

Unresolved Issue- Update 2.0 Development Code Definitions? or create Definitions sections within Subdivision Regulations?

- Review Committee recommended changes are shaded grey
- Terms interpreted as inapplicable to Subdivision Regulations are shaded beige.
- Unresolved Issues are shaded green.

### 2.0.1 General Provisions

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): Legal access is established in the chain of title to the lots or through platting, and the chain of title over which access passes.

**Or**

*Legal access means that each lot in a subdivision either abuts a public (city, county, state, or federal) street or road, or that the subdivider has obtained (or will have obtained prior to final plat approval) adequate and appropriate easements across all necessary properties, from a public road to each lot in the subdivision, whether or not a road has been constructed on that property, and has or is proposed to dedicate the easement for public use or for private use specific to the proposed subdivision.*

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

ACCESSORY APARTMENT: A separate and complete dwelling unit that is contained in the same structure or lot as a single-family dwelling or business. Accessory apartments are clearly subordinate to the primary use in regards to size and location and may be used as on-site housing for employees, or may be rented to the general public.

ACCESSORY BUILDING OR **STRUCTURE USE**: ~~The use of land, b~~ Buildings and/or other structures which ~~is 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.

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

AFFORDABLE HOUSING: Housing where the occupant is paying no more than thirty percent of the median income for the county for gross housing costs including utility costs.

**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 ~~residential~~ driveway meets a public road or where a local access road, for example, intersects a higher classification of public road.

**AVERAGE DAILY TRAFFIC (ADT):** *Combined ADT is the average of the sum of existing vehicles on the roadway and vehicles generated by the subdivision.*

**Or**

*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.

**BOARD OF ADJUSTMENT:** The Flathead County Board of Adjustment.

**BUILDING AREA** ~~or FOOTPRINT~~: The total area covered by the enclosed building including attached structures.

**BUILDING HEIGHT:** The vertical distance from the undisturbed ground level at the perimeter of the building to a parallel plane at the highest point of the roof or parapet wall.

**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.

**COMMERCIAL HOUSING:** A hotel, motel, commercially leased house or apartment, or other transient type commercial establishment, where fees are collected in exchange for one or more nights accommodation. Noncommercial housing is considered private quarters such as living with family, friends or others in a location not commercially leased or rented.

**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 and extends from its footing below the finished ground grade to the height of the exterior surface of the roof.

**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 nonpossessory 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 bisected by a lot line, designed to house two families living independently of each other in separate dwelling units but having one common wall. Each unit in a duplex dwelling is on a separate lot.

**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 nonpossessory interest in land other than as a tenant, for a specific purpose, such right being held by someone other than the owner.

**ENGINEER (REGISTERED 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 the subdivision application which must include an impact analysis of the proposed project and relationship with the physical, biological and human environment. The environmental assessment includes three sections:

- a. A resource assessment of opportunities and constraints that may be affected by the proposed subdivision;
- b. A summary of the probable impacts of the proposed subdivision based on criteria described in 76-3-608, MCA; and
- c. A community impact report containing a statement of anticipated needs of the proposed subdivision for local services; and
- d. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under 76-3-501, MCA, as may be required by the governing body; **Review Community wants change >> come back**

**ENVIRONMENTAL IMPACT STATEMENT (EIS):** A document (usually longer and more detailed than an EA) that describes impacts on the environment as a result of a proposed action. It includes scoping and describes impacts of alternatives and plans to mitigate the impacts.

**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.*

**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.

**FLOOR AREA:** The sum of the square footage of all of the floors of a structure or building.

**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 term 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.

**HOME OCCUPATION:** A specialized commercial use of a scale which is still secondary to the residential use, has no adverse impact on the neighborhood, and no walk-in traffic generation. Such uses may include, but are not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts. The conducting of a hospital,

barbershop, beauty shop, tearoom, tourist home, animal hospital, or other traffic generating use shall not be deemed to be a home occupation.

**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 may require 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:** ~~Any and all services or facilities that local government entities are authorized to provide.~~ *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 **shortest** 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 Front* -- **looked up in zoning regs > consistent with proposed 'd' below-strike?**
- cb. 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.
- e. ~~Lot Frontage -- The length of the front lot line.~~
- d. *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.
- ed. 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.
- fe. Gross Lot Area – the total area, measured in a horizontal plane, within the boundary lines of a lot.
- g. *Taxable Area*: **Review Committee (Jane) will provide**

~~f. Lot Line, Front: The front property line of a lot shall be determined as follows:~~

~~i. Corner lot: 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.~~

~~ii. Interior lot: The line bounding the street frontage.~~

~~iii. Through Lot: 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.~~

hg. 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.

ih. 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.

**MINERAL:** Any ore, rock, or substance other than oil, gas, or bentonite including sand, gravel, peat, soil materials taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing or other subsequent use or processing or for stockpiling for future use, refinement or smelting.

**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 PAD:** That area of a manufactured home space which has been prepared for the placement of a manufactured home.

**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.

**MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

**MOTORCOACH:** See Recreation Vehicle.

**MUNICIPALITIES:** For the purposes of these Regulations, 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.~~

**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.*

**OFF-STREET PARKING:** A site or a portion of a site, devoted to the off-street parking of vehicles, including parking spaces, aisles, access drives, and landscaped areas, and providing vehicular access to a street.

**OPEN SPACE:** Land or water areas retained for use as active or passive recreation areas or for resource protection. Permitted primary uses, which are considered to be open in character, are limited to agricultural/horticultural/silvicultural uses, recreational space, or a single-family dwelling on open-space area 20 acres or larger. Accessory uses to these primary uses are also permitted. Examples of permitted structures or uses include barns, corrals, stables, mint stills, granaries, hay sheds, farm or logging machinery storage buildings, golf courses, playgrounds, swimming pools, and courtyards. Open space calculation shall exclude road easements and road rights-of-way. \* zoning item not to be confused w/ Subdivision

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

**PARENT ~~PARCEL~~ TRACT OF RECORD:** The original parcel of land that is the subject, or a portion of which is the subject of a subdivision or development proposal.

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

PERPETUAL: Continuing forever.

PERSON: Individual, trust, firm, joint-stock company, joint venture, consortium, legal entity, partnership, association, corporation, commission, state or state agency, political subdivision of the state, interstate body, or the federal government, including a federal agency. [76-10-701, MCA]

*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.

**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.

**PRIVATE IMPROVEMENT:** *Review Committee seeks County Attorney input*

**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 requires 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, ACTIVE:** Recreation activities usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields. The term “active recreation” includes but is not limited to swimming, tennis, and other court games, baseball and other field sports, golf and playground activities.

**RECREATION, PASSIVE:** Recreational activities that generally do not require a developed site. This 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, motorcoaches, 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, tents or similar devices used for temporary living quarters for recreational camping or travel purposes.

**REMAINDER:** A portion of a ~~parcel~~ *tract of record* left over from the creation of a subdivision from a larger parent ~~parcel~~ *tract of record* ~~of less than 160 acres.~~

**RESIDENTIAL:** Regularly used by occupants as a semipermanent 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.

**RETAINING WALL:** A wall designed to resist the lateral displacement of soil or other materials.

**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, road types are defined as follows:*

- a. *Alley: A road used primarily for vehicular access to the rear of properties which abut on and are served by public roads.*
- b. *Arterial: A roadway system serving as the principal network for through traffic flow. They connect areas of principal traffic generation to the highway system. Arterials should be public county roads.*
- c. *Collector Roads: Roadways serving the dual functions of distributing traffic between local roads and arterials and providing primary access to other abutting properties. Higher traffic volumes and speeds are normal. They connect arterial networks and residential areas to commercial and other areas. Collectors may be county public or private roads.*
- d. *Cul-de-sac: A dead-end street providing at the closed end special enlarged turning and maneuvering space for vehicular and emergency traffic.*
- e. *Frontage Access (Service Road): A local or collector road, usually parallel and adjacent to an arterial, major collector, or highway which provides access to abutting properties and controls traffic access.*
- f. *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.*

- g. Hammerhead: A t-shaped turn around used at the end of a dead end street which provides a three point turn around capacity.*
- h. 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 intercounty routes of statewide importance as designated by the (state) director of transportation.*
- i. Horseshoe: A street which begins and ends on the same road, but not at the same location.*
- j. Local Roads: Roadways used primarily for 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.*
- k. Loop: 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, lots.*
- l. Primary Access Roads: The principal way or means of approach to provide entrance or exit to a property. This does not include secondary or emergency access roads. Primary access can be by arterial, collector, cul-de-sac, frontage, hammerhead, highway, local, or loop roads.*
- m. Secondary Access (Emergency) Roads: Roads that allow limited ingress/egress and emergency access to a subdivision. They shall connect to other roads and highways but are not intended to serve as primary access or carry daily traffic.*

**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 is low and large tracts of land predominate. Residential subdivisions are unusual and limited industrial activities could be found in areas with appropriate resources (i.e. gravel extraction, timber or agricultural processing).

**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:** *Review Committee (Dave and Eric) will provide*

**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 or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, which area, that provides or will provide multiple space for recreational camping vehicles or mobile homes [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.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions.

**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 ~~registered~~ *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 that is not attached to a permanent foundation, or any 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. Vegetated 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. Vegetated buffer enhance wildlife habitat, scenic resources and recreational resources. Mowed lawns are not considered vegetated buffers. Vegetation typically consists 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.

WILDLIFE: Living animals which are neither human nor domesticated.

WILDLIFE HABITAT: A place frequented by wildlife or site where wildlife naturally lives.