

## ORDINANCE 24-5896

### AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE REGULATIONS IN SECTIONS 23-100 THROUGH 23-1100 INCLUDING APPENDICES A THROUGH P, BE AMENDED TO CONFORM TO STATE LEGISLATION PASSED BY THE 68<sup>TH</sup> LEGISLATURE IN 2023, AND TO AMEND AND CLARIFY THE SUBDIVISION REGULATIONS FOR THE CITY OF BILLINGS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1. RECITALS.** *The Montana Subdivision and Platting Act (MSPA) (Title 76, Chapter 3, Montana Code Annotated (MCA)), and Sections 23-100 through 23-1100 including Appendices A through P, BMCC, provide for amendment to the text of the local subdivision regulations from time to time. The City staff have reviewed the proposed changes to the subdivision regulations that pertain to the division of all the real property within the City of Billings. The Planning Board has considered the intent of such regulations as required by Title 76, Chapter 3, Part 5, MCA. The recommendations of the Planning Board and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the intent of subdivision regulations as required by state law. (MCA 76-3-501.(1) a though i)*

**Section 2. Section 23-201. Definitions,** of the Billings, Montana, City Code be amended so that such section shall read as follows:

#### **ACTIVE TRANSPORTATION PLAN-BILLINGS AREA BIKEWAY AND TRAIL**

**MASTER PLAN (BABTMP):** *Refers to the current bike and trail master plan adopted by City Council.*

**~~BIKEWAY:~~** ~~A generic term for any road, street, path or way, which is specifically designated for bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.~~

**BOULEVARD** means an area of public right-of-way or private easement between the paved edge of the street or road and the private property line. The boulevard provides for the opportunity to separate vehicle traffic from pedestrian travel. Boulevards often have sidewalks and mailboxes located in them and often are landscaped. A parkway median is a landscaped area located in the middle of the street or road.

**DWELLING UNIT** means any building or portion thereof providing complete, independent and permanent living facilities. ~~for one family. A family is any number of~~

~~individuals, related by blood, marriage, adoption or other legal means, including any number of minor children in foster care, and/or any number of unrelated persons (including any domestic servants or caregivers) living together in a dwelling unit. (24 CFR Part 4, Section 982.401). A building designed exclusively for residential purposes, including single-unit, two-unit, and multiple-unit dwellings, but not including hotels or motel units, bed and breakfast guest rooms, boarding or lodging houses, tourist homes, or travel trailers and/or vehicles.~~

**EXPEDITED REVIEW FOR CERTAIN SUBDIVISIONS** means a subdivision application, regardless of the number of lots, that meets the requirements of subsection 3 of MCA 76-3-623 is entitled to the expedited review process.

~~**GREENBELT/GREENWAY** means corridors of protected open space managed for conservation and recreation purposes as designated by the governing body. They often follow natural land or water features and link nature reserves, parks, cultural features and historic sites with each other and with populated areas. These corridors may be privately or publicly owned.~~

**GROWTH POLICY** means the Yellowstone County and City of Billings Growth Policy and any version of this policy adopted by the Billings City Council and Board of County Commissioners pursuant to 76-1-601, MCA.

**LINEAR PARK** means corridors of protected open space managed for conservation and recreation purposes as designated by the governing body. They often follow natural land or water features and link nature reserves, parks, cultural features and historic sites with each other and with populated areas. These corridors may be privately or publicly owned.

**MANUFACTURED HOME** a detached residential dwelling unit constructed on a non-removable steel chassis or frame. Each transportable unit of a manufactured home has a red certification label on the exterior section and is built according to the Manufactured Home Construction and Safety Standards (HUD Code). A manufactured home does not include a mobile home or house-trailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. (See MCA 15-1-101(m))

~~means a detached residential dwelling unit, which may consist of two or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, "trailer homes," "house trailers," and "mobile homes" whether or not the unit has been constructed after June 15, 1976, January 1, 1990, 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 International Residential/Building Code applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.~~

**MONUMENT (PERMANENT MONUMENT)** means 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.

~~**MULTI-USE PATH** means a hard or soft surfaced trail physically separated from motorized vehicular traffic by an open space or barrier and either within the public right of way or within an independent right of way. These paths may also be used by pedestrians, in-line skaters, wheelchair users, joggers and other non-motorized users.~~

**MULTI-MODAL TRAIL** means any of the following:

- a) Bike Lane: A portion of the roadway that has been designated by striping, signage, and pavement markings for the preferential or exclusive use of bicyclists. (NACTO)  
Shared Use Path: a multi-use facility outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the right-of-way or within an independent alignment.
- b) Buffered Bike Lane: Conventional bicycle lanes that are paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane (NACTO).
- c) Cut-through: A linking trail through the end of a cul-de-sac or from street to street between lots within a subdivision. It can encourage diverse types of transportation. It can reduce travel time and distance for pedestrians and bicyclists to areas in and out of neighborhoods, thereby reducing vehicle trips. By increasing connectivity with cut-throughs, it can reduce the time it takes to get from point A to point B and promote mobility for people in the subdivision.
- d) Neighborhood Bikeway: A local street or series of contiguous street segments that have been modified to function as a through street for bicyclists, while discouraging through automobile travel. (AASHTO Guide for the Development of Bicycle Facilities 4th Edition)
- e) Neighborhood Trail: A paved path located outside of the right of way of between 7-9.9 feet in width.
- f) Separated Bike Lane: A separated bike lane is a facility for exclusive use by

bicyclists that is located within or directly adjacent to the roadway and is physically separated from motor vehicle traffic. A separated bike lane can be configured for one- or two-way travel. (Small Town and Rural Design Guide)

- g) Shared Lane Markings (also known as sharrows): Road symbol used to indicate a shared lane environment for bicycles and automobiles. The shared lane marking is a pavement marking with a variety of uses to support a complete bikeway network; it is not a facility type and should not be considered a substitute for bike lanes or other separation treatments where these types of facilities are otherwise warranted or space permits. Sharrows consist of a double chevron and a bike symbol. The Manual on Uniform Traffic Control Devices (MUTCD) outlines guidance for shared lane markings in section 9C.07. (NACTO)
- h) Shared-use paths are used by pedestrians (including skaters, users of manual and motorized wheelchairs, and joggers), bicyclists, and other authorized motorized and non-motorized users. (AASHTO Guide for Pedestrian Facilities 2nd Edition)
- i) Sidewalk: The portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians. Sidewalks are paved in concrete. (MCA)
- j) Traffic Calming: Traffic Calming is the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users and area residents (ITE)

**OPEN SPACE** means any land which is provided or preserved for park or recreational purposes as designated by the governing body; conservation of land or other natural resources; historic or scenic purposes; or assisting in the shaping of the character, direction, and timing of community development. Open space may be privately or publicly owned and shall designate through the plat or an easement whether or not the land is publicly accessible.

**PARK** means land that is dedicated to the City through MCA 76-3-621 or acquired through a donation or purchase by the City and designated on a plat as a park. In order to be platted as a park the land must be owned by a public entity and public access is allowed. A park must be classified as defined by the City of Billings Comprehensive Parks Plan. Private parkland dedication may be provided instead of public when it meets the requirements of 76-3-621 (1)(a), (b), or (d) and (6)(a)(ii).

**PARKLAND AMENITIES:** Amenities within a park allow passive or programmed space. Amenities will be considered if they add value to parkland. Below is a short, non-exclusive list of passive and active parkland amenities.

- a) Shade structure
- b) Sensory playground equipment
- c) Park benches and other park furnishings
- d) Cultivated gardens and walking paths
- e) Water play areas, splash pads
- f) Picnic tables and trash cans
- g) Challenge course
- h) Slides, swings and ziplines

**PHASED DEVELOPMENT** means when a subdivision is platted in whole but developed in phases, a phasing plan shall be prepared and included in the Subdivision Improvement Agreement. The phasing plan submitted by the subdivider must be reviewed and approved by the City of Billings with the preliminary plat. Phased developments are further defined in MCA 76-3-103.

**PLANNED NEIGHBORHOOD DEVELOPMENT (PND):** See BMCC 27-800.

**PLANNED NEIGHBORHOOD UNIT DEVELOPMENT (PUD)** means a subdivision consisting of a planned mixture of land uses such as residential clusters, industrial parks, shopping centers, and/or office building parks built in a prearranged relationship to each other and having open space and community facilities in common ownership or use (MCA 76-3-103(10), and BMCC 27-700).

**SUBDIVISION QUALIFYING FOR EXPEDITED REVIEW** means ~~a subdivision qualifying for an abbreviated review and approval process when it meets the definition of a first minor subdivision that contains one (1) or two (2) parcels, proper access to all lots is provided, no land in the subdivision will be dedicated to public use for parks or playgrounds, and the plat has been approved by the state department of environmental quality whenever approval is required.~~ an expedited review and approval process for subdivision plats. It must meet the requirements of Section 23-306 of these subdivision regulations

**SUBDIVISION QUALIFYING FOR ABBREVIATED REVIEW** means a subdivision qualifying for an abbreviated review and approval process when it meets the definition of a first minor subdivision that contains one or two parcels, proper access to all lots is provided, no land in the subdivision will be dedicated to public use for parks or

playgrounds, and the plat has been approved by the Montana Department of Environmental Quality whenever approval is required.

**SUBDIVISION, ADMINISTRATIVE MINOR** means a subdivision qualifying for an administrative review and approval process when it meets the definition of a first minor or subsequent minor subdivision from a tract of record, is within zoning, proper access to all lots is provided, has a will-serve letter from a municipal or county water and sewer service, and does not require a variance.

**TRANSPORTATION PLAN** means the currently adopted Billings Urban Area Transportation Plan 2009 ~~Update~~, or any newer transportation planning document adopted by the Billings City Council and Board of County Commissioners and Policy Coordinating Committee (PCC) for the Billings urban area.

**Section 3.** Sections 23-301 through 23-305 of the Billings, Montana, City Code are amended so that such sections shall read as follows:

**Section 23-301. Compliance with Local Regulations and State Law.**

No subdivision of any lot, tract or parcel of land shall be undertaken; no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be constructed, opened or extended for public use and travel, or for the common use of occupants of buildings except in strict accordance with the provisions of this Chapter and related state statutes.

**Section 23-302. Major Subdivisions.**

Divisions of land creating six (6) or more parcels must be reviewed as a major subdivision. The major subdivision shall be reviewed by the governing body of the jurisdiction where the subdivision is located. A copy of the application shall also be provided to school district trustees (76-3-601(2)(b), MCA).

If the proposed subdivision lies partly within an incorporated city or town, the proposed plat must be submitted to and approved by both the city or town and county governing body (76-3-601(2)(c), MCA).

When a proposed subdivision is also proposed to be annexed to any municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of hearings, reports, and other requirements whenever possible (76-3-601(2)(d), MCA).

**A. Preapplication Meeting.** The purpose of the preapplication meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than ~~twenty (20)~~ seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a major preliminary plat application for completeness review.

At the time of request, the subdivider shall provide the Planning Director or designee with ~~ten (10)~~ electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See ~~Appendix C~~ online 'Pre-application form' for recommended pre-application sketch plan contents and other meeting recommendations.

The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.

**B. Pre-application Completeness Review.** One (1) month prior to submittal deadline for major preliminary plat applications, the subdivider shall submit one (1) electronic copy of the application including the preliminary plat and supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the electronic copy the Planning Director or designee shall notify the subdivider within five (5) working days as to the completeness of the application. A complete application will include all those items listed in ~~Appendix D~~ online "Preliminary Plat Requirements", where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application complete, the subdivider may submit the application, plat and supporting documentation for sufficiency review. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application.

**C. Preapplication Sufficiency Review.** Within fifteen (15) working days after

notifying the applicant that the application is complete, the Planning Director or designee will determine that the information in the application is sufficient to allow for review of the proposed subdivision. If the Planning Director or designee determines the information is sufficient, the applicant will be notified that the complete and sufficient application may be submitted at the application submittal deadline. If the Planning Director or designee determines the information is insufficient, the subdivider must correct the deficiencies prior to the next submittal deadline or postpone submittal to a future submittal deadline.

#### **D. Major Preliminary Plat Application Submittal.**

1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed major subdivision which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.
2. **Application submittal.** Complete and sufficient application for major preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided in Appendix E online "Preliminary Plat Application" and must be accompanied by the required preliminary plat, and supporting documents and applicable fee.
3. **Review period.** Upon receipt of a complete and sufficient application, the governing body has sixty (60) working days to approve, conditionally approve, or deny the preliminary plat application. For subdivisions containing fifty (50) or more lots the review period is eighty (80) working days. The review period may be extended upon written consent from the subdivider.

#### **E. Preliminary Plat Contents and Submittal Copies.**

1. **Content.** The preliminary plat shall clearly show the information listed in Appendix D online "Preliminary Plat Requirements."
2. **Copies.** The subdivider shall provide ~~the number of copies~~ one electronic copy of all required documents for the preliminary plat ~~as determined by~~ to the Planning Director or designee. All plats shall be 24 inch by 36-inch size and/or 11 inch by 17-inch size as specified by the Planning Director or designee. ~~One (1) electronic copy of the plat shall be provided in either AutoCad® or ArcGIS®~~



~~format and one (1) copy shall be provided in .pdf, .jpg or .tif format.~~

#### **F. Supporting Documentation.**

1. **Required documents.** The supporting information shall include those documents listed in ~~Appendix F~~ online "Required Supporting Documents for Major Preliminary Plat Applications."
2. **Required copies.** The subdivider shall provide ~~the number of copies~~ one electronic copy of the supporting documents ~~as determined by~~ to the Planning Director or designee. All documents shall be typed and, in a format, specified by the Planning Director or designee.

#### **G. Staff and Agency Review.**

1. **Review procedure schedule.** Upon receipt of a complete and sufficient major preliminary plat application, the Planning Director or designee shall develop a schedule for the review period. The schedule shall include the dates, times and location of all key meetings, hearings and actions, and the dates of all key deadlines.
2. **Submittal distribution.** Planning staff shall distribute the application to all affected City Departments, local, state, and federal agencies, school districts and public utilities for review, and include a copy of the review procedure schedule. These affected entities shall determine what effect the proposed subdivision may have on their ability to provide services and submit recommendations for mitigation of those impacts. The affected entities shall respond to the Planning staff within approximately ~~ten (10)~~ fifteen (15) working days. A public utility or agency review may not delay the governing body's action on the plan beyond the sixty (60) or eighty (80) working day review period. Failure of any agency to complete a review of a plat will not be the basis for denial of the plat by the governing body (76-3-504(1)(i), MCA).
3. **Department plat review meeting.** Planning staff shall arrange a department plat review meeting to publicly review comments from the affected entities and inform the subdivider of revisions or additions required to bring the application into compliance with local regulations and state law. The subdivider and their representative are required to attend the department plat review meeting and shall be given a copy of all comments received to date from the affected entities.
4. **Application resubmittal.** The Planning staff shall notify the subdivider, in writing, of the resubmittal requirements within one (1) working day of the department plat review meeting. The subdivider shall revise the plat and supporting documents as required and submit ~~the number of copies~~ one

electronic copy of the revised application and documents as determined by the Planning Director or designee within five (5) working days of receipt of the resubmittal notice.

5. **Final staff comments.** Affected departments shall provide the Planning staff with final written comments regarding the resubmitted documents within five (5) working days of receipt of resubmittal.
6. **Hearing notice.** The Planning Board shall hold a public hearing on all major preliminary plat applications. Planning staff shall place a notice in a newspaper of general circulation in the County not less than fifteen (15) days prior to the date of a public hearing. The Planning staff shall also notify the subdivider and each property owner of record, and each purchaser under contract for deed of property immediately adjoining land included in the plat by certified mail not less than fifteen (15) days prior to the date of hearing (76-3-605(3), MCA).
7. **Staff report.** Planning staff shall prepare staff reports and presentations for the Planning Board plat review meeting and public hearing. A copy of each staff report shall be provided available electronically to the subdivider at least five (5) working days prior to the Board or governing body meeting. Each staff report shall provide a recommendation for approval, conditional approval or denial of the application and draft findings of fact as basis for the recommendation. The Planning staff shall also prepare a report forwarding the recommendation of the Planning Board to the governing body including the Board's recommendation for approval, conditional approval or denial of the applications and draft findings of fact as basis for the recommendation.

**H. Planning Board Plat Review.** The Planning Board, as the authorized agent of the governing body, shall conduct a plat review of the major preliminary plat application at a regularly scheduled meeting prior to the scheduled public hearing. The purpose of the plat review meeting is to consider the following relevant review criteria:

1. The environmental assessment and all criteria discussed therein, unless the plat is exempted from the requirement of submitting an environmental assessment pursuant to 76-3-616, MCA; and
2. The effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA); and
3. Compliance with:

A. The Montana Subdivisions and Platting Act (76-3-101 et seq., MCA) (76-3-

608(3)(b), MCA); and

- B. The provision of easements for the location and installation of any planned utilities (76-3-608(3)(c), MCA); and
- C. The provision of legal and physical access to each parcel within the subdivision (76-3-608(3)(d), MCA); and
- D. The required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA); and
- E. Local zoning requirements; and

4. Consistency with the currently adopted Growth Policy<sup>1</sup>, Transportation Plan, and the ~~Heritage Trail Plan~~.<sup>4</sup> Active Transportation Plan.

5. **Determination.** The Planning Board shall determine if there are any significant adverse impacts the subdivision may have based on its review of this information and formulate recommended conditions to reasonably minimize those impacts. In reviewing a subdivision and when requiring mitigation, the Planning Board may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude recommendation of approval of the plat.

I. **Public Hearing.** The Planning Board shall conduct the public hearing and consider all relevant evidence as related to the proposed plat before preparing its written findings of fact and recommendation to the governing body. The subdivider or their agent shall be given the opportunity to object to any testimony given. The subdivider shall be allowed to submit in writing his or her own proposed findings of fact to the Board and the governing body following the hearing.

The relevant evidence considered at the public hearing on the preliminary plat shall include the criteria listed above in Section H. of this Article.

After holding the public hearing and reviewing the evidence concerning the plat, the Planning Board shall submit its recommendations to the governing body to approve, conditionally approve or deny the major preliminary plat in writing no later than ten (10) days after the public hearing (76-3-605(4), MCA).

J. **Subsequent Hearing.** Before acting on the subdivision application, the governing body shall determine whether public comments or documents presented at the Planning Board public hearing constitute:

1. Information that the public has not had a reasonable opportunity to examine and comment, or
2. New information never submitted or considered by the Planning Board or staff.

If the governing body determines that public comments or documents meets at least one (1) of the criteria listed above, it may act on the subdivision application in accordance with this Article or schedule a subsequent public hearing for consideration of the new information only. The subsequent public hearing shall be held by the Planning Board at the Planning Board's next scheduled meeting for which proper notice for the public hearing on the subdivision application can be provided.

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Footnote -1- A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy (76-1-605(2)(b), MCA).

If a subsequent hearing is held, the sixty (60) or eighty (80) working day review period is suspended and the new hearing must be noticed and held within forty-five (45) days of the governing body's determination to hold a subsequent public hearing. The sixty (60) or eighty (80) working day review period will resume from the date of the subsequent public hearing. The governing body may not consider any information that is presented after the subsequent hearing (76-3-615, MCA).

**K. Subdivider's Preference for Mitigation.** No later than ten (10) days before the meeting when the governing body is to consider the Planning Board's recommendation on the preliminary plat, the subdivider may submit in writing to the governing body comments on and responses to the Planning Board's recommendations. This document may include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the Planning Board's recommendations. The governing body shall give due weight and consideration to the subdivider's expressed preferences (76-3-608(5)(b), MCA).

**L. Governing Body Action.** The governing body's decision to approve, conditionally approve, or deny a subdivision is based on the preliminary plat, applicable environmental assessment, public hearing, Planning Board recommendations, or additional information that demonstrates the development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and these Regulations. A governing body may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, or based solely on

parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145, MCA (76-3-608(1), MCA), or solely on compliance with a Growth Policy (76-1-605(2)(b), MCA).

The governing body shall issue written findings of fact that weigh the criteria as listed in Section 23-302 H. of this Article. The governing body shall determine if there are any significant adverse impacts the subdivision may have based on its review of this information and formulate conditions to reasonably minimize those impacts (76-3-608(4), MCA).

In reviewing a subdivision and when requiring mitigation, the governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat (76-3-608(5)(a), MCA).

The governing body shall approve, conditionally approve or deny the preliminary plat within sixty (60) or eighty (80) working days of the submittal deadline and when the application was considered complete and sufficient. The governing body shall send the subdivider a letter within thirty (30) working days of its decision stating the reasons for the denial or enumerating the conditions which must be met to assure approval of the final plat along with written findings of fact (76-3-608(4), MCA).

**M. Preliminary Plat Approval Period.** The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the governing body may, at the request of the subdivider, extend its approval for mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated, and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.

When considering a request for an extension of the preliminary plat approval period, the governing body may use the following criteria to evaluate the request:

1. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;
2. Progress to date in completing the subdivision as a whole and any phases;
3. Phasing of the subdivision and the ability for the existing

development to operate without the delayed development;

4. Dependence of infrastructure development on the subdivision;
5. Duration of the requested extension;
6. Demonstrated ability of the subdivider to complete the subdivision;
7. Such other factors or criteria as deemed material in the discretion of the governing body.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period described above (76-3-610(2), MCA).

**N. Appeal Process.** A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided in Section 23-1105 of these Regulations and 76-3-625, MCA.

**O. Final Plat.** A final plat application shall be submitted for review and approval following the procedures outlined in Section 23-307 of this Article prior to the expiration of the preliminary plat approval period.

### **Section 23-303. First Minor Subdivisions from a Tract of Record.**

Divisions of land creating five (5) or fewer lots from a tract of record that has not been subdivided or created by a subdivision under the Montana Subdivision and Platting Act, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA since ~~July 1, 1973~~ October 1, 2003, shall be reviewed as first minor subdivisions from a tract of record, hereafter referred to as a "first minor" (76-3-609, MCA). The requirement of holding a public hearing does not apply to the first minor subdivision created from a tract of record (76-3-609(2)(d)(ii), MCA). ~~Unless the subdivision lies within an area that has adopted zoning regulations, the application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in Section 23-303 H. of these Regulations (76-3-609(2)(c), MCA).~~

The first minor subdivision shall be reviewed by the governing body of the jurisdiction where the subdivision is located. A copy of the application shall also be provided to school

district trustees (76-3-601(2)(b), MCA).

If the proposed subdivision lies partly within an incorporated city or town, the proposed plat must be submitted to and approved by both the city or town and county governing body (76-3-601(2)(c), MCA).

When a proposed subdivision is also proposed to be annexed to any municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of hearings, reports, and other requirements when possible (76-3-601(2)(d), MCA).

**A. Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than ~~twenty (20)~~ seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a minor preliminary plat application for completeness review. At the time of request, the subdivider shall provide the Planning Director or designee with ~~ten (10)~~ electronic sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See Appendix C the online application for recommended pre-application sketch plan contents and other meeting recommendations.

The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.

**B. Pre-application Completeness Review.** One (1) month prior to a submittal deadline for minor preliminary plat applications, the subdivider shall submit one (1) electronic copy of the application including the preliminary plat and supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the ~~copy~~ copies the Planning Director or designee shall notify the subdivider within five (5) working days as to the completeness of the application. A complete application will include all those items listed in

~~Appendix D~~ online as “Preliminary Plat Requirements”, where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application complete, the subdivider may submit the application, plat and supporting documentation for sufficiency review. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application.

**C. Pre-application Sufficiency Review.** Within fifteen (15) working days after notifying the applicant that the application is complete, the Planning Director or designee will determine that the information in the application is sufficient to allow for review of the proposed subdivision. If the Planning Director or designee determines the information is sufficient, the applicant will be notified that the complete and sufficient application may be submitted at the application submittal deadline. If the Planning Director or designee determines the information is insufficient, the subdivider must correct the deficiencies prior to the next submittal deadline or postpone submittal to a future submittal deadline.

**D. First Minor Preliminary Plat Application Submittal.**

1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed first minor subdivision, which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana as their respective licensing laws allow.
2. **Application submittal.** Complete and sufficient application for first minor preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first or fifteenth day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided in ~~Appendix E~~ online “Preliminary Plat Application” and must be accompanied by the required preliminary plat, supporting documents and applicable fee.
3. **Review period.** Upon receipt of a complete application, the governing body has thirty-five (35) working days to approve, conditionally approve, or deny the preliminary plat application. The review period may be extended upon written consent from the subdivider.



## **E. Preliminary Plat Contents and Submittal Copies.**

1. **Content.** The preliminary plat shall clearly show the information listed in ~~Appendix D~~ online "Preliminary Plat Requirements."
2. **Copies.** The subdivider shall provide ~~the number of copies~~ one electronic copy of the preliminary plat as ~~determined by the Planning Director or designee.~~ All plats shall be 24 inches by 36 inches in size or 11 inches by 17 inches in size as specified by the Planning Director or designee. One (1) electronic copy of ~~the plat shall be all supporting documents shall be provided in either AutoCad® or ArcGIS® format and one (1) copy shall be provided in .pdf, .jpg or .tif format.~~

## **F. Supporting Documentation.**

1. **Required documents.** The supporting information shall include those documents listed in ~~Appendix G~~ online "Required Supporting Documents for First Minor Preliminary Plat Applications."
2. **Required copies.** The subdivider shall provide ~~the number of copies of~~ the one copy of each supporting documents as determined by the Planning Director or designee. All documents shall be typed and, in a format, specified by the Planning Director or designee.

## **G. Staff and Agency Review.**

1. **Review procedure schedule.** Upon receipt of a complete and sufficient first minor preliminary plat application, the Planning Director or designee shall develop a schedule for the review period. The schedule shall include the dates, times and location of all key meetings and actions and the dates of all key deadlines.
2. **Submittal distribution.** Planning staff shall distribute the application to all affected City Departments, local, state, and federal agencies, school districts and public utilities for review, and include a copy of the review procedure schedule. These affected entities shall determine what effect the proposed subdivision may have on their ability to provide services and submit recommendations for mitigation of those impacts. The affected entities shall respond to the Planning staff within approximately fifteen (15) working days. A public utility or agency review may not delay the governing body's action on the plan beyond the thirty-five (35) working day review period. Failure of any agency to complete a review

of a plat will not be the basis for denial of the plat by the governing body (76-3-504(1)(i), MCA).

3. **Staff report.** Planning staff shall prepare a staff report and presentation for the governing body. An electronic copy of the report shall be provided to the subdivider at least five (5) working days prior to the governing body meeting. The staff report shall provide a recommendation for approval, conditional approval or denial of the applications and draft findings of fact to justify the recommendation.

**H. Governing Body Action.** At a regularly scheduled meeting the governing body shall consider the following information in deciding whether to approve, conditionally approve, or deny a preliminary plat:

1. Unless the subdivision is proposed in an area that is zoned, the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA); and
2. Compliance with:
  1. The Montana Subdivisions and Platting Act (76-3-101 et seq., MCA) (76-3-608 (3)(b), MCA); and
  2. The provision of easements for the location and installation of any planned utilities (76-3-608(3)(c), MCA); and
  3. The provision of legal and physical access to each parcel within the subdivision (76-3-608(3)(d), MCA); and
  4. The required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA); and
  5. Local zoning requirements; and
3. Consistency with the currently adopted Growth Policy, Transportation Plan, and the Active Transportation Plan ~~Heritage Trail Plan~~ (76-1-606, MCA); and
4. A summary of probable impacts prepared in accordance with Section 23-904 of these Regulations.

5. The governing body shall give due weight and consideration to the subdivider's expressed preferences (76-3-608(5)(b), MCA). The governing body may not deny approval of a subdivision based solely on the subdivision's impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145, MCA (76-3-608(1), MCA), or solely on compliance with the Growth Policy (76-3-605(2)(b), MCA).
  6. The governing body shall issue written findings of fact that weigh the criteria listed in this section. The governing body shall determine if there are any significant adverse impacts the subdivision may have based on its review of this information and formulate conditions to reasonably minimize those impacts (76-3-608(4), MCA).
  7. In reviewing a subdivision and when requiring mitigation, the governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat (76-3-608(5)(a), MCA).
  8. The governing body shall approve, conditionally approve or deny the preliminary plat within thirty-five (35) working days of the submittal deadline and when the application was considered complete and sufficient. The governing body shall send to the subdivider a letter within thirty (30) working days of its decision stating the reasons for the denial or enumerating the conditions which must be met to assure approval of the final plat, along with written findings of fact (76-3-608(4), MCA).
- I. **Preliminary Plat Approval Period.** The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated, and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.

When considering a request for an extension of the preliminary plat approval period, the governing body may use the following criteria to evaluate the request:

1. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;
2. Progress to date in completing the subdivision as a whole and any phases;
3. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;
4. Dependence of infrastructure development on the subdivision;
5. Duration of the requested extension;
6. Demonstrated ability of the subdivider to complete the subdivision.
7. Such other factors or criteria as deemed material in the discretion of the governing body.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period described above (76-3-610(2), MCA).

**J. Appeal Process.** A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided in Section 23-1105 of these Regulations and 76-3-625, MCA.

**K. Final Plat.** A final plat application shall be submitted for review and approval following the procedures outlined in Section 23-307 of this Article prior to the expiration of the preliminary plat approval period.

#### **Section 23-304. Subsequent Minor Subdivisions.**

Divisions of land creating five (5) or fewer lots that are not first minor subdivisions from a tract of record shall be reviewed as first minor subdivisions in accordance with Section 23-303 of this Article (76-3-609(4), MCA). The subsequent minor subdivision will be reviewed by the governing body where the jurisdiction in which it is located. A copy of the application shall also be provided to school district trustees (76-3-601(2)(b), MCA).

## **Section 23-305. Subdivisions Qualifying for Expedited Abbreviated Review.**

**A. Eligibility.** Subdivisions, hereafter referred to as "expedited abbreviated review plats" containing one (1) or two (2) parcels are eligible for expedited abbreviated review when:

1. They meet the definition of a first minor subdivision from a tract of record; and
2. Legal and physical access to all lots is provided; and
3. No land in the subdivision will be dedicated to public use for parks or playgrounds; and
4. The plat has been approved by the Montana Department of Environmental Quality or County Environmental Health whenever approval is required or the plat has been approved by the City of Billings Public Works Department for sanitary water, sewer and storm water facilities<sup>2</sup>; and
5. No public improvements are required.

If the proposed subdivision lies partly within an incorporated city or town, the proposed plat must be submitted to and approved by both the city or town and county governing body (76-3-601(2)(c), MCA).

When a proposed subdivision is also proposed to be annexed to any municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of hearings, reports, and other requirements when possible (76-3-601 (2)(d), MCA).

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<sup>2</sup> ~~If MDEQ or County Health approval has not yet been obtained, the applicant may submit a checkprint for review and approval to the Planning Department. The applicant may submit the checkprint approval to MDEQ or County Health as required as proof of preliminary plat approval. Proof of MDEQ or County Health approval must be submitted with the final plat and supplemental documents prior to recording the final plat.~~

**B. Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than twenty (20) working days and no earlier than one hundred and twenty (120) working days prior to final plat submittal. At the time of request, the subdivider shall provide the Planning Director or designee with ~~ten (10)~~ electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See Appendix C for recommended pre-application sketch plan contents and other meeting recommendations.

The Planning Director or designee will schedule the pre-application meeting to occur with fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.

**C. Expedited Abbreviated Review Plat Application Submittal.**

- 1. Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a final plat of the proposed minor subdivision, which conforms to the requirements of Section 23-307 of this Article. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.
- 2. Checkprint.** Prior to submitting the final plat on mylar, a subdivider must submit ~~four (4) copies~~ electronic copies of a final plat application, ~~four (4) paper prints of the final plat, four (4)~~ electronic draft copies of the supporting documents and one (1) copy of the survey closure calculations to the Planning Director or designee for review. The electronic final plat application form is provided online "Final Plat Application" and the form and content of the checkprint and the supporting documents are described in ~~Appendix J~~ online "Final Plat Requirements". The final plat review fee and the subdivision title commitment or title report are also required at this stage. One (1) copy Reviewing departments

~~shall be notified of and provided electronic copies~~ of the checkprint, supporting documents and survey closure calculations ~~have been submitted. shall be~~ forwarded to City Public Works Department for their review and comment. One ~~(1) copy of the checkprint and supporting documents shall be forwarded to the~~ Billings Fire Department, City Legal, County Treasurer and County Clerk and ~~Reorder shall be asked~~ for their review and comment. ~~Both departments-These~~ reviewers shall notify Planning staff of any changes required to conform to the local regulations and state law within ten (10) working days after receipt of the checkprint. Planning staff shall notify the subdivider no later than fifteen (15) working days after receipt of the checkprint of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer's comments. If the checkprint is approved by all reviewing departments, the Planning staff shall provide a letter to the County Health Department or the Montana Department of Environmental Quality stating that the plat has been reviewed and is recommended for approval. This letter shall be submitted by the applicant along with their application for sanitary facility approval as proof that the proposed plat has been reviewed and approved.

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3. **Application submittal.** Application for expedited abbreviated plat approval shall be submitted to the Planning Director or designee on or before 3:00 p.m. at least twenty-five (25) working days prior to the date of the City Council memo deadline. The electronic application form is provided in Appendix H online "Expedited Abbreviated Final Plat Application" and must be accompanied by the required final plat, supporting documents and applicable fee.

**D. Final Plat and Supporting Documents Contents and Submittal Copies.** The subdivider shall submit one (1) electronic copy in either AutoCad ® or ArcGIS ® format and one (1) copy in .pdf, .jpg or .tif format. The subdivider must also submit two (2) signed mylar originals of the final plat. The form and content of final plat is provided in Appendix J online "Final Plat Requirements." The final plat must be accompanied by a complete expedited abbreviated review plat application form as provided in Appendix H online "Expedited Abbreviated Final Plat Application", a subdivision title commitment or title guarantee prepared within the previous six (6) months, all supporting documents and the required review fee.

**E. Review Procedure.** Planning staff shall route the application, final plat and supporting documents to the appropriate departments and officials for their signatures within sufficient time to assure the documents are placed on the first available agenda of the governing body for their consideration and authorized signatures.

**F. Governing Body Action.** At a regularly scheduled meeting, the governing body shall consider the following information in deciding whether to approve or deny a final plat:

1. The effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608 (3)(a), MCA); and
2. Compliance with:
  - a. The Montana Subdivisions and Platting Act (76-3-101 et seq., MCA) (76-3-608 (3)(b), MCA); and
  - b. The provision of easements for the location and installation of any planned utilities(76-3-608(3)(c), MCA); and
  - c. The provision of legal and physical access to each parcel within the subdivision
  - d. (76-3-608(3)(d), MCA); and
  - e. The required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA); and
  - f. Local zoning requirements; and
3. Consistency with the adopted Growth Policy, Transportation Plan, and the Heritage Trail Plan. (MCA 76-1-606).
4. The governing body shall give due weight and consideration to the subdivider's expressed preferences (76-3-608(5)(b), MCA). The governing body may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145, MCA (76-3-608(1), MCA), or based solely on compliance with the Growth Policy (76-3-605(2)(b), MCA).
5. In the event the governing body denies the final plat, it shall send a letter to the subdivider stating the reasons for the denial along with written findings of fact (76-3-608(4), MCA).

**G. Approval Period.** Final plat approval shall be in force not more than twelve (12) months from the date of the governing body's approval. At the end of the period the



governing body may, at the request of the subdivider, after review and recommendation of the Planning Board, extend its approval for no more than twelve (12) months.

After all required signatures have been obtained; the plat shall be recorded with the County Clerk and Recorder within the twelve (12) months of the date of approval.

**Section 4.** Sections 23-306 and 23-307 BMCC are re-number Section 23-308 and 27-309, respectively, and new Sections 23-306 and 23-307 shall read as follows:

**Section 23-306. Expedited Review for Certain Subdivisions.**

**A. Eligibility.** Subdivisions, hereafter referred to as “expedited review plats” as defined in MCA 76-3-623

1. Requested by applicant; and
2. Within an incorporated city and is subject to an adopted growth policy and adopted zoning regulations; and
3. Complies entirely with locally adopted zoning regulations; and
4. Complies entirely with the design standards and all other requirements of these regulations; and
5. Includes in its proposal plans for on-site development or extension of public infrastructure in accordance with locally adopted ordinances and regulations.

**B. Expedited Review Plat Application Submittal.**

1. **Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a major preliminary plat application for completeness review.

At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly

drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See online 'Pre-application application' for recommended pre-application sketch plan contents and other meeting recommendations.

The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.

- 2. Pre-application Completeness Review.** One (1) month prior to submittal deadline for major preliminary plat applications, the subdivider shall submit one electronic copy of the entire application including the preliminary plat and completed supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the electronic copy the Planning Director or designee shall notify the subdivider within five (5) working days as to the completeness of the application. An application complete in its entirety will include all those items listed online "Preliminary Plat Requirements", where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application complete, the subdivider may submit the application, plat and supporting documentation for sufficiency review. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application.
- 3. Pre-application Sufficiency Review.** Within fifteen (15) working days after notifying the applicant that the application is complete, the Planning Director or designee will determine that the information in the application is sufficient to allow for review of the proposed subdivision. If the Planning Director or designee determines the information is sufficient, the applicant will be notified that the complete and sufficient application may be submitted at the application submittal deadline. If the Planning Director or designee determines the information is insufficient, the subdivider must correct the deficiencies prior to the next submittal deadline or postpone submittal to a future submittal deadline.

4. **Department plat review meeting.** Upon completeness and sufficiency review, Planning staff shall arrange a department plat review meeting to publicly review comments from the affected entities and inform the subdivider of revisions or additions required to bring the application into compliance with local regulations and state law. The subdivider and their representative are required to attend the department plat review meeting and shall be given a copy of all comments received to date from the affected entities.

**C. Preliminary Plat Expedited Application Submittal.**

1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed major subdivision, which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.
2. **Application submittal.** Complete and sufficient application for major preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided on line "Preliminary Plat Application" and must be accompanied by the required preliminary plat, and supporting documents and applicable fee.
3. **Review period.** Upon receipt of a complete and sufficient application, the governing body's designee has thirty-five (35) working days to hold a public hearing. Subsequently, the Governing Body must approve, conditionally approve, or deny the preliminary plat application within thirty-five (35) working days. The review period may be extended upon written consent from the subdivider one time up to one hundred and eighty (180) calendar days.

**D. Preliminary Plat Contents and Submittal Copies.**

1. **Content.** The preliminary plat shall clearly show the information listed online "Preliminary Plat Requirements."

2. **Copies.** The subdivider shall provide one electronic copy of all the required documents for the preliminary plat to the Planning Director or designee. All plats shall be 24 inch by 36-inch size and/or 11 inch by 17-inch size as specified by the Planning Director or designee.

**E. Supporting Documentation.**

1. **Required documents.** The supporting information shall include those documents listed online "Required Supporting Documents for Major Preliminary Plat Applications."
2. **Required copies.** The subdivider shall provide one electronic copy of the supporting documents to the Planning Director or designee. All documents shall be typed and, in a format, specified by the Planning Director or designee.

**F. Planning Board Review**

1. **Hearing notice.** The Planning Board shall hold a public hearing on all major preliminary plat applications. Planning staff shall place a notice in a newspaper of general circulation in the County not less than fifteen (15) days prior to the date of a public hearing. The Planning staff shall also notify the subdivider and each property owner of record, and each purchaser under contract for deed of property immediately adjoining land included in the plat by certified mail not less than fifteen (15) days prior to the date of hearing (76-3-605(3), MCA).
2. **Staff report.** Planning staff shall prepare staff reports and presentations for the Planning Board plat review meeting and public hearing. A copy of each staff report shall be provided electronically to the subdivider at least five (5) working days prior to the Board or governing body meeting. Each staff report shall provide a recommendation for approval, conditional approval or denial of the application and draft findings of fact as basis for the recommendation. The Planning staff shall also prepare a report forwarding the recommendation of the Planning Board to the governing body including the Board's recommendation for approval, conditional approval or denial of the applications and draft findings of fact as basis for the recommendation.
3. **Public Hearing.** The Planning Board shall conduct the public hearing and consider all relevant evidence as related to the proposed plat before preparing its written findings of fact and recommendation to the governing body. The

subdivider or their agent shall be given the opportunity to object to any testimony given. The subdivider shall be allowed to submit in writing his or her own proposed findings of fact to the Board and the governing body following the hearing.

4. The relevant evidence considered at the public hearing on the preliminary plat shall include the criteria listed above in Section H. of this Article.
5. After holding the public hearing and reviewing the evidence concerning the plat, the Planning Board shall submit its recommendations to the governing body to approve, conditionally approve or deny the major preliminary plat in writing no later than ten (10) days after the public hearing (76-3-605(4), MCA).

**G. Governing Body Action.** The governing body's decision to approve or conditionally approve a subdivision is based on the preliminary plat application, public hearing, Planning Board recommendations, or additional information that demonstrates the development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and these Regulations, local zoning ordinances, subdivision design standards and regulations, and all other adopted City of Billings regulations.

In reviewing a subdivision and when requiring mitigation, the governing body may only place conditions to ensure an approved subdivision application is completed in accordance with the applicable local requirements or survey requirements pursuant to Title 76 Chapter 4 of the Montana Subdivision and Platting Act.

The governing body shall approve, conditionally approve the preliminary plat within thirty-five (35) working days of the submittal deadline and when the application was considered complete and sufficient.

**H. Preliminary Plat Approval Period.** The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the governing body may, at the request of the subdivider, extend its approval for mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.

When considering a request for an extension of the preliminary plat approval period, the governing body may use the following criteria to evaluate the request:

1. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;
2. Progress to date in completing the subdivision as a whole and any phases;
3. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;
4. Dependence of infrastructure development on the subdivision;
5. Duration of the requested extension;
6. Demonstrated ability of the subdivider to complete the subdivision;
7. Such other factors or criteria as deemed material in the discretion of the governing body.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period described above (76-3-610(2), MCA).

- I. **Appeal Process.** A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided in Section 23-1105 of these Regulations and 76-3-625, MCA.
- J. **Final Plat.** A final plat application shall be submitted for review and approval following the procedures outlined in Section 23-307 of this Article prior to the expiration of the preliminary plat approval period.

#### **Section 23-307 Minor Subdivisions Qualifying for Administrative Review**

- A. **Eligibility.** Subdivisions, hereafter referred to as “administrative review plats” are eligible for administrative-review when:
  1. They meet the definition of a first minor subdivision from a tract of record or a subsequent minor subdivision from a tract of record; and
  2. Legal and physical access to all lots is provided; and

3. Complies entirely with locally adopted zoning regulations; and
4. Complies entirely with the design standards and all other requirements of these regulations; and
5. Does not require a variance to any subdivision regulations

**B. Administrative Review Plat Application Submittal.**

1. **Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a major preliminary plat application for completeness review.

At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See online 'Pre-application application' for recommended pre-application sketch plan contents and other meeting recommendations.

2. The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.
3. The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.

**C. Administrative Review Plat Review.**

1. Required. The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed minor subdivision, which conforms to the requirements of these Regulations.

Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.

2. Application submittal. Complete and sufficient application for minor preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided online "Preliminary Plat Application" and must be accompanied by the required preliminary plat, and supporting documents and applicable fee.
3. Review period. Upon receipt of a complete and sufficient application, the Planning Director or designee has thirty (30) working days to approve, conditionally approve, or deny the preliminary plat application. Subsequently, upon receipt of a complete and sufficient application, the governing body's designee must notify, by first-class mail, each property owner of record whose property is immediately adjoining the land included in the preliminary plat and each purchaser under contract for deed of property immediately adjoining the land included in the Preliminary Plat.

#### **D. Appeal.**

If, and only if, a party identified in Section 23-307.C.3 of this article objects to the Planning Director or designee's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body. The governing body shall sustain the subdivision administrator's decision based on the record as a whole unless the decision was arbitrary, capricious, or unlawful. The governing body has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.

**Section 5.** Sections 23-306 and 23-307 BMCC are re-numbered 23-308 and 23-309 and amended so that such section shall read as follows:



### **Section 23-~~306~~308. Amended Plats.**

**A. Required.** A division of lots within a platted subdivision filed with the County Clerk and Recorder that results in an increase in the number of lots, or that redesigns or rearranges six (6) or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the County Clerk and Recorder (76-3-207(2)(a), MCA).

**B. Eligibility.** Amended plats shall be processed as first minor subdivisions, as described in Section 23-303, if they meet the following criteria:

1. Legal and physical access to all lots is provided; and
2. No land in the subdivision will be dedicated to public use for parks or playgrounds; and
3. The plat has been approved by the Montana Department of Environmental Quality or County Environmental Health whenever approval is required or the plat has been approved by the City of Billings for sanitary water, sewer and stormwater facilities or no public improvements are required; and
4. The amended plat creates no more than five additional lots.

Amended plats not meeting these criteria shall be reviewed as major subdivisions.

**C. Form and Content.** An amended plat shall be entitled "Amended Plat" and follow the form and content shown in Appendix D "Preliminary Plat Requirements."

### **Section 23-~~307~~309. Final Plat Submittal Requirements.**

**A. Required.** After receiving a preliminary plat approval for a major, first minor or subsequent minor, the subdivider may submit a final plat of the proposed subdivision as required by this Article. The final plat shall incorporate all required conditions and changes and conform to the approved preliminary plat and this Section.

**B. Checkprint.** Prior to submitting the final plat on mylar, a subdivider must submit ~~four (4)~~ four electronic copies of a final plat application, ~~four (4)~~ four paper prints of the final plat, ~~four (4)~~ four draft copies of the supporting documents and ~~one (1)~~ one a copy of the survey closure calculations to the Planning Director or designee for review. The

final plat application form is provided in ~~Appendix I~~ online "Final Plat Application" and the form and content of the checkprint and the supporting documents are described in ~~Appendix J~~ online "Final Plat Requirements". The final plat review fee and the subdivision title commitment or title report are also required at this stage. The Planning Director or designee may require additional documentation to ascertain whether the conditions of preliminary plat approval have been met.

~~One (1) copy of the checkprint, supporting documents and survey closure calculations shall be forwarded to City Public Works Department for their review and comment. One (1) copy of the checkprint and supporting documents shall be forwarded to the Billings Fire Department for their review and comment. Copies of submitted documents will be available to reviewers electronically. Both Reviewing~~ departments shall notify Planning staff of any changes required to conform to the conditions of final plat approval or local regulations and state law within ten (10) working days after receipt of the checkprint.

Planning staff shall notify the subdivider no later than fifteen (15) working days after receipt of the checkprint of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer's comments.

**C. Final Mylar Submittal.** Application for final plat approval shall be submitted to the Planning Director or designee on or before 3:00 p.m. at least twenty-five (25) working days prior to the City Council memo deadline. The subdivider shall submit one (1) electronic copy, ~~in either AutoCad ® or ArcGIS ® format and one (1) copy in pdf, jpg or tif format.~~ The subdivider must also submit two (2) signed mylar originals of the final plat. The form and content of final plat is provided in ~~Appendix J~~ online "Final Plat-Requirements." The final plats must be accompanied by a complete final plat application form as provided in ~~Appendix I~~ online "Final Plat Application", a subdivision title commitment or title guarantee prepared within the previous six (6) months, all supporting documents and the required review fee.

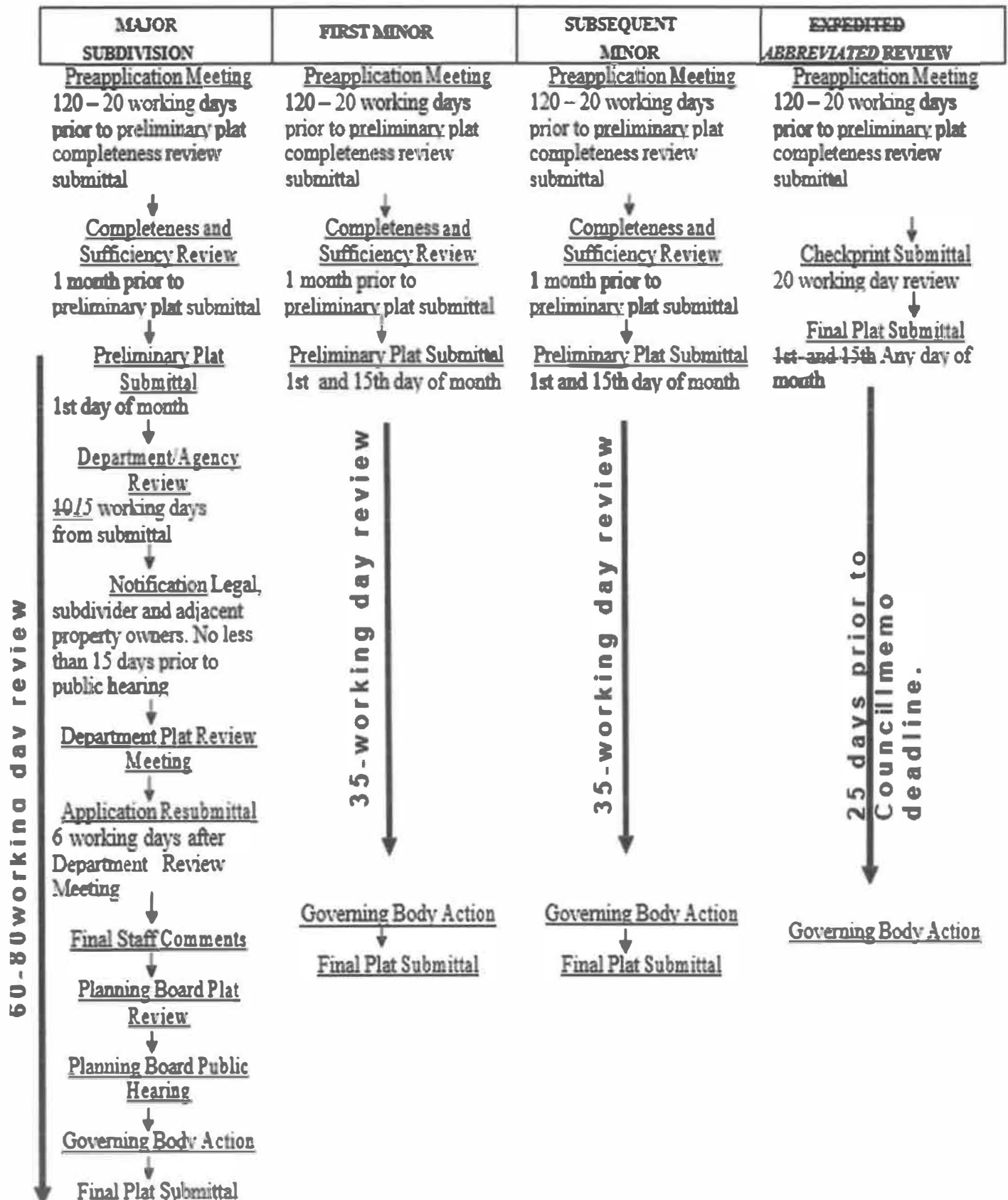
**D. Review Procedure.** Planning staff shall route the application, final plat and supporting documents to the appropriate departments and officials for their signatures within sufficient time to assure the documents are placed on the first available agenda of the governing body for their consideration and authorized signatures.

**E. Approval Period.** Final plat approval shall be in force not more than twelve (12) months from the date of the governing body's approval. At the end of the period the governing body may, at the request of the subdivider, after review and

recommendation of the Planning Board, extend its approval for no more than twelve (12) months.

After all required signatures have been obtained; the plat shall be recorded with the County Clerk and Recorder within the twelve (12) months of the date of approval.

**Section 23-308309. Flowchart of Subdivision Procedures.**



**EXPEDITED  
SUBDIVISION**

Preapplication Meeting  
120 - 20 working days  
prior to preliminary plat  
completeness review submittal

↓  
Completeness and  
Sufficiency Review  
1 month prior to  
preliminary plat submittal

↓  
Department Plat Review Meeting

↓  
Preliminary Plat Submittal  
1st day of month in which  
the Planning Board will hold  
its public hearing

↓  
Legal Notification subdivider and adjacent property owners.  
No less than 15 days prior to public hearing

↓  
Department Plat Review  
Meeting

↓  
Application Resubmittal  
6 working days after Department Review Meeting

↓  
Final Staff Comments

↓  
Planning Board Plat  
Review

↓  
Planning Board Public  
Hearing

↓  
Governing Body Action

↓  
Final Plat Submittal

35-working day review

**ADMINISTRATIVE  
SUBDIVISION**

Preapplication Meeting  
120 - 20 working days prior to  
preliminary plat completeness review  
submittal

↓  
Complete and Sufficient Preliminary  
Plat Submittal, 1<sup>st</sup> day of month

↓  
Planning Director/Designee Action

↓  
Appeal to Governing Body, if  
applicable

↓  
Final Plat Submittal

30-Working Day review

**Section 6.** That Section 23-402 through Section 23-413 of the Billings, Montana, City Code be amended so that such section shall read as follows:

**Section 23-402. Conformance with Zoning.**

In addition to the standards outlined in this Article, the design and development of a subdivision must conform to any applicable zoning regulations as found in the ~~Unified~~ Zoning Regulations (Article 27, BMCC).

**Section 23-403. Improvement Design.**

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or professional land surveyor as their respective licensing laws allow in accordance with the Montana Subdivision and Platting Act (MSPA) and these Regulations. ~~All traffic impact studies must be prepared and stamped by a Professional Traffic Operations Engineer (PTOE).~~ Subdivisions must meet the current Access Management Plan adopted by the City.

**Section 23-404. Lots.**

**A. Regulation of Lots:** Each lot must contain a building site that can be designed to meet applicable building codes, site development standards, driveway slope standards, and zoning requirements of the ~~Unified~~ Zoning Regulations.

**B. Dimensions, Orientation and Topography:** The lot size, depth, shape and orientation shall be appropriate for the location, contemplated use of the subdivision and the zoning of the property. Flag lots shall be ~~discouraged~~ prohibited except in cases where ~~they are necessary due to topography or other physical constraints on the property zoning districts allow flag lots.~~

Slopes of more than 25% are excessive for building sites and shall be subject to a geotechnical analysis. Areas within the subdivision with a slope of 25% or greater shall be identified on the face of the preliminary and final plats.

**C. Frontage:** Residential lots shall ~~have a~~ provide the minimum lot width as required by the existing or proposed zone, as defined in BMCC 27-300 and shall be of thirty-two (32) feet of frontage on a public right of way or private easement. Lots in commercial and industrial subdivisions shall have a minimum lot width, as defined in

BMCC 27-400, ~~frontage of forty-four (44) feet~~ on a public right of way or private easement, or through a reciprocal access easement.

**D. Division by Rights-of-Way:** No single lot may be divided by a public road, alley, or access easement.

**E. Corner Lots:** Design of corner lots must meet the following requirements:

1. Corner lots must be of sufficient size to provide a building site while meeting the clear vision requirements specified in Section 27-618 of the ~~Unified~~ Zoning Regulations.
2. All residential corner lots adjacent to a street identified as a Principal or Minor Arterial must have vehicular access only to an internal street in the subdivision identified as a Collector or Residential street.

**F. Double Frontage Lots:** Double frontage lots (See Figure 23.200.1.) are allowable where they are necessary due to topography and when a one (1) foot wide no-access easement is provided for separation of residential development from railroad or street rights-of-way.

1. Residential Areas: For any residential subdivision where an Arterial street abuts or runs through any portion of the subdivision, the subdivision plan shall provide ~~lots to back onto the arterial street for the rear lot line to be adjacent to the arterial street~~ and provide a one (1) foot wide no-access easement to prevent vehicle access to the arterial street.
2. Commercial Areas: For any commercial subdivision where an Arterial street abuts or runs through any portion of the subdivision, the subdivision plan shall provide for shared accesses to the arterial street or access via internal roads with a one (1) foot wide no-access easement to prevent uncontrolled vehicle access to the Arterial street.

## **Section 23-405. Blocks.**

**A. Size and Orientation Blocks:** Block Length, Section, and Perimeter shall be provided in accordance with Table 23-405.1

**TABLE 23-405.1 REQUIRED BLOCK DESIGN**

<b><u>Zone District</u></b>	<b><u>Block Length</u></b>			<b><u>Block Perimeter</u></b>		<b><u>Block Section</u></b>	
	<b><u>Max.</u></b>	<b><u>Min.</u></b>	<b><u>Preferred</u></b>	<b><u>Max.</u></b>	<b><u>Preferred</u></b>	<b><u>Max.</u></b>	<b><u>Preferred</u></b>
<i>N1/NX1</i>	780'	160'	600'	1,900'	1,480'	797'	622'
<i>N2</i>	950'	160'	720'	2,200'	1,700'	960'	740'
<i>N3</i>	1,000'	200'	780'	2,400'	1,900'	1,029'	806'
<i>NX2/NX3</i>	700'	100'	500'	1,200'	800'	708'	510'
<i>RMH</i>	750'	200'	570'	2,000'	1,600'	777'	605'
<i>NO/NMU</i>	780'	160'	600'	1,900'	1,480'	797'	622'
<i>CMU1</i>	700'	160'	500'	1,900'	1,400'	720'	525'
<i>CMU2</i>	1,400'	300'	700'	4,200'	2,800'	1,432'	762'
<i>CX</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<i>I1</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<i>I2</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<i>EBURD/CBD/DX</i>	600'	300'	160'	1,800'	1,200'	622'	340'
<i>Public 1-3</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Length, width and shape of blocks shall be determined with consideration of the following:

1. Provision of adequate building sites suitable to the needs of the type of use contemplated;
2. Needs for convenient and necessary access, circulation, traffic control and traffic safety, and public safety;
3. Limitations or opportunities created by the topography;
4. The block face requirements are:
  - a. Maximum Block Face Length: For CMU districts the maximum block face length shall be no more than 660 feet in length. For all districts other than CMU, maximum block face length shall be no more than eight hundred (800) feet.
  - b. Maximum Block Perimeter: The maximum perimeter of any block shall be 2,200 feet.
  - c. Connectivity: Streets shall connect and continue existing or planned streets from adjoining areas. Block faces at the maximum length above require pedestrian access at mid-block points to ensure walkability. Pedestrian access or walkways may be incorporated as a dedicated alley or as an easement between lots.



1. Block Length means the measurement along the property lines of all lots that share the same street frontage until another street intersects (see Figure 23-405.2.). A block length continues until the street frontage changes from one cardinal direction to another.
2. Block Perimeter means the aggregated measurement along all perimeter property lines contained within a Block (see Figure 23-405.3.).
  - a. Block Perimeter excludes portions of lots along a project boundary where connections cannot be made because of physical obstacles, such as prior platting of property, existing structures or other barriers, steep slopes, wetlands and other water bodies, railroad and utility rights-of-way, existing highway rights-of-way, and parks and dedicated open space (see Figure 23-405.4.).
3. Block Section measures the greatest straight-line distance between any two points around the perimeter of an area enclosed by streets (see Figure 23-405.5.).
4. Block Length and Block Perimeter preferred measurements are not minimums. Less than the preferred measurement is also acceptable if the design enhances the connectivity of the subdivision.
5. Breaks in Block Length or Block Section such as, a dedicated pedestrian right-of-way of at least 30 feet in width, or a dedicated public park or open space area with at least 30 feet of street frontage (see Figure 23-405.6.) can substitute for an intersecting street. Alleys and similar service corridors will not count as a break in the block perimeter.
6. When designing new roads and streets, curvilinear, serpentine and spirograph streets are discouraged and should only be used when a PTOE recommends the design as a traffic calming measure that is warranted or when the topography otherwise prohibits grid street layout still required to follow the basic block layout as outlined in Section 23-405.
7. When Block Lengths exceed 500 feet, traffic calming shall be included in the design.

Figure 23-405.2. Block Length

Figure 23-405.3. Block Perimeter

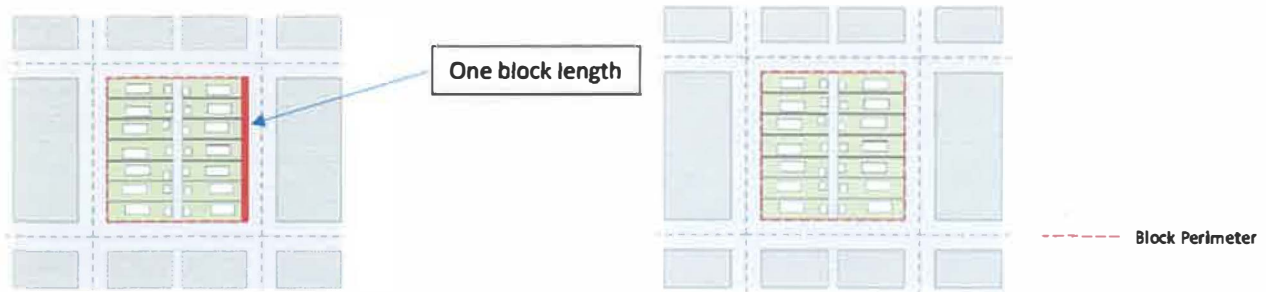
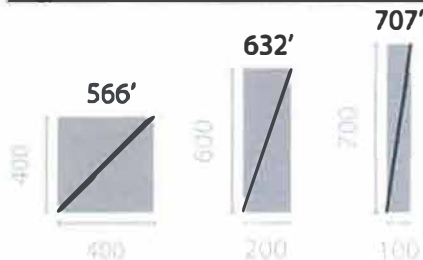


Figure 23-405.4. Block Obstructions



Figure 23-405.5. Block Section



**B. Rights-Of-Way for Internal Non-motorized Connections:** Public rights-of-way for internal non-motorized connections within blocks will be required ~~when essential~~ to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities. Pathways shall also be installed at the end of cul-de-sacs. ~~where deemed appropriate.~~

**C. Block Numbering:** All blocks shall be identified with Arabic numerals.

## Section 23-406. Streets and Roads.

**A. Streets and Roads, General:** The arrangement, type, extent, width, grade, and location of all streets shall conform to any adopted area plans including, but not limited to, the Growth Policy and Transportation Plan, and must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them.

1. Relation to Undeveloped Areas: When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land this may require multiple connections to multiple adjacent undeveloped parcels. The maximum distance between connections to undeveloped lands shall no exceed 600 feet. Streets within the proposed subdivision shall be constructed to the boundary lines of the tract to be developed, unless prevented by topography or other physical conditions or granted by a variance. A variance may not be requested to eliminate connectivity to any street proposed on the most recently adopted Functional Classification Map.
2. Relation to Developed Areas: The subdivider shall arrange the streets to provide for the continuation of streets between adjacent developed properties ~~when such continuation is necessary for the convenient movement of traffic, to~~ provide effective provision of emergency services and efficient provision of utilities. Such provision may be waived ~~where the adjacent land use is incompatible with the proposed subdivision, or~~ when prevented by topography or other physical conditions.
3. Separation of Through and Local Traffic: Whenever a subdivision abuts or contains an existing or proposed highway, Arterial street or Collector street, the subdivider may be required, as a condition of approval, to provide frontage roads, reverse frontage lots with a no-access strip preventing access along the rear property lines, planting or fencing screens, shared accesses, or other treatment as may be necessary to adequately protect residential properties and to separate through and local traffic.
5. Second Access: To facilitate traffic movement, the provision of emergency services, and the placement of utilities, all major subdivisions and subsequent minor subdivisions shall provide at least two means of vehicular access built to the standards of this Chapter and designed to ensure public health and safety.

- a. Exceptions to the requirement to provide at least two means of vehicular access may be made for major and subsequent minor subdivisions that meet all of the following criteria:
    1. Access is provided by a cul-de-sac with an approved turnaround that is ~~600~~ 1000 feet or less in length; and
    2. The subject cul-de-sac is served by a local, collector, or arterial street that is not classified as a dead-end street; and
    3. The subject cul-de-sac serves no more than 20 lots, and no more than 30 dwelling units, when residential development is proposed.
  - b. Provision of a second means of vehicular access may be required for any subdivision when deemed necessary for public health, safety or welfare.
  - c. When not otherwise exempt, if a second means of vehicular access built to City street standards cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access road, built to the standards detailed in Section 23-413 of these Regulations.
  - d. Variance requirement in relation to Emergency Access Roads (EAR).
    1. If a full city standard access road is required, and the developer proposes to build an EAR, a variance shall be required showing the hardship encountered.
6. Dead-end Roads: Dead-end access roads or driveways in excess of one hundred fifty (150) feet shall not be permitted without an approved turn around at the terminus. Where streets terminate, the subdivider shall provide a “cul-de-sac” or “hammerhead- T” turnaround conforming to the design standards outlined in Figure 23.406.A.1. The maximum allowable length of a dead-end road is ~~six hundred (600)~~ one thousand (1000) feet. In cases where a dead-end road may be extended in the future, a right-of-way easement or dedication ~~may~~ will be required to be provided.
13. Sight distance: The alignment of all streets and roads must provide adequate sight distances in accordance with Section 27-1802 H, Visibility at Intersections, Billings Zoning Code. ~~the most current American Association of State Highway and Transportation Officials (AASHTO) Manual guidelines. Intersections must be~~

~~designed to provide adequate visibility for traffic safety based on the designed operating speeds of the intersecting roadways.~~

15. Street/Road Names and Lot Addresses: New streets/roads aligned with existing streets/roads shall have the same name as the existing street/road. All new street names and lot addresses shall be approved by the ~~City Fire Department~~ City GIS / Land Management prior to final plat approval in order to avoid duplication and confusion with names of existing roads.
17. Central Mail Delivery: When required by the United States Postal Service, the developer shall provide a cluster/gang mailbox area for mail delivery. All access provided to these mail delivery systems shall be ADA compliant.

**B. Streets and Roads Design and Improvement Standards:**

3. Plans and Specifications approval: Plans and specifications for all streets shall be provided to and approved by ~~the City Engineer~~ing. The subdivider shall provide professional engineering services for construction inspections, and post-construction certifications. The plans and specifications shall be approved by the City Engineer prior to initiation of any street improvement construction. In addition, a copy of the road plans and specifications for any emergency access roads shall be reviewed and approved by the City Fire Department prior to construction.
4. Traffic Accessibility Impact Study: ~~Prior to the City Council's action on~~ At the time of preliminary plat submittal, a traffic accessibility impact study shall be prepared and stamped by a Professional Engineer and approved by the City Engineer for any new residential, institutional, commercial or industrial subdivision or development which will generate one thousand (1,000) or more vehicular trips per day or 100 peak-hour trips, as referenced in the Trip Generation Report of the Institute of Transportation Engineers. The Professional Engineer shall certify "that the Traffic Impact Study has been prepared by me or under my immediate supervision and that I have experience and training in the field of traffic and transportation engineering." The report shall be stamped by a Professional Traffic Operations Engineer for five thousand (5,000) or more vehicle trips per day.

The traffic generation threshold shall apply to any development or cumulative phases of development.

A vehicular trip is defined as a one-way journey of a person in an automobile or a transit vehicle. If the study indicates a need for the installation of traffic signals, intersection improvements, or other off-site street improvements to facilitate traffic

flow generated by the entire proposed development, the identified improvement shall be installed or a financial contribution for the subdivision's proportional share shall be made prior to final plat approval of the subdivision, as determined by City Engineering. The financial contribution for proportionate share shall be by cash contribution, traffic system development fee, or traffic impact fee, whichever is in effect at the time of final plat approval. The applicant shall meet and discuss elements of the study with City Engineering to determine the general extents of the study at the time of the pre-application meeting.

All developments generating less than 100 peak-hour trips or 1000 average daily trips shall analyze and design for the following basic street design elements. The applicant shall review these elements with City Engineering at the time of a preapplication meeting to determine what elements may apply. In addition, the applicant shall provide an explanation of how each element applies or does not apply, and that summary shall be included with the preliminary plat or development application.

~~The study shall include, but not be limited to the following:~~

- ~~a. Estimated number of vehicular trips per day;~~
- a. Location of approaches (access management);
- b. Sight distance review;
- c. Turn lane analysis;
- d. Connectivity and Circulation review patterns;
- e. On-street parking impacts;
- f. Review of impacts to adjacent property streets, accesses, and intersections with site generated pedestrian and vehicular traffic;
- g. Truck circulation, including solid waste pick-up;
- h. Location and type of traffic-control devices;
- ~~b. Pedestrian systems;~~
- ~~c. Bicycle systems;~~
- d. Projected turning movements;
- ~~e. Impacts on existing street intersections.~~
- i. Traffic Calming

City Engineering reserves the right to require applicant analysis and review of a specific traffic impact due to known traffic or adjacent access issues for a subdivision or development generating less than 100 peak-hour or 1000 trips per day.

6. Right-of-Way and Street Widths: Street right-of-way and surface widths shall be provided as shown in Table 23.406.B.1, below. Street widths (b-b curb width) and lane widths shall be determined and approved by City Engineering Right-of-Way dedications at intersections shall be determined by City Engineering, and may include chamfered corners in order to accommodate ADA or future roundabout.

**Table 23-406.B.1. Required Dedications and Street Improvements for Subdivisions**

Street Type	Right - of- Way	B-B Curb Width Range	Lane Width ****	Parking Width*** -	Turn lane width	Median Width	Boul e vard Width	Sidewalk Width	<u>Shared Use Path Width</u>
<b>Principal Arterial</b>	130' 120'	64'-49'- 86' * *	11'- 12' **	---	14'	—	10'	5'/10' **	<u>10'</u>
<b>Minor Arterial</b>	100'	42'-66' * *	11 2'	---	—	14'	10'	5' **	<u>10'</u>
<b>Collector</b>	74'	39'-53'	11'	8'	14'	---	5'	5'	
<b>Commercial Local</b>	70'	44'-45'- 39'-45' *	13.5'	8'	14'	---	5'	5'	
<b>Residential Local Access</b>	56'	34' min. §	n/s	n/s	—	—	5'	5'	
<b>Cul-de-Sac 100-600 1000</b>	56'	34' min.	n/s	n/s	—	—	5'	5'	
<b>Cul-de-Sac &lt;100 feet</b>	40'	29' min.	n/s	n/s	—	—	---	---	

\* As approved by City Engineering. ~~traffic study is required to determine final width.~~

~~\*\* Interior lane(s) is 11' and the outside lane is 12'.~~

~~\*\* Sidewalk is 5' on one side with a 10-foot multi-use trail on the other side. and 10' shared use path on the other side. n/s No specific width is specified.~~

~~\*\*\* Lane Width measured from lip of curb. Parking width measured from face of curb.~~

§ Street sections that (a) do not require parking or allow for parking on both sides, (b) must be signed no parking, and (c) are approved by City Engineering, City Planning, and City Fire Marshal, may be reduced to 24-feet back of curb to back of curb. For example, a street through a golf course that is fronted by golf course on both sides or an entry road into a subdivision.

§ Street sections with less than 120 average daily trips (ADT) for local residential streets with two street connections or street sections or that have a block length of 300-feet or less may reduce the back of curb to back of curb width street requirement to 31-feet.

§ Street sections that (a) do not require parking or allow for parking on one side, (b) must be signed no parking, and (c) are approved by City Engineering, City Planning, and City Fire Marshal, may be reduced to 29-feet back of curb to back of curb. For example, a street that is fronted on one side by a golf course, drainage, or ditch.

11. Street Grades: All street grades shall conform to the requirements of the City. Street grades shall not exceed the following, with due allowance for reasonable vertical curves and intersection treatment. Street centerline horizontal curves shall be designed for the following ~~minimum~~ maximum speeds:

<u>Street Type</u>	<u>Percent Grade</u>	<u>Speed (M. P. H.)</u>
Arterial	4	45
Collector	7	<u>25-35</u>
Local Access	12	25

12. Curbs and Gutters: Standard integral curb and gutter shall be placed on all arterial, collector and commercial streets. Standard integral curb and gutter is preferred required on local residential streets, but ribbon curb may be approved by City Engineering as part of the storm drain design for the subdivision. ~~but drive-over curb may be used upon approval by City Public Works. The allowable minimum curb and gutter grade shall be four tenths percent and the desirable minimum curb and gutter grade will be five tenths percent.~~

13. Sidewalks: Boulevard style sidewalks shall be installed on both sides of all streets, except cul-de-sacs less than one hundred (100) feet in length. Arterial and Collector streets may have a multi-use trail on one side in lieu of one of the required boulevard sidewalks. The Planning Board City Engineering may recommend to the City Council that it waive or modify the requirement for boulevard walks on both sides of a local residential street when the subdivision constructs an approved multi-use bicycle/pedestrian path connected and accessible to all lots in combination with or in lieu of sidewalks. Required sidewalk and boulevard widths shall follow those listed in Table 23.406.B.1, above.

14. Street Lights: Street lights shall be installed within residential subdivisions

Residential street lights shall be designed by a licensed professional engineer in accordance with the American National Standard Practice for Roadway Lighting RP-8, current edition.



a. New Street Lighting

1. Residential Light Fixture Configuration. Street light fixtures installed after the effective date of these regulations shall be equipped with full cutoff optics, and positioned to minimize any glare source and not create light spillover
2. Mercury Vapor Bulbs or Lamps. Mercury Vapor bulbs or lamps may not be used in Residential street lights installed after the effective date of this ordinance. LED type luminaires shall be utilized in new street lights.
3. Residential Street light mounting Height. Residential Street Light fixtures installed after the effective date of this ordinance shall not be mounted higher than 30 feet above grade.
4. Exceptions to the requirements of 23-406.B.14.
  - a. Traffic signals and other traffic safety and control devices
  - b. Historic streetlights

16. Permanent cul-de-sac streets may not represent more than 20% of total roadway miles in a subdivision unless approved by a variance.

- a. Exceptions to this do not require a variance but can be approved administratively. Exception provision are:
  1. Infill projects where a dead-end cul-de-sac is the only viable road option.
  2. Long narrow lots that are not wide enough for more than a single road that is less than 1,000 feet long. Future connections to adjacent properties shall be provided as outlined in Section 23-406.A.1. and Section 23-406.A.2.
  3. Topography that does not allow for a grid system as outlined in the subdivision regulations.
- b. Developments with cul-de-sacs, must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonable expected future streets.

~~schools, shopping, parks, trails or open space, bus stops and community facilities.~~

**C. Multi-Use Trails, General:** All subdivisions must be reviewed for compliance with the ~~Heritage Trail Plan~~<sup>3</sup> currently adopted Active Transportation Plan to provide multi-use trail and greenway corridors for safe, convenient non-motorized transportation routes throughout the City and County.

1. To comply with the ~~Heritage Trail Plan~~ currently adopted Active Transportation Plan, all subdivisions ~~may~~ shall provide a ~~twenty (20)~~ thirty (30) foot wide multi-use trail easement across the property if:
  - a. The ~~Heritage Trail Plan~~ currently adopted Active Transportation Plan indicates that a proposed multi-use trail corridor crosses the subdivision property; or
  - b. ~~The Heritage Trail Plan indicates that a proposed greenway corridor crosses the subdivision property.~~
2. If the ~~Heritage Trail Plan~~ currently adopted Active Transportation Plan indicates that a proposed trail or greenway corridor crosses the subdivision property, and a segment of the trail or greenway corridor has already been provided on adjacent property, then the subdivision ~~may~~ shall connect the trail or greenway segments at the property lines to provide for a continuous trail or greenway corridor.
3. ~~In the case of major subdivisions, if the Heritage Trail Plan indicates that a proposed trail or greenway corridor crosses the subdivision property, dedication of linear park land including a trail easement shall be considered as all, or a portion of, the required parkland dedication (See Sections 23-1004 and 23-1002 of these Regulations).~~
3. Trail infrastructure identified and designated as Neighborhood Bikeways, Bike Lanes, Shared Use Path in the currently adopted Active Transportation Plan are required to be constructed by the developer when the trail is in the adjacent right of way or within the development itself. This is considered a public improvement.

**B. Drainage Discharge:** Discharge of storm drainage is subject to the following:

3. Stormwater detention or retention ponds ~~must~~ in parkland, reference Section 23-1005 Stormwater Detention / Retention Ponds in Parks of these regulations. on a separate parcel and shall not count towards the parkland dedication requirements. Signage is required to indicate the ownership and provide a maintenance contact for the facility. Retention ponds may be located within a public park land at the discretion of the ~~when the following criteria is met and approved by the City Parks Department.~~

~~D. **System Maintenance:** If any onsite retention or detention facilities are utilized, unless otherwise provided a special maintenance district shall be created prior to filing the final subdivision plat in order to provide funds for the maintenance of such facilities.~~

~~E. **Future Improvements:** If any onsite retention or detention facility is used, a waiver of right to protest against a future storm drain system special improvement district shall be executed by the subdivider and recorded and filed with the final plat.~~

#### **Section 23-408. Sanitary Sewer Systems.**

~~A. If the subdivision is within the City limits, the~~ The subdivider shall install complete sanitary sewer system facilities in accordance with the requirements of the City and the Montana Department of Environmental Quality (MDEQ).

An application for extension of sanitary sewer services shall be submitted for review and approval by the City. The subdivider shall submit plans and specifications for the proposed facilities to the City and to MDEQ and shall obtain necessary approvals prior to construction.

~~B. If any boundary of the subdivision is within five hundred (500) feet of a public sanitary sewer system, the subdivider must~~ annex into the city and connect to the sewer district and install sanitary sewer system facilities.

The governing body may grant a variance from the requirement to connect to a public system if the subdivider demonstrates that connection to the public system is physically or economically impractical. For purposes of this section, a connection is economically impractical if the cost is greater than three times the cost of installation of an approvable system on the site.

~~C. Where individual septic systems are proposed, the system shall meet the standards set forth in Title 17, Chapter 36 (Subdivisions/Onsite Wastewater Treatment), Montana Administrative Rules and obtain approval by the Montana Department of Environmental Quality and/or the Yellowstone County Environmental Health Department.~~

- ~~1. For lots less than twenty (20) acres, MDEQ approval shall be obtained prior to the submission of the final plat application.~~
- ~~2. For lots equal to or greater than twenty (20) acres, Yellowstone City County Health Department approval is required prior to the submission of the final plat application.~~
- ~~3. A waiver of right to protest the creation of a future special improvement district for a sanitary sewer system shall be executed by the subdivider and recorded and filed with the final plat.~~

#### **Section 23-409. Water Supply Systems.**

~~A. If the subdivision is within the City limits, The subdivider shall install complete water system facilities in accordance with the requirements of the City and the Montana Department of Environmental Quality (MDEQ). Additionally, the City may as a condition of approval require two water feeds into dead-end roads.~~

An application for extension of water service shall be submitted for review and approval by the City. The subdivider shall submit plans and specifications for the proposed facilities to the City and to the MDEQ and shall obtain necessary approvals prior to construction.

~~C. If any boundary of the subdivision is within five hundred (500) feet of a public water system, the subdivider must annex into the city and connect to the water system and install system facilities.~~

~~The governing body may grant a variance from the requirement to connect to a public system if the subdivider demonstrates that connection to the public system is physically or economically impractical. For purposes of this section, a connection is economically impractical if the cost is greater than three times the cost of installation of an approvable system on the site.~~

~~D. If individual water supply systems (e.g. wells or cisterns) are proposed, the system shall satisfy the standards set forth in Title 17, Chapter 36 (Subdivisions/Onsite Wastewater Treatment), Montana Administrative Rules and obtain approval by the MDEQ or the Yellowstone County Environmental Health Department.~~

~~1. For lots less than twenty (20) acres, the subdivider must obtain MDEQ approval prior to submission of the final plat.~~

~~2. For lots equal to or greater than twenty (20) acres, the subdivider must obtain Yellowstone City County Health Department Subdivision approval prior to submission of the final plat.~~

~~4. A waiver of right to protest the creation of a future special improvement district for a water system shall be executed by the subdivider and filed and recorded and filed with the final plat.~~

#### **Section 23-410. Utilities.**

A. All new utilities serving the subdivision including electricity, cable television, and telephone shall be placed underground, with the exception of fire hydrants, cable closures, alignment markers, etc. Easements for utilities shall be clearly indicated on the plat.

~~1. Easements across lots or centered on common rear or common side lot lines shall be provided for public and private utilities where requested by the city and private utility companies. and shall be at least sixteen (16) feet wide; easements located along perimeter lot lines shall be at least eight (8) feet in width. The width of an easement may vary depending upon the utility company serving the subdivision.~~

#### **Section 23-411. Watercourse and Irrigation Easements (76-3-504(1)(j), (k), MCA).**

A. **Easements for irrigation facilities WITHIN the subdivision:** Easements are required to be shown on the face of the preliminary and final plats for all drainage ways, irrigation canals/ditches and their laterals, and belowground pipelines that traverse the property to be subdivided, providing for irrigation within the subdivision, except as noted in Section 23-411.B., below. In addition, an easement document

shall be filed with the final plat. The easements provided shall meet the following standards:

1. Easements shall be provided in locations of appropriate topography and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
2. Easements of a sufficient width to allow for construction, repair, maintenance, and inspection of the ditch shall be provided. The easement width shall be based on the policy of the appropriate irrigation district; and
3. The easement document shall prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the water users.
4. Irrigation or ditch easements may be located within parkland but shall not be used to satisfy parkland dedication requirements.

**Section 23-412. Disposition of Water Rights (76-3-504(1) (j), MCA).**

~~If a subdivision will create lots averaging less than five acres in size, The~~ subdivider shall submit evidence with the final plat indicating that either A. and B., below, or C., below, has been provided:

- A. **Reservation and transfer of water rights:** The subdivider shall reserve all ~~or a portion~~ of the water rights on the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water; ~~Any remaining surface water rights from the land shall be reserved and severed; and~~
- C. **All rights reserved and severed and granted to the City:** All surface water rights and/or ditch shares shall be ~~reserved and severed from the land proposed for subdivision~~ and granted to the City.

## Section 23-413. Fire Protection Requirements.

To ensure a reasonable level of fire protection and life-safety for the public and firefighters, fire apparatus access roads and an approved water supply capable of providing the required water flow for fire protection shall be provided in accordance with this section and the adopted fire code to all premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into the jurisdiction.

C. **Emergency Secondary Access Roads:** In the event that an emergency secondary access road is approved, through the variance process, as a means of providing a second access to a subdivision, as required by Section 23-406.A.5. of these Regulations, it shall be built to the following standards:

1. Emergency access roads shall be designed to a minimum unobstructed surface width of not less than twenty (20) feet and shall be constructed to adequately support a forty (40) ton vehicle with a surface ~~so as to~~ that provides all weather driving capabilities. The road shall be constructed to City standards. The emergency access road shall be maintained throughout the year including the removal of snow and ice. Where required by the Fire Department having jurisdiction, gates or other approved barricades shall be required at either end of the road to restrict through traffic. A sign shall be fixed to each gate in a conspicuous manner. The sign shall read "EMERGENCY ACCESS ONLY" using black letters not less than two (2) inches wide and six (6) inches high on a white retro reflective background.
3. Emergency access roads will be assigned a name by ~~the Billings Fire Department~~ City GIS / Land Management. In order to ensure the roads are entered into and reflected on the County GIS mapping system, the road shall be shown on the plat along with the name assigned to the road. Emergency access roads will not have conventional street signs identifying them by the assigned name.

Two (2) sets of final plans showing corrections/revisions after review and approval shall be submitted to ~~the Fire Department~~ City GIS / Land Management. ~~The Fire Department~~ City GIS will forward one (1) set of plans to County GIS to ensure that the emergency access road and road name are entered into the GIS mapping system.

**Section 7.** That Section 23-501 through Section 23-504 of the Billings, Montana, City Code be amended so that such section shall read as follows:

**Section 23-501. Subdivision Improvements Agreement.**

Prior to granting approval of the final plat by the governing body the subdivider shall have installed all of the required improvements as stipulated in these regulations, or shall, prior to receiving approval of the final plat, provide a financial guarantee in accordance with Section 23-502 and enter into a written subdivision improvement agreement (SIA) with the governing body guaranteeing the construction and installation of all required improvements in conformance with all policies, standards and ordinances adopted by the City. The agreement shall stipulate, among other things, which type of security arrangements acceptable to the governing body the subdivider elects to use, the time schedule acceptable to the City, the subdivider's plans for accomplishing the required improvements and an agreement that the subdivider shall guarantee all improvements for a period of ~~one (1)~~ two (2) years from the date of acceptance by the City. (~~See Appendix K for SIA template~~)

**Section 23-502. Security Guarantee. (MCA 76-3-507).**

The subdivider shall provide a monetary security guarantee from the following listed methods in the amount of one hundred twenty-five (125) percent of the estimated total cost or actual construction contract amount of installing all required improvements including engineering and administration fees, as estimated by a Professional Engineer and approved by the Public Works Department.

- A. **Escrow account.** The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a financial institution. The use of any instrument other than cash, and in the case of an escrow account, the financial institution with which the funds are to be deposited, shall be subject to the approval of the governing body or designee. (~~See Appendix L for Escrow template~~). In the case of an escrow account, the subdivider shall file with the City an agreement between the financial institution and the subdivider guaranteeing the following:
  
- B. **Irrevocable letter of credit.** The subdivider shall provide, from a financial institution or other reputable institution subject to the approval of the governing body or designee, an irrevocable letter of credit. (~~See Appendix M for Letter of Credit template~~). This letter shall be deposited with the City and shall certify the following:



D. ~~Sequential development~~ **Phased Development**. Where a subdivision is to be developed in phases, a phasing plan shall be prepared by the developer, and reviewed and approved by the governing body with the preliminary plat. The phasing plan shall be included in the SIA and shall describe which lots are included in each phase, and what improvements shall be completed with each phase, ~~and the approximate completion date of each phase.~~ Improvements included in the first phase shall be constructed or guaranteed using one of the acceptable monetary security guarantees prior to final plat approval by the governing body. Lots within subsequent phases shall be restricted from being transferred or developed. A "Restrictions on Transfers and Conveyances" contract shall be entered into for subsequent phases by the subdivider and the governing body and shall be filed with the final plat documents with the Clerk & Recorder (~~See Appendix N for Restrictions on Transfers and Conveyances template~~).

A release on the restrictions on transfers and conveyances may be filed with the Clerk & Recorder only after the necessary improvements for each particular phase are constructed, approved and accepted by the City, or guaranteed using one of the acceptable monetary security guarantees.

The subdivider shall set a future date that each phase is proposed to commence. Should the date set be passed or the developer determines they are unable to meet the set date a new public hearing will be scheduled to set new dates for future phases. When the developer prepares to release a new phase in the subdivision the developer shall submit to the Planning Department the existing SIA, an updated Environmental Assessment addressing any changes, an updated TIS accounting for growth in the area, and any updates to the MDEQ requirements for the development. Should there be no changes to the above-mentioned submittal requirements the applicant shall submit documents justifying that finding. A public hearing shall be held to review the proposed phase and its' impacts on the surrounding area with the possibility of additional conditions of approval being added should the findings of fact determine they are needed. A public hearing is required prior to any 'future phase' being released for public sale of lots. (76-3-617 MCA)

All phases included within the phasing plan, if completed within 5 years of final plat approval, are not required to go through the public hearing process as outlined above in paragraph D. They will only be required to obtain a "Release and Certificate" to open each phase. If the subdivider applies to open any phase after 5 years of the approval of the final plat, then the governing body will hold a

public hearing in order to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval as outlined above in paragraph D.

E. **Other.** **Provision for security requirement to ensure construction of public improvements.** Any other method ~~that may be acceptable to the Planning Board and the governing body.~~ specified in MCA 76-3-507 that is also acceptable to the governing body. In all circumstances the guarantee method shall provide the City of Billings as the beneficiary.

#### **Section 23-503. Reduction of Guarantees.**

In those cases where improvement guarantees have been made by the method in Sections 23-502 A., ~~B., C., or D.~~ the amount of the guarantee may be reduced upon installation and acceptance by the City of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made up of all originally required improvements.

#### **Section 23-504. Release of Guarantee.**

Upon completion of required improvements by the subdivider and acceptance of them by the City, all in conformance with this Chapter, the City shall authorize the release of any remaining portion of the improvement guarantee of ninety percent (90%) of the original amount. The remaining ten percent (10%) will be released after any deficiencies are corrected after the ~~one~~ two-year warranty inspection. The acceptance of improvements by the City shall initiate the ~~one~~ two-year warranty period.

**Section 8.** That Section 23-601 through 23-603 and Section 23-605 of the Billings, Montana, City Code be amended so that such section shall read as follows:

#### **Article 23-600. DEVELOPMENTS PROVIDING MULTIPLE SPACES FOR RENT OR LEASE FOR RECREATIONAL VEHICLES, MOBILE HOMES, AND MANUFACTURED HOMES**

##### **Section 23-601. General.**

B. **Review & approval required.** Manufactured home parks, mobile home parks and RV parks must be submitted for review and approval by the governing body before portions thereof may be rented or leased (76-3-504(s), MCA).

Approval must be based on the criteria found in Article 23-300 of these Regulations.

- C. **Zoning requirements.** Manufactured home parks, mobile home parks and RV parks shall follow all applicable requirements outlined in the Unified Zoning Regulations (Article 27, BMCC).

## **Section 23-602. Review Procedures**

### **A. Submittal requirements.**

1. Manufactured home parks, mobile home parks and RV parks require submittal of those requirements outlined in Article 23-300 of these Regulations except that the subdivider shall submit un-surveyed plans drawn to scale, rather than plats.
2. Supplementary materials. In addition to the submittal requirements outlined in Article 23-300, preliminary and final plans and submittals for manufactured home parks, mobile home parks and RV parks shall include the following:
  - d. Landscaping plan, if required by Section 27-1200 ~~Section 23-603.E.2,~~ or ~~Section 27-805, 27-912, Section 27-1006, Article 27-1100 or Article 27-1400, BMCC,~~ as applicable.

## **Section 23-603. Manufactured and/or Mobile Home Park Development Requirements.**

### **A. Manufactured or mobile home spaces.**

3. All manufactured or mobile homes must meet the minimum setback requirements of ~~Article 27-308~~ Section 27-309, BMCC from all perimeter boundary lines. In the case where a boundary line is adjacent to an arterial street, all homes and accessory structures must meet setbacks as required in ~~Article 27-602~~ Section 27-303 J, BMCC. In addition, all manufactured or mobile homes must meet the requirements of fire code separations. Any additional detached building must meet all requirements from building.
4. ~~The manufactured or mobile home pad must be located at least ten (10) feet from the street that serves it.~~

- ~~5. Location of space limits on the ground must be approximately the same as those shown on the approved plans. Precise surveying of space limits is not required either on the plans or on the ground.~~
- ~~6. The size of the manufactured or mobile home pad must be suitable for the general market to be served and must fit the dimensions of manufactured homes anticipated. At a minimum the pad should measure fourteen (14) feet wide and seventy (70) feet long. All pads shall be constructed of at least six (6) inches of gravel over a stabilized sub-base.~~
- ~~7. The total area occupied by a manufactured or mobile home and its roofed accessory buildings and structures may not exceed one-third (1/3) of the area of a space.~~
- ~~8. All manufactured or mobile homes shall be separated by a minimum of fifteen (15) feet.~~
- ~~9. There shall be a minimum of fifteen (15) feet between all attached structures such as carports, awnings, decks, and stairs and any adjacent manufactured or mobile home.~~
- ~~10. There shall be a minimum of six (6) feet between detached structures and any adjacent manufactured or mobile home. Detached structures are defined as any structure that is more than six (6) feet away from the manufactured home.~~
114. A minimum of two (2) off-street parking spaces must be provided on or adjacent to each manufactured or mobile home space. The driveway must be located to allow for convenient access to the manufactured home, and be a minimum of ten (10) feet wide.

## **B. Streets.**

1. Streets within a manufactured or mobile home park or recreational vehicle park shall be private and built to city standards.
3. Streets, pedestrian, and bicycle facilities shall be designed and built to meet current City Standards.

## **E. Additional provisions**

4. Centralized mail delivery shall be provided at one or more locations within the park. Location and design of such group mail collection site(s) shall be reviewed and approved by the United States Postal Service. ~~and the Public Works department.~~

### **Section 23-605. Timing of Improvements.**

- A. The subdivider shall install all required improvements before renting or leasing any portion of the subdivision. The governing body or designated agent will inspect all required improvements in order to ensure conformance with the approved construction plans and specifications. The subdivider shall guarantee all improvements for a period of ~~one~~ two years from the date of written approval by the governing body or designated agent.

**Section 9.** That Article 23-700 of the Billings, Montana, City Code be amended so that such section shall read as follows:

### **Article 23-700. CLUSTER DEVELOPMENTS (MCA 76-3-509) AND PLANNED NEIGHBORHOOD DEVELOPMENTS (MCA 76-3-509)**

#### **Section 23-702. Definitions.**

For the purposes of this Article the following definitions shall apply:

**~~Maximum Density Calculation means~~** ~~the maximum number of residential dwelling units allowed is calculated by dividing the gross square footage of the Cluster Development area (including any Open Space area) by the required lot area in the underlying zoning district.~~

**~~Planned Neighborhood Development (PND) means a~~** Planned Neighborhood Development (PND) is a subdivision consisting of a planned mixture of land uses such as residential clusters, industrial parks, shopping centers, and/or office building parks built in a prearranged relationship to each other and having open space and community facilities in common ownership or use ~~(76-3-103(10), MCA).~~

## **Section 23-704. Design Standards and Applications for Cluster Developments.**

~~E. **Maximum Density.** The maximum number of dwelling units shall be calculated by dividing the gross area of the lot including the open space by the required lot area of the underlying zoning district. The applicant need not demonstrate the development capability of the land to calculate the maximum dwelling unit density.~~

~~F. **Other Requirements.** The applicant shall adhere to all other applicable requirements of the underlying zoning district(s) with the exception of minimum lot area per dwelling unit (See Maximum Density above). The proposed number of dwelling units shall not exceed the maximum density but each dwelling unit may be placed on a lot of less than the minimum lot area required by the underlying zoning district(s). Subsequent to a preliminary plat approval, the applicant shall apply for and receive a zoning variance (Art. 27-1500, BMCC) from the minimum lot area required within the zoning district(s).~~

## **Section 23-706. Permitted Uses of Open Space.**

A. Uses of Open Space may include the following:

1. Conservation of natural, archeological or historical resources;
2. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
3. Walking, bicycle trails or other multi-use trails as defined in the Heritage Trail Plan currently adopted Active Transportation Plan;
4. Passive recreation areas, such as open fields;
5. Active recreation areas;
6. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are adhered to;
7. Landscaped storm water management facilities approved by the governing body, community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses;
8. Easements for drainage, access, and underground utility lines;
9. Other conservation-oriented uses compatible with the purposes of this Article.

## **Section 23-707. Ownership and Management of Open Space.**

A. **Ownership of Open Space.** Open space shall be owned by one of the following entities:

1. The open space ~~shall be dedicated to the public as public parkland~~ can be provided as allowed per MCA 76-3-621. Acceptance of the open space shall be at the discretion of the governing body, as recommended by the City's Park and Recreation Department's staff. Board. Open space must allow public access through a plat dedication or easement; or

2. A Homeowners' Association representing residents of the subdivision may own the open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. Open space owned by a Homeowners' Association must indicate through a plat dedication or easement, whether or not there is public access to the open space. The park will display signs indicating public or private use.

**B. Management Plan.** The applicant shall submit a Plan for Management of Open Space and Common Facilities (Management Plan) that:

1. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
2. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outlines the means by which such funding will be obtained or provided;
3. Provides that any changes to the Management Plan be approved by the Planning Department, or in the case of publicly accessible owned open space, approved by the Parks and Recreation Department Park Board; and
4. Provides for enforcement of the Management Plan.

#### **Section 23-709. Planned Neighborhood Developments General Requirements.**

A Planned Neighborhood Development (PND) project is intended to encourage the use of improved techniques for the development and arrangement of a mixture of land uses more than is available under conventional zoning regulations or land restrictions that separate land uses into distinct zones. It is further the intent of PNDs to allow for the integration of housing, business, and community facilities, and to allow for the preservation of the natural environment through efficient utilization of open space. PND requirements are outlined in City of Billings Zoning Article 27-800.

1. ~~A PND may be applied to any mixed use subdivision of five (5) or more lots. The subdivision shall generally conform to the adopted Growth Policy. The underlying zoning district(s) land use designations and building setbacks and other limitations shall be used as a general guide. The applicant is encouraged to design the PND to allow a mixture of land uses, densities, setbacks and building heights.~~
2. ~~The maximum size of any developed parcel or lot within a PND is 350,000 square feet.~~

- ~~3. The minimum size for any area designated for common use by the residents or owners of the PND or by the public is 45,000 square feet. The area may be designated for active or passive recreation, for conservation purposes or for any other use in common by the residents and owners of the PND or by the public.~~
- ~~4. Planned Neighborhood Developments are exempt from the review criteria in Section 23-302.H. of these Regulations.~~
- ~~5. Planned Neighborhood Developments are exempt from the parkland dedication requirements in Article 23-1000 in so far as the PND meets or exceeds parkland dedication requirements of Section 23-1002.~~
- ~~6. Planned Neighborhood Developments shall comply with all other requirements of these Regulations.~~
- ~~7. G. Planned Neighborhood Developments shall be considered a Special Review use for purposes of the Unified Zoning Code (Article 27-1500, BMCC).~~

**~~Section 23-710. — Design Standards and Applications for Planned Neighborhood Developments.~~**

~~A. The PND shall follow the applicable review procedures, as outlined in Article 23-300 of these Regulations.~~

~~B. **Site Analysis Map.** A site analysis map shall be submitted with the preliminary plat application including the following information:~~

- ~~1. Property boundaries;~~
- ~~2. All streams, rivers, lakes, wetlands and other hydrologic features;~~
- ~~3. Topographic contours with a minimum of 5 foot intervals; where lots are proposed on slopes 10% or less, contours must be shown at 2 foot intervals.~~
- ~~4. All proposed open space areas;~~
- ~~5. General vegetation characteristics;~~
- ~~6. General soil types;~~
- ~~7. The planned location of protected open space;~~
- ~~8. Existing roads and structures;~~
- ~~9. Potential connections with existing open space, parks and trails.~~

~~C. Planned Neighborhood Developments are allowed in any zoning district as a Special Review use. Each land use area within a Planned Neighborhood Development will not be a separate zoning district but will apply for and receive special review approval (see Article 27-1500, BMCC for procedure) concurrently with the preliminary plat application (Article~~



~~23-300, BMCC). The Planned Neighborhood Development shall provide opportunities for mixed land uses, various housing types and densities, recreational opportunities, and areas for neighborhood services such as schools, community centers, fire or police stations, libraries, and places of employment.~~

~~**D. Master Plan:** A Master Plan must be submitted showing the proposed design and land use areas of the development. The Master Plan should be of sufficient detail to determine build-out population, traffic circulation and control requirements, permitted uses or mix of uses within each area, building envelopes for each developed lot, recreation areas and open space. If open space is provided it shall conform to the requirements of Sections 23-705 through 23-708 of this Article.~~

~~The Master Plan must also show development phasing and construction timing for each phase of the development including any construction or improvements for public parks, trails, community centers, fire and police stations, schools or other public facilities that will serve the Planned Neighborhood Development. Each development phase must contain mixed uses and housing densities. Common elements such as playgrounds, parks, neighborhood service areas and community centers must be included for development within each phase of the development.~~

~~**E.** The Planned Neighborhood Development must be consistent with any adopted Growth Policy, Neighborhood Plan, Heritage Trail Plan, Transportation Plan, Public Utilities Facilities Plan, and any other pertinent public facilities or land use plan that may apply to the PND subdivision area.~~

## **Section 23-7140 Examples of Cluster Development Designs**

## **Section 23-712 Examples of Planned Neighborhood Development Designs.**

**Section 10.** That Section 23-903 and Section 23-904 of the Billings, Montana, City Code be amended so that such section shall read as follows:

### **Section 23-903. Environmental Description Contents.**

#### **A. Surface Water.**

1. Locate on a plat overlay or sketch map all surface water and the delineated floodways that may affect or be affected by the proposed subdivision including natural water systems (streams, lakes, rivers, or marshes), artificial water systems (canals, ditches, aqueducts, reservoirs, irrigation or drainage systems), and land subject to flooding (see also Section 23-414 and Appendix O—Flood Hazard Evaluation).

## Section 23-904. Community Impact Report Contents.

### C. Land Use.

1. Indicate compliance with zoning encompassing all or part of the proposed subdivision. ~~If the proposed subdivision is located near the jurisdictional area of an incorporated city or town, state whether annexation is proposed~~

**Section 11.** That Section 23-1001 through Section 23-1006 and Section 23-1008 through Section 23-1009 of the Billings, Montana, City Code be amended so that such section shall read as follows:

### Section 23-1001. Purpose.

The purpose of parkland dedication is to:

- ~~Meet *the objectives associated with adopted City plans and policies. the goals and objectives associated with parks, open space, trails and other non-motorized transportation facilities in the Heritage Trail Plan, Yellowstone County and City of Billings Growth Policy, Parks2020, The Yellowstone County Comprehensive Parks Plan, the Yellowstone River Greenway Master Plan and the Billings Urban Area Transportation Plan.*~~
- ~~Preserve critical wildlife habitat, wetlands, riparian areas, river and stream corridors.~~
- ~~Preserve and protect historical and cultural features.~~
- ~~Provide active and passive park land and open space that is accessible and functional for use by the residents of a specific development and, where preferred, by the community.~~

### Section 23-1002. Park Land Dedication Requirements (76-3-621, MCA).

\*\*\*\*\*

C. ~~The governing body, in consultation with the subdivider, the Planning Board, and the Parks and Recreation and Public Lands Department (PRPL) and the subdivider may determine suitable locations for parks, and playgrounds and, provided that consideration is given to the preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. The combination could include some land dedication to meet the requirement with the cash in lieu balance going toward park improvements on the land dedicated. In determining whether land or cash is suitable, proximity to existing parks, including schools and other public or private recreational facilities shall be considered by the PRPL.~~

1. Land dedicated for park purposes shall:
  - a. Be usable land;
  - b. Street frontage requirements for parks is 200 continuous, linear, feet for each park of one acre, and 30 feet of frontage for every acre after that. The 30 feet segments are not required to be continuous with the original 200 feet. Example: 5-acre park

requires 200 linear feet for first acre and  $4 \times 30 = 120$  for the others for a total of 320 linear feet. The developer shall coordinate park street frontage openings with the City of Billings Parks Department before the preliminary plat is completed. Minimum width for additional accesses into parkland shall be 30 feet. If the parkland dedication requirement is under 1 acre the required street frontage will be a percentage of the one acre minimum. Minimum street frontage is 60 linear feet for parks less than 1 acre.

For example: If 20,000 square feet is what is required by sub regs, 20,000 divided by 43,560 equals 46%. 200 times 46% equals 92 feet of frontage.

c. Accessible to bicycle and pedestrian facilities where possible;

d. At least 50% of the park must have slopes under 5%.

2. Land not suitable to meet parkland dedication:

a. More than 5% of the area has grades 25% or higher;

b. Riparian resources and areas adjacent to or within irrigation, floodway or wetlands unless it includes a programmable space.

c. Monument entry areas and central landscaped boulevards;

d. Exclusively stormwater facilities;

e. Street lights, cell towers, overhead power, major transmission lines, or other similar uses;

D. A Park Maintenance District shall be formed or expanded with any new parkland dedication. If a developer provides cash in lieu, but is located directly adjacent to an existing public park maintained by a PMD, the PMD shall be expanded to include the newly subdivided lots.

E. Irrigation of public and private parkland are encouraged to be provided by ditches or wells when possible. If neither of these methods is possible, city treated water is an alternative.

**Section 23-1003. School Land Dedication in lieu of Park Land Dedication (76-3-621(8), MCA).**

Subject to the approval of the governing body and acceptance by the ~~Billings School District #2 Board of Trustees~~ School Board of Trustees that serves the subdivision, a subdivider may dedicate land as required by Section 23-1002 to a school district if the land is adequate to be used for school facilities or buildings.

**Section 23-1004. Linear Park Land Dedication for Trail Corridors.**

~~To be consistent with the Heritage Trail Plan, Yellowstone County and City of Billings Growth Policy, Parks2020, the Yellowstone River Greenway Master Plan and the Billings Urban Area Transportation Plan, linear parks for trails may be counted toward the required park dedication pursuant to Section 23-1002 of this Article. These parks shall provide corridors for trails and meet the following requirements adopted active transportation plans and parks and recreation plans, and if reviewed and approved by the review authority, linear park land can be dedicated to the city to provide corridors for trails and satisfy park land dedication requirements.~~

*A. Maintenance of the linear park is required as per Section 23-1002.D*

*B. The linear park shall not be used as a substitute for sidewalks or shared use paths adjacent to streets.*

*C. The linear park shall serve as a connection to other parks or shared use trails.*

*D. A linear park cannot be dedicated over an irrigation ditch or canal easement.*

*E. At a minimum, any linear parkland shall be at least 30 feet in width. Privacy fencing in excess of 4' adjacent to linear park is prohibited.*

~~A. The location of the proposed linear park section is identified as part of the Heritage Trail Plan trail system.~~

~~B. The proposed linear park should be no more than twenty (20) feet in width except when designed to incorporate other park features as approved as part of a parks master plan.~~

~~C. Maintenance of the linear park is provided through a Park Maintenance District as with all other dedicated parks.~~

#### **Section 23-1005. Stormwater Detention/Retention Ponds in Parks.**

Stormwater detention or retention ponds may be located within public park land, but such areas shall not count toward the park land dedication requirement unless they are designed and constructed to serve as an amenity to the park and fit into the planned uses and improvements to the park. An example of a stormwater detention area that is an amenity to a park could be several ponds with water features connecting them designed to have a trail around them with picnic shelters. The developer, at the time of preliminary plat application, shall include documents detailing the amenity improvements. The SIA shall also include language regarding the improvements and the maintenance shall occur through the use of a PMD.

*A. A stormwater facility maintenance agreement as per the stormwater management manual must be submitted to the parks department for any ponds located on dedicated park land prior to this regulation.*

#### **Section 23-1006. Determining Cash Contribution for Park Land.**

Upon submittal of a final plat application, the subdivider shall provide one of the following to verify the fair market value of the land being subdivided that supports the cash contribution for park land the subdivider is providing. All of the below methods shall be completed by a third party. In addition, all methods shall assume the new zoning of the property:

A. A Comparative Market Analysis performed by a licensed realtor that meets the following criteria:

1. It provides the per acre sale price of at least three (3) comparable parcels of land.
2. The comparable sales must have occurred within one (1) year of the date of the subdivision final plat application submittal.
3. The comparable sales must be within two (2) miles of the subdivision.

B. A raw land appraisal by a licensed appraiser.

~~C. The sale price of the property being subdivided if it was purchased within one (1) year of the date of the subdivision final plat application submittal.~~

**Section 23-1008. When Park Land Dedication May Not Be Required (76-3-621(3)(c), MCA).**

The following subdivisions may not require parkland dedication:

- ~~F. Cluster Developments and Planned Neighborhood Development (See Sections 703(e) and 709(5) of these regulations).~~

**Section 23-1009. Waiving Park Land Dedication Requirement (76-3-621(6), MCA).**

The governing body shall waive the park dedication requirement if:

- A. The subdivision provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under Section 23-1002 of this Article.

**Section 12.** That Section 23-1101 and Section 23-1103 through Section 23-1107 of the Billings, Montana, City Code be amended so that such section shall read as follows:

**Section 23-1101. Variances.**

The City Council may grant reasonable variances from the design and improvement standards of these Regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these Regulations or justifying submission of an incomplete application. The City Council may not approve a variance that would permit structures within the floodway of the 100-year floodplain, as defined in 76-5-101, MCA.

~~D. An application for a variance is not necessary where Planned Neighborhood Developments are proposed, as modifications to the standards and requirements of these Regulations may be approved by the City Council.~~

### **Section 23-1103. Corrections or Vacations of Recorded Final Plats and Supporting Documents.**

- A. Corrections to recorded final plats shall be processed as exempt plats pursuant to the requirements ~~set forth in Appendix B~~, provided that there is evidence of at least one of the following:
- C. Any plat prepared and recorded in accordance with these Regulations may be vacated, either in whole or in part.
  - 1. If the vacation affects five (5) or fewer lots it shall be processed as an exempt plat pursuant to the requirements. ~~set forth in Appendix B~~.
  - 2. If the vacation affects ~~six (6)~~ twelve (12) or more lots it shall be reviewed as an amended plat pursuant to Section 23-307 of these Regulations.

### **Section 23-1104. Corrections or Adjustments to Plats, Conditions and Supporting Documents after Preliminary Plat Approval.**

- A. Minor adjustments may be approved by the City Council or designee, in consultation with the appropriate agencies, prior to the filing of the final plat. Minor adjustments are those changes, which, in the opinion of the City Council or designee, does not affect the basic character of lots or blocks, does not affect the open space requirements or amount provided, and does not affect the original street design. Minor adjustments shall not change existing Conditions of Approval or require additional conditions. Minor adjustments may require that a new plat be drawn; however, they do not require that the plat be re-submitted for preliminary plat review.
- B. Major adjustments are those which, in the opinion of the City Council or designee, substantially alter the basic design, or alter change open space requirements or amount provided of for the subdivision. Changes to conditions of approval placed on the preliminary

plat shall be considered major adjustments unless otherwise determined using the criteria in Section 23-12404.C., below. Any changes which constitute a major adjustment shall require that a new plat be drawn and the plat be re-submitted for preliminary plat review as specified in Article 23-300.

#### **Section 23-1105. Appeals.**

C. The following parties may appeal under the provisions of Section 23-1105.B.:

1. The subdivider;
2. A landowner with a property boundary contiguous to the proposed subdivision or a landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
3. ~~The Yellowstone County Board of County Commissioners;~~

#### **Section 23-1106. Schedule of Fees.**

The required fee shall accompany the preliminary plat, final plat, exempt surveys, and any proposed variances. A schedule of fees for plats shall be established by the City Council by resolution, ~~as set forth in Appendix P~~ fee information is available online.

#### **Section 23-1107. Penalty for Violation.**

- A. Except as provided in 76-3-303, MCA, every final subdivision plat shall be filed with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. If illegal transfers are completed, the ~~County Attorney~~ City Attorney shall commence action to enjoin further sales or transfers and compel compliance with the provisions of the Montana Subdivision and Platting Act (76-3-101 et seq., MCA) and these Regulations. The cost of such action shall be imposed against the person transferring the property.

**Section 13.** That the Appendices of the Billings, Montana, City Code Section 23 be amended Appendix B: subsection C, 3, 6 and 7. Removing in their entirety Appendices C through N, with that such section shall read as follows:

#### **Appendix B. Subsection C. Exemption as a Gift or Sale to a Member of the Immediate Family (76-3-207(1)(b), MCA).**

3. Any certificate of survey filed that would use this exemption to create a parcel for conveyance to a family member must clearly identify the name of the grantee, the

grantee's relationship to the landowner, and the parcel to be conveyed under this exemption, and be accompanied by, or contain, the landowner's written certification of compliance. The certificate of survey or other instrument must also cite the exemption claimed and include the proper language. ~~provided in Section H of this Chapter.~~ Also, the certificate of survey or instrument of conveyance shall be accompanied by a deed or other conveying document.

6. The use of the family conveyance exemption to divide tracts that were created *with the subdivision process are allowed as long as they can also meet the requirements of zoning.* ~~as part of an overall development plan with characteristics such as common roads, utility easements, restrictive covenants, open space or a common marketing or promotional plan shall be presumed that the use of the exemption is an evasion the Act.~~
7. An immediate family member or the spouse of an immediate family member who receives a division of land as part of a gift or sale may not transfer or otherwise convey the division of land for a period of up to 2 years after the date of the division. The governing body may authorize variances from these requirements to address hardship situations.

**Section 14.** That the Appendices of the Billings, Montana, City Code Section 23 be amended Appendix O to be known as Appendix C that such section shall read as follows:

#### **APPENDIX ~~QC~~ Flood Hazard Evaluation**

**Section 15. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 16. REPEALER.** All resolutions, ordinance, and sections of the City Code inconsistent herewith are hereby repealed.



**Section 17. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invaled, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on the first reading this 14<sup>th</sup> day of October, 2024.

PASSED, ADOPTED and APPROVED on second reading this 28<sup>th</sup> day of October, 2024.

CITY OF BILLINGS



By: William A. Cole  
William A. Cole, Mayor

ATTEST:

By: Denise R. Bohman  
Denise R. Bohman, City Clerk