

III. REVIEW AND APPROVAL PROCEDURES FOR MAJOR SUBDIVISIONS

III-A-1. General

Subdivisions containing six or more lots, and subsequent subdivisions containing five or fewer lots that do not qualify as first minor subdivisions, shall be reviewed under the procedures of this Section.

III-A-2. Pre-application Process

- a. Pre-application Meeting. The subdivider shall meet with Subdivision Administrator prior to submitting a subdivision application and preliminary plat. The purpose of this meeting is to discuss these Regulations and standards, to identify the state laws, local regulations and any growth policy provisions that may apply to the subdivision review process, familiarize the subdivider with the goals and objectives of applicable plans, regulations and resolutions, and to discuss the proposed subdivision as it relates to these matters. A request for a pre-application meeting shall be made in writing to the Subdivision Administrator. The request shall include the owner's name, address and phone number, name, address and phone number of the subdivider, if different than the owner, a complete legal description of the parcel or parcels proposed to be subdivided and a description of the proposed development plans. The pre-application meeting will be scheduled within thirty (30) days of the Subdivision Administrator receiving a written request with all the required information.
 - i. If the owner or owners designates a representative to represent the owner at the pre-application meeting, the representative must have a signed designation granting the authority to represent the landowner for the purpose of subdividing the property.
 - ii. The applicant will provide the materials identified in Appendix A, subsection A (Pre-Application meeting) at or preferably before the scheduled pre-application meeting.
 - iii. At the pre-application meeting, the Subdivision Administrator will provide the subdivider with a list of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the Subdivision Administrator or other agent designated by the Commission contacts a public utility, agency, or other entity that was not included on the list originally made available to the

subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

- b. The subdivider shall submit the subdivision application and preliminary plat as provided in III-B-1 of these regulations within one hundred twenty (120) working days of the notification from the Subdivision Administrator of completion of the pre-application process. If an application is not submitted within one hundred twenty (120) working days the subdivider must request a new pre-application meeting and complete the pre-application process as if it were a new proposal.

III-B. Subdivision Application and Preliminary Plat

After the requirement for pre-application review has been satisfied, the subdivider may submit a subdivision application, including a preliminary plat of the proposed subdivision. Preliminary plats submitted to the Subdivision Administrator must conform to the requirements of these Regulations. The preliminary plat shall be prepared by a surveyor licensed to practice in Montana.

III-B-1. Subdivision Application and Preliminary Plat Submittal

The subdivision application and preliminary plat must be in the form, and contain the information and supplements required below and conform to the Design and Improvement Standards set forth in Section V and include the preliminary water and sanitation information.

The subdivider shall submit to the Subdivision Administrator fifteen (15) copies of the Application for Subdivision Form and all required application materials listed on the Application Form (see Appendix B). These materials include:

1. The required review fee as stated in the current Fee Schedule as adopted by the commissioners
2. Completed Application Form
3. Signed Consent-to-Subdivide Forms (as applicable)
4. Title Guarantee
5. Adjoining Property Owner Information (including vicinity map of adjoining ownership and names and addresses of adjoining owners)
6. Environmental Assessment
7. Water, Wastewater and other Sanitation Information
8. Storm Water System Drainage Plan
9. Information on existing and proposed irrigation systems including waste ditches (and identification of location on the plat)
10. Water Rights Disposition
11. Physical and Legal Access Information
12. Fire Suppression Plan

13. Weed Management Plan
14. Restrictions, Covenants, Property Owner Association Articles of Incorporation and Bylaws (when applicable)
15. Subdivision Improvements Agreement and Financial Guarantee drafts (as applicable)
16. Copies of the draft contracts and escrow agreement per section II-A-2 of this document if the developer plans to enter into contracts to sell lots prior to final plat approval.
17. Drafts of any appropriate certificates
18. Overall development plan (if applicable)
19. Request for Variance (if applicable)
20. Oversized Maps/Plat reduced to 8.5"x11" or 11"x17"
21. Preliminary Plat

The requirement for preparing an environmental assessment does not apply when:

- (a) The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to sections 76-2-601 through 76-1-606, MCA; and
- (b) The Commission has adopted zoning regulations pursuant to sections 76-2-201 through 76-2-228, MCA (county zoning pursuant to a growth policy) that applies to the entire area of the proposed subdivision and that address the criteria in 76-3-608(3)(a), MCA; and
- (c) The Commission has adopted a strategy for development, maintenance, and replacement of public infrastructure pursuant to section 76-1-601(2)(e), MCA.

III-B-2. Application Review

The time limits for the element and sufficiency reviews of this subsection apply to each successive submittal of the application materials until a determination is made that the application contains all the required elements and is sufficient for review and the subdivider is notified in writing.

The Subdivision Administrator shall be the entity to complete element and sufficiency review regardless if the subdivider has first applied to the MDEQ.

1. Element Review

- a. Within five (5) working days of the receipt of the elements required in Section III-B-1 the Subdivision Administrator shall determine whether the application contains all the required elements.

- b. The County shall notify the subdivider in writing via regular mail, email, or fax that the application contains the required elements or identifying the elements missing from the application.

2. Sufficiency Review

- a. Within fifteen (15) working days after notifying the subdivider that an application contains all the necessary elements for review, the Subdivision Administrator shall determine if the application and supporting materials are sufficient to proceed with the review of the proposed subdivision.
- b. The County shall notify the subdivider in writing via regular mail, email, or fax that the application contains sufficient information for review or specifying the elements requiring additional information.
- c. A determination that an application contains sufficient information for review as provided in this subsection does not ensure that the proposed subdivision will be approved or conditionally approved by the Commission and does not limit the ability of the Subdivision Administrator, Planning Board or Commission to request additional information during the review process.
- d. A determination of sufficiency by the Subdivision Administrator does not limit the MDEQ, NRCS, County Sanitarian, County Floodplain Administrator, Weed Department, or other permitting entities from requiring additional information as part of their review.

The sixty (60) working day review period commences on the date that the Subdivision Administrator provides written notification to the subdivider that the application contains sufficient information for review.

The subdivider has a 180 day preliminary plat review period deadline that starts when the subdivider has been initially notified in writing of any preliminary plat application deficiencies. The application will be returned to the subdivider after the 180 day deadline if all information requested has not been submitted and the application continues to be incomplete. Any written requests to extend the 180 day deadline, by 60 days maximum, must be submitted should uncontrollable circumstances arise. Written requests for a deadline extension must be submitted at least 20 days prior to the end of the 180 day deadline. The subdivider continues to have the option of notifying the Subdivision Administrator, in writing, to stop the review process time clock at any time to correct application deficiencies. However, the review deadline is not valid past the 60 day extension period. If the application is not complete when the deadline passes then the application will be returned to the subdivider, where a new application with the required information and fees may be submitted.

III-B-3. Date of Sufficiency and Related Review Standards

Subdivision review under these Regulations may occur only under those regulations in effect at the time the Subdivision Administrator mails a written determination to the subdivider stating the application contains sufficient information for processing. If regulations change during the element and/or sufficiency review by the Subdivision Administrator the element and sufficiency review shall be based on the new regulations.

III-B-4. Review by Affected Agencies

After an application is deemed sufficient, the Subdivision Administrator shall submit copies of the application, preliminary plat, and supplementary information to relevant public utilities and public agencies for review and comment, and to the Planning Board for its recommendation pertaining to the approval, conditional approval or denial of the subdivision application. Review by public agencies or utilities may not delay the Commission's consideration of the subdivision application beyond the statutory review period. If the Subdivision Administrator requests review by a public utility, agency of government, or other parties regarding the subdivision application that were not identified during the pre-application review, the Subdivision Administrator shall notify the subdivider. The Subdivision Administrator shall make these comments available to the subdivider and to the general public upon request.

1. The Subdivision Administrator shall provide an informational copy of the preliminary plat to the trustees of the school district for the proposed subdivision. (76-3-601(2)(b), MCA) The trustees will have been deemed notified via submittal of the plat to the appropriate school district superintendent.
2. The Subdivision Administrator, on behalf of the governing body, shall submit the preliminary plat to the city or town governing body or its designated agent for review and comment, when the proposed subdivision lies:
 - i. Within 1 mile of a third-class city or town (Hardin, Lodge Grass)
3. If the proposed subdivision lies partly within an incorporated city or town, the subdivider must submit the proposed plat to be reviewed and approved by both the city or town and the county governing bodies. (76-3-601(2)(c), MCA)
4. When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate

the subdivision review and annexation procedures to minimize duplication of hearings, report, and other requirements whenever possible. (76-3-601(2)(d), MCA)

5. Whenever an extension of municipal services is requested for a proposed subdivision, the subdivider will submit a copy of the preliminary plat to the city or town governing body.
6. The Subdivision Administrator shall provide a copy of the preliminary plat and application to the following for their review (76-3-504, MCA).
 - i. Affected public utilities
 - ii. Fire Protection Authority
 - iii. County Weed Supervisor
 - iv. County Road Superintendent
 - v. Tribal Governments of the Crow and Northern Cheyenne Reservations (for subdivisions proposed within or adjacent to a reservation, the plat would be sent to the appropriate tribal government)
 - vi. Local Historic Preservation Officer
 - vii. Owners of any agricultural water user facilities in or adjacent to the subdivision, including existing water delivery ditches, pipelines, and facilities
 - viii. Other agencies of local, state, and federal government having a substantial interest in a proposed subdivision as necessary (determined at pre-application meeting—See Section III.A.2, “Pre-Application Procedures”). These could include but are not limited to agencies that review and issue permits for developments along streambeds and wetlands (e.g., US. Army Corps of Engineers for 410 permits and local conservation district for 310 permits.)

III-B-5. Review by Outside Expertise

The Subdivision Administrator, Planning Board, and the Commission may employ outside expertise to assist with the review of a subdivision application and preliminary plat. Costs of outside expertise shall be assessed to the subdivider.

III-B-6. Public Hearings and Notices—In General

1. Number of Public Hearings. The Planning Board and the Commission shall each hold a public hearing on the subdivision application and preliminary plat when a hearing is required by these Regulations.

2. Noticing. Notice of the hearing must be given by publication in a newspaper of general circulation in the county not less than 15 days or more than 30 days prior to the date of the hearing.

The subdivider, each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the plat must also be notified of the hearing by registered or certified mail not less than 15 days prior to the date of the hearing. (76-3-605(3), MCA).

For subdivision proposals within the boundaries of the Crow or Northern Cheyenne reservations or for other lands managed by the Bureau of Indian Affairs, notice to each property owner of record will be considered to have been made with the sending of the submittal notice to the Bureau of Indian Affairs and the affected tribal government.

3. Hearing Procedure.

The general steps for conducting a public hearing are as follows:

1. Introduce public hearing.
2. Explain subdivision review procedure and decision criteria.
3. Planning Department staff report.
4. Applicant presentation.
5. Public testimony.
6. Close public hearing.

The meeting should be conducted so that those who want to speak for or against, or who seek additional information, will have an opportunity to do so while still providing a reasonable adjournment time.

The Planning Board Chair, who presides over the meeting, is responsible for setting the guidelines or methods for public comment. The Chair will review general guidelines prior to public comment, reminding the public of the criteria upon which the final decision must be made. Because each meeting is somewhat different, a standardized set of public comment guidelines may not work in every case. Options to manage public discussion can include, but are not limited, to the following:

- Asking those who wish to speak to sign in, and use the list to determine speaker sequence
- Limiting the amount of time each person can speak
- Allowing each person to speak only once until all have had an opportunity
- Requesting individuals to address new issues only and not repeat what has already been addressed

The Planning Board or Commission will make their decision after the public hearing is adjourned.

III-B-7. Planning Board Hearing, Consideration, and Recommendation

1. Public Hearing. At a noticed public meeting or hearing, the Planning Board shall review all subdivision applications, together with required supplementary plans and information. The Planning Board shall hold a public hearing on all subdivisions for which a public hearing is required.
2. Public Testimony. All written public comment received at or prior to a public meeting or hearing shall be incorporated into the written record of the review. Minutes shall be taken of verbal comment received during the public meeting or hearing before the Planning Board and shall be incorporated into the written record of the review. Copies of the minutes and written comments shall be included in any recommendation made to the Commission by the Planning Board.
3. Consideration. In recommending to approve, conditionally approve, or deny the subdivision and preliminary plat application, the Planning Board shall consider the following:
 - a. relevant evidence relating to the public health, safety, and welfare;
 - b. the environmental assessment;
 - c. the review criteria specified in Section III-B-11-f of these regulations;
 - d. whether the application and preliminary plat conforms to the provisions of:
 - i. the MSPA;
 - ii. these Regulations;
 - iii. applicable zoning regulations;
 - iv. other regulations in effect in the area of the proposed subdivision;
 - v. whether the MDEQ has approved the proposed subdivision for proposed subdivisions that will create parcels of less than twenty (20) acres; and
 - vi. whether the subdivider has demonstrated that there is an adequate water source and at least one area for a wastewater treatment system and a replacement system for each lot for a proposed subdivision that will create one or more parcels containing twenty (20) acres or more; and

- e. Subdivision Administrator recommendation.
- ii. Recommendation. Within 10 working days after the public hearing or meeting, the Planning Board will submit to the Commission a recommendation for approval, conditional approval (including any recommended conditions/mitigation measures), or denial of the subdivision application and preliminary plat.

III-B-8. Water and Sanitation Information

The Subdivision Administrator or designated representative shall at any public hearing or meeting collect public comment given regarding the information required in Appendix A for water and sanitation. The Commission shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) working days after conditional approval or approval of the subdivision application.

- a. Comments. The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the Commission to the:
 - i. Reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and
 - ii. Big Horn County Sanitarian for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.
- b. Parcel Size.
 - i. For a proposed subdivision that will create one or more parcels containing less than 20 acres, the Commission may require approval by the MDEQ as a condition of approval of the final plat.
 - ii. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the Commission may condition approval of the final plat upon the subdivider demonstrating, pursuant to MSPA, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

III-B-9. Commission Hearing

After the Planning Board makes its recommendation, the Commission shall hold a public hearing on the subdivision application. The Commission shall consider public testimony at the hearing. The Commission shall also consider written comments

received by the Commission after the Planning Board hearing and prior to the Commission's public hearing, or written comments submitted at the public hearing.

The Commission shall follow the general procedures in III.B-6, and will additionally ask at the beginning of the hearing which participants have new and credible information to present.

III-B-10. New and Credible Information

- a. The Commission shall determine whether public comments or documents presented to the Commission at a public meeting or hearing regarding a subdivision application constitute:
 - i. Information or analysis of information that was presented at a public hearing or public meeting held pursuant to III-B-6 that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or
 - ii. New information regarding a subdivision application that has never been submitted as evidence or considered by either the Commission or the Planning Board at a hearing or meeting during which the subdivision application was considered.
- b. If the Commission determines that the public comments or documents constitute new information not previously considered at a public hearing or meeting, the Commission may:
 - i. Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the Commission determines that the new information is either irrelevant, insignificant, or not credible; or
 - ii. Schedule or direct the Planning Board to schedule a subsequent public hearing or meeting for consideration of only the new information that may reasonably be expected to have an impact on the findings and conclusions that the Commission will rely upon in making its decision on the proposed subdivision.
- c. In deciding whether the information is both new and credible the Commission shall consider:
 - i. Whether the topic of the information has previously been examined or available for examination at a public meeting or hearing on the subdivision application;
 - ii. Whether the information is verifiable, and if applicable, developed by a person with professional competency in the subject matter;

- iii. Whether the information is relevant to a topic within the jurisdiction of the County.
- d. If a subsequent public hearing or meeting is held to consider new and credible information, the sixty (60) working day review period required is suspended and the new hearing or meeting must be noticed and held within forty-five (45) working days of the Commission's determination to schedule a new hearing or meeting. After the new hearing or meeting, the otherwise applicable time limit for review resumes at the Commission's next scheduled public meeting for which proper notice on the subdivision application can be provided. The Commission may not consider any information regarding the subdivision application that is presented after the subsequent hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

III-B-11. Commission Review, Decision, and Documentation

The Commission, at a public meeting or hearing will approve, conditionally approve, or deny the subdivision application and preliminary plat within sixty (60) working days as provided in III-B-2 of these regulations, unless the subdivider and the Subdivision Administrator consent to an extension or suspension of the review period not to exceed one (1) year or if a subsequent public hearing is held pursuant to Section III-B-10 of these Regulations. (*76-3-604 and 76-3-615, MCA*)

Basis for Decision. The basis for the Commission's decision to approve, conditionally approve, or deny a subdivision is whether the proposed subdivision application, the preliminary plat; the environmental assessment; the Planning Board's comments and recommendations; the Subdivision Administrator's staff report and recommendation; and any additional information authorized by law demonstrates that development of the proposed subdivision would meet the requirements of the Montana Subdivision and Platting Act [76-3-608 (3)(a), MCA] and the Big Horn County Subdivision Regulations.

- b. Growth Policy. The Commission may not withhold, deny or impose conditions on a subdivision based solely on compliance with the officially adopted Big Horn County Growth Policy [76-1-605(2)(b), MCA].
- c. Water and Sanitation. The Commission may approve, conditionally approve or deny a proposed subdivision application as a result of the water and sanitation information provided in Appendix A or public comment received pursuant to Section III-B-8 on the water and sanitation information only if the approval, conditional approval or denial is based on existing subdivision, zoning, or other regulations that the Commission has the authority to enforce.

- i. For a proposed subdivision that will create one or more parcels containing less than twenty (20) acres, the Commission may require approval by the MDEQ as a condition of approval of the final plat.
 - ii. For a proposed subdivision that will create one or more parcels containing twenty (20) acres or more, the Commission may condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.
- d. Educational Services. The Commission may not deny approval of a subdivision based solely on the subdivision's impact on educational services [76-3-608(1), MCA].
- e. Conditions/Mitigation. The Commission may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these Regulations. The Commission shall issue written findings to justify the reasonable conditions/mitigation:
 - i. In reviewing a subdivision under this Section and when requiring conditions/mitigation the Commission 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.
 - ii. When considering a proposed subdivision application and requiring conditions/mitigation under this Section, the Commission shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
- f. Findings of Fact. In reviewing the subdivision the Commission will issue written Findings of Fact that discuss and weigh the following criteria:
 - i. Impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety.
 - ii. Compliance with the survey requirements of the MSPA.
 - iii. Compliance with these Regulations, and the review procedures of these Regulations.
 - iv. The provision of easements for the location and installation of any planned utilities.

- v. The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
- g. Written Statement. The Commission shall prepare a written statement on its decision and forward that statement to the subdivider, planning board, and it shall be available for public review in the subdivision file. The written statement shall provide:
 - i. Information regarding the appeal process for the denial or the imposition of conditions.
 - ii. Identification of regulations and statutes that are used in reaching the decision to deny or impose conditions and explains how they apply to the decision to deny or impose conditions.
 - iii. The facts and conclusion that the Commission relied upon in making its decision to deny or impose conditions and references documents, testimony, or other materials that form the basis of the decision.
 - iv. The conditions/mitigation that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.

III-B-12. Subdivision Application and Preliminary Plat Approval Period

Upon approving or conditionally approving a subdivision application and preliminary plat, the Commission will provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than two (2) calendar years. At the end of this period the Commission may, at the request of the subdivider, extend its approval for a period of one (1) year. The Commission may extend the approval for more than one (1) year if that approval period is included as a specific condition of a written subdivision improvements agreement between the Commission and the subdivider.

III-B-13. No Additional Conditions After Approval

After the subdivision application and preliminary plat are approved, the Commission may not impose any additional conditions as a prerequisite to final plat approval if the approval is obtained within the original or extended approval period described in these Regulations, except where the Commission inadvertently or unintentionally, left out a condition that must be met in order to comply with state law.

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

III-B-14. Amended Applications

- a. If the subdivider changes the subdivision application prior to the Planning Board hearing, the subdivider shall submit the amended application to the Subdivision Administrator.
 - i. Within five (5) working days of receiving the amended application, the Subdivision Administrator shall determine whether the changes to the subdivision application are material (relevant and crucial).
 - ii. The sixty (60) working day review period is suspended while the Subdivision Administrator considers the amended application.
 - 1. If the Subdivision Administrator determines the changes are material, the Subdivision Administrator may require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application.
 - 2. If the Subdivision Administrator determines the changes are not material, the sixty (60) working day review period resumes when the Subdivision Administrator sends notice of the decision to the subdivider.
- b. If the subdivider changes the subdivision application after the Planning Board hearing but before the Commission public meeting or hearing, the subdivider shall submit the amended application to the Subdivision Administrator for review.
 - i. Within five (5) working days of receiving the amended application, the Subdivision Administrator shall determine whether the changes to the subdivision application are material.
 - ii. The sixty (60) working day review period is suspended while the Subdivision Administrator considers the amended application.
 - iii. If the Subdivision Administrator determines the changes are not material, the sixty (60) working day review period resumes when the Subdivision Administrator sends notice of the decision to the subdivider.
 - iv. If the Subdivision Administrator determines the changes are material, the Subdivision Administrator shall either:

1. require the subdivider to begin the subdivision review process again, starting with the pre-application process, and require payment of a new application fee;

or

2. schedule a new Planning Board hearing to take comment on the amended application. A supplemental staff report shall be prepared to address the changes to the original application. An additional application fee may be charged.

- v. If a second Planning Board hearing is held, the sixty (60) working day review period is suspended for the time period between notice of the Subdivision Administrator's determination and ten (10) days after the date of the second Planning Board hearing.

- c. By making changes resulting in an amended application, the subdivider consents to suspension of the review period as provided in these Regulations.

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

- i. Changes to configuration or number of lots;
- ii. Changes to road layout or size;
- iii. Changes to water and/or wastewater treatment, irrigation, storm water drainage, fire systems;
- iv. Changes to configuration of park land or open space;
- v. Changes to easement provisions; and
- vi. Changes to physical and legal access.

III-B-15. Resubmittal of a Denied Subdivision

Following denial of a subdivision application and preliminary plat by the Commission, a new application for the same property may not be submitted unless the following criteria are met:

The new subdivision application and preliminary plat must:

- a. Clearly address or mitigate health and safety and/or design standards that were the basis of the original preliminary plat denial; and
- b. Clearly address the six (6) criteria under 76-3-608(3)(a); and
- c. Comply with any adopted zoning regulation.

III-C. Final Plats

III-C-1. Final Plat Required

After the conditions/mitigation of preliminary approval and the requirements for the installation of improvements have been satisfied, the subdivider shall cause to be prepared a final plat. See (Appendix A and B) for required final plat contents and final plat application materials.

III-C-2. Review of Abstract and Covenants.

The certificate of a licensed title abstractor, a copy of the covenants, and evidence that the conditions of the preliminary plat approval have been satisfied shall be submitted to the Subdivision Administrator for his/her review and approval at least 30 calendar days prior to submitting an application for final plat approval.

III-C-3. Final Plat Review

The Subdivision Administrator will examine the final plat contents and required final plat application materials and recommend approval only when it conforms to the conditions set forth in the preliminary plat approval, and the terms of the MSPA and these Regulations.

The Commission will approve the final plat only after the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land proposed for subdivision have been paid [76-3-611, MCA].

- a. Final Plat Submittal. The final plat and all supplementary documents shall be submitted to the Subdivision Administrator at least thirty (30) working days prior to the expiration of preliminary plat approval or any extension thereto. The submittal shall include: a final plat application, the appropriate fee, all required information, County Attorney approvals (as necessary), and a written explanation of how each of the conditions of preliminary approval has been satisfied (Appendices A and B).

- b. Review by Subdivision Administrator. The Subdivision Administrator shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The Subdivision Administrator will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee have been received. Final plat applications will not be considered complete by the Subdivision Administrator until all conditions of preliminary approval have been satisfied, including but not limited to:
- i. Signed final plat certificates.
 - ii. Any and all fire protection requirements approved by the appropriate fire department or fire service area.
 - iii. Signed Memorandum of Understanding between the subdivider and the Weed District.
 - iv. County or State encroachment or access permits.
 - v. Documents that may require approval of the County Attorney or designated representative, include but are not limited to:
 - a. Articles of Organization or Incorporation for the Property Owner's Association, filed with/by the Montana Secretary of State.
 - b. Bylaws controlling the operation of the Property Owners' Association.
 - c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision.
 - d. Restrictive Deed transferring title of all common open space parcels within the subdivision to the Property Owner's Association.
 - e. Declaration of Unit Ownership (condominiums).
 - f. Public/Private road easements.
 - g. Improvements agreements.
 - h. Certificate of a licensed Title Abstractor.
 - vi. The Commission may require that final subdivision plats and certificates of survey be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat or certificate of survey meets the conditions pursuant to these Regulations, the examining surveyor shall certify the compliance in a printed or stamped certificate on the plat or certificate of survey. The certificate must be signed by the surveyor.

III-C-4. Public Improvements Agreement; Guaranty

As a condition of approval of the final plat, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. (A model improvements agreement and alternative methods of guaranteeing public improvements, the procedures and requirements for securing an agreement, and suggested conditions for maintenance are provided in (Appendix G).

III-C-5. Final Plat Approval

- a. Approval by the Commission: The Commission shall examine every final subdivision plat and within thirty (30) working days of its submission to the Subdivision Administrator shall approve the plat provided it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these Regulations.
 - i. If the final plat is approved, the Commission shall certify its approval on the face of the final plat. When applicable, a certificate of the Commission expressly accepting any dedicated land, easements, or improvements will be filed with the final plat. An acceptance of a dedication is ineffective without this certification.
 - ii. If the final plat is denied, the Commission shall write a letter stating the reason for denial and forward a copy to the subdivider. The Commission will return the final plat to the subdivider within ten (10) working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.
- b. Final Plat Substantially Different: If the final plat differs substantially from the approved preliminary plat, the Commission shall return the final plat to the Subdivision Administrator and/or the Planning Board for additional review. The 30 working day review period will be suspended until the additional review is complete. Such review shall be limited to not more than 30 working days.
- c. Inaccurate information: The Commission may withdraw approval of a final plat if it determines that material information provided by the subdivider is inaccurate.

III-C-6. Final Plat Filing

After it is approved, the final plat may not be altered in any manner except as provided in III-D. The Clerk and Recorder may not accept any plat for filing that does not bear the Commission's approval in proper form or that has been altered.

The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats (Appendix F).

III-D. Amended Plats

- a. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration that increases the number of lots or modifies six or more lots, or abandons a public dedicated road right-of-way must be reviewed and approved by the Commission.
- b. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The Commission may not approve an amended preliminary plat without the written consent of the owners (or lenders) of all lots that will be modified by the proposed amendment.
- c. The Commission may not approve an amendment that will place a lot in non-conformance with the design standards contained in Section V of these regulations unless the Commission holds a public hearing on the amendment and issues a written variance from the standards pursuant to Section VIII-B, Variances.
- d. The final amended plat submitted for approval must comply with the requirements for final subdivision plats ((Appendix F).
- e. Plats may only be amended for reasons of public health and safety.

III-D-1. Amended Conditions

- a. Any proposed amendments to the conditions of preliminary and final approval shall be reviewed and approved by the Commission.
- b. The Planning Board shall review the proposed amendment(s) and make a recommendation to the Commission to approve or deny the proposed amendment(s).
- c. The Commission may not approve an amended condition without the written consent of the owners or parties holding liens or encumbrances of all lots that may be affected by the amended condition.
- d. A proposed amendment to the conditions of preliminary and final approval is subject to the procedures for reviewing major or minor subdivisions, as appropriate.

e. Conditions may only be amended for reason of public health and safety.

III-D-2. Exemptions from Amended Plat Review

Amended plats that show the relocation of common boundaries between, or the aggregation of, five or fewer lots are exempt from subdivision review [76-3-207(1)(d), MCA]. These amended plats must be prepared following the requirements of the Montana Uniform Standards for Certificates of Final Subdivision Plats (Appendix F).