

**RESOLUTION 2016 - 107**

**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 December 19, 2013, (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 Planning Board conducted public hearings on June 21, 2016 and on September 20, 2016, to review the proposed Staff amendments and to hear the public comment thereon; and,

WHEREAS, on September 20, 2016, the Planning Board recommended the Commission adopt amendments to the Regulations as proposed by Staff and with specific recommendations to select Option B for amendments to Section III.B.4 and Appendix C(1), Section B.2 granting exemptions from certain subdivision requirements, and recommended clarification and changes, if necessary, on proposed amendments to Section 18-4.6.3 requiring analysis of the cumulative use of fire protection water supplies; and,

WHEREAS, after due and proper notice the Commission conducted a public hearing on November 29, 2016, to review the proposed Staff amendments and to hear the public comment thereon; and,

WHEREAS, on December 2, 2016, Staff presented the proposed amendments in Lincoln, Montana during Lincoln Government Day; and,

WHEREAS, on December 9, 2016, Staff presented the proposed amendments in Augusta, Montana during Augusta Government Day; and,

WHEREAS, on December 13, 2016, the Commission considered the Staff recommendations, Planning Board's recommendation, and public comment received; and,


WHEREAS, the Commission convened on December 13, 2016, 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 and B, are adopted, as of December 13, 2016.

DATED this 13 day of December 2016.

BOARD OF COUNTY COMMISSIONERS  
LEWIS AND CLARK COUNTY

  
Michael A. Murray, Chairman



  
Paulette J. DeHart, Clerk and Recorder

**EXHIBIT A:**  
**Amendments to the December 19, 2013 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 indicated with underlined text, while deletions are indicated with ~~strikethrough text~~.

**CHAPTER II: ADMINISTRATIVE PROVISIONS**

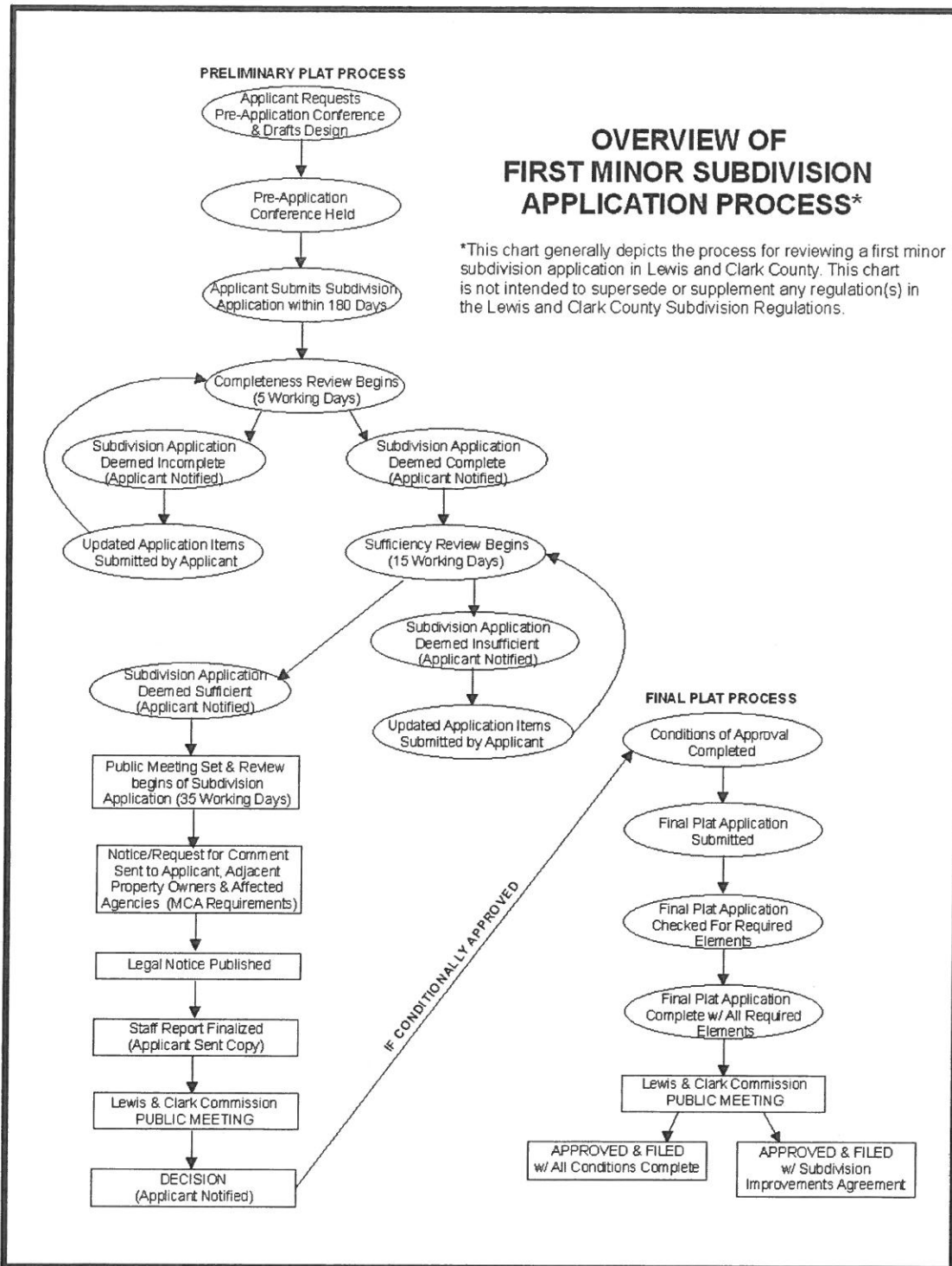
Page II-5, Lewis and Clark County 2013 Subdivision Regulations

**E. Restrictive Covenants**

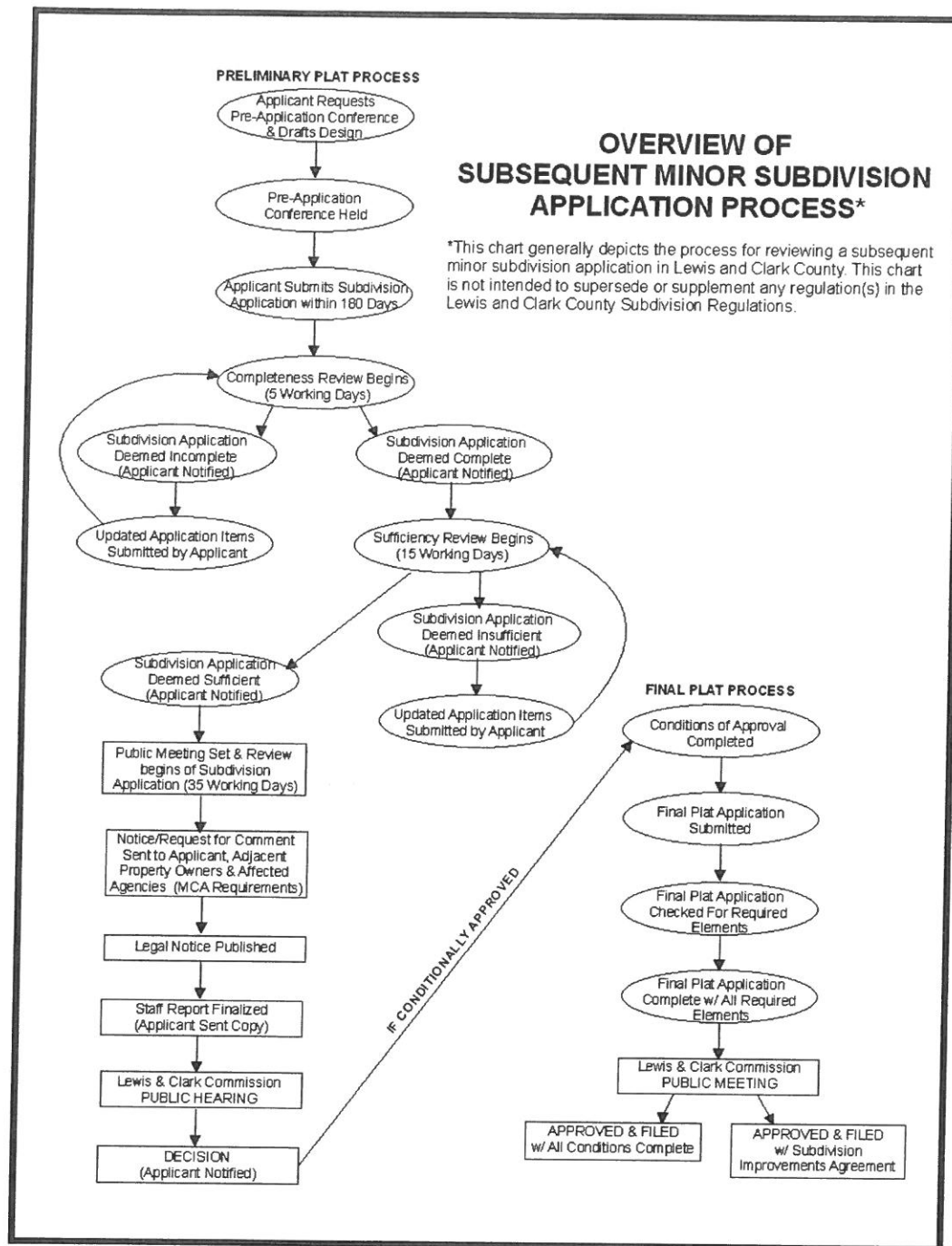
The County may not approve a subdivision proposal that violates restrictive covenants or deed restrictions governing use of the affected property, unless the covenants are amended prior to or as part of the subdivision review approval process. Any change to restrictive covenants must follow the procedures 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 subdivision application.

**CHAPTER III: PROCEDURES FOR MAJOR SUBDIVISIONS**

**Overview of First Minor Subdivision Review Process**



## Overview of Subsequent Minor Subdivision Review Process



Page III-2, Lewis and Clark County 2013 Subdivision Regulations

### A. Introduction

#### 1. Major Subdivisions

Major subdivisions are considered to be those divisions of property that include six or more parcels, and that otherwise meet the definitions in Title 76-Chapter 3, MCA.

## **2. Minor Subdivisions**

If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision or has not resulted from a tract of record that has more than five parcels created from that tract of record under Sections 76-3-201 or 76-3-207, MCA since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record.

The following requirements shall not apply to first minor subdivisions:

- a. the completion of an environmental assessment;
- b. Parts II, and III of the Montana Department of Environmental Quality/Local Government Joint Application Form;
- c. a public hearing; and
- d. review of the subdivision application for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat and public health and safety, provided the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts.

## **3. Subsequent Minor Subdivisions**

As provided in Section 76-3-609 (3) and (4), MCA, any minor subdivision that is not a first minor subdivision from a tract of record as provided in subsection 2 above is a subsequent minor subdivision and must meet all review requirements for a major subdivision except for review by the Planning Board and the time frame for review and decision.

## **4. Review Criteria for Subdivisions**

- a. All subdivisions must be designed by the applicant to avoid or mitigate any significant adverse impacts on:
  - agriculture; and
  - agricultural water users; ~~or agricultural water;~~
  - local services ~~and provision of local services;~~
  - natural environment;
  - wildlife;
  - wildlife habitat; and
  - public health, safety and general welfare.
- b. All subdivision applications must also be in compliance with:
  - survey requirements of the Montana Subdivision and Platting Act;
  - these local Subdivision Regulations; and,
  - the review procedures contained in these Subdivision Regulations.

- c. All subdivisions must provide easements within and to the subdivision for the location and installation of any planned utilities.
- d. All subdivisions must provide legal and physical access to each parcel within the subdivision with notation of that access on the plat and any instrument of transfer concerning each parcel.

## **B. Subdivision Application Review Process for Major Subdivision**

### **1. Pre-application Procedures**

The applicant (who may be the subdivider or, with the subdivider's written permission, the subdivider's agent) shall contact the ~~County Permit Coordinator~~ Community Development and Planning Department to schedule a meeting with County planning and Environmental Health staff. The pre-application meeting shall take place prior to submitting the required subdivision application. The pre-application conference shall take place not more than thirty (30) calendar days from the date that the ~~County Permit Coordinator~~ Community Development and Planning Department receives a complete submittal package from the Applicant. This meeting is required and must be held not more than one hundred eighty (180) calendar days prior to submittal of a subdivision application.

Page III-4 to III-6, Lewis and Clark County 2013 Subdivision Regulations

### **2. Subdivision Application Submissions and Distribution**

The applicant shall submit for review and approval a subdivision application and preliminary plat of the proposed subdivision that conforms to the requirements of these regulations. The preliminary plat and subdivision application shall be prepared in compliance with the requirements listed in Appendix B, and conform to design and improvement of these regulations, including the ~~road and fire standards in Appendix J and K and the road standards contained in the Lewis and Clark County Public Works Manual.~~

~~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 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.~~

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~~ is complete 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 completeness review process will restart from the beginning.

Within fifteen (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. The applicant must provide all necessary information required in the sufficiency notification letter before the sufficiency review process will restart from the beginning.

A sixty (60) working day review period for major subdivision applications with forty-nine (49) or less lots commences on the first working day after planning staff determines that the subdivision application is complete and sufficient. An eighty (80) working day review period for major subdivision applications with fifty (50) or more lots commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.

A thirty-five (35) working day review period for minor subdivisions and subsequent minor subdivisions commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.

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

Review of complete and sufficient applications by ~~planning staff and other organizations~~ shall not delay the governing body's action beyond the ~~60 or 80~~ working day limits for major, minor, and subsequent minor subdivisions. Any review comments shall be made available to the applicant. Any review comments shall be made available to any member of the public upon request. If, during the review of the application, the planning staff contacts a public utility, agency, or other entity that was not included on the list



provided during the pre-application meeting, planning staff shall notify the applicant of the contact and the timeframe for response.

The planning staff will review the application and any comments received from other organizations and the public. Findings and the rationale behind them shall be incorporated into a staff report with recommendations draft conditions of approval needed to mitigate impacts on review criteria and/or to comply with subdivision requirements, and identification of any impacts on the review criteria that cannot be mitigated and warrant denial of the subdivision application to the Planning Board and the governing body. Copies of the staff report will be sent to the applicant, to the Planning Board for major subdivisions, and to the governing body.

Page III-7, Lewis and Clark County 2013 Subdivision Regulations

**4. Exemptions from Environmental Assessment, Public Hearing, and Review under Some Subdivision Review Criteria**

The following major subdivisions shall not be required to submit an environmental assessment: Subdivisions located in the Urban Growth Area of the Helena Valley Area Plan that meet the requirements of this section qualify for certain exemptions from the requirements of these regulations.

- 4- The Helena Valley Area Plan provides for expedited reviews of a A subdivision that satisfies all of the following criteria (Section 76-3-616(2), MCA):
  - a. The proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of Section 76-1-601(4)(c), MCA for an infrastructure plan; and,
  - b. The proposed subdivision is entirely within an area subject to zoning adopted pursuant to Sections 76-2-203 or 76-2-304, MCA that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of Section 76-1-601(4)(c), MCA; and,
  - c. The subdivision proposal includes a description, using maps and text, of future public facilities and services that are necessary to efficiently serve the projected development.

Subdivisions located in such areas shall not be required to comply with the following requirements:

- e. Submit an environmental assessment;
- f. Undergo a public hearing; or
- g. Be subject to review for potential impacts on the criteria listed in Section III. A. 4 of these regulations and Section 76-3-608 (3)(a), MCA.

## 5. Amended Subdivision Applications

If the original application is not withdrawn, review of the original application will continue and a new ~~60 or 80~~ working day review period will commence.

If the change is deemed not to be substantial, a new ~~60 or 80~~ working day review period commences on the first working day after the Planning Department notifies the Applicant in writing of that determination. By requesting to amend an application or preliminary plat, the applicant consents to the restarting of the ~~60 or 80~~ working day review period from the beginning.

If the governing body determines the changes are not substantial, a new ~~60 or 80~~ working day review period commences on the first working day after the governing body makes their decision. By requesting to amend an application or preliminary plat, the applicant consents to the restarting of the ~~60 or 80~~ working day period from the beginning.

## 6. Planning Board Public Hearing for Major Subdivisions

For major subdivisions, after planning staff accepts a subdivision application as complete and sufficient, the Planning Board shall hold a public hearing on the application. ~~When a proposed subdivision is proposed to be annexed into a municipality, the Planning Board may hold joint hearings with the governing body of the municipality on the subdivision application and annexation.~~

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 fifteen (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 fifteen (15) calendar days prior to the date of the hearing. For subdivisions that involve non-residential uses, all property owners within five hundred (500) feet of the project property boundary shall be sent a notice by ~~certified or registered~~ first class mail. The planning staff shall post notice of the hearing at a conspicuous place on the boundary of the proposed subdivision.

The Planning Board shall establish rules for conducting public hearings on subdivision applications, which may include limiting the length of the public hearing or the length of individual public and applicant testimony during the hearing. Submission of written comments by agencies and individuals prior to the Planning Board hearing is encouraged. This recommendation must be submitted to the governing body in writing not later than ten (10) working days after the public hearing. A copy of this recommendation shall also be ~~mailed~~ provided to the applicant when it is submitted to the governing body.

## 7. Planning Board Recommendation for Subdivision Application Approval or Denial

For major subdivisions, the Planning Board shall:

- a. Consider the following:
- b. Within ten (10) working days after the public hearing, submit in writing, to the governing body the following:
  - 1) its findings regarding the items under Section 7a. above;
  - 2) recommended findings of fact which consider the review criteria pursuant to Section 76-3-608, MCA; and
  - 3) a recommendation for approval, conditional approval, or denial of the plat. A copy of this recommendation, findings of facts and conclusions of law shall also be mailed provided to the applicant when it is submitted to the governing body. If the Planning Board recommends denial of a subdivision, the recommendation shall include the reasons for denial, the findings of facts and conclusions of law.

Page III-11 to 12, Lewis and Clark County 2013 Subdivision Regulations

~~8. This Section Intentionally Left Blank~~

**8. 9. Subsequent Public Hearings on New Evidence Provided After the Planning Board Hearing**

~~If the governing body decides to have the Planning Board hold a subsequent public hearing, it must be held within 45 calendar days of the governing body's determination to schedule the public hearing. If the governing body determines new information was submitted, it must remand the subdivision back to the Planning Board to hold a subsequent public hearing. The Planning Board must hold the hearing within forty-five (45) calendar days of the governing body's determination that new information was submitted. Only new information or analysis of information shall be considered at the subsequent public hearing. The governing body may require the applicant pay additional fees to cover the costs associated with providing notice of the subsequent public 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 fifteen (15) calendar days prior to the date of the subsequent hearing.
2. At least fifteen (15) calendar days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified or registered mail to the applicant, and each adjoining property owners. For subdivisions that involve non-residential uses, all property owners within five hundred (500 ft.) feet of the project property boundary shall be sent a notice by ~~certified or registered~~ first class mail.

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

### **9. Governing Body Meeting on a Minor Subdivision Application**

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

### **10. Subsequent Public Meetings on New Evidence Provided after the Public Meeting on a Minor Subdivision.**

In the event that the governing body receives written documentation or oral comments after the public meeting, the governing body shall determine whether public comments or documents constitute:

- (a) information or analysis of information that was presented at a public meeting that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or
- (b) new information regarding a subdivision application that has never been submitted as evidence or considered by either the governing body or its agent or agency at a public meeting during which the subdivision application was considered.

If the governing body determines that the public comments or documents constitute new information, the governing body may:

- (a) approve, conditionally approve, or deny the proposed subdivision application without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
- (b) schedule or direct its agent or agency to schedule an additional public meeting for consideration of only the new information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

If the governing body decides to hold a public meeting for consideration of the new information, it must be held within fifteen (15) calendar days of the governing body's determination to schedule the public meeting. Only the new information or analysis of the new information shall be considered at the public meeting.

The governing body shall provide notice of the public meeting as follows:

1. The governing body shall give notice of the specific time and place of the additional public meeting on the public record at the time it makes its determination that new information has been submitted.
2. The agenda for the public meeting shall be posted in accordance with Lewis and Clark County's "Resolution to Establish Regular Meeting Dates of the Lewis and Clark County Commission and to Describe Procedures for Public Participation."

If an additional public meeting is held, the working day review period is suspended as of the date of the governing body's decision to hold the additional meeting. The working day review period resumes at the governing body's next scheduled public meeting for which proper notice can be provided. The governing body may not consider any information regarding the subdivision application that is presented after the meeting when making its decision to approve, conditionally approve, or deny the proposed subdivision application.

### **11. Governing Body Hearing on Subsequent Minor Subdivision Application**

The governing body shall hold a public hearing on the proposed subsequent minor subdivision. Notice of the time, date and location of the public hearing shall be given not less than fifteen (15) calendar days prior to the date of the hearing 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 five hundred (500 ft.) feet of the project property boundary shall be sent a notice by first class mail. The planning staff shall post notice of the public hearing on the boundary of the proposed subdivision.

### **12. Subsequent Public Hearings on New Evidence Provided after the Public Hearing on a Subsequent Minor Subdivision**

In the event that the governing body receives written documentation or oral comments after the public hearing, the governing body shall determine whether public comments or documents presented to the governing body at a public meeting constitute:

- (a) information or analysis of information that was presented at a public hearing that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or
- (b) new information regarding a subdivision application that has never been submitted as evidence or considered by either the governing body or its agent or agency at a public meeting during which the subdivision application was considered.

If the governing body determines that the public comments or documents constitute new evidence, the governing body may:

- (a) approve, conditionally approve, or deny the proposed subdivision application without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
- (b) schedule or direct its agent or agency to schedule a public hearing for consideration of only the new information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

If the governing body decides to hold a public hearing, it must be held within forty-five (45) calendar days of the governing body's determination to schedule the public hearing. Only new information or analysis of information shall be considered at the public hearing. The governing body may require the applicant pay additional fees to cover the costs associated with providing notice of the subsequent public hearing.

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

1. Notice of the time and date of the hearing shall be published in the newspaper not less than fifteen (15) calendar days prior to the date of the public hearing;
2. At least fifteen (15) calendar days prior to the date of the public hearing, notice of the hearing shall be given by certified mail to the applicant, and each adjoining property owners;
3. The governing body may require the notice be posted at a conspicuous place on the site of the proposed subdivision application.

If the public hearing is held, the working day review period is suspended as of the date of the governing body's decision to hold a hearing. The working day review period resumes at the governing body's next scheduled public hearing for which proper notice for the public hearing on the subdivision application can be provided. The governing body may not consider any information regarding the subdivision application that is presented after the hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

### **13. 10. Governing Body Action on Subdivision Application**

The proposed subdivision will be considered at a regularly scheduled meeting of the governing body. Notice of the time, date and location of the public meeting shall be given not less than fifteen (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. The planning staff shall post notice of the public meeting on the boundary of the proposed subdivision.

The basis for the governing body's decision to approve, conditionally approve, or deny a subdivision shall be whether the development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, and these local subdivision regulations, based on the following:

- a. relevant evidence relating to the public health, safety, and general welfare, including the subdivision application, preliminary plat, and supplements;
- b. environmental assessment (for subsequent minor and major subdivisions);
- c. Planning Board recommendation (for major subdivisions);
- d. the statement of probable impacts and mitigation;
- e. an officially adopted growth policy;
- f. comments, evidence and discussions at the public hearing(s) or public meeting(s), staff report, recommendations, and related information; and
- g. any additional information authorized by law.

If the governing body fails to approve, conditionally approve, or deny the subdivision application within the ~~60 or 80~~ working day review period under section III.B.2, the governing body shall pay to the subdivider a financial penalty of fifty (\$50) dollars per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body approves, conditionally approves, or denies the subdivision application. The financial penalty does not apply if the review period is extended or suspended.

If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the decision in writing within thirty (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:

The governing body shall collect public comments regarding water and sanitation information and shall make any comments submitted, or a summary of the comments submitted, available to the applicant within thirty (30) calendar days after conditional approval or approval of the subdivision application and preliminary plat. The applicant shall as part of the applicant's application for sanitation approval, forward the comments or the summary provided by the governing body to the reviewing authority of the application.

**14. ~~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 three (3) calendar years or less than one (1) 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. Except as provided in Section 76-3-507, MCA, 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 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.

**15. ~~12.~~ Process for Modifying the Conditions of Approval, Approval Statement, or Preliminary Plat for a Subdivision Application**

b. Action Item Two

2) 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 in accordance with Chapter III.B.6 (major subdivisions), Chapter III.B.9 (minor subdivisions), or Chapter III.B.11 (subsequent minor subdivisions) and a public hearing (for major and subsequent minor subdivisions) or public meeting (for minor subdivisions) before the BOCC on the matter will be scheduled held. ~~In addition, landowners adjacent to the subject subdivision will be notified via the mail of the proposed modification(s) and about the public hearing.~~

4) The BOCC (not the Planning Board) holds a public hearing or public meeting on the request per subsection 2) above. 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 or comment on the proposed modification.

5) After the public hearing or public meeting the BOCC shall make a final decision.

**16. ~~13.~~ Construction Timing**

**17. ~~14.~~ Inspections and Certification**



**18. 15. Transfers of Title**

**C. Final Plat Review Process**

**2. Final Plat Application**

An application for final plat review (available at the County Planning Department), together with three (3) 11" x 17" paper copies of the final plat and supplements, shall be submitted to the Planning Department ~~at least twenty (20) calendar days before a regularly scheduled meeting of the governing body.~~ A final plat must be submitted before the expiration of the subdivision application approval period, or extension thereof. No final plat application shall be accepted, processed nor any action on a final plat be scheduled until a complete application and fee, and copies of the final plat have been received. A final plat application will not be considered complete until all conditions of preliminary approval have been satisfied.

The planning staff will review the final plat 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 information found in Appendix D of these regulations and information required to verify compliance with the preliminary approval conditions 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 information is missing from the application, planning staff shall identify the needed information in the written notification. The applicant must provide all missing information before the completeness review process will restart from the beginning.

Within fifteen (15) working days after the applicant has been notified in writing that the final plat 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 final plat, 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 final plat, the insufficiencies of the application shall be identified in the written notification. The applicant must provide all insufficient information before the sufficiency review process will restart from the beginning.

A thirty-five (35) working day review period for final plat reviews commences on the first working day after planning staff determines that the final plat application is complete and sufficient.

**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 any remaining all such improvements that are not needed for public safety and occupancy of buildings (e.g., final paving, chip sealing, erosion controls). No final plat shall be approved, and 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 and ; safety ; and general welfare: roads except for paving, multi-user and public water and 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. Methods for guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E of these regulations.

## **5. Final Plat Approval or Denial**

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

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 required to comply with preliminary approval conditions. ~~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 applicant has 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 final plat.

If the ~~major~~ subdivision final plat is denied, the reasons for denial shall be stated in 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 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.

**CHAPTER IV: PROCEDURES FOR MINOR SUBDIVISIONS**

Delete Chapter IV in its entirety and retain title with the date of repeal.

## CHAPTER XI: GENERAL DESIGN AND IMPROVEMENT STANDARDS

### Page XI-1, Lewis and Clark County 2013 Subdivision Regulations

#### A. Introduction

1. All subdivisions must be designed and developed by the Applicant to provide satisfactory building sites that properly relate to topography and must avoid or mitigate any significant adverse impacts on:
  - agriculture; and
  - agricultural water users; ~~or agricultural water;~~
  - local services ~~and provision of local services;~~
  - natural environment;
  - wildlife;
  - wildlife habitat; and
  - public health, safety and general welfare.
2. All subdivision applications must also be in compliance with:
  - survey requirements of the Montana Subdivision and Platting Act;
  - these local Subdivision Regulations; and,
  - the review procedures contained in these Subdivision Regulations.
3. All subdivisions must provide easements within and to the subdivision for the location and installation of any planned utilities.
4. All subdivisions must provide legal and physical access to each parcel within the subdivision with notation of that access on the plat and any instrument of transfer concerning each parcel.
5. All subdivisions approved by the governing body shall comply with the provisions of this chapter, except where granted a variance pursuant to Chapter II, section B.
6. Certain types of subdivisions may have additional or alternative development standards set forth in these regulations. For procedures for subdivisions created by rent, lease, or other conveyance refer to Chapter VI. For planned unit developments refer to Chapter IX., and for condominiums and townhouses refer to Chapter X.

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#### H. Streets and Roads

1. Roads located within a subdivision, shall meet appropriate County design specifications in ~~Appendix J~~ the Lewis and Clark County Public Works Manual. The appropriate road classification standard shall be determined through a traffic

impact study by a professional engineer registered in the State of Montana (See Appendix B).

4. Whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through streets and provide access to adjacent parcels, as part of an interconnected road network, outside of the development.
7. 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 twenty (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.
8. Local roads and residential driveways shall not have direct access onto roads that are functionally classified as state highways, arterial roads or major collectors. Where there is no other reasonable alternative to a local road or residential driveway accessing a state highway, arterial road or major collector, an approach permit must be obtained from the appropriate agency (Montana Department of Transportation, City of East Helena, City of Helena, Lewis and Clark County) before approval can be granted for the proposed road or driveway.

~~When a proposed subdivision abuts a state highway and an arterial road or major collector, and there is no other reasonable alternative to a local road or driveway accessing a state highway, arterial road or major collector, approval shall be granted only for access onto the arterial road or major collector when an approach permit from the appropriate agency is obtained.~~

9. Unless designed as part of an integrated road network, or identified as an important traffic corridor, or public health and safety would be enhanced by a through connection, local streets should be designed to discourage through traffic.
11. 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 and the road connection does not serve as access to any lots in the subdivision.

All aspects of a dead-end street shall meet the design and construction standards of Section 4 of the Lewis and Clark County Public Works Manual.

~~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 fuel hazard rating for the property is classified as low per an on-site inspection by a recognized fire or fuel management specialist or as~~