FLATHEAD COUNTY DEVELOPMENT CODE

SUBDIVISION REGULATIONS

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RECORDS OF FLATHEAD COUNTY, MONTANA

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FLATHEAD COUNTY SUBDIVISION REGULATIONS

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Flathead County Subdivision Regulations

4.0 General Provisions

4.0.1 Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to minimize impacts to wildlife and to promote preservation of wildlife habitat; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require transferring interests in real property by reference to a plat or certificate of survey (76-3-102, MCA). These regulations are intended to comply with the MSPA, and are intended to promote:

a. the orderly development of the jurisdictional area;

b. the coordination of roads within subdivided land with other roads, both existing and planned;

c. the dedication of land for roadways and for public utility easements;

d. the improvement of roads;

e. the provision of proper physical and legal access, including obtaining necessary easements;

f. the provision of adequate open spaces for travel, light, air, and recreation;

g. the provision of adequate transportation, water, drainage, and sanitary facilities;

h. the avoidance or minimizing of congestion;

i. the avoidance of subdivisions which would involve unnecessary environmental degradation;

j. the avoidance or minimizing of impacts to wildlife;

k. the avoidance or minimizing of impacts to wildlife habitat;

l. the avoidance of danger or injury by reason of natural hazard, including but not limited to fire and wildland fire, the lack of water, drainage, access, transportation, or other public improvements;

m. the avoidance of excessive expenditure of public funds for the supply of public improvements and services;

n. the manner and form of making and filing of any preliminary plat for subdivided lands;

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

p. implementation in accordance with Flathead County Growth Policy and other local community zoning districts under the jurisdiction of Flathead County.

4.0.2 Jurisdiction and Coordination
These Regulations govern the subdivision of land within the jurisdictional area of the Flathead County Board of County Commissioners (Commission). The Commission may enter into land use inter-local agreements with cities and other jurisdictional agencies to guide land use decision making. 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 Commission shall submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat shall be submitted to, and approved by, both the city or town and the county governing bodies.

4.0.3 Applicable Regulations
Subdivision review, including final plats, shall occur under those Regulations in effect at the time a preliminary plat is deemed to contain sufficient information for review.

4.0.4 Amendment of Subdivision Regulations
Before the Commission amends these Regulations it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than 15 days or more than 30 days before the date of the hearing.

4.0.5 Violation and Penalties
Any person, firm, corporation, or other entity that violates any of the provisions of these Regulations is guilty of a misdemeanor violation. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of these Regulations shall be deemed a separate and distinct offense. The foregoing is not deemed a limitation on any other action for enforcement.

4.0.6 Transfers of Title
Pursuant to 76-3-302, MCA, a final subdivision plat must be filed of record with the Flathead County Clerk and Recorder (Clerk and Recorder) before title to any lot created by the subdivided land can be sold or transferred in any manner. Pursuant to 76-3-303 MCA, after the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision.

4.0.7 Construction Timing
The subdivider is discouraged from engaging in construction of improvements prior to approval of the preliminary plat. On-site improvements shall not be considered in the decision to approve, conditionally approve or deny the preliminary plat.. There shall be no site disturbance of any area within 100 feet of a stream or riparian area prior to preliminary plat approval.

4.0.8 Permission to Enter
The Commission or its designated agent(s) may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is approved conditionally. In the event of a noticed, on-site public meeting, this consent applies to members of the public and affected agencies attending a noticed public meeting for a site visit.

4.0.9 Appeals
A decision of the Commission regarding a proposed subdivision may be appealed to the district court pursuant to 76-3-625, MCA. A party who is aggrieved by a decision of the Commission may, within 30 days from the date of the written decision, appeal to the district court. The petition must specify the grounds upon which the appeal is made.

4.0.10 Restrictive Covenants
No covenants shall be allowed to satisfy any preliminary subdivision plat conditions of approval except for provisions of road maintenance, stream riparian protection buffers, Wildland Urban Interface mitigations and no-build zone/building envelope provisions where applicable. The Commissioners may require a separate section of a set of Covenants that addresses the applicable item(s) and which would require the consent of the Commissioners to amend.

4.0.11 Subdivision Variances
The subdivider may request a variance from design standards set forth in Section 4.7 of these Regulations (Subdivision Design Standards) when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. All variances associated with subsequent minor and major subdivisions shall be specifically considered in a public hearing. A variance shall not be granted if it would have the effect of nullifying the intent and purpose of these Regulations. The Commission shall not approve a variance unless it finds that all of the following are met:

a. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed;

c. The variance will not cause a substantial increase in public costs, now or in the future;

d. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations;

e. The variance is consistent with the surrounding community character of the area.

4.0.12 Subdivision Variance Procedure
The subdivider shall include with the preliminary plat application a written statement describing and justifying any requested variance. If during the review period a need for a variance is identified, and the variance has not been specifically requested, the application is insufficient and the review period will be suspended until the issue is determined to be sufficiently addressed. For all variances associated with subsequent minor and major subdivisions, the Flathead County Planning Board (Planning Board) will consider the requested variances and recommend approval or denial to the Commission. In granting variances, the Commission may impose reasonable conditions to secure the objectives of these Regulations.

4.0.13 Subdivision Variance Statement of Facts
When a variance is granted by the Commission, the motion of approval of the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

4.0.14 Public Hearings and Notices – In General
The Planning Board shall hold a public hearing on all land use applications when a hearing is required by these Regulations. The Commission may refer a proposed preliminary major subdivision back to the Planning Board for a subsequent public hearing if new information becomes available that was not considered in the previous public hearing pursuant to 76-3-615, MCA. In both cases the following procedure applies:

a. Notice of the times and dates of the hearings shall be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearings;

b. At least 15 days prior to the date of the hearing, notice of the hearing shall be given by certified mail to the each property owner of record whose property is within 150 feet from the subject property. Where the proposed subdivision abuts a public right-of-way or river less than 150 feet in width, the properties across such right-of-way or water course shall be considered as adjacent;

c. The Planning and Zoning Office shall post notices at conspicuous places on the property of the proposed land division;

d. Public hearing notices shall be posted on the Planning and Zoning website at least 15 days prior to the date of the hearing;

e. In order to allow sufficient time for reasonable comment, should new information or the comment at a public hearing extend so long that the Planning Board determines that its decision would be affected by the members' fatigue, or should natural events occur which preclude the completion of the public hearing or Planning Board deliberations, the Planning Board, by majority vote of those present, may continue the hearing to the next available meeting. This continued hearing is not a subsequent hearing, nor does it extend the time limits stated in these Regulations without subdivider approval.

4.0.15 Application Fees
All application fees for preliminary and final applications and plats will be due at the time of the subdivision application. The fee schedule and application deadlines will be reviewed annually by the Planning Board and set by the Commission. All of the following apply:

a. No application fees will be refunded once an application has been deemed sufficient;

b. If an application is terminated prior to an application being deemed sufficient the Planning and Zoning Office will refund one-half of the application fee;

c. Application submittal deadlines will be scheduled by the Planning and Zoning Office and posted annually. All application submittals will be logged into the Planning and Zoning Office as of the date of next scheduled deadline for review and processing.

4.0.16 Subdivision Improvements Agreement; Guaranty
Pursuant to 76-3-507 MCA the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement (Appendix H) guaranteeing the construction and installation of all required improvements prior to final plat approval. At least 65% of the total improvement cost must be expended by the developer on subdivision improvements required as conditions of plat approval before the developer may enter into a subdivision improvements agreement with the county. The 65% requirement would apply only to preliminary plats approved after adoption of these regulations. The Commission may also require specific types of improvements necessary to protect public health and safety to be completed prior to the governing body allowing a Subdivision Improvement Agreement. The Commission shall not approve a subdivision improvement agreement until all Department of Environmental Quality and other state agency approvals have been obtained.

a. The subdivision improvement agreement must be complete and submitted with the application for final plat;

b. The term of the Subdivision Improvement Agreement is no more than eighteen (18) months following final plat approval;

c. The subdivider may request a one year extension to the subdivision improvement agreement. The Commission shall require a new “estimated construction cost” and surety to reflect 125 percent of the estimated construction cost, prior to extension approval.

4.0.17 Waiver Of The Right To Protest
Pursuant to 76-3-608[7]MCA, the governing body may require as a condition of preliminary plat approval that a property owner waive the right to protest the creation of a special improvement district or rural improvement district for capital improvement projects that identify the specific capital improvements for which protest is being waived. 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 Flathead County Clerk and Recorder.

4.0.18 Latecomers Agreement

For improvements that a subdivider constructs beyond those directly attributable to the subdivision, the subdivider may request a Latecomers Agreement (Appendix I). The agreement would put into place a mechanism to reimburse a portion of the capital construction costs the subdivider incurs which are not directly attributable to impacts caused from the subdivision. Payback funds would be exacted from future subdividers who directly benefit from the fronted capital improvements.

4.1 Application and Review Process

4.1.1 Subdivision Pre-application Process

A preliminary meeting to explain the subdivision application and review process is required. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planning and Zoning Office (authorized agent) by submitting a Pre-application Request Form and attachments. The Planning and Zoning Office and subdivider shall follow the pre-application process identified in Appendix A (Subdivision Pre-application Process).The Planning and Zoning Office shall notify the subdivider within five working days of the meeting date and time. The pre-application meeting shall occur within 30 days after the request is submitted. Condominium developments shall be reviewed and processed pursuant to Section 4.6.

4.1.2 Application and Preliminary Plat Submittal

The subdivider shall submit to the Planning and Zoning Office a subdivision application containing all of the following materials:

a. For first minor subdivisions with five or fewer lots, a completed original copy of a First Minor Subdivision Preliminary Plat Application Form and information required in Appendix B (Application and Preliminary Plat Supplements) and the required fee;

b. For subsequent minor subdivisions and subdivisions with more than five lots, a completed original copy of either a Major Subdivision Preliminary Plat Application Form and information required in Appendix B (Application and Preliminary Plat Supplements) and the required fee;

c. Such additional relevant and reasonable information as may be required to adequately assess whether the proposed first minor subdivision complies with these Regulations and the Montana Subdivision and Platting Act.

d. The Planning and Zoning office shall have the discretion to waive one or more of the items listed in Appendix B (Application and Preliminary Plat Supplements) depending on conditions unique to the subdivision, so long as the item(s) is not required by state law. When the Planning and Zoning office waives one or more item, the subdivider shall include a statement along with the preliminary plat application identifying why the item(s) was not required in order to document this action.

4.1.3 Element and Sufficiency Reviews

The Planning and Zoning Office shall complete the element and sufficiency review following the procedures below:

a. Element Review: Within five working days of receipt of a subdivision application, the Planning and Zoning Office shall determine whether the application contains all of the materials required by Appendix B and shall notify the subdivider in writing of the determination within five working days whether:

    i. The application contains all the information needed to conduct a sufficiency review;

ii. If elements are missing from the application, the Planning and Zoning Office shall identify those elements in the notification and no further action shall be taken on the application until the missing elements are submitted;

iii. Information submitted subsequent to a letter of incompleteness shall be evaluated, and a letter of determination made within five working days.

iv. If the missing elements are not corrected and submitted to the Planning and Zoning Office within 60 days following the deficiency letter date, the Planning and Zoning Office will terminate the application and file.

b. Sufficiency Review: Within 15 working days of the date of element completeness the Planning and Zoning Office shall determine whether the subdivision application and elements contain detailed, supporting information required for review and shall notify the subdivider whether:

i. The application information is sufficient to continue review and processing;

ii. The information is not sufficient to allow for review. The Planning and Zoning Office shall identify the insufficient information in its notification and no further action shall be taken on the application until all material is resubmitted and determined to be sufficient;

iii. The subdivider shall correct the sufficiency deficiencies within six months from the date of the original application submittal date. If the subdivider corrects the deficiencies the Planning and Zoning Office shall have 15 working days to notify the subdivider whether the additional materials are sufficient for review and processing;

iv. If the sufficiency deficiencies are not corrected within six months following the date of the insufficiency letter the Planning and Zoning Office shall terminate the application and file;

v. If an applicant submits additional information after the application was determined to contain sufficient information, the review period shall be extended an additional 15 working days to allow for a determination that the additional information is sufficient for continued review and processing;

vi. A determination that an application contains sufficient information for review does not ensure that the proposed subdivision will be approved or conditionally approved by the Commission and does not limit the ability of the Planning and Zoning Office or the Commission to request additional information during the review process.

4.1.4 Time Period for Approval, Conditional Approval, or Denial
The review period begins once the Planning and Zoning Office has given notice to the subdivider that the subdivision application is sufficient for review. Notification constitutes the date when the Planning and Zoning Office has sent the notice to the subdivider.

a. Following the determination of sufficiency the Commission shall approve, conditionally approve, or deny the proposed subdivision within the following timeframes:

   i. Within 35 working days for a first minor subdivision;

   ii. Within 60 working days for a subsequent minor subdivision, unless the subdivider and the planning director agree to an extension or suspension of the review period, not to exceed one year;

   iii. Within 60 working days for a major subdivision with less than fifty (50) lots, unless the subdivider and the planning director agree to an extension or suspension of the review period, not to exceed one year;

   iv. Within 80 working days for a major subdivision with fifty (50) or more lots, unless the subdivider and the planning director agree to an extension or suspension of the review period, not to exceed one year;

b. If, during the application review, the preliminary plat or supporting information is found to be in non-compliance with these Regulations the application will be considered insufficient. Within 15 working days the Planning and Zoning Office will notify the subdivider that the application has become insufficient. The original review period (either 35 working days for a first minor subdivision, or 60 working days for a major subdivision, or 80 working days for a major subdivision with 50 or more lots) shall be suspended and resume at the time the deficiency is corrected and found to be sufficient;

4.1.5 Public Agency and Utility Review
Review and comment by public agencies or utilities shall not delay the Commission's action on the subdivision application beyond the review period. The Commission shall make these comments available to the subdivider and to the general public upon request.

4.1.6 Water and Sanitation-Special Rules
The Commission shall approve, conditionally approve or deny a subdivision application based on the water and sanitation information or public comment only if the action is based on existing subdivision, zoning or other regulations that the Commission has the authority to enforce, including:

a. For a proposed subdivision that will create one or more lots containing less than 20 acres, the Commission shall require approval by the Montana Department of Environmental Quality as a condition of approval for the final plat;

b. The Commission shall collect public comments submitted regarding water and sanitation information and shall make any comments or a summary of the comments submitted

available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat. It is recommended that public comment related to sewer and water be submitted in writing at least five days prior to the public hearing or meeting;

c. The subdivider shall, as part of the application for sanitation approval, forward the comments or the summary provided by the Commission to the:

i. Reviewing authority provided in Title 76, Chapter 4, MCA, for subdivisions that will create one or more lots containing less than 20 acres;

ii. Flathead City-County Health Department for proposed subdivisions that will create one or more lots containing 20 acres or more and less than 160 acres.

4.1.7 Subdivision Consideration and Evidence

The Commission shall not approve a subdivision application unless the proposed subdivision complies with all of the following:

a. Assures easements for the location and installation of any planned utilities, roadways, pedestrian and bike trails, or other easements required by the Commission shall be shown on the final plat;

b. Conforms to all applicable design standards set forth in Section 4.7 (Subdivision Design Standards) and other provisions of these Regulations, unless the subdivider secures a variance pursuant to Section 4.0.11;

c. Assures legal and physical access to each lot within the subdivision and the notation of that access on the applicable plat and any instrument transferring the lot;

d. Assures that all required public improvements shall be installed before final plat approval, or that their installation after final plat approval shall be guaranteed with a subdivision improvement agreement;

e. Regarding the disclosure and disposition of surface water rights, if the proposed first minor subdivision will create lots averaging fewer than five acres in size, the subdivider shall either:

i. Reserve all or a portion of the appropriated water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water;

ii. Establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water, if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots;

iii. Reserve and sever all surface water rights from the land.

f. Complies with zoning and other applicable regulations authorized by law.

4.1.8 Commission Decision
In making its decision to approve, conditionally approve, or deny a subdivision application the Commission shall consider any of the following, as applicable:

a. The subdivision application, supporting information, and preliminary plat. A decision to deny cannot be made solely on impacts to educational services;

b. These Regulations, including but not limited to, the design standards set forth in Section 4.7 (Subdivision Design Standards);

c. Applicable zoning and other regulations;

d. An officially adopted growth policy or neighborhood plan;

e. The environmental assessment (Appendix C) if a major subdivision application or statements of probable impacts (Appendix D) if a first minor subdivision;

f. Agency and public hearing(s) comments pursuant to Section 4.4.4(c);

g. Planning Board recommendations and Findings of Fact;

h. Neighborhood and land use advisory committee recommendations;

i. Planning staff report, and its recommendation for approval or denial;

j. Any additional information that is allowed by statute or these Regulations pertaining to the proposed major subdivision.

4.1.9 Subdivider's Preference for Mitigation
Before or at the meeting at which the Commission is to consider the subdivision application and preliminary plat, the subdivider may submit in writing or verbally to the Planning and Zoning Office comments on and responses to the findings and recommendations. This document shall include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the recommendations. The Commission shall consult with the subdivider and shall give due weight and consideration to the subdivider's expressed preferences.

4.1.10 Documentation of Decision
The Commission shall issue written Findings of Fact that discuss and weigh the proposed subdivision's impacts identified pursuant to Section 4.1.8. Within 30 working days following a decision to approve, conditionally approve, or deny a subdivision the Commission shall send the subdivider a letter with the appropriate signature, and make the letter available to the public. The letter shall:

a. Contain information regarding the appeal process for the denial or imposition of conditions;

b. Identify the regulations and statutes used to reach the decision to approve, deny, or impose conditions and explain how they apply to the decision;

c. Provide the facts and conclusions the Commission relied on to make its decision and reference documents, testimony, or other materials that form the basis of the decision;

d. Provide the conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.

4.1.11 Preliminary Plat Terms of Approval

The term of the approval or conditional approval of a subdivision application is to be a period of three calendar years beginning at the date of approval or conditional approval.

a. The Commission may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time, and such an extension must be in writing and dated and signed by the members of the Commission and the subdivider or subdivider's agent. The Commission may issue more than one extension. The subdivider must give written notice to the Planning and Zoning Office requesting an extension at least 30 working days prior to the end of the three-year period. The planning director has discretion to waive the minimum 30 working day requirement;

b. After the application and preliminary plat are approved, the Commission shall not impose any additional conditions for final plat approval without the consent of the applicant;

c. The Commission may withdraw approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which was material to the approval or conditional approval, is inaccurate;

d. If the final plat is not filed within the three year time frame or granted a one year extension, the preliminary plat expires and is subject to a new application. The determination made under the expired preliminary plat approval shall not be binding on a subsequent application.

4.1.12 Changes to Approved Preliminary Plats Before Final Plat Approval

If the subdivider proposes to materially change the preliminary plat after the preliminary plat approval but before the final plat approval, the subdivider shall submit the proposed changes, all supporting documents and required fee to the Planning and Zoning Office for review. All material changes will be reviewed pursuant to these regulations, as applicable.

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

   i. Configuration that would affect access to proposed lots or increases the number of lots;

ii. Road layout that would alter the recommended conditions of approval or place the subdivision out of compliance with these regulations;

iii. Water and/or septic proposals;

iv. Configuration of park land, open spaces or natural areas;

v. Easement provisions that would affect access or lot development;

vi. Designated primary or secondary emergency access to the subdivision; or

vii. Proposed changes to conditions of approval;

b. Within 30 working days of receiving the proposed changes, the Planning and Zoning Office shall review the changes to determine whether they would cause the preliminary plat to become out of compliance with the applicable zoning, subdivision regulations, growth policy or would be likely to have a negative impact on any of the primary review criteria specified in 76-3-608, MCA, or if the changes are material. If at any time within the review period the Planning and Zoning Office determines the materials submitted are not adequate for review, the subdivider shall be notified and the review period is suspended until the requested information is obtained.

i. If the Planning and Zoning Office determines the changes are not material, the subdivider shall be notified in writing that the proposed changes have been accepted.

ii. If the Planning and Zoning Office determines the changes are material, the subdivider shall be notified in writing of what information and additional fees will be necessary to review the modifications. When the subdivider has submitted the required information and fees, the Planning and Zoning Office shall conduct element and sufficiency reviews as described in Section 4.1.3. When the information is determined to be sufficient for review, a 35-working day review period shall begin. During this period the Planning and Zoning Office shall prepare a report detailing the proposed changes and making a recommendation based on compliance with the subdivision regulations, growth policy, zoning regulations, and other adopted documents. As applicable, the Planning Board shall hold a properly noticed public hearing.

c. After considering the evaluation and recommendations of the Planning and Zoning Office and/or Planning Board based on the above criteria, the Board of Commissioners may approve, approve with conditions or deny the requested changes. The Board of Commissioners may only impose conditions if such conditions mitigate potential negative impacts of the requested changes under the review criteria.

d. A subdivider whose proposed changes to the preliminary plat have been deemed material by the Planning and Zoning Office may appeal the Planning and Zoning Office's decision to the governing body by written notice within 10 working days. The subdivider may request a meeting with the Board of Commissioners, and may submit additional evidence to show that the changes to the preliminary plat are not material.

e. If the subdivider and Planning and Zoning Office determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, the condition may be reviewed by the governing body through a properly noticed public meeting in order to determine if the condition may be waived or amended.

4.1.13 Subdivision Application and Final Plat Submittal

The subdivision final plat submitted for approval must substantially conform to the preliminary plat as previously approved by the Commission or the Flathead County Planning Director for an Administrative Approval of Preliminary Plat (per Section 4.2.3) and must incorporate all required modifications and comply with all conditions imposed at the time of preliminary plat approval.

a. The subdivision final plat, application and all supplementary documents must be submitted to the Planning and Zoning Office at least 45 working days prior to the expiration of preliminary plat approval, or an approved extension of time. Final plat certificates shall be consistent with samples included in Appendix E (Contents of Final Plat) and Appendix G (Sample Forms). The planning director has the discretion to waive the 45 working days time period.

b. The subdivision final plat including all supplementary documents shall be submitted with the following:

   i. A complete final plat application and fee;

   ii. The final plat and accompanying documents must comply with the Montana Uniform Standards for Final Subdivision Plats and Appendix E (Contents of Final Plat Application) and Appendix G (Sample Forms);

   iii. A written explanation of how each of the conditions of the preliminary plat approval has been satisfied;

4.1.14 Final Plat Review

The Planning and Zoning Office shall review the subdivision final plat to confirm that all conditions and requirements for final plat approval have been met. The Planning and Zoning Office shall not accept, begin processing, or schedule any actions on a major subdivision final plat submittal until a complete application and fee have been received:

a. Final subdivision plats shall be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. The examining surveyor shall certify the compliance in a printed or stamped certificate on the plat or certificate of survey. The certificate must be signed by the surveyor;

b. Insignificant and nonmaterial changes which have a minimal impact on the scale or scope of the project or neighborhood shall be noted in the report to the Commission.

4.1.15 Final Plat Approval
The Commission shall examine the final subdivision final plat and, within 45 working days of its submission to the Planning and Zoning Office, approve it if it conforms to the conditions of preliminary plat approval and is within scheduled deadlines of approval:

a. If the final subdivision plat is approved, the Commission shall certify its approval on the face of the final plat. When applicable, a certificate of the Commission expressly accepting any dedicated land, easements, or improvements shall be filed with the final plat;

b. If the subdivision final plat is denied, the Commission shall write a letter stating the reason for denial and forward a copy to the subdivider. The Commission shall return the final plat to the subdivider within 10 working days of the action. The subdivider may then make any necessary corrections and resubmit the major subdivision final plat for approval.

c. If the final plat differs substantially from the approved preliminary plat, the Commission shall return the final plat to the Planning and Zoning Office for additional review or deny the plat based on inconsistency with the preliminary plat.

4.1.16 Final Plat Filing
The Clerk and Recorder may file an approved subdivision final plat only if it is accompanied by Commission certification and the documents specified in the Montana Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats:

a. The approved subdivision final plat shall not be altered in any manner, except as provided in Section 4.1.17 and the Montana Subdivision and Platting Act;

b. The Clerk and Recorder shall not accept and file an approved final plat if it is not accompanied by the Commission's certification and the documents specified in the Montana Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats;

c. The subdivision final plat must be filed with the Clerk and Recorder within 180 working days of Commission approval and not altered in any way.

4.1.17 Amending Filed Subdivision Plats
Changes that add lots or that may alter the original conditions of approval of a filed subdivision plat are subject to Section 4.2 if a first minor or Section 4.4 if a major subdivision. The Commission shall not approve an amendment that will create a non-conforming lot according to the design standards contained in Section 4.7 (Subdivision Design Standards) and these Regulations.

4.2 First Minor Subdivisions

If the division of land results in a cumulative total of five or less lots from the original tract of record as it existed on July 1, 1973, the division of land shall be reviewed and processed as a first minor subdivision.

4.2.1 First Minor Subdivision Exceptions:

All of the following do not apply to first minor subdivisions:

a. Preparation of an environmental assessment;

b. Public hearing requirements.

4.2.2 First Minor Subdivision Amended Preliminary Plat Application

If the subdivider changes the first minor subdivision application or preliminary plat before the Commission makes its decision regarding the preliminary plat, the subdivider shall submit the amended application or amended preliminary plat to the Planning and Zoning Office for review:

a. Within 15 working days of receiving the amended application or preliminary plat, the planning director shall determine whether the changes to the subdivision application or preliminary plat are material and would create additional impacts which the application does not address;

b. The 35 working day review period is suspended while the planning director and Commission consider the amended application or preliminary plat;

   i If the planning director determines the changes are not material, the 35 working day review period resumes when the Planning and Zoning Office sends notice of the decision to the subdivider;

   ii. If the planning director determines the changes are material, the subdivider may schedule a new pre-application meeting and submit a new application and fifty percent of the original fees. The original application fee shall not be refunded or transferred to the new application.

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

   i. Configuration that would affect access to proposed lots or increases the number of lots;

   ii. Road layout that would alter the recommended conditions of approval or place the subdivision out of compliance with these Regulations;

   iii. Water and/or septic proposals;

   iv. Configuration of park land, open spaces or natural areas;

   v. Easement provisions that would affect access or lot development;

vi. Designated primary or secondary emergency access to the subdivision.

d. Any subdivider may appeal the decision of the planning director to the Commission. If appealed, the subdivider shall request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material:

i. If the Commission concludes that the changes to the subdivision application are material, the subdivider shall be required to submit a new subdivision application and preliminary plat;

ii. If the Commission concludes that the evidence and information demonstrate the changes to the subdivision application are not material, the 35 working day review period resumes as of the date of the decision.

4.2.3 First Minor Subdivision Administrative Approval of Preliminary Plat

Pursuant to 76-3-609(2)(f) MCA, the applicant may request an expedited review of a First Minor Subdivision via Administrative Approval of the Preliminary Plat. Administrative Approval of the Preliminary Plat may be granted only when review of the proposed subdivision identifies no adverse impacts to the review criteria outlined in 76-3-608(3) MCA which would require mitigation through conditions of approval.

a. The applicant must request the Administrative Approval in writing and provide a Preliminary Plat accompanied by a completed First Minor Subdivision Impact Criteria Report (Appendix D) and materials required by Appendix B, as applicable, to address the criteria below. Upon receipt of the written request for administrative approval, the Flathead County Planning Director or designee shall complete the element and sufficiency review pursuant to Section 4.1.3 and either grant approval or deny the request within 10 working days from the date the application was determined to be sufficient. The Flathead County Planning Director or designee may grant Administrative Approval of the First Minor Subdivision preliminary plat if the following criteria are satisfied:

1. The First Minor Subdivision contains three (3) or fewer parcels.

2. The property has been zoned in accordance with MCA 76-2 (Part 2)

3. The proposed First Minor Subdivision complies with the Flathead County Subdivision Regulations and the Flathead County Zoning Regulations.

4. No subdivision variance is needed in order to comply with the Flathead County Subdivision Regulations and the Flathead County Zoning Regulations. No subdivision variance may be requested or approved through this Administrative Approval of Preliminary Plat process.

5. All lots have suitable access from existing public or private right-of-way/easement conforming to Flathead County Subdivision Regulations. If access is provided by an existing private road easement, the applicant shall provide proof said easement.

6. Each lot shall have a building site and driveway location compliant with the provisions outlined in Section 4.7.7.

7. There are no hazards as identified in Section 4.7.4 present onsite which constitute land unsuitable for subdivision, and which would require mitigation through conditions of preliminary plat approval. Topographic surveys are only required if the average cross slope of the developable portion of the property (house, garage, and driveway) exceed 25%.

8. Each lot can support on-site sewer and water services or can be served by public sewer and water. (For on-site sewer and water facilities, the applicant shall provide the water and sanitation information as described in 76-3-622)

9. No significant effects are anticipated on agriculture, agricultural user facilities, local services, natural environment, wildlife, wildlife habitat, and public health and safety.

b. With a written Administrative Preliminary Plat Approval, the applicant may proceed to final plat following the procedures outlined in Sections 4.1.13 – 4.1.16 of these Regulations. The Flathead County Planning Director or designee shall prepare findings of fact regarding the basis of the administrative approval of the preliminary plat and compliance of the final plat with the Flathead County Subdivision Regulations as a component of the Final Plat Review and recommendation to the Commission.

4.3 Subsequent Minor Subdivisions

4.3.1 Subsequent Minor Subdivision Review Procedure

A proposed subsequent minor subdivision application and preliminary plat shall be reviewed as a major subdivision if the division of land results in a cumulative total of more than five lots from the original tract of record as it existed on July 1, 1973

4.4 Major Subdivisions

A proposed subdivision application and preliminary plat shall be reviewed as a major subdivision if the subject property is the sixth or greater lot resulting from division of the original tract of record as it existed on July 1, 1973 or if the proposed division of land results in a cumulative total of more than five lots from the original tract of record as it existed on July 1, 1973.

4.4.1 Major Subdivision Amended Preliminary Plat Application

If the subdivider changes the major subdivision application or preliminary plat after the Planning and Zoning Office deems the application sufficient pursuant to Section 4.1.3, but before the Planning Board public hearing, the subdivider shall submit the amended application to the Planning and Zoning Office for review:

a. Within 15 working days of receiving the amended application or preliminary plat, the planning director shall determine whether the changes to the subdivision application or preliminary plat are material. The review period is suspended while the planning director considers if the changes to the major subdivision application or preliminary plat are material and would create additional impacts which the application does not address:

   i. If the planning director determines the changes are not material, the review period resumes when the Planning and Zoning Office sends notice of the decision to the subdivider;

   ii. If the planning director determines the changes are material, the subdivider may schedule a new pre-application meeting and submit a new application and fifty percent of the original fees. The original application fees shall not be refunded or transferred to the new application.

b. The following changes, although not exhaustive, may be considered material:

   i. Configuration that would affect access to proposed lots or increases the number of lots;

   ii. Road layout that would alter the recommended conditions of approval or place the subdivision out of compliance with these Regulations;

   iii. Water and/or septic proposals;

   iv. Configuration of park land, open spaces or natural areas;

   v. Easement provisions that would affect access or lot development;

   vi. Designated primary or secondary emergency access to the subdivision.

c. Any subdivider whose major subdivision application or preliminary plat has been deemed materially changed by the planning director may appeal the decision to the Commission. If appealed, the subdivider shall request a hearing, and may submit additional evidence to

show that the changes to the preliminary plat are not material. The Commission may or may not agree to hear the appeal:

i. If the Commission concludes the changes to the major subdivision application or preliminary plat are material, the subdivider shall be required to resubmit the subdivision application and preliminary plat and fifty percent of the original fees;

ii. If the Commission concludes that the changes to the subdivision application or preliminary plat are not material, the review period resumes as of the date of the decision.

4.4.2 Phased Major Subdivision Plat Submittals

The subdivider, as part of the preliminary plat application, may propose to phase a proposed major subdivision over time. Phasing must be identified at preliminary plat application submittal. Phasing must be approved at the time of preliminary plat approval:

a. Each phase must be filed sequentially, according to the phasing plan, and be fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time;

b. A phasing plan must be submitted and must include all of the following:

i. A plat delineating each phase and a general time frame for each phase;

ii. A public facilities improvement plan showing which improvements will be completed with each phase.

c. The Commission may require that parkland requirements, as part of the preliminary plat approval pursuant to Section 4.7.24, for the entire subdivision be met prior to approval of the first phase final subdivision plat. Parkland dedication for each phase shall not be deferred until a later phase;

d. The preliminary plat of a phased subdivision shall have the following time limits:

i. The first phase final subdivision plat must be approved and filed within three years of preliminary phased plat approval unless the preliminary plat approval has been granted an extension pursuant to Section 4.1.11(a). On final plat approval of the first phase, final plats for each successive phase must be filed within three years of the previous final plat approval. Failure to meet this time frame will cause the remainder of the preliminary plat to become void, and no additional final phased plats shall be accepted;

ii. Pursuant to Section 4.1.11(a) an extension of preliminary plat approval for any phase may be requested by the subdivider;

iii. The subdivider shall include a revised time frame for all remaining phases with a request for any phased preliminary plat extension.

e. Modifications to an approved phasing plan which do not materially change the impacts on adjoining property may be approved or denied by the planning director. Changes which materially change impacts to adjacent property owners shall be approved or denied by the Commission;

f. If a major subdivision is part of an approved planned unit development which contains a specific phasing plan complete with time lines, such phasing plan shall be binding, unless an amendment to the phasing plan is approved by the Commission.

4.4.3 Major Subdivision Public Hearing, Consideration and Recommendation
After the major subdivision application is deemed to have all the required elements containing detailed, supporting information that is sufficient to allow for review and public comment, the Planning Board shall schedule and hold a public hearing on the subdivision application pursuant to Section 4.0.14:

a. The Planning Board shall base its recommendation to approve, conditionally approve, or deny the major subdivision application and preliminary plat based on the following if applicable:

i. The subdivision application, supporting information, and preliminary plat. A decision to deny cannot be made solely on impacts to educational services;

ii. These Regulations, including but not limited to, the design standards set forth in Section 4.7 (Subdivision Design Standards);

iii. Applicable zoning and other regulations;

iv. An officially adopted growth policy or neighborhood plan;

v. The environmental assessment (Appendix C);

vi. Agency and public hearing(s) comments;

vi. Neighborhood and land use advisory committee recommendations;

vii. Planning staff report and its recommendation for approval or denial;

viii. Any additional information that is allowed by statute or these Regulations pertaining to the proposed major subdivision.

b. The Planning Board shall not recommend approval of a preliminary major subdivision plat that will place a lot in non-compliance with these Regulations unless the subdivider secures a subdivision variance pursuant to Section 4.0.11;

c. Within 10 working days after the public hearing, the Planning Board or designee shall submit the following in writing to the subdivider and to the Commission:

i. All public and agency comments;

ii. Findings of Fact that discuss and weigh the subdivision's compliance with these regulations and its impact to the physical, biological and human environment;

iii. A recommendation for approval, conditional approval (including any recommended conditions and/or mitigation measures), or denial of the subdivision application and preliminary plat.

d. The Planning Board or Planning and Zoning Office shall collect public comment given regarding the water and sanitation information and forward all comments regarding water and sanitation to the Commission and to the agencies responsible for reviewing the application for water and sanitation. It is recommended that public comment related to sewer and water be submitted in writing at least five working days prior to the public hearing.

4.4.4 Mid-Process Resubmitted Applications

The subdivider may, following the Planning Board's public hearing, request revisions to the application and preliminary plat. Mid-process resubmitted applications will be based on feedback and recommendations from the Planning Board, the public and other agencies, and Planning and Zoning Office:

a. Within five working days following the Planning Board public hearing the subdivider shall notify the Planning and Zoning Office in writing with a request to submit a revised application and preliminary plat. The letter must include a waiver to the statutory timeframe until the revised application is resubmitted and a second hearing public hearing is held by the Planning Board;

b. If no written request to resubmit the application and preliminary plat is received by the Planning and Zoning Office within five working days, the application will continue to be processed and forwarded to the Commission for final action;

c. Within 90 working days following receipt of the letter to request a mid-process correction, the subdivider will provide the Planning and Zoning Office a revised application and preliminary plat. The application fee shall be 50 percent of the original fee plus mailing costs to adjacent property owners for public notice. The original application will terminate after 90 days if the subdivider does not submit a revised application and preliminary plat;

d. The revised application will be scheduled for the next available Planning Board public meeting where a new public hearing will be held;

e. The public hearing shall be conducted pursuant to Subsection 4.0.14 and all adjacent property owners will be re-noticed;

f. The original review period shall resume starting five working days after the second public hearing date and action by the Planning Board.

4.4.5 Changes to Major Subdivision Preliminary Plat After Public Hearing
If the subdivider does not request a mid-process correction pursuant to Section 4.4.4, and makes changes to the major subdivision plat or application following the Planning Board's public hearing but before the date when the Commission considers the application and plat, the subdivider shall submit an amended application or preliminary plat to the Planning and Zoning Office for review. The review period shall be suspended until a determination is made regarding whether the changes to the proposed major subdivision plat are material:

a. Within 15 working days of receiving the amended application or preliminary plat, the planning director shall determine if the changes to the subdivision application or preliminary plat are material:

   i. If the planning director determines that the changes are not material, the review period resumes when the Planning and Zoning Office sends notice of the decision to the subdivider;

   ii. If the planning director determines the changes are material, the subdivider may schedule a new pre-application meeting and submit a new application and fees. The original application fees shall not be refunded or transferred to the new application.

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

   i. Configuration that would affect access to proposed lots or increases the number of lots;

   ii. Road layout of lots that would alter the recommended conditions of approval or place the subdivision out of compliance with these Regulations;

   iii. Water and/or septic proposals;

   iv. Configuration of park land, open spaces or natural areas;

   v. Easement provisions that would affect access or lot development;

   vi. Designated primary or secondary emergency access to the subdivision.

c. Any subdivider may appeal the decision of the planning director to the Commission. If appealed, the subdivider shall request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material. The Commission may or may not agree to hear the appeal:

i. If the Commission concludes that the changes to the major subdivision application or preliminary plat are material, the subdivider shall be required to resubmit the application and preliminary plat;

ii. If the Commission concludes that the changes to the resubmitted subdivision application or preliminary plat are not material, the review period resumes as of the date of the decision;

4.4.6 Major Subdivision Determination of New Information

If new and additional information is presented following the Planning Boards' public hearing regarding the proposed major subdivision, the Commission shall determine if the new information constitute the need for a subsequent public hearing. New information is considered to be information or analysis of information not considered by the Planning Board at the public hearing:

a. The Commission shall consider if the public or the subdivider was provided a reasonable opportunity to examine and comment on the new information;

b. If the Commission determines that public comments or documents presented constitute new information the Commission shall either:

i. Approve, conditionally approve, or deny the proposed major subdivision without basing its decision on the new information if the Commission determines the information is either irrelevant or not credible;

ii. Direct the Planning Board to schedule a subsequent public hearing pursuant to Section 4.4.7 for consideration of only the new information that may have an impact on the findings and conclusions that the Commission will rely on to make its decision on the proposed subdivision.

c. The Commission shall consult with the Planning and Zoning Office in the determination of new information.

4.4.7 Subsequent Public Hearing

When a subsequent public hearing is scheduled for a major subdivision preliminary plat, it must be held within 45 days of the Commission's determination to schedule a subsequent hearing pursuant to Section 4.0.14. Only the new information shall be considered at the subsequent public hearing:

a. If a subsequent public hearing is scheduled, the review period is suspended as of the date of the Commission's decision to schedule a subsequent hearing and resumes five working days following the subsequent public hearing;

b. The Commission shall not consider any information regarding the major subdivision application that is presented after the subsequent hearing when making its decision to approve, conditionally approve, or deny the proposed major subdivision.

4.5 Subdivisions Created For Lease or Rent

4.5.1 General

A subdivision created for rent or lease, including manufactured home parks and recreation vehicle parks is any tract of land divided by renting or leasing portions under single ownership. Proposed subdivisions created for lease or rent must be under single lot or parcel and subject to these Regulations. Any subdivision created for lease or rent which is converted to condominium use must be reviewed pursuant to Section 4.6 (Condominiums).

4.5.2 Exemption from Survey and Filing Requirement

Manufactured home parks and recreation vehicle parks 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 Commissioners before portions may be rented or leased.

4.5.3 State Health Approval

If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also known as a "trailer court," "work camp," "youth camp," or "campground" as those terms are defined in Section 50-52-101, MCA, the Commission will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the State of Montana.

4.5.4 Procedures

The subdivider shall submit to the Planning and Zoning Office the preliminary plans, profiles, tentative grades, and specifications for proposed improvements. The plan must show the lot layout and the proposed location of mobile homes, recreational vehicles, camp sites or other units on the lot. The layout plan shall also show all existing and proposed buildings and structures, roads, parking and recreational areas:

a. Subdivisions created by lease or rent comprised of six or more spaces or units shall comply with and be processed in accordance to the preliminary plat procedures for major subdivisions;

b. Subdivisions created by lease or rent comprised of five or fewer spaces or units shall comply with and be processed in accordance with the preliminary plat procedures for minor subdivisions;

c. In lieu of filing a final plat, the subdivider shall submit to the Planning and Zoning Office four full size hard copies of a revised preliminary plat (Appendix F). The revised preliminary plat shall conform to the approved preliminary plat and the conditions of preliminary plat approval. The approved revised preliminary plat shall be maintained in the Planning and Zoning Office and with the Clerk and Recorder;

d. Before any portion of the development may be rented or leased, the subdivider shall have installed all required improvements;

e. In case of a phased development, unit spaces in each phase shall be rented or leased only after all improvements pertaining to that phase are completed. The Commission may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

4.5.5 General Standards for Subdivisions Created by Lease or Rent
All subdivisions created by rent or lease shall comply with all applicable provisions of Section 4.7 (Subdivision Design Standards). The following standards also apply:

a. Road requirements:

i. Entrance roads leading into subdivisions for lease or rent shall maintain safe site distances and posted no parking along these safe site distances;

ii. Roads within the subdivision shall be private unless otherwise required by the Commission;

iii. Easements in excess of the roadway width shall not be required for private roads;

iv. Roads must be designed to provide safe access to public roads;

v. Roads within the development must be designed to provide safe traffic circulation and parking;

vi. Cul-de-sacs are required on all dead-end roads for emergency turn around.

b. The development may be required to maintain fire control equipment in good working order of such type, size and number and located within the development as prescribed by the appropriate fire department;

c. The Commission may require, including but not limited to, the additional improvements:

i. Storage facilities on the lot or in compounds located within a reasonable distance;

ii. A central area storage for parking of boats, trailers or other recreational vehicles;

iii. A landscape site plan which is acceptable to the Planning and Zoning Office;

iv. An off-road area for mail delivery and school bus stops;

v. Sidewalks or paths;

vi. Curbs and gutters;

vii. Road lighting;

viii. Management regulations;

ix. Centralized solid waste containers;

x. Fencing and screening.

4.5.6 Manufactured Home Park Standards
All manufactured home parks shall comply with the following standards in addition to the requirements of Section 4.5.5:

a. Road requirements:

i. One-way roads must be at least a 15 foot wide travel surface;

ii. Two-way roads must be at least a 24 foot wide travel surface;

iii. Roads must be designed to allow safe placement and removal of mobile homes.

b. Lot/Space requirements:

i. Manufactured home lots/spaces shall be arranged to permit safe and practical placement and removal of manufactured homes;

ii. The minimum lot width shall not be less than 50 feet and the minimum lot area shall be 5,000 square feet for single-wide manufactured homes and 6,000 square feet for double-wide manufactured homes. Triple-wide mobile homes shall have a minimum lot/space area of 10,000 square feet:

A. All manufactured homes shall be located at least 25 feet from any property boundary line abutting a public road or highway right-of-way and at least 15 feet from the other outer boundaries of the park;

B. The mobile home pad, all buildings, structures and manufactured homes shall be at least 10 feet from the road providing access to it;

C. A manufactured home shall not occupy more than one third of the lot/space area. The total area occupied by a manufactured home and its roofed accessory buildings and structures shall not exceed two-thirds of the area of the lot/space.

D. No manufactured home or its attached structures, such as awnings or carports shall be located within 20 feet of any other manufactured home or its attached structures;

E. No detached structure, such as a storage shed, shall be located within five feet of any manufactured home or its attached structures;

F. The Commission shall require that the mobile home pad be improved to provide adequate support for the placement and tie-down of the mobile home.

c. A minimum of two parking spaces shall be provided for each manufactured home lot. In addition, guest parking at the ratio of one space for every five units. Each parking space shall measure 9 feet by 20 feet;

d. The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the approved plans;

e. Each manufactured home shall be skirted within 30 days after it is moved on a lot within the manufactured home park. The skirting shall be of fire resistant material complementary to that of which the manufactured home exterior is constructed;

f. All electrical lines serving the subdivision shall be underground, designed and constructed in accordance to the most recent edition of the "National Electrical Code";

g. Where oil or propane gas heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three hundred (300) gallon capacity. The storage facility shall extend no higher than six feet above ground level and shall be located and screened to blend with its surroundings;

h. All gas systems serving the subdivision shall be designed and constructed in accordance with the most recent edition of the "National Fuel Gas Code" and the "Standard for the Storage and Handling of Liquefied Petroleum Gases":

i. A readily accessible and identifiable shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near the point of connection of the liquefied petroleum gas container;

ii. Each manufactured home lot shall have an accessible, listed gas shutoff installed. The valve shall not be located under a manufactured home. Whenever a manufactured home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

i. A comprehensive site plan that includes road and pad lay-out, amenities, perimeter fencing if proposed, and site landscaping (entrance and perimeter buffering) shall be submitted with the application.

4.5.7 Recreational Vehicle Park Standards

All recreational vehicle parks shall comply with the following standards in addition to the requirements of Section 4.5.5:

a. Road Requirements:

i. A minimum 12 foot travel surface shall be provided for one-way roads if such road:

A. Has no on-road parking;

B. Serves 25 or less spaces.

b. If two way roads are proposed the following shall apply:

i. 20 foot travel surface if no on-road parking is proposed;

ii. 28 foot travel surface if parking is proposed on one side of the road;

iii. 36 foot travel surface if parking is proposed on both sides of the road;

iv. Minimum centerline curvature radius of 45 feet.

c. The recreation vehicle spaces shall meet the following standards:

i. Minimum lot (space) width of 25 feet;

ii. Minimum lot (space) area of 1,500 square feet.

d. The distance between the recreational vehicles shall not be less than 15 feet. This includes any fold-out or pop-out portion or awnings attached to the vehicle;

e. Spaces in recreational vehicle parks must be arranged to allow safe movement of traffic and access to spaces;

f. No recreational vehicle space shall be located less than 25 feet from any public road or highway right-of-way;

g. The density of a recreational vehicle park must not exceed 25 recreational vehicle spaces per acre of gross site area;

h. At least one private 5,000 square foot functional recreational area shall be provided and developed with at least a minimum level of ‘tot lot’ amenities for children as approved by the county parks director.

4.6 Condominiums

4.6.1 General Guidance for Condominiums

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act and these Regulations. Condominium developments must include two or more residential units within the same building:

a. Condominium development shall be reviewed under the procedures identified below:

   i. If the proposed condominium development contains five or fewer dwelling units, it shall be processed in accordance with preliminary plat procedures for minor subdivisions.

   ii. If the proposed condominium development contains six or more dwelling units, it shall be processed in accordance with preliminary plat procedures for major subdivisions.

   iii. Condominium "lock off units" and subdivisions originally created for lease or rent pursuant to Section 4.5 converting to condominium ownership shall be reviewed per this Section. Any proposed condominium unit that includes a dividable "lock off unit" shall be considered as containing the sum of these units;

   iv. No structure containing a condominium unit shall extend across a property line.

b. In lieu of filing a final plat, the subdivider shall submit four full size hard copies of a revised preliminary plat to the Planning and Zoning Office:

   i. The plat shall be labeled "Revised Preliminary Plat" and conform to all requirements for revised preliminary plats pursuant to Appendix F - Contents of Revised Preliminary Plat Application;

   ii. The revised preliminary plat shall show all existing and proposed buildings and structures, roads, parking and recreation areas;

   iii. The revised preliminary plat shall conform to the approved preliminary plat and meet the conditions of approval of the preliminary plat.

c. All parkland dedication provisions pursuant to Section 4.7.24 shall be met;

d. Final approval will not be granted until the subdivider has met all conditions of preliminary plat approval and has installed all required improvements or entered into a subdivision improvements agreement (Appendix H);

e. The Clerk and Recorder shall not process or record any condominium title transactions or deeds if the planning director or county attorney determines a condominium project has not met the requirements of Section 4.6.3 or has not been reviewed pursuant to this Section;

f. The approved plat shall be maintained in the Planning and Zoning Office and in the Office

of the Clerk and Recorder. The subdivider shall provide the Planning and Zoning Office with a copy of the recorded Declaration of Unit Ownership. The Declaration of Unit Ownership will reflect where these copies are maintained.

4.6.2 Condominium Development Standards
Condominium development shall comply with all applicable standards contained in Section 4.7 (Subdivision Design Standards) and these Regulations:

a. Condominium developments shall meet all applicable standards of the Montana Department of Environmental Quality and Flathead County-City Health Department;

b. In unzoned areas all buildings and structures in a condominium project shall be located at least 20 feet from a road right-of-way or easement and at least 15 feet from all other site boundaries. No detached primary structure shall be located closer than 15 feet to another detached primary structure. (Note: All distances are measured from the roof line or farthest projecting point of the building or structure).

4.6.3 Condominium Exemption from Subdivision Regulations
Condominiums constructed on land subdivided in compliance with these Regulations are exempt from review pursuant to Section 4.6.1 if any of the following conditions are met:

a. The approval of the original subdivision of land or subdivision expressly contemplated the construction of the condominiums. The number of units and impact of condominiums identified and contemplated in a subdivision must have been reviewed as part of the subdivision application or conditional use permit;

b. The condominium proposal is in conformance with local zoning regulations;

c. Conversion of existing structures into condominiums where the conversion is not intended to circumvent the review and approval process and where no alterations and additions are made to existing structures to accommodate conversion of existing units into condominiums.

4.6.4 Unit Ownership Act
Condominium developments must comply with all provisions of the Unit Ownership Act, Title 70 Chapter 23, MCA.

4.7 Subdivision Design Standards

4.7.1 Subdivision Design Standards Compliance

All subdivisions shall comply with design standards included in this Section, unless a subdivision variance from any particular section is requested in writing and is granted by the Commission pursuant to Section 4.0.11 of these Regulations or unless it is a Planned Unit Development (PUD). Engineering and survey plans, specifications, design details and reports shall be prepared by a licensed professional engineer or licensed surveyor as their respective license laws allow in accordance with the Montana Subdivision and Platting Act and these Regulations. In areas which are zoned and for which the PUD provisions exist in applicable zoning regulations, the subdivider shall conform to the procedures and specifications of the applicable zoning regulations. Individual variances to these Regulations are not necessary when the application is accompanied by a PUD plan.

4.7.2 Conformance with Existing Regulations

The design and development of subdivisions shall conform to all applicable zoning, lake shore and floodplain regulations, etc. and all provisions of these Regulations.

4.7.3 Natural Environment

The design and development of subdivisions shall contain satisfactory building sites which are properly related to topography and shall preserve the natural terrain, natural drainage, existing top soil, trees, native vegetation, wildlife, and fish habitats to the extent possible. The design and development of subdivisions should not result in increased pollution to surface or groundwater supplies.

4.7.4 Lands Unsuitable for Subdivision

Lands on which there is evidence of hazards such as flooding, snow avalanches, rock falls, land slides, steep slopes in excess of 40 percent grade, subsidence, high hazard fire areas, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, air or vehicular traffic hazards or congestion, or other features which may be detrimental to the health, safety or general welfare of existing or future residents, or where development would place unreasonable burdens on the general public including the requirements of excessive expenditure of public funds or environmental degradation shall not be subdivided for building or residential purposes unless the hazards are mitigated or will be overcome by approved design and construction plans.

4.7.5 Site Design

The subdivision design shall take into consideration the following:

a. Land subject to flooding shall be set aside for uses which will not aggravate the danger of flood hazard, will not be endangered by flooding, or endanger the general health, safety, and welfare of the residents;

b. Multiple land uses within the subdivision shall be properly separated to avoid land development compatibility issues and provide the maximum convenience to the residents;

c. Land division activities in areas subject to hazardous conditions such as land slides, rock falls, possible subsidence, shallow water table of four feet or less, open quarries, floods and polluted or non-potable water supply shall be strongly discouraged or prohibited;

d. No-Build Zones and/or Building Envelopes may be used as a means of mitigation on areas where hazards and/or sensitive environmental features exist.

e. Where a subdivision is traversed by an irrigation channel or ditch, an easement or right-of-way shall be required to parallel the lines of the watercourse at a sufficient width to allow for maintenance and vegetative buffer;

f. When a subdivision leaves a remainder of 160 acres or greater, the subdivider may be required to provide a plan of development showing in a general fashion proposed roadways, residential lot locations and densities, and park and common areas where there may be connectivity to future subdivisions;

g. No singular proposed lot shall be bisected by a school district or other taxing district.

h. The subdivision plan should be designed to permit continuation of roads into adjacent subdivisions unless there is justification for an alternate design;

4.7.6 Landscape Requirements

The Commission may impose landscaping requirements on the subdivider or homeowner. In general, landscape plans shall consist of over-story coniferous or broadleaf trees with an under-story of shrubs and grasses. Plant materials shall be warranted for one year following installation. All landscape site plans shall be approved by the Planning and Zoning Office.

4.7.7 Lots

Each lot shall contain a satisfactory building site which is properly located in regards to topography and conforms to City/County Health Department, zoning, floodplain, and lake shore regulations and these Regulations. The proposed lots shall meet the following standards:

a. No lot shall be divided by a municipal or county boundary line;

b. No lot shall be divided by a street, road, alley, right-of-way, or secondary emergency access easement. Note, this section does not apply to driveway or utility easements;

c. Each lot shall abut onto a subdivision or local road and have legal and physical vehicle access. Direct access onto a collector or arterial road is not permitted unless no other reasonable alternative exists or the proposed subdivision is otherwise qualified for administrative review pursuant to Section 4.2.3(a). Existing encroachment permits do not preclude requiring alternative locations for access to individual lots;

d. Each lot shall have a building site (minimum 40 foot by 40 foot square pad) on existing undisturbed terrain of less than 40 percent slope. Where a building site is not obvious, and when the average slope of a lot exceeds 25 percent, minimum two foot ground contour intervals shall be shown on the preliminary plat for the building pad and driveway. Any

building pad on slopes between 25 and 40 percent in cross slope shall be required to undergo a geo-technical soils analysis conducted by a licensed professional engineer prior to final plat approval. The soils analysis must demonstrate that development of this lot would pose no significant geological hazards to either this lot or neighboring properties.

e. Each building site shall be able to be accessed by a minimum 10 foot wide driveway with no point of the driveway exceeding 12 percent slope and a maximum 5 percent slope for the initial 20 feet from the primary access road to the lot;

f. Corner lots shall have a driveway access to the same road as interior lots and shall have sufficient area to provide acceptable site distances for traffic safety;

g. The Commission may require that portions of a subdivision lot which abut a river, stream or lake and contain slopes of 40 percent or greater be protected from development.

h. Land within the 100-Year floodplain shall not be subdivided for building purposes creating a lot or parcel whose only building site lies within the 100-Year floodplain. No subdivision of property shall create infrastructure or allow for buildings within the floodway of a 100-Year frequency;

i. The maximum lot depth to width ratio shall be substantially 3:1, unless the average lot width is more than 200 feet;

j. Side lot lines shall be substantially right angles to road easements and radial to curved road or cul-de-sac easements;

k. All lots in unzoned areas shall adhere to the following:

    i. A minimum average width of 60 feet;

    ii. Lakeshore and river front lots shall have a minimum average width of 100 feet with a minimum 100 foot of frontage on the river or lake measured at the high water line;

    iii. A minimum frontage of 30 feet abutting the local or primary road access and having access to that road;

    iv. A growth policy or growth policy compliant neighborhood plan may be used as a guide for subdivision density.

l. Through lots or reverse lots are discouraged except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation;

m. A planting screen easement of a minimum width of 10 feet shall be provided along the line of lots abutting a traffic artery, other disadvantageous situations, or non-compatible uses;

n. No remainder lots or parcels are permitted on tracts of land less than 160 acres.

o. Only one active approved preliminary plat is permitted on an individual lot or parcel at a time. Any existing approved preliminary plat shall be withdrawn and file terminated at the time of approval of the second preliminary plat.

4.7.8 Payment for Extension of Public Improvements

The Commission shall require the subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to the public health and safety, including but not limited to public roads and transportation facilities, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision (76-3-510, MCA):

a. The Commission may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending the capital facilities related to education;

b. All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required.

c. The distance of required off-site paving and the extent of required off-site improvements shall be determined per the methodology identified in Section 4.7.17.

4.7.9 Floodplain Provisions

Land located in the floodplain of 100-Year frequency as defined by Title 76, Chapter 5, M.C.A., or land deemed subject to flooding as delineated by the most current floodplain maps available and adopted by Flathead County, shall not be subdivided for building or residential purposes, or other uses that may increase flood hazard to life, health or property. Residential and commercial lots may contain areas in the 100-Year Floodplain, however the building sites shall be located outside of the floodplain. Areas delineated as 100-Year Floodplain may be designated as 'No Build Zone' on the final plat:

a. The Commission shall not grant a subdivision variance to the floodplain provisions of these Regulations;

b. Land deemed to be subject to overland flooding may be unsuitable for subdivision based on, but not limited to, the following:

   i. Verifiable documented historically flooded lands;

   ii. Narrow valleys that are susceptible to high stream velocities often associated with flash flooding;

   iii. Any portion of a subdivision located within the 100-Year floodplain as designated by a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, FEMA Floodway Map, or a county approved flood study.

c. If any portion of a subdivision is within 2,000 horizontal feet and 20 vertical feet of a perennial stream draining an area of 25 square miles or more and no official floodplain

delineation or floodplain studies of the stream have been made, the subdivider shall furnish survey data to the Water Resources Division of the Montana Department of Natural Resources and Conservation (DNRC) for review and comment;

d. Survey data shall comply with the standards required by DNRC and FEMA.

e. If less than five percent of a lot or subdivision is located in an approximate 100-Year floodplain or land deemed to be subject to flooding (as identified in sub-section b above) the subdivider may provide an analysis prepared by a professional engineer supporting a flood hazard elevation and identify measures to mitigate any potential flooding hazard in lieu of a DNRC/FEMA approved flood study;

f. The County Commission shall waive this requirement where the subdivider contacts the DNRC Water Resources Division and that agency states in writing that available data indicates that the proposed subdivision is not in a flood hazard area.

4.7.10 Wetlands Provisions

Proposed subdivisions in proximity to or containing wetlands shall be designed in consideration of impacts to water quality, wildlife, and other uses that may increase or aggravate wetland hazards to life, health or welfare, or that may be prohibited by state wetland regulations. Residential and commercial lots may contain areas of wetland but the building sites shall be located outside and away from said wetlands.

a. Wetlands are determined based upon the Army Corps of Engineers Wetland Delineation manual.

b. Areas delineated as wetlands may be designated as 'No Build Zones' on the final plat.

c. A wetland delineation may be required as a part of the preliminary plat submittal. However, where wetlands extent is apparent and protective measures such as building setbacks and/or 'No Build Zones' are proposed and deemed sufficient, formal wetland delineation may not be required.

4.7.11 Stream Riparian Protection Requirements

In order to protect the integrity and function of riparian areas in subdivisions, the Commission shall require vegetative buffers and riparian resource management plans for the protection and maintenance of stream corridor riparian areas in all subdivisions which contain or are contiguous to perennial or intermittent streams, creeks or rivers. The following requirements are not intended to provide public access or easements of any kind and shall not do so unless expressly authorized by the subdivider.

a. A proposed vegetative buffer shall be clearly delineated on the preliminary plat. There shall be no removal of natural vegetation in the vegetative buffer except as permitted under these Regulations.

b. A Riparian Resource Management Plan shall be submitted with the subdivision proposal. The plan shall demonstrate that the proposed subdivision will not involve unnecessary environmental degradation and will include but not be limited to:

i. A site map showing the following:

A. Location of vegetation types from available data (i.e. riparian vegetation, upland vegetation, prominent nesting sites, etc.);

B. The proposed vegetative buffer areas;

C. Drainage, slope and topography;

D. The delineated or approximate FEMA 100-Year Floodplain, as indicated on the applicable FIRM Panel;

E. Plans for disturbance, restoration or enhancement as applicable; and

F. Vegetative buffer areas proposed as 'No-Build Zones', if applicable.

ii. A written description including photographs of the following:

A. Vegetation types;

B. Role of the vegetative type in preventing erosion based on abundance, topography, soil type and other factors;

C. Fish and wildlife habitat, including big game species, upland game bird species, non-game bird species, fisheries, and threatened or endangered species that are known or suspected of inhabiting the area;

D. The boundary and area identified as the vegetative buffer based on the analysis of site;

E. Photographs of the proposed vegetative buffer and surrounding uplands.

iii. A description outlining how the vegetative buffer will be used, restored, maintained or enhanced. The description shall include, at a minimum, the following:

A. Proposed disturbance within the vegetative buffer, including alteration, enhancement, restoration, re-vegetation and bank stabilization as applicable.

B. Discussion of proposed land uses their intensities and potential effects on riparian resources;

C. A description of Best Management Practices to protect the vegetative

buffer and water quality during and after construction;

D. Vegetative buffer areas proposed as 'No-Build Zones'.

iv. A maintenance and monitoring plan outlining how the vegetative buffer will be cared for.

c. The following uses are allowed in a vegetative buffer and exempt from these Regulations, provided, if regulated, these uses are permitted under applicable local, state and/or federal regulations:

i. Recreational structures such as docks, boat ramps, pathways or unimproved picnic areas. Pedestrian and bike trails may be allowed within the vegetated buffer areas, provided the proposed measures to protect water quality are deemed sufficient by the Commission;

ii. Re-vegetation and/or re-forestation to stabilize flood prone areas;

iii. Stream bank stabilization/erosion control measures and stream restoration projects that have obtained any required permits. Riprap, rock vanes, weirs, and other bank stabilization structures are allowed if permitted under the County floodplain ordinance, the Montana Natural Land and Streambed Preservation Act, and other applicable laws;

iv. Crossings of designated streams through the vegetative buffer by highways, roads, driveways, sewer and water lines, and public or private utility lines, provided the proposed measures to protect water quality are deemed sufficient by the Commission;

v. Reconstruction, replacement or repair of an on-site septic system provided the new improvements are no closer to the ordinary high water mark of the stream;

vi. Agricultural and forest management uses not in conflict with the vegetative buffer area, including facilities not requiring electricity;

vii. Hydro-electric facilities licensed by the Federal Energy Regulatory Commission;

viii. Grassy swales, roadside ditches, drainage ditches created to convey storm water, tile drainage systems and stream culverts are exempt from the vegetative buffer requirements.

ix. Agricultural and forest management uses not in conflict with the purposes of the vegetative buffer and that will ensure the intended function of the vegetative buffer.

x. Agricultural irrigation facilities.

d. There shall be no structures designed for human occupancy, sewage disposal systems,

or accessory structures within the vegetative buffer, except as permitted under these and other applicable Regulations.

e. No proposed road or other crossing shall be approved for construction if located in the vegetative buffer unless there is no other possible route to access that portion of the subdivision. The requirements for placement and construction of roads through the vegetative buffer may be waived with the consent of the Commission:

i. The side casting of road material into a perennial or intermittent stream during road construction or maintenance is prohibited. The following additional standards shall apply to crossings in these areas:

A. Effective erosion and sedimentation control practices shall be conducted during all clearing, construction or reconstruction operations;

B. Road fill material shall not be deposited in such a location or manner that adverse impacts will result to the vegetative buffer;

ii. All crossings through the vegetative buffer must occur at an approximate perpendicular angle and in such a manner as to mitigate site disturbance.

A. In the event it is necessary to route a road through the vegetative buffer, open areas should be utilized in order to minimize impact on vegetated areas;

B. Roads should not be constructed in areas where soils have a high susceptibility to erosion which would have a high likelihood of resulting in sedimentation within the vegetative buffer during and after construction;

C. Roads should not intrude into areas adjacent to open exposures of water and should avoid scenic intrusion by building below ridge crests and high points.

f. The Commission may require the proposed vegetative buffer and Riparian Resource Management Plan to be modified in order to carry out the purposes of this section. The approved vegetative buffer shall be shown on the final plat and the approved Riparian Resource Management Plan shall be filed along with the final plat or in another document. Flathead County may become a party to the Plan and enforce its provisions.

g. The Commission may grant a variance to this Section under Sections 4.0.11 and 4.0.12 for a variance to Stream Riparian Protection Requirements if the subdivider demonstrates an unnecessary hardship would result of circumstances unique to the parcel, including but not limited to size, shape, topography or location:

i. A variance request must include information necessary to evaluate the variance request, including plans, maps, specifications, topography and floodplain boundaries, as appropriate;

ii. The variance must be supported by a finding(s) that:

A. The hardship is not created through the actions of the subdivider;

B. The variance would not:

1. Adversely impact water quality;

2. Increase stream bank erosion;

3. Increase flood heights or the velocity of flood water;

4. Impair the function of the riparian area;

C. The variance is as small as reasonably possible to accommodate the proposed use while preserving the intent of the stream riparian protection provisions.

iii. The conditions of each variance request to this section will be considered unique and not applicable to adjoining or other properties.

4.7.12 Groundwater Provisions

Surface areas where monitored groundwater elevation is four feet or less to the surface, generally from March 15 through June 30, during average precipitation years, shall not be subdivided for residential, commercial, or industrial purposes, unless municipal or public sewer service is available, or a properly designed waste water treatment system and engineered advanced treatment system is constructed and building plans are provided by a qualified professional that indicate building construction will not be impacted by high ground water.

a. Land shall be deemed subject to high groundwater and unsuitable for wastewater treatment and construction based on the following:

i. Areas historically inundated with high ground water;

ii. Soil types as determined from test pit data which do not provide adequate percolation and absorption;

iii. Other relevant information indicating areas of seasonal or periodic high ground water levels.

b. The subdivider shall provide groundwater elevation monitoring data as required by Department of Environmental Quality and Flathead County Health Department with the preliminary plat application;

c. Land deemed to be subject to groundwater less than four (4) feet from the surface shall be identified in a written analysis by a licensed professional engineer of the project area's likelihood to experience subsurface flooding that would affect subdivision improvements.

4.7.13 Drainage Facilities

The subdivider shall be responsible for installing temporary and/or permanent erosion and sedimentation control facilities to control surface runoff. No silt laden or contaminated water or excess shall flow to downstream areas or lakes. These controls shall be in accordance with the Flathead County Lake and Lakeshore Protection Regulations and the Montana Department of Environmental Quality regulations:

a. A conceptual "storm water management plan" including map and text which identifies measures and locations to minimize the potential for surface water pollution is required with the preliminary application submittal. The plan shall include temporary (best management practices) and permanent storm water pollution control measures following the format of the Montana Department of Environmental Quality and be submitted at the time of preliminary plat application;

b. All drainage systems and facilities required for any surface runoff created by the subdivision or exterior access road system from the subdivision shall be designed to meet requirements of the Montana Department of Environmental Quality, road and bridge department and certified by a licensed engineer;

c. Drainage structures shall be designed so there is no net increase in the rate of surface water runoff from a site after development than what naturally occurred before development. This may require on-site storm water detention or retention facilities;

d. The subdivider shall provide suitable drainage facilities for any surface runoff affecting the subdivision. These facilities shall be located in road easements or in perpetual easements of appropriate width and are subject to approval by the Commission;

e. Storm water drainage systems shall not discharge into any sanitary sewer facility;

f. Any runoff leaving the proposed subdivision discharges into a stream or lake shall meet all Flathead County Lake and Lakeshore Protection Regulations and comply with Montana Department of Environmental Quality standards;

g. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with a plan approved the Flathead County Weed Board.

4.7.14 Dust Control and Air Pollution

The Commission shall require dust mitigation measures. Effective control of particulate matter (dust) on activities that are part of the subdivision process, including off-site roadways and other required on-site construction, is in the county's interest and promotes public health and safety. Any subdivider's activity that disturbs the top layer of soil shall provide dust control applications that may include, but are not limited to, daily watering of unpaved roadways during actual construction, dust control applications, and soil binding agents on un-paved roadways and other site disturbance areas. Subdivision construction operations which leave mud and soil carryout onto paved roadways creating re-entrained dust and/or hazardous driving conditions shall immediately remove the carryout material from the roadway surface by washing or sweeping:

a. A "dust control plan" which identifies measures to minimize fugitive dust during site construction and development activities is required with the preliminary application submittal. The dust control plan shall be submitted with the preliminary plat application and approved by the Planning and Zoning Office;

b. The dust control plan shall be implemented prior to soil disturbing construction activities;

c. The "dust control plan" shall also include proposed post-construction dust mitigation measures to control dust on County roads;

d. See also Roadway Improvements (4.7.17 (c)(d) and (f)).

4.7.15 Access

Each subdivision shall have legal and physical access via a primary access road, and all subdivision lots shall have legal and physical access. Secondary emergency access roads shall not be used to provide the primary access to a subdivision or lot:

a. The Commission may require a second primary access road or multiple primary access road(s) to a subdivision when the proposed subdivision generates more than 200 vehicle trips per day;

b. Secondary emergency access roads shall not function now or in the future as the primary access for an existing or proposed subdivision unless upgraded to current arterial, collector, or local road standards;

c. Proposed subdivisions accessed by a U.S. Forest Service or Montana Department of Natural Resources and Conservation road or easement shall have written authorization from the U.S. Forest Service or Montana Department of Natural Resources and Conservation, respectively, for use to the subdivision at the time of final plat. This includes both primary and secondary emergency road access;

d. When a new subdivision adjoins un-subdivided land (lands or parcels not created by a filed subdivision plat) the subdivider may be required to provide rights-of-way or easements from proposed subdivision road easement to the adjacent un-subdivided property. Subsequent subdivisions using an existing subdivision road system as a primary access shall be required to pay a pro-rata share of road maintenance for the shared portion of the existing subdivision roads, and a latecomer's agreement, if applicable:

    i. This requirement may be waived by the Commission when the road department finds that topography or other physical conditions would make it impractical to provide access to adjacent un-subdivided property;

    ii. This requirement may be waived by the Commission if the adjoining property does not require such access and is subject to a conservation easement, deed restriction or other legally restrictive covenant as confirmed by the County Attorney's Office.

e. Subdivision roads shall be designated as public access easements and shall be shown and described as such on the face of the final plat. All subdivision roads shall be maintained by the property owners within the subdivision, unless accepted by the Commission for maintenance. The Commission accepts no responsibility for development or maintenance of roads unless accepted by the Commission for maintenance. To ensure a proper maintenance mechanism is in place, an approved Road Users' Agreement (See Appendix K - Road User's Agreement) or a Property Owners' Association as part of Conditions, Covenants and Restrictions (CC&R) shall be formed which shall require each property owner to bear their pro-rata share for road maintenance within the subdivision and for any integral access roads lying outside the subdivision. Individual lots accessing internal local roads within the subdivision are granted encroachment permits upon the filing of the final plat. The road users agreement shall include a provision for a resubdivision of an existing lot within the subdivision. The Road Users' Agreement shall be reviewed and approved by the Commission and recorded with the Clerk and Recorders Office as a separate document prior to or at the same time of final plat.

4.7.16 Road Design and Construction Standards

All roadway improvements including approaches, pavement, curbs, gutters, traffic control devices, and drainage systems shall be designed and constructed in accordance with all applicable provisions of the Flathead County Road and Bridge Departments' "Minimum Standards for Design and Construction Manual" and these Regulations. Construction and "As Built" plans and drawings for all roads shall be designed and certified by a licensed professional engineer and provided to the Road and Bridge department prior to final plat application, unless a Subdivision Improvement Agreement is executed:

a. Residential driveways shall not have direct access to arterial roads, collector roads or highways, unless approved by the road and bridge department or Montana Department of Transportation. The road and bridge department shall not approve an approach permit to an arterial or collector road if the parcel or lot abuts a local road;

b. Collector roads shall be designed to afford easy access to arterial or other collector roads or to provide connectivity to adjoining areas;

c. When a subdivision abuts a controlled access highway, a frontage road or an alternative subdivision road design may be required. The off-set distance of frontage roads from the highway shall be determined based upon site design, connectivity to adjacent properties and comments from the road and bridge department and Montana Department of Transportation;

d. Dead-end roads are required to terminate with a cul-de-sac or hammerhead turn-around. The road and bridge department or local fire chief may approve alternative emergency turnaround designs. Where future road extension is proposed an approved temporary turnaround shall be provided;

e. Half streets or roads are not permitted, except where essential to the development of the subdivision and where the Commission is assured that it will be possible to require the dedication of the other half of the roadway when an adjoining property is subdivided;

f. The alignment of all roads must provide adequate sight distances;

g. Roadway intersections shall meet the following requirements:

i. Two roads meeting a third road from opposite sides shall meet the same point. Road centerlines shall be offset at least 125 feet for local roadways and at least 300 feet for arterials or collector roads;

ii. No more than two roads shall intersect at one point;

iii. Intersections of local roads with arterials shall be kept to a minimum;

iv. All roads shall be named in accordance with County Resolution #1626. Names of new roads aligned with existing roads shall be the same as those of existing roads. Proposed road names shall not duplicate or cause confusion with existing road names and shall be approved by the Flathead County Address Coordinator;

v. Intersection locations on collector and arterial roads shall comply with the approved Growth Policy or any other applicable road or highway plan adopted by the Commission.

4.7.17 Roadway Improvements

All road improvements including approaches, gravel, pavement, curbs, gutters, sidewalks, traffic control devices and drainage systems shall be constructed in accordance with the specifications and standards prescribed in the Flathead County Road and Bridge Departments' "Minimum Standards for Design and Construction Manual":

a. All internal subdivision roads shall be paved, with the exception of secondary emergency roads. Internal roads within 'recreational vehicle parks' may or may not be required to be paved, dependent upon whether or not the preliminary plat review identifies potential adverse impacts from dust can be adequately mitigated through the imposition of conditions aimed at minimizing or eliminating impacts from dust;

b. Average Daily Trips (ADT) is defined as the number of vehicle trips generated per day from the subdivision;

c. Average Daily Trips (ADT) shall be calculated based on 10 vehicle trips per day per lot for single family residential units. Multiple family residential units, commercial and other land use development ADT shall be based on the figures from the most current volume of the Institute of Traffic Engineers (ITE) Trip Generation Manual. Combined ADT is calculated by adding the proposed ADT generated by the subdivision to the existing daily trips on the road (derived from the most current available traffic counts);

d. All subdividers shall utilize "Reasonable Precautions" techniques to prevent the emission and/or the airborne transport of dust and dirt while constructing roads and other improvements. Reasonable precautions include, but not limited to, the application of

water or other liquid, the use of a chemical-based dust suppressant, paving or other such measures.

e. Subdivisions which will contribute 50 or less average vehicle trips (ADT) per day to the County road system are exempt from off-site roadway improvement requirements if the primary access is paved.

f. For a subdivision which will contribute 50 or less average vehicle trips (ADT) per day to the County road system and where the primary access to the subdivision is an existing unpaved road (either public or private), the Commission shall require the subdivider to improve and pave a portion of the road.

i. The distance of required paving and the extent of required improvements shall be determined per the methodology of the 'standard improvement formula'(see section i below); or

ii. The distance of required paving and the extent of required improvements shall maintain the identified existing Level of Service (LOS) as determined by a Traffic Impact Study (TIS) conforming to the requirements of section j below. The TIS shall be completed by a licensed professional engineer and submitted with the preliminary plat application. The subdivider shall be required to make transportation improvements recommended in the Traffic Impact Study to maintain the identified existing Level of Service (LOS) and which are directly attributable to the proposed subdivision.

g. For a subdivision which will contribute between 51 and 399 average vehicle trips (ADT) per day to the County road system and where the primary access to the subdivision is an existing unpaved road (either public or private), the Commission shall require the subdivider to improve and pave a portion of the road.

i. The distance of required paving and the extent of required improvements shall be determined per the methodology of the 'standard improvement formula'(see section i below); or

ii. The distance of required paving and the extent of required improvements shall maintain the identified existing Level of Service (LOS) as determined by a Traffic Impact Study (TIS) conforming to the requirements of section j below. The TIS shall be completed by a licensed professional engineer and submitted with the preliminary plat application. The subdivider shall be required to make transportation improvements recommended in the Traffic Impact Study to maintain the identified existing Level of Service (LOS) and which are directly attributable to the proposed subdivision.

h. Subdivisions which will contribute 400 or more average vehicle trips (ADT) per day to the County road system shall have a Traffic Impact Study (TIS) conforming to the requirements of section j below. The TIS shall be completed by a licensed professional engineer and submitted with the preliminary plat application. The subdivider shall be required to make

transportation improvements recommended in the Traffic Impact Study to maintain the identified existing Level of Service (LOS) and which are directly attributable to the proposed subdivision.

i. The 'standard improvement formula' addresses the sub-standard and/or unpaved portion of off-site primary access road(s) (either public or private) for a subdivision, and is intended to fairly determine the percent of the primary access length which is required to be improved and paved based on projected impacts directly attributable to the subdivision.

i. The sub-standard and/or unpaved segment of off-site primary access road(s) to which the 'standard improvement formula' is applied shall include the road(s) which provide the most direct and obvious travel route between the subdivision and the nearest paved arterial or collector road(s) providing the highest order access to local primary services (i.e. cities, services, convenience destinations). Most recently acquired traffic count(s) which reasonably represent current existing vehicle trips for the identified primary access(es) to the proposed subdivision shall be used for computing the 'standard improvement formula'.

ii. The 'standard improvement formula' shall be based on the ratio of the projected subdivision ADT (P) divided by the sum of the projected subdivision ADT (P) and the existing traffic count (E). The quotient of the ratio shall be multiplied by 100 in order to determine the percentage of the unpaved length of the primary access road(s) required to be improved and paved (I). The 'standard improvement formula' is graphically represented as follows:

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

Where:
P = Projected ADT
E = Existing Traffic Count
I = Percent of the primary access length to be improved

j. The Traffic Impact Study for determining projected impacts directly attributable to the subdivision and the extent of recommended off-site road improvements and paving shall indicate the expected increase in traffic movements on the existing roadways and adjacent major intersections serving the development, and shall determine the existing conditions on roadways and major intersections likely to be impacted by the proposed subdivision. The study should present an objective technical analysis in a straight forward and logical manner that leads the reviewer through the analytical process to the resulting conclusions and recommendations. Sufficient detail must be provided so the reviewer is able to follow the path and methodology of the study. All assumptions shall be documented, published sources referenced as necessary, and stamped by a licensed professional engineer. At a minimum the study should include all of the following:

i. The study's purpose and goals;

ii. A description of the site and the study area;

iii. A description of the existing conditions in the area of the site (existing roadway geometrics, traffic counts, crash analysis, existing intersection Level of Service (LOS), existing roadway capacity analysis);

iv. The anticipated nearby land developments and transportation improvements when known;

v. Analysis and discussion of trip generation, distribution, and modal splits;

vi. The traffic assignment resulting from the proposed subdivision;

vii. The projection and assignment of future traffic volumes;

viii. An assessment of the traffic impacts attributable to the development. If the level of service (LOS) on the roadways and intersections will be impacted improvements shall be required to be made in order to maintain the identified existing level of service. If the level of service (LOS) on the roadways and intersections is not impacted and the identified existing level of service is maintained, then no improvements shall be required;

ix. Recommendations for off-site improvements to the primary access and related transportation facilities and infrastructure which are directly attributable to the subdivision.

4.7.18 Alleys

Alleys may be required or allowed by the Commission. If required or allowed, alleys shall contain a minimum 16-foot driving surface, a minimum 20 foot easement, and be open at both ends. Alleys shall be available for public use but privately maintained.

4.7.19 Walkways and Pedestrian/Bicycle Paths and Easements

Easements may be required in order to provide pedestrian connectivity and public access to service centers and common public facilities such as schools, parks, playgrounds, streams and lakes, or when necessary to provide for pedestrian safety.

a. Walkway (sidewalk) easements at least 10 feet wide may be required adjacent to public roads when such roads abut subdivision boundaries and the subdivision is located in close proximity to service centers and/or common public facilities. The minimum width of the walkway shall be four feet if a boulevard separates the walkway from the road and five feet if the walkway abuts the road;

b. Easements at least 15 feet wide for pedestrian/bicycle paths shall be required adjacent to public arterial and collector roads where such roads abut the subdivision boundaries when the specific location is identified as a proposed arterial or connector trail route in the

Flathead County Trails Plan. The minimum paved width for a pedestrian/ bicycle path shall be eight feet;

c. All walkway and pedestrian/bicycle path improvements shall be constructed to the most current American Association of State Highway Transportation Officials (AASHTO) or Americans With Disabilities Act (ADA) standards, and maintained by a Property Owners Association.

4.7.20 Water Supply Systems

All water supply systems required by the Commission shall meet the minimum standards of Flathead County, the Flathead City-County Health Department, Montana Department of Environmental Quality, and the Montana Department of Natural Resources and Conservation:

a. Where a proposed subdivision is not required to be connected to a public or multi-user water system or provide a public water system and the growth policy or neighborhood plan has indicated the area within five years will be connected to a public system, the water system must be designed to be compatible with and designed to the same standards as the public water system to allow for future extension of and connection to the public water system;

b. The Commission shall require proof that an applicable water right 'provisional permit' has been issued by the Montana Department of Natural Resources and Conservation (DNRC) for a multi-user water system at the time of final plat review.

c. The Commission may require multi-user water systems in areas where availability of ground water is limited;

d. The subdivider shall present evidence that the water supply is available in quantity and quality to serve the subdivision and shall provide documentation at the time of preliminary plat application submittal pursuant to 76-3-622, MCA.

e. For subdivisions with a shared, multiple user, or public water supply system the subdivider shall provide a statement of whether or not the system will be a public utility as defined in 69-3-101 and subject to the jurisdiction of the public service commission or exempt from jurisdiction of the public service commission, and if exempt, an explanation of the exemption pursuant to 76-3-622, MCA.

4.7.21 Sewage Treatment

All sewage treatment systems required by the Commission shall meet the minimum standards of Flathead County, the Flathead City-County Health Department, and the Montana Department of Environmental Quality:

a. For subdivisions that will create one or more parcels containing less than 20 acres, the subdivision must have approval by the Montana Department of Environmental Quality and the Flathead City-County Health Department, under the Sanitation Act, Title 76, Chapter 4, MCA, before the Commission can approve the final plat;

b. For those lots which range in size from 20 acres to 160 acres and on-site sewer and water facilities is not sought prior to final plat review, a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for individual sewer or water facilities or for stormwater drainage;

c. Where the subdivision is within the service area of a public or community sewer system, the subdivider shall install complete sanitary sewer system facilities in accordance with the City or appropriate Sewer District and the Department of Environmental Quality requirements prior to final plat approval;

d. The Commission may require advanced wastewater treatment systems in areas of high groundwater and other environmentally constrained locations;

e. The Commission may require sewer lines to be installed in anticipation of an expansion of a municipal sewer system prior to final plat approval.

f. For subdivisions with a shared, multiple user, or public wastewater treatment system the subdivider shall provide a statement of whether or not the system will be a public utility as defined in 69-3-101 and subject to the jurisdiction of the public service commission or exempt from jurisdiction of the public service commission, and if exempt, an explanation of the exemption pursuant to 76-3-622, MCA.

4.7.22 Solid Waste

The subdivider shall assure the provisions for collection and disposal of solid waste meet the minimum requirements of Flathead County and the Montana Department of Environmental Quality:

a. The method of solid waste collection and disposal will be determined between the subdivider and private waste hauler and shall specify whether the collection and disposal of the solid waste generated by future occupants within the subdivision will either be centralized collection and disposal or individual curb side pick up by lot;

b. If solid waste pick up and disposal is not curb-side pick-up, the subdivider shall provide an off street area within the subdivision for solid waste collection or be waived in writing by the solid waste pick-up provider. The collection area will be screened from general public view and conveniently accessible to collection vehicles;

c. All subdivisions may be required to incorporate wildlife (bear) proof trash containers.

4.7.23 Utilities

Easements shall be provided for all utilities. All new utilities shall be placed underground. Except for sewer and water lines underground utilities, if placed in the road right-of-way or easement, shall be located between the roadway and the right-of-way or easement line to simplify location and repair of lines. These underground facilities shall be installed before the road is surfaced to eliminate so far as practicable the necessity for disturbing such surfacing for the connection of individual services:

a. Utility lines shall be designed by utility firms in cooperation with the subdivider, subject to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities;

b. Utility easements shall be located along side and rear lot lines, or where requested by the utility service provider.

c. Utility easements shall be 10 feet wide unless otherwise specified by a utility company or the Commission;

d. Where an off-site utility extension is required and proposed to be located in an existing dedicated easement, a notice of utility occupancy must be obtained from the appropriate public agency administering the easement, if applicable.

4.7.24 Parkland Dedication

The subdivider shall either dedicate a cash donation or land for parkland dedication. The governing body will administer funds dedicated to the public in accordance with Section 76-3-621, MCA:

a. Parkland dedication shall not be required for:

i. Subdivision lots created greater than five gross acres in size;

ii. Non-residential subdivision lots;

iii. Subdivisions in which parcels of land will not be created, other than subdivisions that will provide permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums;

iv. Subdivisions which create only one additional lot;

v. First Minor single family residential subdivisions.

b. The Commission may require parkland dedication for a first minor subdivision if the preliminary plat indicates development of condominiums or other multi-family housing, the first minor subdivision is within the boundaries of a zoned area which permits condominiums or other multi-family housing, or any of the lots are located within the boundaries of a municipality.

c. The Commission, Planning Board or Park Board, in consultation with the subdivider, may determine suitable locations for parks and recreational purposes, giving due weight and consideration to the expressed preference of the subdivider. The Commission may determine whether the parkland dedication must be a land donation, cash donation, or a combination of both. When a combination of land and cash donation is required, the cash donation may not exceed the proportional amount covered by the parkland donation. The dedicated parkland for parks and recreational use may be inside or outside the boundaries of the proposed subdivision;

For the purposes of this park dedication requirement "cash donation" means the fair market value of the un-subdivided, unimproved land, and "dwelling unit" means a residential structure in which a person or persons reside;

d. The Commission shall waive the parkland dedication requirement if it determines that one of the following applies:

i. The proposed subdivision provides for a planned unit development or other development with land permanently set aside for parkland sufficient to meet the needs of the residents of the development and equals or exceeds the area of the required parkland dedication pursuant to Subsection (e);

ii. The subdivider proposes to dedicate parkland, within the subdivision and maintained by the home owners association in an amount equal to or exceeding the area required pursuant to Subsection (e);

iii. The proposed subdivision provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values and will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area of the required parkland dedication pursuant to Subsection (e);

iv. The subdivider provides parkland outside the subdivision to be set aside sufficient to meet the needs of the residents of the development and the area of the parkland and any improvements set aside equals or exceeds the area of dedication required under Subsection (e);

v. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of the above Subsections, is reduced by an amount equal to or exceeding the area of the parkland dedication required under Subsection (e).

e. Parkland cash or land donation dedication requirements shall be based on the following formula:

i. 11% of the combined gross area of the land proposed to be subdivided into parcels of 1/2 acre and smaller;

ii 7.5% of the combined gross area of the land proposed to be subdivided into parcels larger than 1/2 acre and not larger than one acre;

iii. 5% of the combined gross area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres;

iv. 2.5% of the combined gross area of the land proposed to be subdivided into parcels larger than three acres and not larger than five acres;

v. For residential condominium or multi-family subdivisions in zoned areas, the subdivider shall dedicate to the County a cash or land dedication equal to 0.03 acres per dwelling unit.

f. The Commission may accept a cash donation in lieu of the dedication of parkland that would have been dedicated;

g. It shall be the responsibility of the subdivider to provide satisfactory evidence of the parkland fair market value of the unimproved land. The subdivider shall provide a current appraisal from a Certified General Appraiser (CGA), dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation. The appraisal fee shall be the responsibility of the subdivider. The Planning and Zoning Office shall determine the actual parkland donation based on the baseline appraisal at that time;

h. Land dedicated for public parks or recreational purposes shall be useable land, shall be of appropriate shape and size and shall have convenient access by public roads meeting all appropriate County standards and specifications. Proposed public parkland with any of the following limitations may not be considered appropriate for park purposes:

i. Where more than five percent of the site has an average cross slope greater than 25 percent;

ii. Where more than 50 percent of site has an averages cross slope greater than two to six percent;

iii. Where more than one percent of the park site is swampy or marshy;

iv. Where the site is less than five acres in size, except in cases of providing public access to water based recreation;

v. Where the site is an undeveloped open space area within a subdivision which does not have appropriate size, dimensions, or access to serve as a park;

vi. Where proposed sites have been utilized in the past for industrial or other uses which could have hazardous waste implications.

i. Proposed parkland with any of the following assets shall be considered highly desirable, regardless of size:

i. Any area which is along a river, lake or provides public access to a water body;

ii. Any area which is connected to and/or provides linkage to a trail system.

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

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

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

k. The Commission may not use more than 50 percent of the dedicated money for park maintenance;

l. Subject to approval by the Commission and acceptance by local school district trustees, a subdivider may dedicate a land donation provided in Subsection (e) to a school district;

m. No home-owners' park, accepted by the Commission to satisfy parkland requirements, may be sold by the home owner's association without Commission approval. If approved, the home owners association must provide cash-in-lieu fees to the County pursuant to Subsection (g) above based on the present value of the un-subdivided land.

4.7.25 Weed Control

A Weed Control Plan shall be developed and implemented for every subdivision. The Weed Control Plan shall be approved by the County Weed Supervisor or designee and implemented before the Commission will approve the final subdivision plat. The County Weed Supervisor or designee may inspect the subdivision and approve the implementation of the plan. The Weed Control Board may charge an initial fee for plan review and a per lot inspection fee.

4.7.26 Fire Protection

All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire, to allow for safe and adequate vehicular escape from fire by residents, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety:

a. Subdivisions with a public or community water system that are within the five year service area of a city or within one mile from the corporate limits of a city, if no such service area has been established, shall be designed in accordance with the adopted standards of that city and the water distribution system shall be designed for fire suppression flow capabilities as required by that city;

b. Reasonable fire protection measures as recommended by the applicable fire protection authority and required by the Commission shall be incorporated into the subdivision;

c. A note on the final plat shall be included which states: "All road names shall be assigned by the Flathead County Address Coordinator. House numbers shall be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number";

d. The Commission may impose additional fire protection requirements which it may deem necessary based on the consideration of size, location, density and nature of the subdivision;

e. Where a water supply is proposed, the preliminary plat application shall include a maintenance plan. Legal easements for access to water supply systems shall be shown on the face of the final plat.

4.7.27 Wildland Urban Interface

Subdivisions in the Wildland Urban Interface (WUI) shall be planned, designed, constructed and maintained so as to minimize the risk of fire, to allow for adequate vehicular escape from fire by residents, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety. All subdivisions in the WUI shall be subject to the requirements of Section 4.7.26 in addition to this section.

a. General Requirements

i. The subdivider shall incorporate fire safety measures into the design and improvements of subdivisions in the WUI. Such measures may include road design, an adequate water supply, vegetation thinning, designated building envelopes to direct construction to areas of lower fire risk, no-build zones in areas of higher fire risk, road maintenance agreements that include periodic vegetation thinning along roadways, water supply maintenance agreements and other practices to protect lives, property and fire fighting resources.

ii. The following statements shall be placed on the Final Plat, CC&R's, or other documents accompanying the Final Plat when the subdivision is located in the WUI:

A. This subdivision is located in the Wildland Urban Interface area where wildfires can and do occur.

B. Only Class A and Class B fire-rated roofing materials are allowed.

C. Firewise defensible space standards shall be incorporated around all primary structures and improvements.

D. All road names are assigned by the Flathead County Address Coordinator. House numbers shall be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in height per number.

iii. The Commission reserves the right to deny any subdivision application or require further mitigation in the WUI to provide for public health, safety and protect against property loss.

b. Fire Prevention, Control and Fuels Reduction Plan

i. A Fire Prevention, Control and Fuels Reduction Plan is required to be submitted along with the preliminary plat application for all subdivisions in the WUI. Appendix L contains a sample plan outline. The Fire Prevention, Control and Fuels Reduction Plan shall include the following:

A. An analysis of the wildfire hazards on and in the vicinity of the property, as influenced by existing vegetation, fuel types, topography, fire history, land uses and other factors in the vicinity of the subdivision;

B. A map showing the areas that are to be cleared for building sites and/or thinned of wildland vegetation to reduce fuel loading, provide for safe ingress and egress and/or to provide fire breaks, open, maintained parkland and/or areas that may provide one or more safe zone;

C. Identification of roads, driveways, secondary emergency access routes and drainage crossings that may be used for fire suppression activities along with proposed specifications (width, grade, construction standards, etc.);

D. A discussion of the existing and proposed resources available to fight fire within the subdivision including water supply, equipment, facilities and personnel. This discussion must evaluate the potential impacts of the proposed subdivision on the resources of the applicable fire protection authority, and discuss measures proposed by the subdivider to mitigate potential impacts; and

E. Information sources used in the preparation of the plan and the preparer's qualifications.

ii. Review of the Fire Prevention, Control and Fuels Reduction Plan

A. The Planning and Zoning Office shall forward a copy of the Fire Prevention, Control and Fuels Reduction Plan to the applicable fire protection authority, for evaluation and comment within the permitted time periods pursuant to these regulations.

B. After considering the Fire Prevention, Control and Fuels Reduction Plan, the comments of the fire protection authority and other agencies, as well as the size, location, density and other factors regarding the subdivision, the Commission may impose additional fire protection requirements in a manner proportionate to the subdivision's anticipated impacts to public health and safety.

iii. Implementation of Fire Prevention, Control and Fuels Reduction Plan

A. Prior to final plat filing the subdivider shall provide written correspondence from the local fire protection authority, Flathead County Office of Emergency Services, or other fire management agency, as applicable, verifying the approved Fire Prevention, Control and Fuels Reduction Plan has been implemented.

c. Multiple Accesses

i. Unless the subdivider installs an adequate water supply for fire suppression, the Commission shall require more than one access when the following conditions are present:

A. When the subdivision contains 10 or more lots or spaces and the road providing primary access to the subdivision is greater than one mile in length from the WUI boundary and only provides one reasonable direction for travelling to an existing population center.

B. When the subdivision contains 9 or fewer lots or spaces and the road providing primary access to the subdivision is greater than two miles in length from the WUI boundary and only provides one reasonable means for travelling to an existing population center.

For the purposes of this subsection, an existing population center means an incorporated or unincorporated city, town or Census Designated Place as identified by the U.S. Census Bureau.

C. Subdivision roads, including looped roads, which connect to a primary access road that terminates, shall not be considered to meet the second or multiple access road requirements of this sub-section.

ii. The Commission may require multiple accesses or fire safety zones when deemed necessary to provide for public health, safety and protect against property loss.

d. Water Supply for Fire Suppression

When deemed necessary by the Commission, the subdivider shall provide a water system that may be used for fire suppression within the subdivision as follows:

i. The water system may be located within the subdivision or within 5 road miles of the subdivision, as deemed appropriate by Commission in consultation with the fire protection authority.

ii. The water system shall have a minimum flow rate deemed appropriate by the Commission in consultation with the fire protection authority.

iii. The water system shall be connected to a community or public water supply and hydrant system meeting the minimum requirements of the fire protection authority and the Montana Department of Environmental Quality; or

Shall consist of one or more cistern, pond or reservoir with pump, attachments, well, float and alarm as necessary, placed at an appropriate location(s), which has:

A. A minimum capacity of 2,500 gallons for 1 dwelling unit.

B. A minimum capacity of 2,000 gallons per unit for 2 to 5 dwelling units.

C. A minimum capacity of 10,000 gallons plus 500 gallons for each unit over 5 dwelling units.

iv. Where a water supply is proposed, the preliminary plat application shall include a maintenance plan. Legal easements for access to water supply systems shall be shown on the face of the final plat.

v. In cases where a local fire protection authority is in greater need of equipment than water supply, or in the estimation of the fire protection authority, a combination of equipment and water supply would be most effective to serve the future residents of the subdivision, the governing body may require the subdivider to donate a sum less than or equal to the cost of providing the entire water supply system based on an estimate submitted by a licensed professional engineer or fire protection consultant. When a donation is accepted, the fire protection authority shall purchase the stated or similar equipment within 5 years of final plat filing or shall refund the donation to the subdivider upon written request.

4.7.28 Mail Box Facilities

A common mail delivery site shall be provided with the design and location to be approved by the local post master of the U.S. Postal Service. The roadside face of such facility shall be offset from the edge of the traveled roadway a minimum of eight feet and a minimum a pull off area for at least one vehicle shall be provided.

4.7.29 School Bus Stops

The Commission shall, at the request of the school district, require that school bus stops be incorporated into the preliminary plat design to accommodate school children.

4.8 Divisions of Land Exempt from Subdivision Review

4.8.1 Purpose

The State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Montana Subdivision and Platting Act (Title 76, Chapter 3, M.C.A). The Commission adopted Resolution 509 as Criteria for Local Determination of Evasion of the Subdivision and Platting Act:

a. The exemptions from subdivision review under Sections 76-3-201 through 76-3-207, M.C.A., are intended to relieve a landowner from the requirements of local review when the division of land either creates no additional building sites (agricultural exemption or boundary line adjustment) or creates so few building sites that only minimal impact will likely result. The purpose of the exemptions is not to provide a means of creating numerous building sites without subdivision review, but rather to deal with the exceptional circumstances when plenary subdivision review is unnecessary;

b. The proper use of an exemption will not compromise or conflict with the purpose of the Subdivision and Platting act which is to:

   i. To promote the public health, safety, and general welfare by regulating the subdivision of land;

   ii. To prevent overcrowding of land;

   iii. To lessen congestion in the streets and highways;

   iv. To provide for adequate light, air, water supply, sewage disposal, park and recreational areas, ingress and egress, and other public requirements;

   v. To require development in harmony with the natural environment;

   vi. To promote preservation of open space;

   vii. To promote cluster development approaches which minimize costs to local citizens;

   viii. To promote effective and efficient provision of public services;

   ix. To protect the rights of property owners.

c. The likelihood that land development problems will occur greatly increases when building sites are created without public review and are further divided without review;

d. The Commission has the authority and duty to evaluate and determine from all the circumstances whether the proposed division of land is based on a purpose to evade subdivision review requirements;

e. It is in the best interest of Flathead County to establish procedures, criteria and requirements for the review of certificates of survey claiming an exemption to the Act.

4.8.2 Procedure and General Requirements

Any person seeking exemption from the requirements of the regulations and from the requirements of the Act, shall furnish evidence of entitlement to the claimed exemption. The landowner shall sign a statement provided by the County and intended to provide all the information required by this resolution. The statement shall be filed with the Certificate of Survey, unless otherwise not required, creating the parcels subject to exemption:

a. For those parcels for which an exemption from subdivision review is claimed, a paper copy of the Certificate of Survey, in final form, and the required statement shall be submitted to the Clerk and Recorder. The Clerk and Recorder shall have five working days to review the submitted documents. The Clerk and Recorder shall review the submitted documents with representatives of the Planning and Zoning Office, Flathead City-County Health Department and the County Attorney's Office;

b. If the Clerk and Recorder determines that the claimed exemption may constitute an evasion of the Act under these Regulations, the Clerk and Recorder shall notify the landowner or surveyor within five days stating in writing the reason leading to such a determination. Thereafter, the landowner may withdraw the instrument or may request in writing within 30 days of the date of written notification to the landowner by the Clerk and Recorder that he/she be given a hearing before the Commission. The Planning and Zoning Office shall receive a copy of the notification to the landowner;

c. If the Clerk and Recorder does not make such determination and the instrument otherwise complies with all laws, the instrument is eligible for recording;

d. Upon receipt of the written request for hearing, the Commission shall set a time and place for the hearing and inform the landowner thereof. The Planning and Zoning Office shall provide an evaluation and recommendation on the subject instrument. At the hearing, the landowner may present any additional evidence in support of the claim of exemption. The Commission shall approve or disapprove the proposed exemption within 30 days of the receipt of the request for hearing. The Commission shall provide written notification of its decision to the landowner or surveyor and the Clerk and Recorder. If the proposed exemption is approved, the Commission shall notify the Clerk and Recorder that the instrument is deemed not to be an evasion of the Act. If the proposed exemption is disapproved, the Commission shall instruct the Clerk and Recorder not to file the exemption instrument.

4.8.3 Criteria for Review of Exemption

The question of whether an exemption is claimed "for the purpose of evading" review under the Act shall be decided by the Commission taking into consideration all of the surrounding circumstances which may include but are not limited to the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transactions are completed and any pattern of development by use of exempt

land divisions which will result in the equivalent of a subdivision without local government review:

a. Pattern of development: The scope of review of a pattern of development shall apply to the creation of a division of land or multiple divisions of land by use of or proposed use of an exemption(s):

i. Original Tract Less Than 20 Acres: It is presumed that a pattern of development occurs whenever more than three parcels (i.e., two exempt parcels and a remaining parcel) have been divided from the original tract of less than 20 acres regardless of ownership by use of exemptions of the Act;

ii. Original Tract 20 Acres Or More: It is presumed that a pattern of development occurs whenever more than four parcels under 20 acres (i.e., three exempt parcels and a remaining parcel) have been divided from the original tract of 20 acres or more, regardless of ownership, by use of exemptions of the Act;

iii. A pattern of development may be evidenced by the use of exemption(s) contiguous to platted lots where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.

b. Exemption as a gift or sale to a member of the immediate family: The proper use of the exemption as a single gift or sale in each county to each member of the immediate family is to convey one parcel of land to a member of the landowner's immediate family for the benefit of the grantee:

i. A deed transferring the property to the grantee must be recorded along with the recording of the Certificate of Survey;

ii. A proposed division of land as a family transfer may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:

A. The proposed new parcel would result in a pattern of development;

B. The division is made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a "straw person";

C. The transfer is the second or subsequent family transfer of property owned by the grantor to the same member of the immediate family;

D. The name of the grantee and relationship to the grantor do not appear on the face of the proposed Certificate of Survey;

E. The grantee is also one of the grantors.

c. Relocation of Common Boundary Lines: The proper use of the exemption for relocating common boundary lines is to establish a new boundary between adjoining parcels of land:

i. Certificates of Survey showing the relocation of common boundary lines must be accompanied by a quit claim or warranty deed or recordable agreement from adjoining property owners for the entire newly described parcel(s) or that portion of the tract(s) that is being affected;

ii. A proposed relocation of common boundary lines may be considered an evasion of the Act if it is determined that:

A. The documentation submitted does not support the stated reason for relocation;

B. It creates a parcel of less than 160 acres which, prior to the relocation had more than 160 acres.

d. Security for Financing: The proper use of the exemption is to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes:

i. Prior to filing any COS or upon the filing of any other document purporting to create a division of land under one-hundred and sixty acres by use of exemption, the COS shall be reviewed under the procedure set forth in Section 4.8.2. Any other document shall be reviewed under the procedure set forth in Section 4.8.2 (a);

ii. A proposed transfer based on the assumption to provide construction security may be determined to be for the purpose of evading the Act under the following conditions:

A. It will create more than one parcel from the original tract under one hundred and sixty acres;

B. The financing is for construction or improvements on land other than the exempted parcel;

C. The person named in the “statement explaining who would have possession of the remainder parcel if the title to the exempted parcel is conveyed” is anyone other than the landowner;

D. Title to the exempted parcel is not initially obtained by the lending institution or mortgagee if foreclosure occurs;

E. There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract;

F. There is more than one construction mortgage, lien or trust indenture that proposes to or would create more than one new parcel on the tract;

G. The mortgagee, lien holder or beneficiary is not a lending institution.

iii. When the security for construction financing exemption is to be used, documents shall be submitted, in addition to such other documents as may be required, to the Clerk and Recorder:

A. Explaining how many parcels within the original tract will be created upon foreclosure/default;

B. Explaining who will have title to and possession of the remainder of the original tract after title to the exempted parcel is conveyed;

C. Including a signed statement from a lending institution or mortgagee that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.

iv. At the time of the deed creating the division of land is recorded, all instruments/documents including the statements shall be presented to the Clerk and Recorder;

v. Certificates of Survey and land transfer documents must be accompanied by the following:

A. A statement explaining how many parcels within the original tract will be created upon foreclosure/default;

B. A statement explaining who will have title to and possession of the remainder of the original parcel after title to the exempted parcel is conveyed;

C. A signed statement from a lending institution or mortgagee that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.

vi. Once the loan for construction mortgage, lien or trust indenture has been satisfied, the exemption is no longer applicable and the boundaries delineating the exempt parcel are extinguished and the acreage previously identified reverts back into the acreage of the initial parcel. This will be accomplished by the filing of the warranty deed for the initial parcel when the conditions of the contract are satisfied, in the event that the parcel is being purchased in that matter.

e. Court Order: The proper use of the exemption is a division of land created by order of any court of record in this state or by operation of law or that, in the absence of

agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, chapter 30:

i. A Certificate of Survey using this exemption must be accompanied by a copy of the court order;

ii. Before a court of record orders a division of land, the court shall notify the governing body of the pending division and allow the County to present written comment on the division.

4.8.4 Definitions

The following definitions, in combination with those contained in the Montana Subdivision and Platting Act and those contained in the Flathead County Development Code, shall apply:

a. Act: Montana Subdivision and Platting Act;

b. Grantee: The person or entity who buys or otherwise receives the title to or possession of the parcel which has been segregated from the original tract;

c. Grantor: The person(s), individual(s) or entity who sells, rents leases or otherwise conveys the title to or possession of the parcel which has been segregated from the original tract

d. Landowner: The owner of the property or his/her agent;

e. Original Tract: All tracts of land held in single and undivided ownership 20 calendar years prior to the date of submission of the proposed Certificate of Survey for review under these criteria, as indicated by the official records filed with the Flathead County Clerk and Recorder;

f. Regulations: Flathead County Subdivision Regulations.

4.9 Definitions

Whenever the following words or phrases appear in these Regulations, they shall have the meaning assigned to them by this section. Words may be further defined in the Regulations. In those cases the most restrictive meaning shall apply.

When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural, and the plural the singular; the words "shall" or "must" are always mandatory, and the word "may" indicates use of discretion in making decisions.

ACCESS (LEGAL): Access to the subdivision, or any lot within a subdivision, is provided by a dedicated or deeded public road right-of-way or by a private road easement.

ACCESS (PHYSICAL): Physical access is the actual location of the traveled way of the access road(s) (ingress and egress) which reach the lots or parcels.

ACCESSORY BUILDING OR STRUCTURE: Buildings and/or other structures which are incidental to the principal use established on the same lot; shall be subordinate to and serve such principal use; shall be subordinate in area, extent and purpose to such principal use; and shall contribute to the comfort, convenience or necessity if users of such principal use.

ADJACENT PROPERTY OWNER: The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a road, watercourse, or deeded right-of-way.

AGRICULTURAL: All aspects of farming, including the cultivation and tillage of the soil; dairying; and the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act [12 U.S.C. 1141j(g)]. The raising of livestock, bees, fur-bearing animals, or poultry; and any practices, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal/poultry husbandry, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

AGRICULTURAL WATER USER FACILITIES: Those facilities which provide water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including, but not limited to, ditches, pipes, and head gates.

APPROACH: The point where a driveway meets a public road or where a local access road, for example, intersects a higher classification of public road.

AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles crossing a specific point on a roadway during a 24-hour period. The projected or estimated ADT for a

subdivision shall be based on the most representative land use(s) described in the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers.

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries, such as public streets, railroads, or natural features, which may or may not include alleys.

BOARD OF ADJUSTMENT: The Flathead County Board of Adjustment.

BUILDING AREA: The total area covered by the enclosed building including attached structures.

CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations [76-3-103, MCA].

CITY CLASSIFICATION: For the purposes of these Regulations, cities/municipalities are defined as follows:

a. First Class: Every city having a population of 10,000 or more.

b. Second Class: Every city having a population of less than 10,000 and more than 5,000.

c. Third Class: Every city having a population of less than 5,000 and more than 1,000.

d. Town: Every municipal corporation having a population of less than 1,000 and more than 300.

CLUSTER DEVELOPMENT: A subdivision with lots clustered in a group that is designed to concentrate developable area in order to reduce capital and maintenance costs for infrastructure, while allowing other lands to remain perpetually undeveloped [76-3-103, MCA].

COMMERCIAL: The activities of purchase, sale, or transaction involving the disposition of any article, substance, commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit and including renting of rooms, business offices and sales display rooms and premises.

COMMISSION: The Flathead County Board of County Commissioners.

COMMON WALL: A wall common to, but dividing units in a building; such a wall contains no openings.

COMMUNITY CHARACTER: The unique cultural and physical attributes of a particular location.

CONDOMINIUM: A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with all the land and all other parts of the project held in common ownership or use with owners of the other units.

CONSERVATION EASEMENT: A non-possessory interest in real property imposing limitations or affirmative obligations in perpetuity, the purposes of which may include retaining or protecting natural, scenic or open space values of real property, assuring its availability for agricultural, forest, recreation, or open space use protecting natural resources or maintaining air or water quality. Permitted and prohibited uses are determined by an agreement between the lessor of the easement and the owner of the land.

COVENANT (RESTRICTIVE COVENANT): A limitation contained in a deed or recorded document that restricts or regulates the use of the real property.

DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted [76-3-103, MCA].

DEFENSIBLE SPACE: An area between improved property and potential wildland fire fuels where combustibles have been removed or modified with the following intent:

a. To protect life and property from wildland fire.

b. To reduce the potential for fire on improved property spreading to wildland fuels.

c. To provide a safe working area for fire fighters protecting life and improved property

DENSITY: The number of units per gross acre in any development.

DEQ: Montana Department of Environmental Quality.

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. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land [76-3-103, MCA].

DNRC: Montana Department of Natural Resources and Conservation

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit.

DWELLING, DUPLEX: A residential structure, designed to house two families living independently of each other in separate dwelling units but having one common wall. .

DWELLING, MULTI-FAMILY: A dwelling on one lot, containing separate dwelling units for three or more families, having separate or joint entrances, one or more common walls, and one common yard.

DWELLING, TOWNHOUSE: A single dwelling unit in a town house group, located or capable of being located on a separate lot, and being separated from the adjoining dwelling unit by a common wall extending from the foundation through the roof.

EASEMENT: A non-possessory interest in land other than as a tenant, for a specific purpose, such right being held by someone other than the owner.

ENGINEER (LICENSED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

ENVIRONMENTAL ASSESSMENT (EA): A document that accompanies a major subdivision application which must include:

a. A description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision;

b. A summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608;

c. A community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and

d. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under 76-3-501 as may be required by the governing body.

EXISTING USE: The use of a lot, parcel or structure at the time of the enactment of the code or any section thereof.

FAMILY: One or more persons living together as a single housekeeping unit in a dwelling unit. A family may or may not be related by blood, marriage, or adoption.

FENCE: An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including retaining walls, or hedges, shrubs, trees, or other natural growth.

FINDING OF FACT: A written conclusion or determination based on evidence from which a decision is based.

FIRE PROTECTION AUTHORITY (FPA): The fire district that encompasses the subdivision, or the Flathead County Office of Emergency Services where no fire district is present.

FIRST MINOR SUBDIVISION: A proposed subdivision of a tract of record that has not been subdivided or created by a subdivision under these regulations, or has not resulted from division of a tract of record that has created more than five parcels through exemption, created from a tract of record under 76-3-201, MCA, or 76-3-207, MCA, since July 1, 1973.

FLOOD: A temporary increase in the flow or stage of a stream, or river, or in the state of a wetland or lake, that results in the inundation of normally dry areas.

FLOOD OF 100 YEAR FREQUENCY: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood.

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage.

FLOODWAY FRINGE: That portion of the floodplain outside the limits of the floodway.

FOUNDATION: The supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts, or frost walls.

FREEHOLDER: The owner of a property or estate.

GROUND WATER: Any water beneath the earth's surface.

GROWTH POLICY: This term is synonymous with a comprehensive development plan, master plan, or comprehensive plan that meets the requirements of 76-1-601, MCA.

HISTORICAL AND CULTURAL RESOURCE: Any district, site, building, structure, or object located upon or beneath the earth or under water that is significant in American or Tribal history, architecture, archaeology, biology, or anthropology. This item includes fossilized plants and animals of a geological nature, as well as historical records, art, historical places, sites, and monuments, which are rare and critical to scientific research or has a potential to address specific research questions.

HOMEOWNER'S ASSOCIATION: A private, nonprofit corporation of homeowners or property owners, established according to state law for the purpose of owning, operating and maintaining various common properties.

HOMEOWNER'S PARK: A park serving a specific subdivision or group of subdivisions that is maintained by a homeowner's association or park owner's agreement.

IMPACT FEE: Any charge imposed upon development by a governmental entity as part of the development approval process in order to fund the additional service capacity required by the new development pursuant to 7-6-1601, MCA. An impact fee may include a fee for the administration of the impact fee not to exceed five percent of the total impact fee collected.

IMPROVEMENT AGREEMENT (or SIA): A contractual agreement that may be required by the governing body to ensure the construction of such improvements as required by local subdivision regulations and/or conditions of approval. The improvement agreement requires collateral to secure the construction of such improvements.

INDUSTRIAL: The manufacture, fabrication, processing or reduction of any article, substance, or commodity or any other treatment thereof in such a manner to change the form character or appearance thereof. It also shall include trucking facilities, warehousing, materials or equipment storage, businesses serving primarily industry and similar enterprises.

INFRASTRUCTURE: Public facilities and services that typically include roads, sewers, water, schools, police and fire buildings, libraries, hospitals, parks, trails, utilities, etc., to serve public demand and safety.

LANDSCAPE SITE PLAN: A plan associated with a subdivision, or other land development indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

LIVESTOCK: Generally accepted outdoor farm animals (i.e., cows, goats, horses, pigs, barnyard fowl, etc.) not to include cats, dogs, and other house pets.

LOCAL SERVICES: Local services are any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens. These services include, but are not limited to, law enforcement, fire protection, water supply, recreation, streets and roads, parks, libraries, schools, wastewater, electrical and telephone service and solid waste collection and disposal.

LOCK-OFF UNIT: Commercial transient lodging or multifamily units with more than one entrance from the hallway, common areas, or exterior, and able to be divided into more than one unit for use by owners or renters by locking interior doors.

LOT: A parcel, plot, or other land area created by subdivision for sale, rent, or lease.

LOT MEASUREMENTS: For the purposes of these regulations lot measurements are defined as follows:

a. Lot Depth -- The length of a line drawn perpendicularly from the front lot line and to the rear lot line. If the front and rear lines are not parallel, the distance between the mid-point of the front lot line and the mid-point of rear lot line. For irregular lots (flag and pie shaped) the lot depth is measured by the length of the front lot line to the rear lot line.

b. Lot Width -- The average width of the lot. In an irregularly shaped lot, the average width shall be the average of the following: the length of the front lot line, the length of the rear lot line, and the length of a line drawn between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

c. Lot Frontage – the length of a lot's boundary adjacent to something, such as a road, easement, body of water, etc.

   i. Lakeshore or river – The length along the lake or river measured at the high water line

   ii. Corner lot front line - The line separating the narrowest frontage of the lot from street. When the lines are equal, the front lot line shall be the line which is similar to the prevailing custom of the other buildings on the block. If such front is not evident, the Zoning Administrator shall determine the front property line.

   iii. Interior lot front line - The line bounding the street frontage.

   iv. Through lot front line: The line which is similar to the prevailing custom of the other buildings on the block. If such front is not evident, the Zoning Administrator shall determine the front property line.

d. Net Lot Area – The gross lot area less the area within any existing or proposed public or private street, road or easement for ingress and egress, and less the area within any existing or proposed easement wherein the owner of the lot is prohibited from using the surface of the land. Included in the net area is the area lying within public utility easements, sanitary sewer easements, landscaping easements, and other such easements wherein the owner of the lot is not prohibited from using the surface of the land.

e. Gross Lot Area – the total area, measured in a horizontal plane, within the boundary lines of a lot.

f. Taxable Lot Acreage: The gross area of a lot plus any proportionate area assigned to the lot for roads, parks, and/or common areas/facilities.

g. Lot Line, Rear: The line which is opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

h. Lot Line, Side: The lines which connect the front and rear property lines of a lot.

LOT TYPES: For the purposes of these Regulations lot types are defined as follows:

a. Corner Lot: A lot located at the intersection of two or more intersecting roads.

b. Interior Lot: A lot with frontage on only one road.

c. Irregular Lot (Flag Lot): An irregularly shaped lot typified by being almost entirely landlocked and having limited access and/or no direct frontage. Access to a public or private road is typically by an extended strip of land either deeded or by easement.

d. Irregular Lot (Pie Lot): An irregularly shaped lot which, at the front lot line, contains minimal frontage and a substandard lot width but, as the depth increases, side lot lines rapidly expand to a legal width.

e. Reverse Lot: A lot in which the frontage is reversed from the general pattern of the area.

f. Through Lot: A lot with double frontage where the front lot line faces one road and the rear lot line faces another road.

g. Lakeshore Lot: A lot bounded on at least one side by water and located on the perimeter of a permanently established lake.

MAJOR SUBDIVISION: A subdivision which includes six or more lots from a single parcel or tract of record.

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

MARINA: A waterfront facility which provides for recreational boating and other water related activities. Any facility which provides dock slips or moorage for five or more watercraft is considered a marina.

MATERIAL: (as in a material change to an application or plat): Significant change that substantially alters the proposal or has an impact on any of the primary review criteria, conformance with the subdivision regulations, growth policy, or zoning regulations, as applicable.

MINOR SUBDIVISION: See First Minor Subdivision or Subsequent Minor Subdivision.

MITIGATION: The action(s) which minimizes the adverse impacts which would be created by a subdivision or development.

MIXED USE: Development designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: residential, office, retail, recreational, light industrial, and other miscellaneous uses.

MANUFACTURED HOME PARK: A tract of land that provides or will provide spaces for two or more manufactured homes.

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

NATURAL ENVIRONMENT: The physical and biological conditions which exist within a given area, including land, air, water, mineral, flora, fauna, noise, human, and objects of historic or aesthetic significance.

NATURAL RESOURCES: Land, fish, wildlife, biota, air, surface water, ground water, drinking water supplies, and any other resources within the state of Montana, owned, managed, held in trust, or otherwise controlled by or appertaining to the state of Montana or a political subdivision of the state. [75-10-701, MCA]

NO BUILD ZONE: An area in which no building or structure may be constructed or otherwise placed. A No Build Zone is generally intended to mitigate potentially adverse impacts.

OPEN SPACE: Land or water areas retained for use as active or passive recreation areas, resource protection and use, and for agricultural, horticultural, and silvicultural use.

OVERALL DEVELOPMENT PLAN: The plan of a subdivision design for a single tract proposed to be subdivided in stages.

ORIGINAL TRACT OF RECORD (as pertaining to subdivision review): The original parcel of land that is the subject, or a portion of which is the subject of a subdivision or development proposal, as established on July 1, 1973.

ORIGINAL TRACT OF RECORD (as pertaining to exemption survey review): All tracts of land held in single and undivided ownership 20 calendar years prior to the date of

submission of the proposed Certificate of Survey for review under these criteria, as indicated by the official records filed with the Flathead County Clerk and Recorder.

PERMANENT: Designed, constructed, and intended to exist indefinitely.

PERPETUAL: Continuing forever.

PERSON: The word 'person', wherever used in the subdivision regulations, shall be construed to mean any person, partnership, joint-stock company, unincorporated association, or society or municipal or other corporation of any character whatsoever.

PHASED SUBDIVISION: A subdivision proposed to be subdivided in stages with each stage fully capable of functioning independently with all the required improvements in place.

PLANNED UNIT DEVELOPMENT (PUD): A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use. [76-3-103, MCA]

PLANNING AND ZONING OFFICE: The Flathead County Planning and Zoning Office.

PLANNING BOARD: The Flathead County Planning Board.

PLANTING SCREEN: An area of landscaping separating two distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one land use on the other.

PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, roads, alleys, and other divisions and dedications. [76-3-103, MCA]

a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of roads, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body. [76-3-103, MCA].

b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the county Clerk and Recorder containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. [76-3-103, MCA].

c. Amended Plat: The final drawing of any change to a filed platted subdivision.

d. Revised Preliminary Plat: In lieu of a filed Final Plat, a plat document associated with Subdivisions Created By Rent Or Lease and Condominiums, which conform to the approved Preliminary Plat and conditions of Preliminary Plat approval.

PRESUMED: The fact is established unless rebutted by other evidence.

PRIME FARMLAND: As defined by the Natural Resources Conservation Service, those lands that are best suited to producing food, feed, forage, fiber and oilseed crops.

PRINCIPAL USE: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

PRIVATE IMPROVEMENT: The same type of improvement that is defined under Public Improvement, except the structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.

PUBLIC HEALTH AND SAFETY: A condition of well-being, free from danger, risk, or injury for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public.

PUBLIC UTILITY: Any person, firm, corporation, municipal department, or board duly authorized to furnish, and furnishing under state or municipal regulations to the public, electricity, gas, steam, communication, telegraph, transportation, wastewater or water.

RECREATION: An activity or pastime that promotes health or spirits by relaxation and enjoyment and may be performed individually or with others. Active type recreation activities, usually performed with others, often require equipment and takes place at prescribed places, sites, or fields. Active type recreation activities include, but are not limited to, swimming, tennis and other court games, baseball and other field sports, golf, and playground activities. Passive type recreational activities generally do not require a developed site. Passive type recreation generally includes such activities as hiking, horseback riding, and picnicking. Passive recreation areas may also include areas of unimproved open space that provide aesthetic or environmental benefits.

RECREATION VEHICLE (RV): A vehicle built on a single chassis, designed to be self propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor-coaches, boats, house boats, and campers.

RECREATION VEHICLE SPACE: A designated portion of a recreational vehicle park designed for placement of a single recreational vehicle and the exclusive use of its occupants.

RECREATION VEHICLE PARK: A lot, tract or parcel of land used or offered for use in whole or in part with or without charge for the parking of occupied recreational vehicles used for temporary living quarters for recreational camping or travel purposes.

REMAINDER: A portion of a tract of record left over from the creation of a subdivision from a larger original tract of record.

RESIDENTIAL: Regularly used by occupants as a semi-permanent or permanent place of abode which is made one's home as opposed to one's place of business, and which has housekeeping and cooking facilities for its occupants.

RIPARIAN AREA: The area which lies between channels of flowing water and uplands, and which serves several functions, including water storage and aquifer recharge, filtering of chemical and organic wastes, sediment trapping, bank building and maintenance, flow energy dissipation, and primary biotic production. Riparian areas provide important habitat for many species of wildlife.

ROADS: For purposes of these Regulations, roads are defined as follows:

ROAD CLASSIFICATION:

Arterial: Provides the highest level of service at the greatest speed for the longest uninterrupted distance, with some degree of access control.

Collector: Provides a less highly developed level of service at a lower speed for shorter distances by collecting traffic from local roads and connecting them with arterials.

Local: Consists of all roads not defined as arterials or collectors; primarily provides direct access to residential, commercial, industrial, or other abutting properties in areas of lower traffic volumes at low speeds. Typically these roads are located within a subdivision or commercial/business development. Local roads have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties

(Source: Federal Highway Commission)

ROAD TYPES: The roads listed in this section are intended to be a guide or basic comparison of road types in Flathead County. It is not intended to be a definitive list. The list of road types include, but are not limited to, the following:

*Arterial, Major:	U.S. Highways: 2 and 93
*Arterial, Minor:	State Highways: 28, 35 from Kalispell to 206, 206, 82, and 83; Going to the Sun Highway, US 2 from Kalispell to Columbia Falls
*Collector, Major:	State Highways: 209 (from 35 to 83), 424, 486, 487 (Big Mt.Road) Batavia Lane to Ashley Lake Road to South Ashley Lake Road to US 2, Camas Road, Foothills Road, Rocky Cliff Drive to Airport Road to US 93, Airport Drive to Foys Canyon Road to Foys Lake Road to Meridian, Three Mile Drive to Spring Creek Drive to Farm to Market (424) to Lodgepole Road to Twin Bridges Road to Hwy 93, North Fork Road (southern part), West Reserve Drive, Whitefish Stage
*Collector, Minor:	Blacktail Road, Blankenship Road, Columbia Falls Stage, East Lakeshore Drive, East Side Road, Edgewood Drive, Farm to Market Road from Lodgepole Road to Hwy 93, Half Moon Road,

Helena Flats Road, Hodgson Road, Lost Prairie Road, Lower Valley Road, Kila Road from US 2 to Brown's Meadow Road to Hog Heaven Road to Hwy 28, McCaffery Road, North Fork Road (northern part), Olney Crossover Road, Pleasant Valley Road, Star Meadows Road, Tamarack Lane, Truman Creek Road, Trumble Creek Road (loop from US 2 to US 2) Voerman Road to Braig Road to Half Moon Road, West Side Road

*(Source: MDT Montana Highway Functional Classification)

Highways: Those major thoroughfares which are the most important rural and urban traffic arteries of the state and those auxiliary highways which are the principal rural and urban inter-county routes of statewide importance as designated by the (state) director of transportation.

Local Roads:

Alley: A road used primarily for vehicular access to the rear of properties, but are not to serve as primary access or carry daily traffic.

Cul-de-sac: A dead-end street providing at the closed end special enlarged turning and maneuvering space for vehicular and emergency traffic.

Frontage: A local service or access road, usually parallel and adjacent to an arterial, major collector, or highway which provides access to abutting properties and controls traffic access.

Half-Road: A portion of the width of a road, usually located along the perimeter of a subdivision, the remaining portion of which road must be located on adjacent property if the road is to be fully constructed.

Hammerhead: A t-shaped turn around used at the end of a dead end street which provides a three point turn around capacity.

Horseshoe: A street which begins and ends on the same road, but not at the same location.

Looped: A street having a single common ingress/egress for vehicular traffic, but includes a loop, the inside of which may be used for parking, open space, or, if large enough to allow for two tiers of lots.

Primary Access: A road providing direct access to the subdivision. Primary access can be by arterial, collector, or a local road other than a secondary emergency road, and may be a private or public road.

Secondary emergency: A road that functions only as limited emergency ingress/egress to a subdivision. These roads can connect to arterial, collector or local roads, but are not to serve as primary access or carry daily traffic.

Subdivision: Roadways used for direct access to residential, commercial or industrial lots, or other abutting land and connections to higher order road systems, such as arterial or collector roads. These roads typically

service a subdivision and through traffic movements are discouraged. Subdivision roads may be internal or located on the perimeter of the subdivision.

RURAL: Rural land is pastoral countryside and usually incorporates a variety of agricultural or forestry uses and small to medium sized woodlots. Average residential densities are low and large tracts of land predominate.

SETBACK: The minimum distance by which any building or structure must be separated from a road easement, water body, or other identified physical or biological condition.

SITE PLAN: A schematic diagram, to scale, of the lot, tract or parcel of land showing the specific location of all existing and proposed features, such as buildings, other structures, driveways, parking, landscaped areas, easements, utilities, surface water, drainage, etc.

SPECIAL IMPROVEMENT DISTRICT (SID): A district created by the County Commissioners for the purpose of building, constructing, or acquiring by purchase one or more of the improvements of the kind described in 7-12-4102 M.C.A., in or for the benefit of the special improvement district.

STORMWATER DETENTION POND: A low lying area designed to temporarily hold a set amount of water while controlling the out-flow to another location. The water level recedes due to planned drainage and evaporation.

STORMWATER RETENTION POND: A pond designed to collect and store stormwater. The water is not released to another location.

STREAM TYPES: Source: Glossary of Geology, Margaret Gray, Robert McFee Jr., and Carol L. Wolfe, Editors, American Geological Institute, Copyright 1972.

Ephemeral Stream – A stream or reach of stream that flows briefly only in direct response to precipitation in the immediate locality and whose channel is at all times above the water table. The term “may be arbitrarily restricted” to a stream that does “not flow continuously during periods of as much as one month”.

Intermittent Stream – (a) A stream or reach of stream that flows only at certain times of year, as when it receives water from springs or from surface source. The term “may be arbitrarily restricted” to a stream that “flows continuously during periods of as much as one month”. (b) A stream that does not flow continuously, as when water losses from evaporation or seepage exceed the available streamflow.

Perennial Stream – A stream or reach of a stream that flows continuously throughout the year and whose upper surface generally stands lower than the water table in the region adjoining the stream.

STRUCTURE: A combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground including buildings and signs. Not included are residential fences less than six feet in height, retaining walls, rockeries and similar improvements of a minor character less than three feet in height.

SUBDIVIDER: Any Person, firm or corporation, or other entity which causes land to be subdivided or which proposes a subdivision of land. When used in these regulations, the term "subdivider" also includes the subdivider's agent(s). [76-3-103, MCA]

SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any re-subdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed. [76-3-103, MCA]

SUBSEQUENT MINOR SUBDIVISION: A division of land which is the second or subsequent minor subdivision on a tract of record as it existed on July 1, 1973, that results in a cumulative total of no more than five lots. The tract of record, as it existed on July 1, 1973, may be divided by the use of exemptions up to five times and still be considered a first minor subdivision.

SURVEYOR (LICENSED PROFESSIONAL LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A licensed land surveyor duly appointed by the governing body to review surveys and plats submitted for filing [76-3-103, MCA].

SWALE: A drainage channel or depression which directs surface water flow.

TEMPORARY: Any structure or use placed on a parcel of land for a period of short duration.

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [76-3-103, MCA].

URBAN: Of, relating to, characteristic of or constituting a city, generally characterized by moderate and higher density residential, commercial, and industrial development including infrastructure required for that development.

USE: The specific purpose for which a building or lot is arranged, intended, designed, occupied, and maintained.

VARIANCE: Permission to depart from these regulations when, because of special circumstances applicable to the property, strict application of these regulations deprives such property of privileges enjoyed by other property in the vicinity.

VEGETATIVE BUFFER: An area of vegetated land generally located on the waterward side of impervious surfaces where disturbances of vegetation are not allowed or are limited by a

use agreement, easement, deed restriction or similar document. Vegetative buffers are meant to protect water resources by stabilizing stream banks, minimizing soil erosion, helping to control water temperature and exclude noxious weeds, and intercepting nonpoint source pollution from surface and stormwater runoff. Vegetative buffer enhance wildlife habitat, scenic resources and recreational resources. Mowed lawns are not considered vegetative buffers as vegetative buffers typically consist of trees, shrubs, forbs and perennial grasses with at least 50% of the species mixture native to the area.

VICINITY MAP: A map at a scale suitable to locate a proposed subdivision or development, showing the boundary lines of all adjacent properties and roads and other information necessary to determine the location of the proposed subdivision.

VIEWSHED: A visually sensitive area that is visible from a defined observation point. Visually sensitive areas include pleasing vistas or prospects or scenes, including but not limited to skylines, ridgelines, bluffs, rock outcroppings, foothills, mountain backdrop, unique vegetation, floodplains, streams, surface water, natural drainages, and wildlife habitat.

WETLANDS: Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that may or may not support a prevalence of vegetation typically adapted for life in saturated soil conditions. If vegetation is absent, soils or hydrology may indicate wetland areas.

WILDLAND URBAN INTERFACE: Where structures and other human developments meet and intermingle with wildland vegetation.

WILDLAND VEGETATION: Uncultivated land covered by forest, brush or grass. Wildland vegetation does not include agricultural lands that are fallow or grazed on an annual or more frequent basis.

WILDLIFE: Living animals which are neither human nor domesticated.

WILDLIFE HABITAT: A place frequented by wildlife or site where wildlife naturally lives.

Appendix A
Subdivision Pre-application Process

General Instructions

A pre-application meeting to explain the subdivision process is required for all interested parties. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planning and Zoning Office by submitting a completed Pre-application Request Form and its required attachments, as applicable. The Planning and Zoning Office shall notify the subdivider within five working days of the meeting date and time. The pre-application meeting shall occur within 30 days after the request is submitted:

a. At the time of the pre-application meeting request, the subdivider shall provide the Planning and Zoning Office with a concept plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The concept plan must include the following:

i. Information on the current status of the site, including:

A. General location;

B. Approximate boundaries of existing tract;

C. Wildlife and wildlife habitat;

D. Natural features;

E. Existing structures and public improvements;

F. Steep slopes (40 percent or greater);

G. Existing utility lines and facilities;

H. Known easements and rights of way;

I. Wetlands;

J. Drainages and swales;

K. Water resources (rivers, streams, lakes);

L. 100-year floodplain;

M. Documentation of original tract of record as of July 1, 1973.

ii. Information on the proposed subdivision, including:

A. Tract and lot boundaries;

B. Public improvements;

C. Location of utility lines and facilities;

D. Easements and rights of way;

E. Any parks, common areas, or open space.

b. At the subdivision pre-application meeting the Planning and Zoning Office shall:

i. Identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

ii. Provide the subdivider with a list of public utilities, local, state and federal agencies, and other entities that may have a substantial interest in the proposed subdivision and be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond;

iii. Identify particular additional information the Planning and Zoning Office anticipates will be required for review of the subdivision application. This does not limit the ability of the Planning and Zoning Office to request additional information at a later time.

c. The Planning and Zoning Office may require additional relevant and reasonable information to adequately assess whether the proposed subdivision complies with these regulations and the Montana Subdivision and Platting Act. Any request for additional information shall be in writing within 10 working days following the pre-application meeting. The subdivider will be notified if the Planning and Zoning Office identifies a public utility, agency or other entity that was not on the original list of contacts;

d. Unless the subdivider submits the subdivision application as provided in Section 4.1.2 within six months of the pre-application meeting, the pre-application is void. The subdivider may request one six-month extension by submitting a written request prior to expiration of the pre-application;

e. The information submitted as part of the pre-application meeting shall be retained and used for review purposes by the Planning and Zoning Office.

Appendix B
Application and Preliminary Plat Supplements

Part 1 – Application Supplements

In addition to a subdivision application and requirements of these Regulations the following information, including one reproducible set of all application information, must be supplied and considered part of the subdivision application, if applicable:

a. A fee simple property deed or other instrument showing title and ownership for the property being subdivided. No subdivision application is allowed on a parcel or tract of land which is not recorded or recognized by the county assessor;

b. A copy of each certificate of survey or subdivision plat(s) pertaining to the subject parcel filed or recorded since July 1, 1973;

c. If the proposed subdivision is a major or subsequent minor, an environmental assessment which meets the requirement of Appendix C (Environmental Assessment);

d. If the subdivision is a first minor subdivision a summary of probable impacts, Appendix D (First Minor Subdivision Impact Criteria), including any mitigation of impacts;

e. A Fire Prevention Control and Fuels Reduction Plan for subdivisions in a Wildland Urban Interface, pursuant to Section 4.7.27;

f. A Flood Hazard Evaluation pursuant to Section 4.7.9;

g. A conceptual storm water drainage plan in conformance with section 4.7.13;

h. A Dust Control Plan identifying reasonable precautions intended to mitigate dust generated by the subdivision pursuant to Section 4.7.14 and Appendix J;

i. Copies of easements or proposed easements to provide legal primary, and secondary if required, access to the subdivision. If any access easement is provided through federal or state lands, evidence that the land management agency has been contacted;

j. Copies of any existing Road Approach Permits if proposing to use an existing access onto a County road or State highway;

k. When the subdivider owns adjacent property, the subdivider may be required to provide a plan of development indicating intent for the development of the other property;

l. A copy of any existing covenants and restrictions on any lands to be subdivided;

m. If common property is to be deeded to a property owners association, a draft of the covenants and restrictions or Home Owners Agreement which will govern the common property;

n. Drafts of proposed covenants and restrictions are encouraged to be submitted, if applicable;

o. A draft Road User's Agreement or CC&R's addressing road maintenance;

p. A "Will Serve Letter" or agreement from the public water and/or sewer provider indicating they will provide service to the subdivision;

q. A description and map of the proposed subdivision's water supply systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the Montana Department of Environmental Quality. The map must show the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots the following:

i. 100-Year flood plains;

ii. Surface water features, including lakes, streams and rivers, springs and irrigation ditches;

iii. Existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater systems;

iv. Location, within 500 feet outside the of the exterior property line of the subdivision,
of public water and sewer facilities.

r. Evidence of suitability for new onsite wastewater treatment systems which include:

i. Soil profile description(s) from a representative drain field site or sites identified on the vicinity map that complies with standards published by the Montana Department of Environmental Quality;

ii. Demonstration that each soil profile contains a minimum of four feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer;

iii. In cases in which the soil profile or other information indicates that ground water is within five feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance.

s. For new water supply systems, unless storage tanks are proposed, evidence of adequate water availability which includes information from:

i. Well logs or testing of onsite or nearby wells;

ii. Published hydro-geological reports;

iii. As otherwise specified by rules adopted by the Montana Department of Environmental Quality.

t. Evidence of sufficient water quality in accordance with rules adopted by the Montana Department of Environmental Quality;

u. A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the Board of Environmental Review pursuant to 75-5-301 and 75-5-303, MCA related to standard mixing zones for ground water, source specific mixing zones, and non-significant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. The subdivider may perform a complete non-degradation analysis in the same manner as is required for an application that is reviewed by the Department of Environmental Quality;

v. A drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the Montana Department of Environmental Quality;

w. Information regarding the disposition of water rights. This includes copies of any water rights owned by the land owner to be reserved and/or transferred. The subdivider shall indicate a proposal to:

i. Reserve all or a portion of the appropriated water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water;

ii. Establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water if the subdivision creates parcels with lot sizes averaging less than 5 acres and the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots; or

iii. Reserve and sever all surface water rights from the land.

x. For major subdivisions, an adjoiners list of all tracts, lots, or land parcels adjoining the proposed subdivision together with the name and address of the owner of each tract, lot, or land parcel certified by the clerk and recorder, GIS Office or title company, generated not more than 30 days prior to the application submittal. Where the proposed subdivision abuts a public right-of-way, or rivers less than 150 feet in width, the properties across such right-of-way or water course shall be considered as adjacent;

Note: Adjoiner lists shall be valid for a six month period. If the origination date of the adjoiners list is older than six months of the scheduled public hearing the Planning and

Zoning Office shall require a new adjoiners list before the application is scheduled for a public hearing.

y. A draft Latecomers Agreement pursuant to Section 4.0.17 and Appendix I;

z. A clear written description of directions to the subject site for vehicle travel;

aa. One or more site location map(s) on 11" x 17" paper. Site location maps shall be clear, concise and reproducible, showing the following:

i. The locations of the proposed subdivision in relation to the nearest town, highway, and road system;

ii. Vehicle access to the subdivision from the adjoining or nearest public roads;

iii. Names of any adjoining platted subdivisions and/or numbers of adjoining Certificates of Survey on record in the Office of the Clerk and Recorder.

bb. A description of any existing or proposed stream bank or shoreline alterations, and any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration;

cc. A description of all existing and proposed easements or rights-of-way for utilities, or other purposes on or adjacent to the proposed subdivision, including:

i. A description of each easement width;

ii. The approximate on-site location, size and depth or existing water and sewer mains, fire hydrants, gas, electric and telephone lines as well as the nearest off-site location of the above named utilities;

iii. All on-site utility descriptions shall be referenced to the preliminary plat.

dd. A request for any/all variance(s) to these Regulations.

Part 2 – Preliminary Plat Form and Contents

The subdivider shall submit a legible plat at a scale sufficient to minimize the number of sheets and maintain clarity. The plat shall consist of one or more sheets either 18 x 24 inches or 24 x 36 inches in size. Additional copies of the plat measuring 11 x 17 inches in size and 8.5 x 11 inches in size shall be included. The following shall be included on the preliminary plat, if applicable:

a Name and location of the subdivision, scale, scale bar, north arrow and date of preparation;

b. The approximate exterior boundaries and location of all section corners or subdivision corners of sections pertinent to the subdivision boundary including bearings and distances sufficient to locate the exact area proposed for subdivision;

c. All lots and blocks designated by numbers, approximate dimensions scaled to the nearest foot, and the area of each lot estimated to the nearest 0.1 acre;

d. Ground contours for the tract shall be shown in accordance to the following requirements:

Where the Average Slope of the Entire Site Is	Contour Intervals for the Entire Plat Shall Be
Under 10%	Two (2) feet
10% - 15%	Five (5) feet
Over 15%	Ten (10) feet

If a uniform contour interval is not practical, the contour interval may be changed for steep areas, if such a change is clearly identifiable through shading or other appropriate graphic technique. For building pads and driveways see Section 4.7.7 for additional topography requirements.

e. The planning director may waive the topography requirement if the subdivider can demonstrate that the elevation difference over the entire subdivision is less than 20 feet and the subdivision does not contain areas mapped as 100-year floodplain.

f. All existing and proposed adjoining roads and alleys, and width of the access easement(s) with existing and proposed road names and access points from the nearest public roads;

g. Any existing and proposed utilities located on or adjacent to the proposed subdivision, including utility easements and right-of-way easements located or proposed to be located on or adjacent to the tract;

h. Location, boundaries, dimensions and areas of any parks or areas dedicated for common or public use;

i. Location and size of existing buildings, structures and improvements, if to be retained;

j. Designated one hundred year (100-year) floodplain and/or floodway area, if any;

k. Location and size of all natural and environmental features on the site including all surface water bodies, wetlands, springs and areas of shallow ground water eight feet or less;

l. For each lot where the obvious building area is in question (general topography of the lot or immediate topography adjacent to the primary access road averages 25%) show:

i. A typical building pad (measuring a minimum 40 foot square);

ii. The building pad must be able to be accessed by a minimum 10 foot wide private drive with no point of the driveway exceeding a developed grade of 12%, and the initial 20 feet of driveway surface shall not exceed 5% grade. In the case ground

contours provided in conformance with (d) above do not indicate conformance with the grade standard, the application shall include driveway profiles demonstrating conformance of developed grade;

iii. The driveway and building pad shall be identified on the preliminary plat using minimum 2-foot contour intervals for clarity;

iv. Any building pad which exceeds 25% in cross slope shall be required to receive a favorable report and comply with the recommendations of a geo-technical soils analysis conducted by a licensed engineer prior to final plat approval.

Appendix C
Environmental Assessment

General Instructions

It shall be the responsibility of the subdivider to submit the information required by this Section with the preliminary plat. This Environmental Assessment format shall be used by the applicant in compiling a thorough description of the potential impacts for the proposed subdivision. Each question pertinent to the proposal must be addressed in a full comprehensive and systematic fashion (both maps and/or text as applicable). Incomplete Environmental Assessments will not be accepted.

The Environmental Assessment will be objectively measured to assure that all mandatory elements are included and that, based upon objective standards, all prospective impacts are adequately addressed. At a minimum the Environmental Assessment must contain the following for all assessment contents:

a. A summary of probable impacts and statement of impact for each environmental consideration topic;

b. A discussion to support the statement of impact;

c. Referenced sources and citations to support the statement of impact;

d. If applicable, site specific maps and documentation to support the statement of impact and discussion.

If, at any time during the application process, material information comes to light that is not addressed in the Environmental Assessment, the subdivider shall be required to amend the Environmental Assessment to adequately address the issue. In this event the 60 working day review period is suspended and will not resume until the amended Environmental Assessment has been submitted, reviewed and approved by the Planning and Zoning Office. Following review and acceptance of the amended Environmental Assessment, the application review process will resume at the same stage of the 60 working day review period that the original application was at before the additional information came to light.

Environmental Assessment Contents

There are two major sections to the Environmental Assessment. The first section incorporates the natural system provisions of 76-3-603 and 76-3-608, MCA. The second section evaluates the impacts to the human community and incorporates 76-3-608 (3)(a) criteria for public health, safety and local services. The sources of information for each section of the Assessment shall be identified. All Environmental Assessments shall contain the signature, date of signature and mailing address of the owner of the property and the person, or persons, preparing the report and citation and a copy of all supporting information.

Section 1 – Resource Assessment and Impact Criteria Report

a. Surface Water:

i. Locate on the preliminary plat and describe all surface water and the delineated 100 year floodplain(s) which may affect or be affected by the proposed subdivision including:

A. All natural water systems such as perennial and intermittent streams, lakes and ponds, rivers, or marshes;

B. All artificial water systems such as canals, ditches, aqueducts, reservoirs, irrigation or drainage systems;

ii. Describe all probable impacts to surface waters which may affect or be affected by the proposed subdivision including name, approximate size, present use, and time of year when water is present and proximity of proposed construction (e.g. buildings, sewer systems, roads) to surface waters;

iii. Describe any existing or proposed stream bank or shoreline alterations or any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, and purpose of alteration. If any construction or changes are proposed which require a 310 Permit from the Flathead County Conservation District the subdivider shall acknowledge that the permit is required and will be obtained prior to final plat;

iv. If wetlands are present, the subdivider shall identify and provide a map showing wetland areas. A wetlands investigation completed by a qualified consultant, using the most current U.S. Army Corps of Engineers' Wetlands Delineation Manual may be required. If any construction or changes are proposed which require a 404 Permit, the subdivider shall acknowledge that the permit is required and will be obtained.

b. Ground Water:

i. Establish the seasonal minimum and maximum depth to water table, dates on which these depths were determined, and the location and depth of all known aquifers which may be affected by the proposed subdivision. Monitoring may be waived if evidence of minimum and maximum ground water elevations can be documented;

ii. If determined from subsection (b)(i) above that any area within the proposed subdivision is within four feet of the surface, the high water table shall be measured from tests taken during the period of the highest groundwater elevations, generally from March 15 through June 30, during average precipitation years and reported in the environmental assessment;

iii. Describe any steps necessary to avoid probable impacts and the degradation of ground water and ground water recharge areas as result of the subdivision.

c. Geology/Soils:

i. Locate on the preliminary plat any known geologic hazards affecting the subdivision which could result in property damage or personal injury due to rock falls or slides, mud, snow; surface subsidence (e.g., settling or sinking); and seismic activity;

ii. Explain what measures will be taken to prevent or materially lessen the danger and probable impacts of future property damage or personal injury due to any of the hazards referred to above;

iii. Explain any unusual soil, topographic or geologic conditions on the property which limit the capability for building or excavation using ordinary and reasonable construction techniques. The explanation should address conditions such as shallow bedrock, high water table, unstable or expansive soil conditions, and slope. On the preliminary plat identify any slopes in excess of 40 percent;

iv. Identify any soils constraints, including probable impacts due to expansive soils, hydric soils, or any soils which limit sanitary facilities. Explain special design considerations and methods needed to overcome the soil limitations;

v. Describe the location and amount of any cut or fill three or more feet in depth. These cuts and fills should be indicated on a plat overlay or sketch map. Where cuts or fills are necessary, describe any plans to prevent erosion and to promote re-vegetation such as replacement of topsoil and grading.

d. Vegetation:

i. On a sketch map or aerial photo indicate the distribution of the major vegetation types such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest, including critical plant communities such as stream bank or shore line vegetation; vegetation on steep, unstable slopes; vegetation on soils highly susceptible to wind or water erosion;

ii. Identify any locations of noxious weeds and identify the species of weeds and explain measures to control weed invasion;

iii. Describe any probable impacts and any protective measures to preserve trees and critical plant communities (e.g., design and location of roads, lots and open spaces).

e. Wildlife:

i. Describe species of fish and wildlife which use the area affected by the proposed subdivision;

ii. Identify on the preliminary plat any known critical or "key" wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, or wetlands;

iii. Identify rare and endangered species on-site. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

iv. Describe any probable impacts and proposed measures to protect or enhance wildlife habitat or to minimize degradation (i.e. keeping buildings and roads back from shorelines; setting aside marshland as undeveloped open space);

v. It is recommended that the subdivider discuss the impact of the proposed development on fish and wildlife with the Department of Fish, Wildlife and Parks (FWP) and incorporate any recommendations from the agency to mitigate wildlife impacts.

f. Wildlife Habitat:

i. Proposed subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife habitat;

ii. Proposed subdivisions in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife habitat. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

iii. Proposed subdivisions in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on the habitat of those species. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement;

iv. Proposed subdivisions on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife habitat. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support that statement.

g. Agriculture and Timber Production:

i. On a sketch map locate the acreage, type and agricultural classifications of soils;

ii. Identify and explain the history of any agricultural production of the by crop type and yield;

iii. Describe the historical and current agricultural uses which occur adjacent to the proposed subdivision and explain any probable impacts and measures which will be taken to avoid or limit development conflicts with adjacent agricultural uses;

iv. If timbered, identify and describe any timber management recommendations which may have been suggested or implemented by a professional forester.

h. Agricultural Water User Facilities:

i. On a sketch map or aerial photo locate the location of any agricultural water user facility, including but not limited to agricultural water works, wells, canals, irrigation ditches and pump houses on-site or adjacent to the proposed subdivision;

ii. Describe any agricultural water user facility on the site or in proximity that might be affected and explain any probable impact(s) and measures which will be taken to avoid or mitigate probable impacts;

iii. It is recommended that the subdivider discuss any impact of the proposed development on agricultural water users facilities with the irrigation company or organization controlling the facility and incorporate any recommendations from the agency to mitigate agricultural water users impacts.

i. Historical Features:

i. Describe and locate on a plat overlay or sketch map any known or possible historic, paleontological, archeological or cultural sites, structures, or objects which may be affected by the proposed subdivision;

ii. Describe any plans to protect such sites or properties;

iii. Describe the impact of the proposed subdivision on any historic features, and the need for inventory, study and/or preservation and consultation with the State Historic Preservation Office (SHPO).

j. Visual Impact:

i. Describe any efforts to visually blend development activities with the existing environment.

k. Air Quality:

i. Describe any anticipated impact to air quality caused from dust or other air pollutants, including dust created from roads, and any means to mitigate the impact to air quality.

l. Area Hazards:

i. Describe and locate on a plat overlay or sketch map any hazardous concerns or circumstances associated with the proposed subdivision site, including, but not limited to:

A. Any part of the proposed subdivision that is located within the Wildland Urban Interface priority area. If located in the Wildland Urban Interface or high fire hazard area identified by a local fire district or fire protection authority describe probable impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, providing documentation to support the statement;

B. Any potential hazardous materials contained on site, including high pressure gas lines, high voltage transmission lines, super fund sites, abandoned landfills, mines or sewer treatment plants, etc. In some cases an Environmental Site Assessment may be required;

C. Describe measures to mitigate any adverse impacts associated with area hazards.

Section 2 - Community Impact Report

a. Water Supply:

i. Describe the proposed water system and how water will be provided for household use and fire protection and the number of gallons needed to meet the needs of the anticipated final population;

ii. Indicate whether the plans for water supply meet state standards for quality, quantity and construction criteria.

iii. If the subdivider proposes to connect to an existing water system:

A. Identify and describe that system;

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

C. State the approximate distance to the nearest main or connection point;

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

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

iv. If a public water system is to be installed, discuss:

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

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

C. Provision of evidence that the water supply is adequate in quantity, quality, and dependability (75-6-101 MCA).

v. If individual water systems are to be provided, describe the adequacy of supply of the ground water for individual wells or cisterns and how this was determined.

b. Sewage Disposal:

i. Describe the proposed method of sewage disposal and system;

ii. Indicate the number of gallons of effluent per day which will be generated by the proposed subdivision at its full occupancy, whether the proposed method of sewage disposal is sufficient to meet the anticipated final needs of the subdivision and whether it meets state standards;

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

A. A description of that system and approximate distance from the nearest main or connection point to the proposed subdivision;

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

iv. If a new public sewage disposal system, as defined under 75-6-102 MCA, is to be installed, discuss:

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

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

c. Storm Water Drainage:

i. Describe the proposed methods of storm water drainage for roads and other anticipated impervious surfaces, including storm water calculations;

ii. Describe the proposed methods of storm water drainage for other areas of the subdivision, including storm water calculations;

iii. Identify the mechanism and who is responsible for the maintenance of the storm water drainage system.

d. Solid Waste Disposal:

i. Describe the proposed system of solid waste collection and disposal for the subdivision including:

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

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

e. Roads:

i. Describe any proposed new public or private access roads or substantial improvements of existing public or private access roads;

ii. Discuss whether any of the individual lots or tracts have access directly to arterial or collector roads; and if so, the reason access was not provided by means of a road within the subdivision;

iii. Explain any proposed closure or modification of existing roads.

iv. Identify existing primary road Average Vehicle Traffic and subdivision daily vehicle traffic assigned to that primary road.

v. Describe provisions considered for dust control on roads;

vi. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadways;

vii. Discuss how much daily traffic will be generated on existing local and neighborhood roads and main arterial, when the subdivision is fully developed;

viii. Indicate the capacity of existing and proposed roads to safely handle any increased traffic. Describe any anticipated increased maintenance that will be necessary due to increased traffic and who will pay the cost of maintenance;

ix. Explain whether year round access by conventional automobile will be available over legal rights of way to the subdivision and to all lots and common facilities within the subdivision.

f. Utilities:

i. Include a description of:

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

B. The extent to which these utilities will be placed underground;

C. Estimated completion of each utility installation.

g. Emergency Services:

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

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

B. Police protection;

C. Ambulance service/Medical services;

D. Give the estimated response time of the above services;

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

h. Schools:

i. Identify the School Districts and describe the available educational facilities which would service this subdivision;

ii. Estimate the number of school children that will be generated from the proposed subdivision;

iii. The subdivider shall discuss the impact of the proposed development on the provision of educational services with the administrator(s) of the appropriate school system(s). The subdivider shall provide a written statement outlining whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system, any recommendations of the administrator(s), and any mitigation planned to overcome any adverse impacts of the proposed development on the provision of educational services.

i. Land Use:

i. Describe comprehensive planning and/or land use regulations covering the proposed subdivision or adjacent land and if located near the jurisdictional area of an incorporated city or town, whether annexation is propose;

ii. Describe how the subdivision will affect access to any public lands. Where public lands are adjacent to or near the proposed development, describe present and anticipated uses for those lands; (e.g., grazing, logging, recreation, etc.);

iii. Describe the effect of the subdivision on adjacent land use;

iv. Describe any health or safety hazards on or near the subdivision, such as mining activity or potential subsidence, high pressure gas lines, dilapidated structures or high voltage power lines. Any such conditions should be accurately described and their origin and location identified. List any provisions that will be made to mitigate these hazards.

j. Housing:

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

A. For residential indicate the type of dwelling unit;

B. For all other uses the type and intensity of use (e.g. industrial, commercial, etc.).

k. Parks and Recreation Facilities:

i. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

l. Public Health and Safety:

i. Describe any probable impacts and any measures to mitigate the impacts, or submit a statement explaining why no impact is anticipated, providing documentation to support that statement that might affect public health and safety that aren't specifically addressed in other sub-section of the environmental assessment;

Appendix D
First Minor Subdivision Impact Criteria Report

General Instructions

The Montana Subdivision and Platting Act (76-3-608 MCA) sets criteria for the local government review of subdivisions. Listed below are policy statements that are to be used as criteria for evaluating the impacts of a subdivision. Please address how the policy statements relate to the proposed subdivision in a comprehensive and systematic fashion. For each of the criteria, describe the impact(s) and measures to mitigate the impact(s), or include a statement explaining why no impact is anticipated, and provide documentation to support that statement. If any of the criteria impacts are not applicable it shall be noted; with an explanation as to why it is not applicable. Incomplete impact reports will not be accepted.

The source(s) of information for each criteria impact shall be identified as part of the analysis. All impact analyses shall contain the name of the property, owner of the property and the person(s) preparing the criteria impact report.

Impact Criteria

a. Impacts on Agriculture:

   i. Proposed first minor subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on agriculture;

   ii. Proposed first minor subdivisions located on or in proximity to prime farmland are presumed to have an impact on agriculture.

b. Impact on Agricultural Water User Facilities:

   i. Proposed first minor subdivisions located on land with agricultural water user facilities or adjoining an agricultural water use facility are presumed to have an impact on agricultural water user facilities;

   ii. Proposed first minor subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are presumed to have an impact on agricultural water user facilities;

   iii. Proposed first minor subdivisions that will alter access for maintenance of agricultural water user facilities are presumed to have an impact on agricultural water user facilities;

   iv. Proposed first minor subdivisions that will alter the movement or availability of water are presumed to have an impact on agricultural water user facilities.

c. Impact on Local Services:

i. Proposed first minor subdivisions that will use existing utilities without extension are presumed to have a minimal impact on local services;

ii. Proposed first minor subdivisions that require the extension of public facilities are presumed to have an impact on local services.

d. Impact on Natural Environment:

i. Proposed first minor subdivisions that will use existing utilities are presumed to have a minimal impact on the natural environment except as otherwise provided in subsection (v) below;

ii. Proposed first minor subdivisions in locations with riparian areas, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on the natural environment;

iii. Proposed first minor subdivisions on land with a high water table four feet or less from the surface), wetlands, or groundwater recharge areas are presumed to have an impact on the natural environment;

iv. Proposed first minor subdivisions in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 40 percent are presumed to have an impact on the natural environment;

v. Proposed first minor subdivisions on land with historical, cultural, archeological, or paleontological features are presumed to have an impact on the natural environment.

e. Impacts on Wildlife:

i. Proposed first minor subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife;

ii. Proposed first minor subdivisions in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife;

iii. Proposed first minor subdivisions in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on wildlife;

iv. Proposed first minor subdivisions on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife.

f. Wildlife Habitat:

i. Proposed first minor subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife habitat;

ii. Proposed first minor subdivisions in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife habitat;

iii. Proposed first minor subdivisions in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on the habitat of those species;

iv. Proposed first minor subdivisions on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife habitat.

g. Impacts on Public Health and Safety:

i. Proposed first minor subdivisions that are contiguous to urbanized areas and utilize available public facilities are presumed to have a minimal impact on public health and safety;

ii. Proposed first minor subdivisions located in an area identified as a Wildland Urban Interface wildfire priority area are presumed to have an impact on public health and safety;

iii. Proposed first minor subdivisions on land with high pressure gas lines or high voltage lines are presumed to have an impact on public health and safety;

iv. Proposed first minor subdivisions on land or adjacent to Superfund or hazardous waste sites are presumed to have an impact on public heath and safety;

v. Proposed first minor subdivisions on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants are presumed to have an impact on public health and safety.

Appendix E
Contents of Final Plat Application

General Instructions

The final plat application submitted for approval shall conform to the preliminary plat previously approved by the Commission and shall incorporate all conditions imposed at the time of conditional approval.

a. The form, accuracy, and descriptive content of the final plat document which will be filed with the Clerk and Recorder is prescribed by the Montana Board of Professional Engineers and Professional Land Surveyors and is contained in the Montana Department of Labor and Industry Administrative Rules for Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats.

b. The following original documents shall be submitted (signed and notarized where appropriate) when applicable, to the County as part of the final plat application process. Said original documents must accompany the approved final plat when filed with the County Clerk and Recorder:

   i. A title report from a licensed title abstractor or Title Company 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 (must not be over 90 days old at time of Flathead County Planning & Zoning Office final plat application acceptance);

   ii. Copies of any deed restrictions relating to public improvements;

   iii. Certification by the Montana Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities;

   iv. Copies of articles of incorporation and by-laws for any property owners' association;

   v. Certification by the subdivider indicating which required public improvements have been installed and a subdivision improvements agreement, compliant with Section 4.0.16 and Appendix H, securing the future construction of any additional public improvements to be installed;

   vi. 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;

   vii. Copy of the state highway permit when a new road access will intersect with a state highway;

   viii. A certification from the County Treasurer's Office stating that all real property taxes

and special assessments assessed and levied on the land to be subdivided have been paid;

ix. Certification by the local fire district or applicable fire protection authority that the Fire Prevention and Fuels Reduction Plan has been implemented;

x. In the case of a multi-user water system, proof of an applicable water right 'provisional permit' issued by the Montana Department of Natural Resources and Conservation;

xi. A landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water if the subdivision creates parcels with lot sizes averaging less than 5 acres and the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots.

c. The final plat submitted for approval shall show all notes as required by preliminary plat conditions of approval on the face or in an attached document;

d. The final plat submitted for approval shall show house numbers (addresses) as assigned by the Flathead County Address Coordinator;

e. The following sample certificates may be used for the preparation of final subdivision plats and applications:

i. **Sample Certificate of Dedication - Final Plat:**

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

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

The above described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all roads, avenues and alleys shown on said plat are hereby granted and donated to the use of the public forever. The roadways dedicated to the public are accepted for public use, but the County accepts no responsibility for maintaining the same. The owner(s) agree(s) that the County has no obligation to maintain the roads hereby dedicated to the public use.

Dated this _____ day of _____, 20___.

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

ii. **Sample Certificate of Professional Land Surveyor - Final Plat:**

State of Montana)
) ss.
County of _____)

I hereby certify that I am a licensed Professional Land Surveyor in the State of Montana, that the survey shown on this subdivision plat has been prepared in accordance with Montana Code Annotated Title 76 Chapter 3 and the Montana Department of Labor and Industry Administrative Rules for the Montana Subdivision and Platting Act, Uniform Standards for Monumentation, Certificates of Survey and Final Subdivision Plats, ARM 24.183.1101 - 24.183.1107.

Dated this _____ day of _____, 20___.

(Seal) (Signature of Surveyor__)
(Printed name of surveyor)
Montana License No._____

(Address_____)

iii. **Sample Certificate of Final Plat Approval:**

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

Signature of Clerk and Recorder

Signature of Chairman
County Commission

(Seal of County)

iv. **Sample Certificate of Examining Land Surveyor, where required:**

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

Dated this _____ day of _____, 20 ___.

(__Signature of Surveyor_)
(Printed Name of Surveyor)
(Seal of Examining Land Surveyor) Montana License No._____
Flathead County, Montana

v. **Sample Certificate of Filing by Clerk and Recorder:**

STATE OF MONTANA)
) ss.
County of _____)

File for record this _____ day of _____, 20 __, at _____ o' clock.

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

vi. **Sample Certificate of County Treasurer:**

I hereby certify, pursuant to Section 76-3-611(1)(b), M.C.A., that no real property taxes and special assessments assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) are delinquent:

(legal description of land)

Dated this _____ day of _____, 20 __.

(Signature County Treasurer)
(seal) Flathead County, Montana

vii. **Sample County Attorney Certificate:**

CERTIFICATE OF COUNTY ATTORNEY:

This plat has been examined by the Office of the County Attorney according to Section 76-3-612(2), MCA, relying upon Title Report No._____ and approved based on information submitted by the developer or his agent.

Dated this_____ day of _____, 20___.

By: _____
Office of the Flathead County Attorney

f. **Utility Easements and service provider access**:

In addition to showing the location of the utility easement(s) on the plat with dashed lines, the following statement shall appear on the final plat:

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

Appendix F
Contents of Revised Preliminary Plat Application

General Instructions

A revised preliminary plat application is required for Subdivisions Created by Rent or Lease which have been reviewed per section 4.5 of these regulations and for Condominiums which have been reviewed per section 4.6 of these regulations. Pursuant to 76-3-208 MCA, subdivisions created by rent or lease are exempt from the surveying and filing requirements of this chapter but must be submitted for review and approved by the governing body before portions thereof may be rented or leased.

a. The revised preliminary plat application submitted for approval shall comply with requirements outlined in sections 4.5 and 4.6 of these regulations, shall conform to the preliminary plat previously approved by the Commission, and shall incorporate all conditions imposed at the time of conditional approval.

b. The following original documents shall be submitted (signed and notarized where appropriate) when applicable, to the County as part of the revised preliminary plat application process. Said original documents must accompany the approved revised preliminary plat, as applicable:

   i. A title report from a licensed title abstractor or Title Company 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 (must not be over 90 days old at time of Flathead County Planning & Zoning Office final plat application acceptance);

   ii. Copies of any deed restrictions relating to public improvements;

   iii. Certification by the Montana Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities;

   iv. A copy of articles of incorporation and by-laws for any property owners' association;

   v. A copy of the recorded Declaration of Unit Ownership;

   vi. Certification by the subdivider indicating which required public improvements have been installed and a subdivision improvements agreement, compliant with Section 4.0.16 and Appendix H, securing the future construction of any additional public improvements to be installed;

   vii. 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;

viii. Copy of the state or county approach permit for road or driveway access which approaches onto a state highway or county road;

ix. A certification from the County Treasurer's Office stating that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid;

x. Certification by the local fire district or applicable fire protection authority that the Fire Prevention and Fuels Reduction Plan has been implemented;

xi. In the case of a multi-user water system, proof of an applicable water right 'provisional permit' issued by the Montana Department of Natural Resources and Conservation.

c. The revised preliminary plat submitted for approval shall show all notes as required by preliminary plat conditions of approval on the face or in an attached document.

d. The revised preliminary plat submitted for approval shall show house numbers (addresses) as assigned by the Flathead County Address Coordinator, if applicable;

Appendix G
Sample Forms

General Instructions

The following sample forms may be used for the preparation of final subdivision plats and applications. Sample forms and letters include:

a. Grant of Easement Letter;

b. Irrevocable Letter of Credit;

c. Consent to Platting and Dedication;

d. Wavier of Protest – Participation in Special Improvement District;

a. **Sample Grant of Easement**

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

THE GRANTOR does hereby give, grant and convey unto the Grantee, its successor and assigns, the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and to travel upon and use, a road and its necessary fixtures and appurtenances through, over, and across a corridor, 60 feet wide, shown on the attached certificate of survey, extending across the following described tract(s) of land:

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

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

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

_____
Grantor

STATE OF MONTANA)
) ss.
County of _____)

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

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

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

b. **Sample Irrevocable Letter of Credit:**

Letter of Credit No.
Dated:
Expiration Date:
Amount:

Board of Commissioners
Flathead County
800 South Main
Kalispell MT 59901

We hereby establish in your favor an irrevocable letter of credit up to the aggregate amount of $_____ at the request of (Name of Subdivider).

If (Name of Subdivider) fails to complete the specified improvements in the (Name of Subdivision) within the time period set forth in the attached Improvements Agreement, we will pay on demand your draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements. All drafts must indicate the number and date of this letter of credit and be accompanied by a signed statement of an authorized official that the amount is drawn to install improvements not installed in conformance with the Improvements Agreement and specifying the default or defect in question.

All drafts must be presented prior to the expiration date stated above, and this letter of credit must accompany the final draft for payment.

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

(Name of Lending Institution)

(Signature and Title of Authorized Official)

c. **Sample Consent to Platting and Dedication:**

Pursuant to 76-3-612, M.C.A, the undersigned (Financial Institution or other lienholder), Mortgagee under that certain Mortgage identified as follows:

Date: _____

Mortgagor: _____

Document Number: _____

_____ _____

Signature and Title Printed Name and Date

Does hereby join in and consent to the platting of the following described lands located in Flathead County, Montana, which lands are subject to the lien of the above referenced Mortgagee:

(Insert Legal Description Here)

d. **Sample Waiver of Protest – Participation in Special Improvement District**

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District.

_____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.

Appendix H
Subdivision Improvement Agreement

General Instructions

The model subdivision improvement agreement is intended to be used in situations where improvements required for final approval or conditional approval to be extended beyond the three year preliminary subdivision plat approval. A subdivider may request a subdivision improvement agreement to guarantee the construction of improvements in a timely manner.

Procedures

A subdivider requesting a subdivision improvement agreement shall follow the following procedures:

a. At least 65% of the total improvement cost must be expended by the developer on subdivision improvements, required as conditions of plat approval, before the developer may enter into a subdivision improvements agreement with the county;

b. The subdivision improvement agreement must be complete and submitted with the application for final plat;

c. The term of the agreement in Section 2 is no more than eighteen (18) months following final plat approval;

d. The subdivider may request a one year extension to the subdivision improvement agreement. The Commission shall require a new “estimated construction cost” and surety to reflect 125 percent of the estimated construction cost;

e. All Department of Environmental Quality approvals required for final plat shall be obtained prior to entering into a subdivision improvement agreement.

SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20_____, by and between the FLATHEAD COUNTY BOARD OF COMMISSIONERS of Flathead County, Montana, Party of the First Part and hereinafter referred to as the COUNTY, and _____ (Name of Developer)_____

a _____(Individual, Company or Corporation)_____

located at _____(Street Address/P. O. Box) (City, County, State, Zip)_____

Party of the Second Part and hereinafter referred to as DEVELOPER.

WITNESSETH:

THAT WHEREAS, the Developer is the owner and developer of a new subdivision known as _____(Name of Subdivision) _____
located at _____(Location of Subdivision)_____
and,

WHEREAS, the County has conditioned it's approval of the final plat of _____ (Name of Subdivision)_____, upon the conditions as set forth in the Preliminary Plat approval of the Subdivision being completed; and

WHEREAS, at least 65% of the total improvement cost of improvements required as conditions of plat approval, as cited in 'Exhibit A', have been expended by the developer on improvements installed within the subdivision, as certified in 'Exhibit B'; and

WHEREAS, all required improvements, as cited in 'Exhibit A', have not been completed at this time, and the Developer wishes to bond for the completion of those improvements set forth in 'Exhibit A'; and

WHEREAS, the Flathead County Subdivision Regulations require that a subdivider shall provide a financial security of 125% of the estimated total cost of construction of said improvements as evidenced by an estimate prepared by a licensed public engineer included herewith as 'Exhibit B'; and

WHEREAS, the estimated total cost of construction of improvements to be bonded for is the sum of $_____.

NOW THEREFORE, in consideration of the approval of the final plat of said Subdivision by the County, the Developer hereby agrees as follows:

1. The Developer shall deposit as collateral with the County a Letter of Credit, or other acceptable collateral as determined by the Flathead County Board of Commissioners, in the amount of $_____. Said Letter of Credit or other collateral shall have an expiration date of at least sixty (60) days following the date set for completion of the improvements, certifying the following:

   a. That the creditor guarantees funds in the sum of $_____ the

estimated cost of completing the required improvements in
_____.
(Name of Subdivision)

b. That if the Developer fails to complete the specified improvements within the required period, the creditor will pay to the County immediately, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter;

2. That said required improvements shall be fully completed by _____, 20_____.

3. That upon completion of the required improvements, the Developer shall cause to be filed with the County a statement certifying that:

a. All required improvements are complete.

b. That the improvements are in compliance with the minimum standards specified by the County for their construction and that the Developer warrants said improvements against any and all defects for a period of one (1) year from the date of acceptance of the completion of those improvements by the County.

c. That the Developer knows of no defects in those improvements.

d. That these improvements are free and clear of any encumbrances or liens.

e. That a schedule of actual construction costs has been filed with the County.

f. All applicable fees and surcharges have been paid.

4. The Developer shall cause to be filed with the County copies of final plans, profiles, grades and specifications of said improvements, with the certification of the registered professional engineer responsible for their preparation that all required improvements have been installed in conformance with said specifications.

IT IS ALSO AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS, TO-WIT:

That the Developer shall provide for inspection of all required improvements by a registered professional engineer before the Developer shall be released from the Subdivision Improvement Agreement.

That if the County determines that any improvements are not constructed in compliance with the specifications, it shall furnish the Developer with a list of specific deficiencies and may withhold collateral sufficient to insure such compliance. If the County determines that the Developer will not construct any or all of the improvements in accordance with the specifications, or within the required time limits, it may withdraw the collateral and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. The unused

portions of the collateral shall be returned to the Developer or the crediting institution, as is appropriate.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year herein before written.

_____
(Name of Subdivision/Developer/Firm)

by _____

_____
(Title)

STATE OF MONTANA
COUNTY OF _____

On this _____ day of _____, 20_____, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of _____, whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this day and year first above written.

_____
Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

FLATHEAD COUNTY BOARD OF COMMISSIONERS ATTEST:

Commissioners Office

By: _____ By: _____
Chairperson Clerk

++++++

EXHIBIT A

Conditions of approval as fixed to the preliminary plat by the Flathead County Board of Commissioners.

ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

Comment:
The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider fail to install the required the improvements. A suggested irrevocable letter of credit is included as part of this Appendix. The other common guaranties are also explained below.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125 percent of the estimated total cost of installing all required improvements.

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

i. That the creditor guarantees funds in an amount equal to the cost, as approved by the governing body, of completing all required improvements. The letter of Credit or other collateral shall have an expiration date of at least sixty (60) days following the date set for completion of the improvements;

ii. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft* without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter;
* A "sight draft" commits the payer to make payment at the time the draft is presented, or on sight.

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

b. **Escrow Account -** The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body. Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

i. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period;

ii. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

c. **Surety Performance Bond -** The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the County (City) of _____. The bond must be in effect until the completed improvements are accepted by the governing body;

d. **Sequential Development -** Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section;

e. **Special Improvements District -** The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created. If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA:

i. An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

SAMPLE IRREVOCABLE LETTER OF CREDIT

Letter of Credit No. ___

(Name of Local Government) (Date)
___ (Address)_____

Gentlemen:

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

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

"Drawn under __(lending institution)__, Letter of Credit # ___
dated __(date of Letter of Credit)__," and the amount drawn endorsed on the reverse hereof by the lending institution.

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

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

__ (Lending Institution)_____

__(Signature and Title of Official)__

Appendix I
Sample Subdivision Roadway Latecomers Agreement

General
This model roadway late-comers agreement is intended to be used in situations where roadway improvements on County maintained roads or easements are required to mitigate the expected impacts which are directly attributable to a proposed subdivision. The extension of roadway improvements are pursuant to 76-3-510, MCA and are required to protect the public health, safety and welfare of Flathead County and its citizens.

FLATHEAD COUNTY
LATECOMERS AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, 20___, by and between the Flathead County Board of County Commissioners, Party of the First Part and hereinafter referred to as COUNTY, and
_____
("Name of DEVELOPER")
a_____
(Individual, Company or Corporation)
located at _____,
(Street Address/P.O. Box) (City, County, State, Zip Code)
Party of the Second Part and hereinafter referred to as DEVELOPER.

WITNESSETH:

THAT WHEREAS, the DEVELOPER is the owner and developer of a new subdivision known as _____
(Name of Subdivision)
located at _____, and
(Location of Subdivision)

WHERAS, the COUNTY owns and maintains a public roadway system that serves properties within the unincorporated Flathead County for the benefit of the public.

WHEREAS, the COUNTY has conditioned its' approval of the final plat of the subdivision, _____,
(Name of Subdivision)
upon the conditions as set forth in the preliminary Plat of the Subdivision and all its improvements being completed pursuant to the Conditional Approval set forth in "Exhibit A".

WHEREAS, the DEVELOPER has completed roadway improvements to COUNTY standards on COUNTY maintained roadways or easements pursuant to the Conditional Approval set forth in "Exhibit A" which will benefit properties in addition to those developed by the DEVELOPER.

WHEREAS, the COUNTY and DEVELOPER have identified certain properties that may eventually benefit from the roadway improvements set forth in “Exhibit B”, and

WHEREAS, the DEVELOPER seeks reimbursement from properties that may eventually benefit from the roadway improvements as these properties are developed as set forth in Exhibit “C”.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Entitlement to Reimbursement. The COUNTY agrees that DEVELOPER has installed the roadway improvements to COUNTY standards for which the COUNTY”S existing policies entitle the DEVELOPER to seek reimbursement from future property developers who benefit from such facilities:

a. Roadway Improvements:
_____
_____
_____ Based on evidence and information submitted by DEVELOPER, the COUNTY agrees that the DEVELOPER shall be entitled to seek reimbursement, for the facilities described above in the amount of _____ DOLLARS as set forth in Exhibit “C”.

2. Identification of Properties. The parties agree that the properties identified on Exhibit "B," attached hereto and incorporated herein by reference, are those properties from which DEVELOPER is entitled to seek reimbursement for roadway improvements to COUNTY maintained roadways or easements, and the reimbursement that DEVELOPER is entitled to seek is the amount set forth on Exhibit "C" with respect to each property.

3. COUNTY Effort to Collect. The COUNTY agrees that it shall exercise its best, good faith efforts to assist DEVELOPER in collecting reimbursement as set forth herein. The COUNTY will exercise its best, good faith efforts to decline to allow the properties described on Exhibit "B" to subdivide or develop for which DEVELOPER is entitled to seek reimbursement unless and until such properties have deposited with the COUNTY the appropriate amount of reimbursement, as described on Exhibit "C." Other than exercising its best, good faith efforts to obtain reimbursement from those properties identified on Exhibit "B," the COUNTY shall have no further obligation to reimburse DEVELOPER for the roadway improvements. The COUNTY shall not incur liability for any unauthorized development within the properties identified in “Exhibit “B” and the COUNTY shall not be obligated to pay to DEVELOPER any amount of reimbursement as set forth therein until the COUNTY has actually collected such amount from the properties described on Exhibit "B." DEVELOPER acknowledges that the COUNTY has entered into this Agreement as an accommodation and as a convenience to DEVELOPER, and the COUNTY does not guaranty that any amount of reimbursement will be collected for DEVELOPER; nor will the COUNTY be liable if it fails, through negligence or otherwise, to collect from a particular property.

4. Payment to Developer. Within thirty (30) days of the COUNTY'S collection of reimbursement from one of the property owners described on Exhibit "B," the COUNTY shall remit such amount to the DEVELOPER, less a service charge equal to seven (7) percent of the amount collected (but in no event exceeding $500.00) to defray the COUNTY'S costs of administering this Agreement.

5. Term; Incorporation of Policies. This Agreement shall be in effect for a period of fifteen (15) years, after which time it shall automatically terminate. DEVELOPER shall have no right to reimbursement from any properties described on Exhibit "B" after the termination of this Agreement; nor shall the COUNTY have any further obligation to monitor or identify properties that benefit after the termination of this Agreement.

6. Attorneys' Fees. In the event of any litigation to enforce or interpret the provisions of this Agreement, or to remedy a breach thereof, the prevailing party shall be entitled to reasonable attorneys' fees as fixed by the court.

7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto relating to the subject matter contained in this Agreement which are not fully expressed herein. The provisions of this Agreement may be waived, altered, amended or repealed in whole or in part only upon the written consent of all parties to this Agreement.

8. Governing Law. The construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Montana.

9. Forum. Any litigation to enforce or interpret the provisions of this Agreement or the parties' rights and liabilities arising out of this Agreement or the performance hereunder shall be maintained only in the courts in the County of Flathead, Montana.

10. Successors in Interest. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estate, heirs, and legatees of each of the parties hereto.

11. Notices. All notices, requests, payments, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall either be delivered in writing personally or be sent by telegram or by regular or certified first-class mail, postage prepaid, deposited in the United States mail, and properly addressed to the party at his address set forth on the signature page of this Agreement, or at any other address that such party may designate by written notice to the other party.

IT IS ALSO AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS, TO WIT:

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year herein before written.

Dated: _____ DEVELOPER

By: _____

Address: _____

_____

Dated: _____ FLATHEAD COUNTY

By: _____
Chairperson

ATTEST:

_____
County Clerk and Recorder

Appendix J
Sample Dust Control Plan

Introduction
Air quality in Flathead County is an important consideration when contemplating subdivision and/or development. Human caused dust, particulate matter and other sources of air pollution will degrade the visibility and possibly create public health concerns for residents and visitors. The Dust Control Plan is intended to identify possible sources of dust and means to mitigate potential dust related to subdivision activities. The focus of the plan is unpaved roads, but may also apply to other soil disturbing construction related activities. Please provide the information requested below and identify the measures taken to mitigate potential sources of dust.

Subdivision:

_____

Location:

_____

_____

Primary Road Access and Length (from nearest County paved road):

_____

_____

_____

Identify Long Term Dust Control on Unpaved Roadways*:

_____

_____

_____

*Note: Pavement of roadways, soil binding or dust control palliatives on roadways, watering, grass plantings, etc. represents reasonable precautions and should be considered for effective dust control measures and mitigation.

List Measures Intended During Construction Activities:
For roadways (both internal and external to the subdivision):

_____

_____

For utilities:

_____

_____

For other construction:

_____

_____

Signature of subdivider: _____

Appendix K
Sample Road User's Agreement

DECLARATION CREATING
ROAD USER'S AGREEMENT
FOR THE ROADWAY(S) WITHIN THE _____ SUBDIVISION

This declaration is made by _____ ("Declarant").

WHEREAS, Declarant is the present owner of the real property described below and wishes to impose requirements for the future maintenance of internal subdivision roadway(s);

WHEREAS, the real property which is subject to provisions of this Declaration is more particularly described as follows:
_____Subdivision,
located in Section ____, Township ____ North, Range _____ West, Flathead County, Montana;
NOW, THEREFORE, Declarant declares the following requirements to assure maintenance of the roadway or roadways within the above-described subdivision. These requirements shall run with the land and shall be binding upon and enforceable by the owner (or owners) of each lot located within the above-described subdivision, their heirs, successors, and assigns.

1. The roadway or roadways within the above-described subdivision shall be maintained in good and passable condition under all traffic and weather conditions.

2. The costs for maintenance and repair of the roadway or roadways, including associated storm-water infrastructure and signage, shall be divided equally between each lot. Each lot owner (or owners) shall pay its pro-rata share, including but not limited to:

    a. Routine maintenance, including snow plowing and clearing of culverts and drainage features.
    b. Major improvements, including new pavement, re-striping, new sidewalks, and new curbs.

Dated this ___ day of_____, 20___.

By:
_____
Declarant

Appendix L
Sample Wildland Urban Interface
Fire Prevention Control and Fuels Reduction Plan

Introduction

All subdivisions within the Wildland Urban Interface shall be planned, designed, constructed, and maintained so as to minimize the risk of fire, to allow for safe and adequate vehicular escape from fire, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety (Sections 4.7.26 and 4.7.27 Flathead County Subdivision Regulations).

A Fire Prevention, Control and Fuels Reduction Plan must include the following:

1. Subdivision name.
2. Location (address and township, range, and sections)
3. Number of lots and average size (in acres).
4. Length of primary access road.
5. Name of road the primary access connects with.
6. An analysis of the wildfire hazards on the site and in the vicinity of the property, as influenced by existing vegetation, fuel types, topography, fire history, land uses and other factors.
7. A map showing the areas that are to be cleared and/or thinned of wildland vegetation to reduce fuel loading, provide for safe ingress and egress and/or to provide fire breaks, open, maintained parkland and/or areas that may provide one or more safe zone;
8. An identification of roads, driveways, secondary access routes and drainage crossings that may be used for fire suppression activities along with proposed specifications (width, grade, construction standards, etc.);
9. A discussion of the existing and proposed resources available to fight fire within the subdivision including water supply, equipment, facilities and personnel. This discussion must evaluate the potential impacts of the proposed subdivision on the resources of the local fire protection authority, and discuss measures proposed by the subdivider to mitigate potential impacts;
10. Information sources used in the preparation of the plan and the preparer's qualifications; and
11. The signature of subdivider.