changing or modifying areas on the property, including roadside vegetation. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, dead trees, and thinning of live trees.~~
- e. ~~Defensible Space (Refer to Guideline 201.1 and 201.2, Vegetation Reduction And Clearance *FIRE PROTECTION GUIDELINES FOR WILDLAND RESIDENTIAL INTERFACE DEVELOPMENT*).~~
- d. ~~Fuel Breaks & Greenbelts (Refer to guideline 204, Fuel Breaks and Greenbelts *FIRE PROTECTION GUIDELINES FOR WILDLAND RESIDENTIAL INTERFACE DEVELOPMENT*).~~
- e. ~~A plan for continuously maintaining the proposed fuel reduction, defensible space, fuel breaks & greenbelts measures and responsibility of maintenance defined.~~

94. Page K-15, Item 18-8.1.2 Maintenance of Fire Protection Features

~~(for example: defensible spaces, driveway routes, fuel breaks, fuel modification plan, greenbelts, etc.) Fire protection features must be maintained to their original performance capability in perpetuity by the property owners. (For example: defensible spaces, driveway routes, fuel breaks, fuel modification plan, greenbelts, etc.) All lot owners shall waive their right to protest the creation of an RID for the purpose of maintaining all fire protection features.~~

95. Page K-15, NEW ITEM, Item 18-8.1.4

18-8.1.4 Vegetation Management Plans – Lot owners shall be notified of required Vegetation Management Plans and the required vegetation management plan shall be recorded with the County Clerk and Recorder at the time of final plat filing.

96. Page K-16, NEW ITEM, Item 18.10
18-10 Vegetation Management

18-10.1 A vegetation management plan shall be prepared by a recognized fire or fuels management specialist selected from a list of “qualified fire protection professionals” maintained by the Community Development and Planning Department. The intent of the vegetation management plan is to reduce fuel loading and hazard rating and provide continuous maintenance of the fuel load:

- To protect life and property.
- To reduce the potential for a fire on improved property from spreading to wildland fuels and from a fire in wildland fuels from spreading to the structures.
- To provide a safe working area for emergency responders.

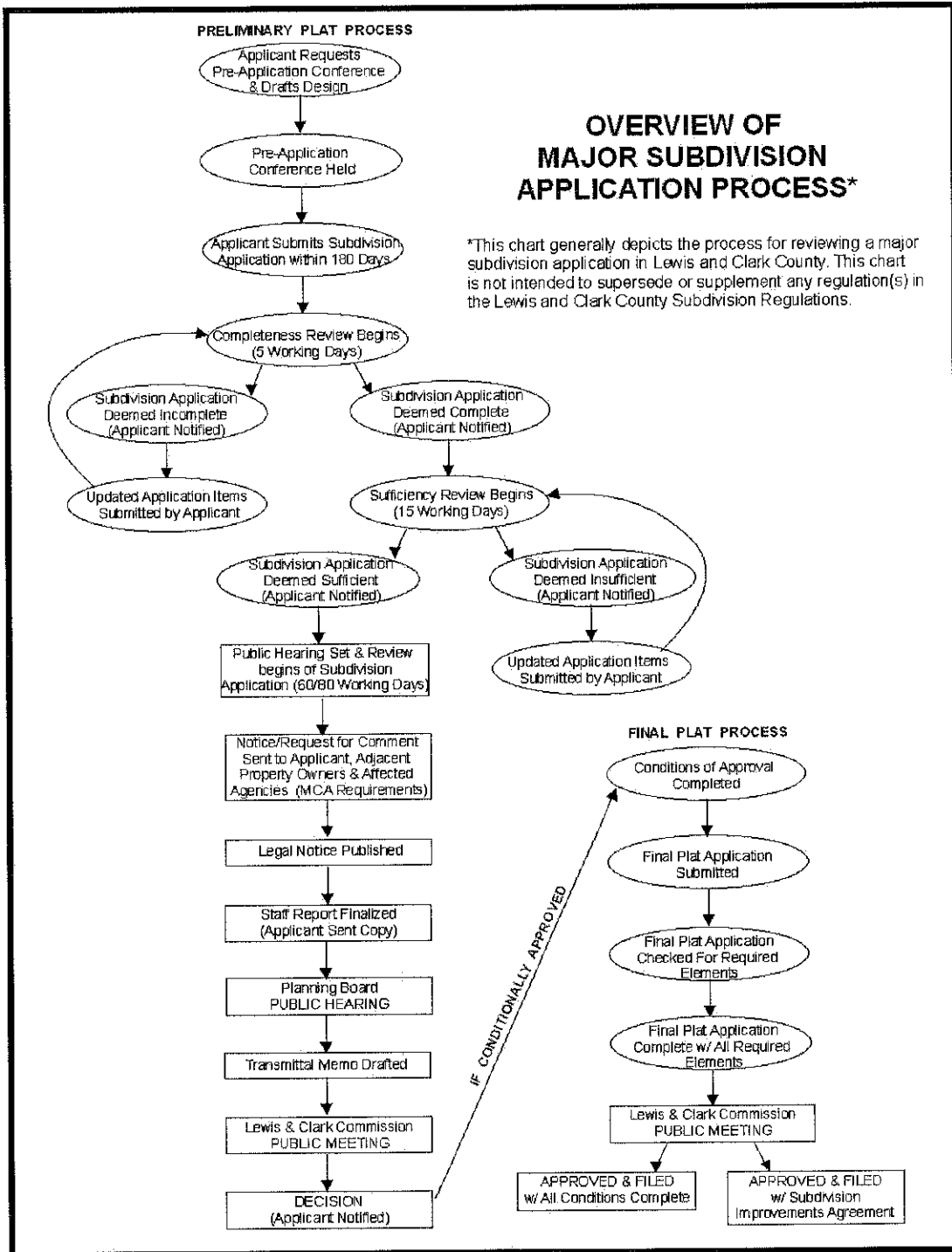
18-10.2 Vegetation Management Plan- Vegetation management plans shall describe all actions that will be taken to prevent a fire from being carried toward or away from the development. A vegetation management plan shall include at least the following information:

- a. A copy of the site plan for the development.
- b. Methods and timetables for controlling, changing or modifying areas on the property, including roadside vegetation. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, dead trees, and thinning of live trees.
- c. Defensible Space – (Refer to Guideline 201.1 and 201.2, Vegetation Reduction And Clearance – *FIRE PROTECTION GUIDELINES FOR WILDLAND RESIDENTIAL INTERFACE DEVELOPMENT*).
- d. Fuel Breaks & Greenbelts – (Refer to guideline 204, Fuel Breaks and Greenbelts – *FIRE PROTECTION GUIDELINES FOR WILDLANDRESIDENTIAL INTERFACE DEVELOPMENT*).
- e. A plan for continuously maintaining the proposed fuel-reduction, defensible space, fuel breaks & greenbelts measures and responsibility of maintenance defined.

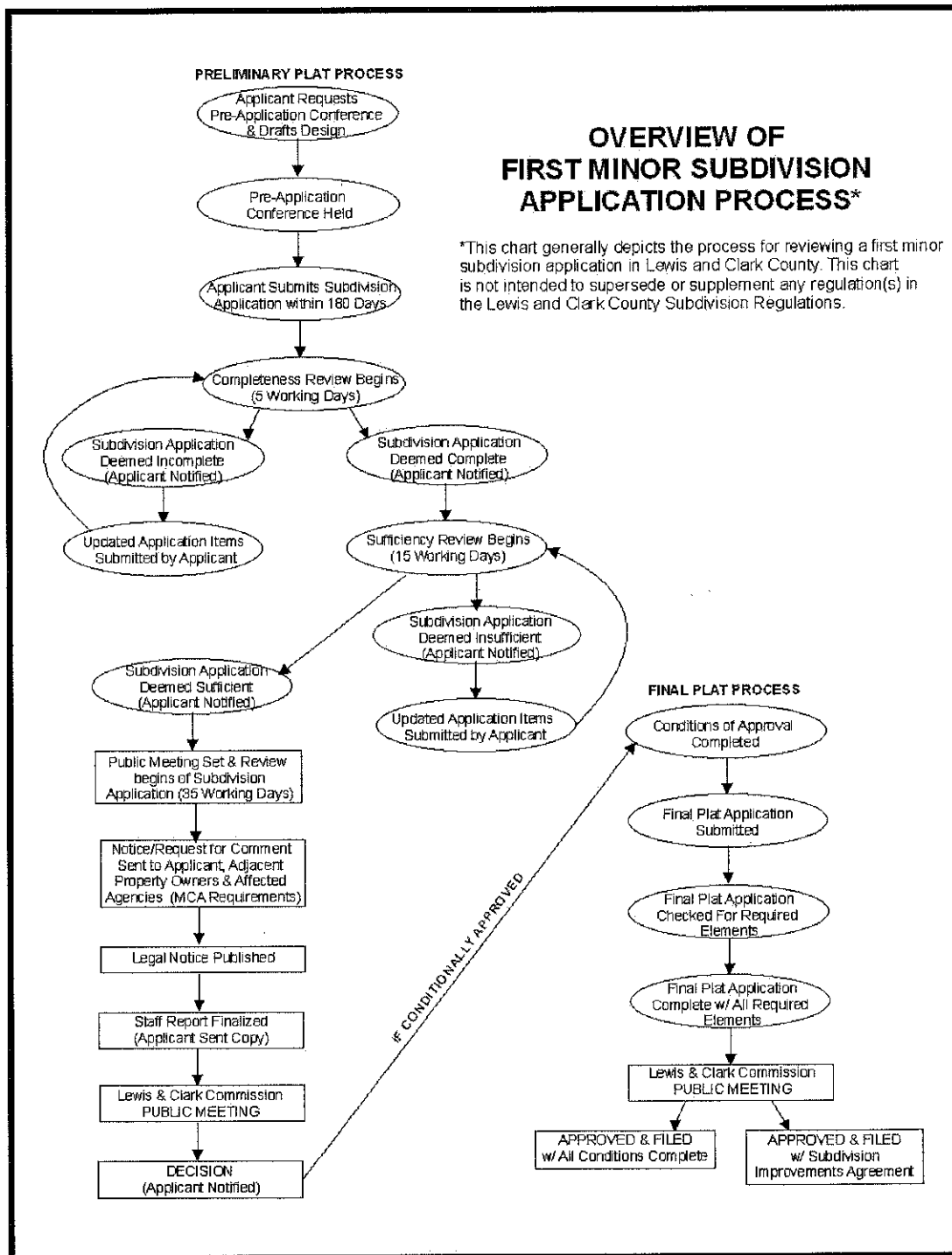
APPENDIX M: LEWIS AND CLARK COUNTY EX PARTE COMMUNICATION POLICY

97. **Page M-1, Appendix M: Remove Appendix from the subdivision regulations**
This appendix shall be removed. Removal of this appendix does not eliminate the policy on ex-parte communications relating to judicial proceedings as identified in resolution No. 2002-23.

This flow chart shall be inserted in place of the text in amendment No. 5.



This flow chart shall be inserted in place of the text in amendment No. 16.



This flow chart shall be inserted in place of the text in amendment No. 17.

