

II. GENERAL PROCEDURES

II-A-1. Construction Timing

The subdivider proceeds at its own risk with any construction work on a proposed subdivision, including grading and excavation relating to any improvements, without first obtaining preliminary plat approval

II-A-2. Transfers of Title

After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

- a. Under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana.
- b. Under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the Clerk and Recorder.
- c. The contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract.
- d. The Treasurer has certified that all real property taxes and special assessments assessed and levied on the land have been paid.
- e. The contracts shall contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the Clerk and Recorder, title to the property cannot be transferred in any manner."
- f. Instruments which transfer title: Under 76-3-302, MCA, the Clerk and Recorder shall not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is required to be surveyed by the Act unless the required certificate of survey or subdivision plat has been reviewed, approved and filed with the Clerk and Recorder and the instrument or transfer describes the parcel or tract by reference to the filed certificate or plat.
- g. A copy of the contracts and escrow agreement described above shall be submitted with the preliminary plat application.

II-A-3. Permission to Enter

The Commission or its designated agent(s) or agency may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider. The submission of material or a plat for review constitutes a grant of permission by the subdivider to enter the subject property.

The permission to enter is valid until the final plat is approved, or until all improvements are made, whichever is later. If the governing body is a party to or otherwise involved in the subdivision's covenants and restrictions, or a subdivision improvements agreement, the permission will last as long as there are covenants and restrictions, or a subdivision improvements agreement.

II-A-4. Appeals

A decision of the governing body regarding a proposed subdivision may be appealed to the District Court, as provided in 76-3-625, MCA.