

V. DESIGN AND IMPROVEMENT STANDARDS

All subdivisions approved by the Commission must comply with the provisions of this section, except where granted a variance pursuant to Section VIII-B, Variances. The Commission may not grant variances from the provisions of Section V-A-5 Floodplain Provisions. For subdivisions created by rent or lease, planned unit developments, and condominiums, refer to Sections VI and VII of these regulations.

V-A. General Standards

Engineering and survey plans, specifications, design details and related reports submitted for a subdivision shall be prepared by a licensed professional engineer or registered surveyor as their respective license laws allow in accordance with the Montana Subdivision and Platting Act and these regulations.

V-A-1. Conformance

The design and development of a subdivision should be consistent with and conform to resolutions, zoning regulations, and these Regulations.

V-A-2. Natural Environment

The design and development of subdivisions shall, insofar as it is possible preserve or enhance the natural terrain, prominent ridgelines, natural drainage, floodplain, existing topsoil, trees and other natural vegetation.

If a navigable stream or wetland would be affected, the subdivider shall obtain all necessary and applicable permits from local, state, and federal agencies (e.g., local floodplain permit, 310 permits from conservation district, 404 permits from the US Army Corps of Engineers).

V-A-3. Lands Unsuitable for Subdivision

Land that the Commission determines is unsuitable for subdivision because of natural or human caused hazards such as flooding, land slides, excessive slope, rock falls, snow avalanches, subsidence, high water table, polluted or non-potable water; or because of unreasonable burdens on the general public such as the requirements for the excessive expenditure of public funds, environmental degradation, and congestion in the roads shall not be subdivided for building or residential purposes unless the hazards or excessive public burdens are eliminated or will be overcome by appropriate design and construction plans certified by a registered engineer.

V-A-4. Re-Vegetation

All areas disturbed during construction shall be revegetated with vegetation types approved by the Weed Control Supervisor. All disturbed areas shall be reseeded

and/or revegetated and maintained with techniques and schedules approved by the Weed Control Supervisor.

V-A-5. Floodplain Provisions

- a. General. Land subject to being flooded by a 100-year flood event as defined by Title 76, Chapter 5, MCA, or other land determined by the Commission to be subject to flooding may not be subdivided for building or residential purposes or other uses that may increase or aggravate flood hazards to life, health or welfare, or that may be prohibited by state or local floodplain or floodway regulations. Land deemed to be subject to flooding by the Commission may include (but is not limited to) land subject to 100-year flooding, shallow flooding, groundwater rise, historically flooded lands located in proximity to a watercourse.
- b. Flood Hazard Evaluation Required. If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a perennial stream draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider must furnish survey data to the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation. Survey data must comply with the Standards for Flood Hazard Evaluations contained in Appendix H of these regulations. After the Floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the subdivider must submit it to the Subdivision Administrator along with the Environmental Assessment required for the preliminary plat.
- c. Waiver. The Commission may waive the flood hazard evaluation requirement where the subdivider contacts the Water Resources Division, DNRC, and that agency states in writing that data indicates that the proposed subdivision is not in the flood hazard area as defined in this Section. In considering a waiver, the Commission shall consult with the Big Horn County Floodplain Administrator.
- d. Subdivision of Land within a 100-year Delineated Floodplain. Where the 100-year floodplain has been delineated and mapped in a County approved study, the following standards shall apply to all proposed subdivisions:
 - i. Subdivision roads, bridges, and utilities shall not be located within the 100 year floodplain.
 - ii. Lots with any area proposed to be within the 100-year floodplain shall designate a building lot on the plat that is outside the 100-year floodplain. The building lot must be at least one acre in size. The requirement in lot size may be reduced if the subdivision is served by either approved central water or sewer systems and MDEQ has approved the subdivision plat.

- iii. Land within the 100-year floodplain may be used for open space, wildlife habitat, recreation, and parks.
- e. Plat Map Requirements. New developments within any land located in 100-year flood hazard areas designated by the regulatory study (FEMA State of Montana or County-approved study) shall field survey the base flood elevation and show the limits on the plat map. Base flood data and the boundary of the base flood and floodway through the subdivision shall also be shown on the plat map.
- f. Floodplain Ordinance. The subdivision must also comply with applicable provisions of the most current Big Horn County Floodplain Regulations.

V-A-6. Improvement Design

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the Commission must be prepared by a professional engineer or a professional land surveyor as their respective licensing laws allow in accordance with the MSPA and these Regulations.

V-A-7. Lots

Lot size, width shape, and orientation shall be appropriate for the location and contemplated use of the subdivision. Lot designs with irregular shapes, narrow necks, points and flag shapes shall be permitted only when the subdivider can demonstrate that the proposed lot designs are necessary due to topography or other physical constraints. Each lot shall contain a satisfactory building site and conform to zoning regulations, and other applicable regulations (e.g., sanitation in subdivision law, other laws and regulations pertaining to floodplains, wetlands, etc.)

- a. No lot shall be subdivided by a dedicated right-of-way or easement that would reduce the buildable area to a size less than required by these and other adopted regulations.
- b. No lot may be divided by a municipal or county boundary line.
- c. Each lot must abut and have access to a public or private street or road.
- d. Corner lots must have driveway access to the same street or road that provides access to interior lots.
- e. Corner lots must be designed to provide acceptable sight distances for safe vehicular movement.
- f. Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.

- g. Double frontage lots are prohibited except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.
- h. Slopes in excess of 25 percent (25%) shall be presumed unsuitable for building sites unless otherwise proved by the subdivider with designs and plans stamped and certified by a Professional Engineer.

V-A-8. Blocks

- a. Blocks must be designed to assure vehicular and pedestrian traffic safety, ease of traffic control, convenient access and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.
- b. Unless impractical, block length must be not less than 300 feet nor more than 1,600 feet.
- c. Blocks must be wide enough to allow for two tiers of lots except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- d. Rights-of-way for pedestrian walks shall be required where deemed essential to provide circulation or safe access to schools, playgrounds, shopping, transportation, and other community facilities.
- e. Blocks shall be identified by number on the plat.

V-A-9. Roads and Streets

- a. General Design
 - i. Roads. The arrangement, type, extent, width, grade, and location of all roads 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.
 - ii. Design. The road standards in these Regulations shall apply to all construction, reconstruction, and paving of roads. Roads must meet the design specifications in Table 1.
 - iii. Relation to Un-Subdivided Areas. When a new subdivision adjoins un-subdivided Land (lands or parcels not created by a recorded subdivision plat) and access to the un-Subdivided land must pass through the new

subdivision, the subdivider shall provide rights-of-way and construct county standard roads so as to allow suitable access to the un-Subdivided Land.

This requirement may be waived by the Commission when the Subdivision Administrator finds that one of the following criteria is met:

1. Topography or other physical conditions would make it impracticable to provide access to adjacent un-subdivided land.
2. Adequate public access is otherwise available to the adjacent un-subdivided property.
3. When the adjoining un-subdivided property is under public ownership.

This requirement shall be waived by the Commission if the adjoining un-subdivided property is subject to a conservation easement or other legally restrictive covenant as confirmed by the County Attorney.

- iv. Relation to Subdivided Areas. The subdivider shall arrange the roads to provide for the continuation of roads between adjacent subdivided properties (lands or parcels created by a recorded subdivision plat) when such continuation is necessary for the convenient movement of traffic, connection of neighborhoods, effective provision of emergency services, and provision of utilities.
- v. Turnaround Required. No dead end roads shall be permitted without an approved turnaround. Where streets terminate the subdivider shall provide a cul-de-sac. A "T" turnaround may be allowed for roads that serve five (5) lots or less. Cul-de-sacs and "T" turnarounds shall conform to the design specifications in Table 1. Where it is planned that a dead-end road will be extended in the future, a temporary cul-de-sac or "T" turnaround shall be provided.
- vi. Ownership. All roads must either be dedicated to the public or be private roads, with public or private access, to be owned and maintained by an approved property owners' association.
- vii. Access. To facilitate traffic, the provision of emergency services, and the placement of utility easements, the subdivider shall provide all subdivisions with six (6) or more lots with two (2) means of physical access. The subdivider may be required to provide a second access for minor subdivisions if the following conditions exist: the maximum cul-de-sac length standard is exceeded or topography or physical conditions so warrant. Residential driveways shall not have direct access to primary

highways. Any vehicular access onto a state highway shall be approved by the MDOT.

- viii. Frontage Roads. Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the Commission may require frontage roads or other treatment as may be necessary to adequately protect residential properties and to separate arterial and local traffic.
- ix. Half Streets. Half streets are prohibited.
- x. Sight Distance. The alignment of all streets and roads must provide adequate sight distances as specified in Table 1.
- xi. Intersections. The following requirements apply to intersections:
 - a) roads must intersect at 90 degree angles except when topography prohibits this alignment. In no case may the angle of an intersection be less than 60 degrees to the center line of the roadway being intersected.
 - b) two roads meeting a third street from opposite sides must be offset as specified in Table 1.
 - c) no more than two roads may intersect at one point.
 - d) intersections of local roads with major arterials or highways must be avoided.
 - e) intersections must be designed to provide adequate visibility for traffic safety based on the designed operating speeds of the intersecting roadways.
 - f) hilltop intersections are prohibited, unless no alternatives exist. Intersections on local roads within 100 feet of a hilltop are prohibited. Intersections on arterial and collector roads within 200 feet of a hilltop are prohibited. If no alternative to a hilltop intersection exists, additional traffic control devices will be required.
 - g) the grade of approaches to major highways may not exceed three percent.
- xiii. Names. Names of new streets or roads aligned with existing streets must be the same as those of the existing streets. Proposed street names may not duplicate or cause confusion with existing street names.

b. Improvements

- (i) Permit Required. Any work on a Big Horn County road requires a permit application and approval through the Big Horn County Commissioner's office. Application materials are available from the County Commissioner's office.
- (ii) Standards. All roadway improvements including pavement, shoulders, swales, curbs, gutters and drainage must be constructed in accordance with the specifications and standards prescribed in these Regulations.
- (iii) Subgrades. Roadway subgrades must be free of topsoil, sod, vegetation or organic matter, soft clay, and other substandard materials. Subgrades must be properly rolled, shaped, and compacted, and must be approved by the County Road Supervisor.
- (iv) Cut and Fill Slopes. Cut and fill slopes should be laid back to a 3:1 (Run : Rise) angle of repose to prevent erosion.
- (v) Fill Sections. For compaction of subgrades, fill sections should be placed in layers and compacted to 90 percent relative density. Water should be applied to obtain optimum moisture content for proper compaction.
- (vi) Clearing and Grubbing. The road right-of-way or easement should be cleared two feet beyond the toe of the fill and the top of the cut as illustrated in Figure 1. Brush, stumps, logs, debris, and boulders should be removed from the right-of-way or easement and disposed of in a suitable manner, such as by burning or burying. The proper authorities should be consulted for permits and regulations on the chosen means for disposal. Topsoil must be stripped whenever terrain will permit and stockpiled for use in reclaiming borrow areas and cut and fill slopes.
- (vii) Switch Backs. Switch backs should be avoided, but if terrain makes them necessary they should consist of:
 - a. Fifty (50) feet minimum turning radius;
 - b. Six (6) percent maximum grade through curves;
 - c. Eight (8) percent maximum grade on straightaways; and
 - d. Road surface width increased by four (4) feet through curves.
- (viii) Private Road Material Standards. (See also Figure 1)

- a. Base course material shall be placed not less than nine (9) inches in depth.
 - b. Surface material shall be placed not less than three (3) inches in depth and shall consist of the following mixture:
- (ix) Public Road Material Standards. (See also Figure 1)
- a. Crushed or screened base, 9" minimum depth.
 - b. Crushed cushion aggregate, 1" minus, 4" minimum depth.
 - c. Plant-mix bituminous surface, 3" minimum depth.
- (x) Roadway Drainage. Streets and roads must be designed to ensure proper drainage. This may require surface crowning, culverts, curbs and gutters, drainage swales and storm drains.
- a. Road Surface. The road surface shall be sloped with a crown of -2% to -6%, depending on the type of soil in the subgrade. Poorly drained subgrade soil (heavy clay, for instance) will require a steeper crown than if the subgrade material is well-drained sand and gravel.
 - b. Drainage Ditches. Drainage ditches along the sides of gravel roads shall have a minimum grade of 0.4%, and may have grades up to 8.0% where lined with established grasses or rip rap, or where velocity control devices are provided. Plain soil and unlined ditches should not exceed a Run: Rise ratio of 1:1/2:1 (See Figure 1).
 - c. Culverts. Culverts are required where roads cross any ditch or watercourse. They are also needed at intersections with other roads and at designed intervals underneath elevated portions of roadways to prevent ponding. It is preferable to provide drainage at frequent intervals rather than concentrating water into one large conduit. Culverts should be sized to the maximum expected flow in fifty years for a given location, with consideration to the size of the watershed, permeability of the soil, vegetation and slope of drainage ditch. They should be of sufficient length to allow construction of a driving surface consistent with the width of adjacent sections of the roadway. Installation of the culverts should be in accordance with generally accepted standards, with attention given to the details of bedding, compaction, and erosion control.

The following are considered to be acceptable culvert materials:

- (a) Corrugated galvanized steel (AASHTO M36 OR M218);
 - (b) Corrugated aluminum (AASHTO M196); or
 - (c) Corrugated polyethylene pipe (AASHTO M252 and M294).
 - d. Roadway drainage features shall not cause discharge which will in any way adversely affect neighboring property.
- (xi). Reclamation of Disturbed Areas. In order to protect the land from erosion and the spread of noxious weeds disturbed areas must have their vegetation reestablished. Disturbed areas, cut and fill slopes and borrow areas must be covered with topsoil, mulched and planted with appropriate vegetation as required in the designed by the subdivider and approved by the Weed District. The choice of species and techniques for installation shall be as specified in the approved Noxious Weed and Revegetation Plan for the subdivision.
- If noxious weed growth appears on private roads, immediate steps must be taken by the property owners' association to remove or treat the infestation to prevent spreading.
- (xii) Preservation of Existing Vegetation. Existing trees and other vegetation shall be preserved where possible. Plants may be required for buffering, screening, or soil erosion protections.
- (xiii) Easements. Where access from a public road to the subdivision will cross properties not owned by the subdivider, the subdivider must obtain proper easements of sufficient width to satisfy the requirements of Table 1.
- Easements must be granted by each property owner in a signed and notarized document (Appendix I contains a model road access easement).
- The location of any road easement must be shown on the preliminary and final plat. The existence of easements must be noted on the face of the final plat and on any deeds or other instruments conveying lots within the subdivision.
- (xiv) Bridges. Bridges shall be considered an integral part of any subdivision roadway system and, where required, shall meet the minimum standards for minor collectors (secondary roads) and local roads as specified by the American Association of State Highway and Transportation Officials (AASHTO)

- (xv) Lighting. Street lights shall be required in subdivisions proposed within or adjacent to areas with existing street lighting. Street lighting may be required in other areas when necessary to protect public safety.
- (xvi) Signs. Street or road signs and traffic control devices of the size, shape, and height as specified by standards must be placed at all intersections. Traffic control devices shall conform to the standards contained in the *Manual on Uniform Control Devices* available from the Montana Department of Transportation.
- (xvii) Paving. Paving is recommended and may be required if it is deemed necessary in order to control erosion, dust, and preserve the natural environment.
- (xviii) Rights-of-Way Maintenance. All road shoulders shall be mowed and kept clear of all flammable materials.
- (xix) Guardrails. Guardrails may be required due to the topography of the subdivision and course of the right-of-way and any potential hazards adjacent to the driving surface.

c. Driveways

- (i) Residential driveway must not have direct access to primary highways.
- (ii) Driveways 300 feet or less shall have a minimum drivable surface width of 12 feet and a 20 foot wide zone of cleared vegetation.
- (iii) Driveways greater than 300 feet shall have a minimum drivable surface width of 16 feet with a 24-foot wide zone of cleared vegetation, and shall end in a turnaround with a 90-foot diameter.
- (iv) Driveway bridges must meet the requirements in Table 1, unless otherwise approved by the local fire authority.
- (v) Access road(s) to or through a one-lot subdivision may not qualify as a driveway

d. Improvements Completion and Certification

- (i) Prior to Final Plat. All roadway improvements shall be completed to the filing of a final plat or shall be guaranteed by the subdivider through an acceptable guaranty. (See Appendix G.)
- (ii) Design and Construction. All roadway improvements shall be designed by and constructed under the supervision of a registered professional engineer as required by the laws of the State of Montana. When required by the Road Supervisor as-builts shall be submitted to the Road Department after completion.

- (iii) Certification of Improvements. Improvements that have been designed by and constructed under the supervision of a registered professional engineer shall, upon completion of their construction, be certified by the engineer as meeting the standards herein as a condition of filing the final or minor subdivision plat. Engineering certification shall also be a condition of the County's issuance of a Satisfaction of Improvements Guarantee in the event the improvements were not constructed and certified prior to the filing of the final or minor subdivision plat. NOTE: Under certain conditions, the County may not issue a Satisfaction of Guarantee until a up to a one year period has passed to evaluate the performance of the guaranteed improvement.

Table 1-Road Design Standards for Subdivisions			
	Community Roads	Multi-Residence	Private Driveway
	6 or more lots	2-5 lots	1 lot
Right of Way/Easement Width	60'	60'	40'
Driving Surface Width ¹	24'	22'	16'
Cattle Guards	Same width as driving surface		
Maximum Grade less than 100'	8%	10%	10%
Maximum Grade for more than 100'	8%	8%	8%
Maximum Grade within 50' of intersection	3%	5%	5%
Minimum Site Distance	PER AASHTO REQ.	PER AASHTO REQ.	PER AASHTO REQ.
Turning/curve radius	107'	107'	40'
Minimum Intersection offset	200'	150'	75'
Cul de Sac			
Max. length	1000'	1000'	1000'
Outside R/W Radius	60'	60'	45'
Outside Roadway Radius	45'	45'	45'
T- Turnaround			
Minimum backup lengths (2 required)		30 ft.	30 ft.
Bridges			
Curb to Curb Width ²	Same width as driving surface plus two feet on each side		
AASHTO Design Load	20 tons	20 tons	20 tons
Minimum Vertical Clearance	15'	15'	15'
Tunnels			
Curb to Curb Width	Same width as driving surface plus two feet on each side		
Minimum Vertical Clearance	15'	15'	15'

¹ Where parking will be permitted add eight feet on each side to be parked. If guardrail installation is required add two feet to each side with guardrail.

² Width of the bridge roadway surface shall match the width of the driving surface of the roadway system it joins, unless the driving surface is less than required, in such case a 100' transition zone shall be installed to meet the existing road system.

Figure 1 - 1

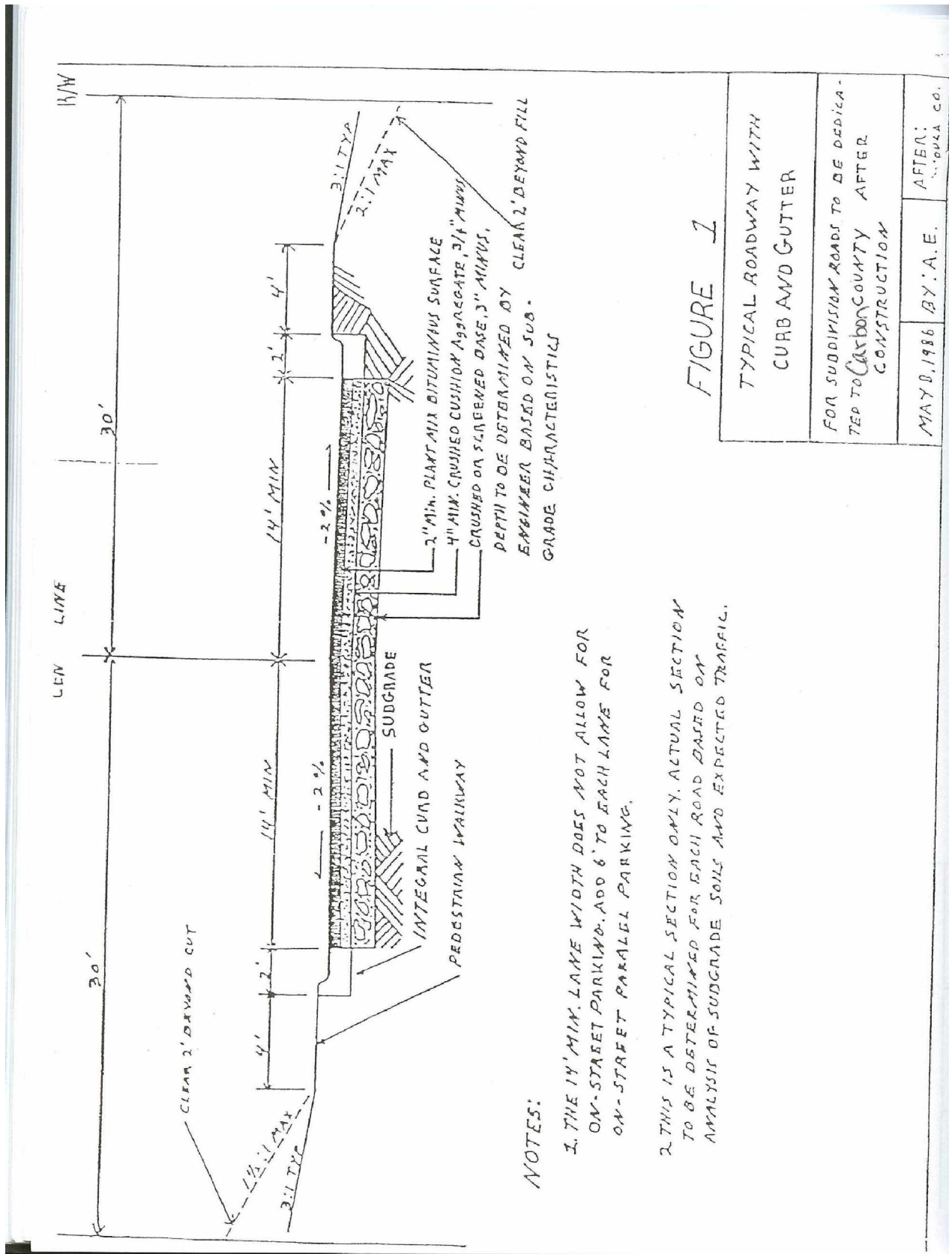


Figure 1-2

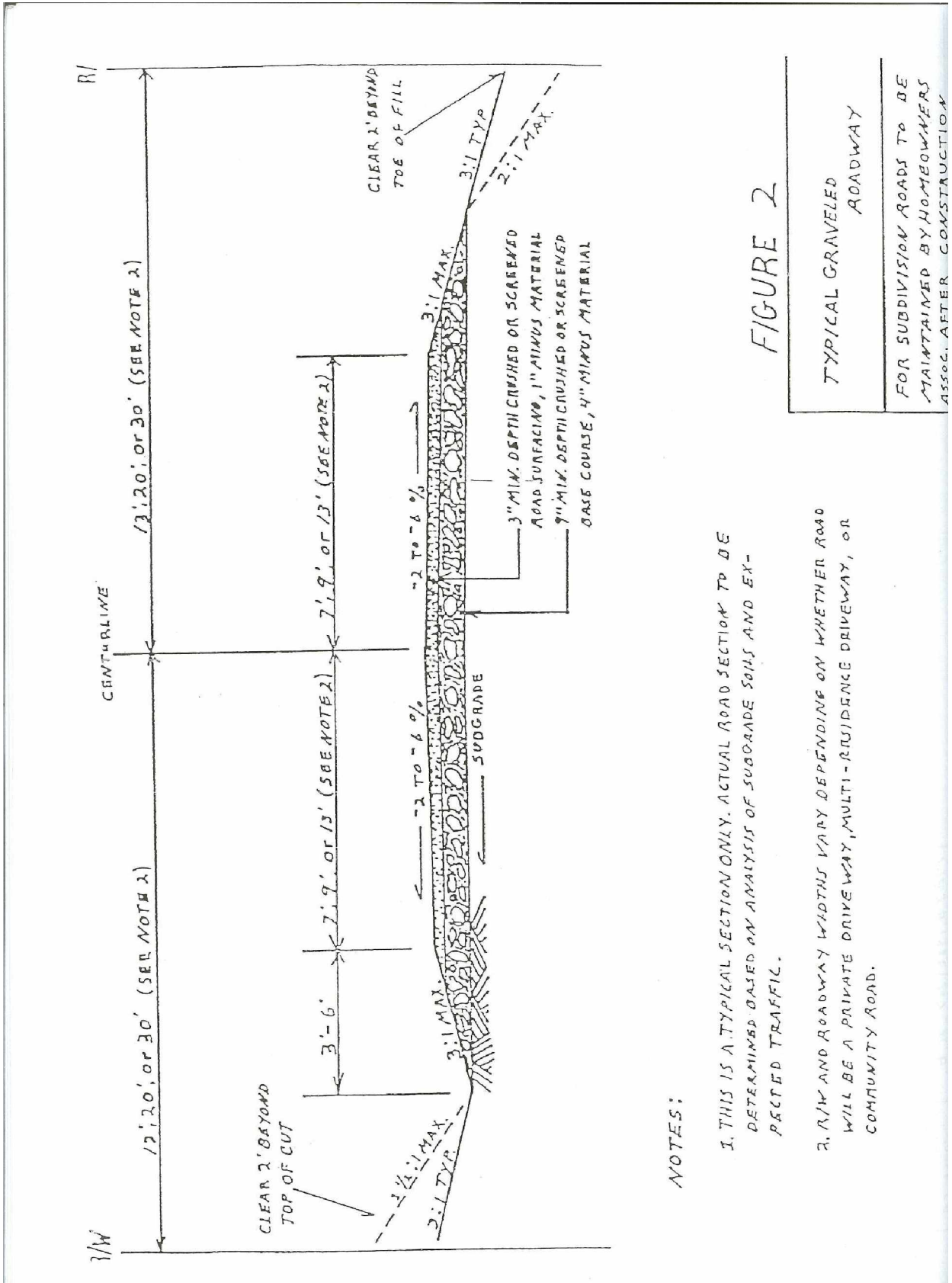


FIGURE 2

TYPICAL GRAVELLED ROADWAY
 FOR SUBDIVISION ROADS TO BE MAINTAINED BY HOMEOWNERS ASSOC. AFTER CONSTRUCTION

NOTES:

1. THIS IS A TYPICAL SECTION ONLY. ACTUAL ROAD SECTION TO BE DETERMINED BASED ON ANALYSIS OF SUBGRADE SOILS AND EXPECTED TRAFFIC.
2. R/W AND ROADWAY WIDTHS VARY DEPENDING ON WHETHER ROAD WILL BE A PRIVATE DRIVEWAY, MULTI-RESIDENCE DRIVEWAY, OR COMMUNITY ROAD.

V-A-10. Drainage Facilities

- a. The drainage system and facilities required for any surface run-off affecting the subdivision is subject to approval by the Commission. Subdivisions containing lots less than 20 acres in size must also be reviewed and approved under Title 76, Chapter 4, MCA, by the Montana Department of Environmental Quality.
- b. Curbs and gutters or swales will be required based on the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended in conformance with current specifications of local and state authorities.
- c. Culverts and bridges of adequate size must be provided and installed by the subdivider where drainage channels intersect any street or road right-of-way or easement. All culverts and bridges must be constructed and installed according to applicable local and state standards. Culverts and other drainage facilities must be large enough to accommodate potential run-off from upstream drainage areas. All culverts must extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity must be determined by a registered engineer. This must include arrangements for driveway culverts.
- d. The subdivider must provide suitable drainage facilities for any surface run-off affecting the subdivision. These facilities must be located in road rights-of-way or in perpetual easements of appropriate widths. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat or be included as a supplement document.
- e. Drainage systems must not discharge into any sanitary sewer facility or state waters.
- f. Drainage systems must be designed and certified by a professional engineer.
- g. The Commission may require the subdivider to grant easements to prevent encroachment or disruption of drainage ways or facilities. Drainage easements must be shown on the preliminary and final plat and a signed statement granting the easements must appear on the plat.

V-A-11. Water Supply Systems

- a. The proposed method of supplying domestic water to each lot in the subdivision must comply with the design standards adopted by the Montana Department of Environmental Quality (DEQ) and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.303, and 17.36.305. By this reference, these DEQ standards are incorporated into and made a part of these Regulations. Unless defined elsewhere in these

regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.

- b. Before the Commission will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA.

V-A-12. Sewage Treatment Systems

- a. The proposed method of disposing of sewage from each lot in the subdivision must comply with the design standards adopted by the Montana Department of Environmental Quality (DEQ) and contained in the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.312, and 17.36.320 through 17.36.326. By this reference, these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. In addition, before the Commission will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by DEQ or other authorized reviewing authority under the Sanitation in Subdivisions Act, sections 76-4-101 *et seq.*, MCA.

V-A-13. Solid Waste

- a. The proposed method of storing and disposing of solid waste generated within the subdivision must comply with the standards adopted by the Montana Department of Environmental Quality (DEQ) and contained in the Administrative Rules of Montana (ARM) 17.36.309. By this reference, this DEQ standard is incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.
- b. In addition, before the Commission will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by the Montana Department of Environmental Quality or other authorized reviewing authority under the Sanitation in Subdivisions Act sections 76-4-101, *et seq.*, MCA.

V-A-14. Utilities

- a. The subdivider must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision, or when necessary, through the subdivision.

- b. Utilities must be placed underground, wherever practical. Underground utilities, if placed in a street right-of-way, must be located between the traveled roadway surface and the right-of-way line to simplify location and repair of lines.
- c. Where practical, overhead utility lines must be located at the rear property line.
- d. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.
- e. Utility easements located between adjoining lots must be centered on lot lines. If easements are placed in the street, they must be located between the roadway and the right-of-way line.
- f. Utility easements must be 20 feet wide unless otherwise specified by a utility company or the Commission.
- g. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body, or local or state highway department.
- h. In addition to showing the location of utility easements on the preliminary and final plat with dashed lines, the following statement must appear on the final plat:

“The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as ‘Utility Easement’ to have and to hold forever.”

V-A-15. Mail Delivery

If mail delivery will not be to each individual lot within the subdivision, and mail service is available to the subdivision the subdivider shall provide an off-road area for mail delivery within the subdivision in cooperation with the United States Postal Service. It shall not be the responsibility of the County to maintain or plow any mail delivery area constructed within a County road right-of-way. Mail delivery may not be provided in certain areas of the County. In such instances, the only mail service available would be provided through a rented post office box at the closest post office.

V-A-16. Noxious Weeds

In accordance with the Montana Noxious Weed Control Act, Title 7, MCA and the Big Horn County Weed Management Plan, the subdivider must demonstrate that noxious weeds are controlled and will continue to be controlled after the subdivision is approved. The Planning Board shall not recommend approval of any proposed subdivision unless the subdivider has first submitted a noxious weed control plan to the County Weed Board and secured the approval of the plan by the Weed Board. A subdivision improvements agreement may be required along with financial guarantees to ensure noxious weed control.

After subdivision approval, if the County Weed Supervisor determines that the property owners within the subdivision are not adequately meeting the requirements for weed control, the Weed Supervisor may take the necessary action for weed control. The cost of such action may be levied against the real property within the subdivision and may be foreclosed in any manner allowed by law. This authority runs with the land and will be stipulated as such in the Weed Management Plan.

V-A-17. Water Course and Irrigation Easements [76-3-504(1)(j), (k), MCA]

- a. Except as noted in b., below, the subdivider shall establish within the subdivision ditch easements that:
 - (1). are in locations of appropriate topographic characteristics 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). are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (3). prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
- b. The subdivider need not establish irrigation easements as provided above if:
 - (1). the average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the Commission, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be

assessed for irrigation water delivery even though the water may not be deliverable to the lots (any existing or proposed waste ditches must be included as part of the irrigation system); or

- (2). the water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and
 - (3). the fact the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
- c. The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and file and record with the County Clerk and Recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights.

V-A-18. Disposition of Water Rights [76-3-504(1)(i), MCA]

If a subdivision creates lots averaging less than five acres in size, the subdivider shall submit evidence with the final plat that the subdivider has:

- a. reserved all or a portion of the appropriation water rights owned by the owner of 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 and reserved and severed any remaining surface water rights from the land;
- b. if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
- c. reserved and severed all surface water rights from the land proposed for subdivision.

For all other subdivisions (for lots averaging five acres or greater), the subdivider shall indicate how existing water rights will be appropriated among subdivision property owners.

V-A-19. Park Land Dedication – Cash in Lieu – Waivers -- Administration

- a. Except as provided below, the final plat of a residential subdivision must show that the subdivider has dedicated to the Commission a cash or land donation equal to:
 - (1). 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - (2). 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre;
 - (3). 5% of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres; and
 - (4). 2.5% of the area of the land proposed to be subdivided into parcels larger than three acres and not larger than five acres.

- b. A park dedication may not be required for:
 - (1). Minor subdivisions.
 - (2). Land proposed for subdivision into parcels larger than five acres.
 - (3). Subdivision into parcels that are all nonresidential.
 - (4). A subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums.
 - (5). A subdivision in which only one additional parcel is created.

- c. The Commission, in consultation with the subdivider and the Planning Board or Park Board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

- (1). A "cash donation" is the fair market value of the unsubdivided, unimproved land.
 - (2). Where cash has been accepted in lieu of land dedication it shall be stated on the plat.
 - (3). Where cash has been accepted in lieu of land dedication, the Commission shall record in the minutes of the meeting upon the proposed subdivision why the dedication of land for parks and playgrounds was undesirable.
 - (4). The subdivider shall provide a current appraisal of the fair market value by a certified real estate appraiser of their choosing. The appraisal fee shall be the responsibility of the subdivider.
- d. All subdivisions shall be considered residential subdivisions and park dedication requirements shall be satisfied unless there are adopted zoning restrictions which prohibit residential development or it can be shown that the subdivider has immediate plans for non-residential development.
- e. Land dedicated for parkland and recreational purposes shall not be used for the location of water supply and sewage disposal facilities, or storm water detention. Fire fill site ponds may be located within a dedicated park; however, the surface area of the pond cannot count towards the required park dedication.
- f. Park Fund
- (1). The Commission may use dedicated money or land for development, acquisition, or maintenance of parks to serve the public.
 - (2). The Commission may use the dedicated money to acquire, develop, or maintain parks or recreational areas or for the purchase of public open space, or conservation easements or other methods to enhance the quality of life and recreational opportunities for Big Horn County and its residents.
- g. Waiver
- The Commission may waive the park dedication requirement if it determines that:
- (1). The preliminary plat 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.

- (2). The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated.
 - (3). The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (1) and (2) above, is reduced by an amount equal to or exceeding the area of the dedication required.
 - (4). The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision and the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection.
- a. The Commission may waive the park dedication requirement if:
 - (1). The subdivider provides land outside the subdivision that affords long-term protections of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
 - (2). The area of land to be subject to long-term protection equals or exceeds the area of dedication required.
 - i. Subject to the approval of the Commission and acceptance by the school district trustees, a subdivider may dedicate a required land donation to a school district, adequate to be used for school facilities or buildings.
 - j. A required land donation under this section may be inside or outside the subdivision.
 - k. Subdividers may provide trail corridors within a subdivision. Trail corridors shall be at least 20 feet wide to ensure adequate room for trail construction, maintenance, and use. Trail corridors may either be a public or private access easement. Trails with public access easements can be used to satisfy parkland dedication requirements.

V-A-20. Fire Protection

Fire Protection. All subdivisions must be planned, designed, constructed and maintained so as to minimize the risk of fire, and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas.

Fire Prevention and Control Plan. All preliminary plat applications shall contain a Fire Prevention and Control Plan which details how the subdivision will meet the requirements of this section. Provisions for the maintenance of the Fire Prevention and Control Plan shall be included in the covenants, conditions, and restrictions for the development. A Property Owners' Association must be formed and designated to enforce the provisions of the plan.

Water Supply Requirements. All new subdivisions shall provide for adequate water supply for fire protection.

- Major subdivisions and subdivisions with any lot less than 1 acre shall meet one of the following minimum water supply requirements
 1. A municipal water supply system meeting National Fire Protection Association (NFPA) standards or the current code adopted by the State of Montana.
 2. An approved underground 30,000 gallon year round water source with approved 6" and 2½" dry hydrant type fittings capable of flowing 1000gpm located not more than 1000 feet from the furthest point of any structure located in the subdivision.
 3. An enforceable covenant acceptable to the fire department having jurisdiction requiring an approved automatic sprinkler system that meets the appropriate section NFPA 13, (i.e. NFPA 13D for residential) installed in every habitable structure, and An approved underground 30,000 gallon year round water source with approved 6" and 2½" dry hydrant type fittings capable of flowing 1000gpm located not more than one half road mile from the furthest structure in the subdivision. The water source must have an approved circular turnaround with a minimum easement of 120ft and a minimum road-top surface of 90ft in diameter. There must be a written agreement for the use of the water supply system
- Minor subdivisions with all lot sizes greater than 1 acre shall meet one of the following minimum water supply requirements.
 1. A Water supply system meeting current National Fire Protection Association code (NFPA 1 UFC) or other standard acceptable to the Fire Department having jurisdiction.

2. An approved automatic sprinkler system that meets the appropriate section NFPA 13, (i.e. NFPA 13D for residential) installed in every habitable structure greater than 100ft² within the subdivision.
 3. An approved underground 10,000 gallon year round water source, with 6" and 2 ½" dry hydrant type fittings, capable of flowing 1000gpm located not more than 1000 ft from any proposed structure.
 4. An approved underground 30,000 gallon year round water source with approved 6" and ½" dry hydrant type fittings capable of flowing 1000gpm located not more than one half road mile from the furthest structure in the subdivision. The water source must have an approved circular turnaround with a minimum easement of 120ft and a minimum road-top surface of 90ft in diameter. There must be a written agreement for the use of the water supply system.
- **Water Supply Maintenance.** The subdivider shall provide a written agreement either in the covenants or as a separate contract that ensures for the continual operation and maintenance of the water supply system. It shall state that it is the responsibility of the subdivider and the property owners to ensure that the water supply system continually meets its original design criteria, and that if the fire department having jurisdiction determines that the property owners within the subdivision are not adequately meeting the requirements for water supply maintenance, the fire department may maintain or repair the system. The cost of such maintenance may be levied against the real property within the subdivision and may be foreclosed in any manner allowed by law.
 - **Fire Department Access.** The covenants for the subdivision shall state that the fire department shall have access to all water supply sites for fire suppression, training, and for testing of the system.
 - **Additional Water Supply required.** The fire chief may, at his or her discretion, require additional water supply or road improvements in areas with special hazards, in areas with limited access, or in areas located more than five road miles from a fire station.
 - **Proportionate Reimbursement for the joint use of a water supply system:** If subsequent subdivisions will be served by an existing water supply site, the County Commission shall include reimbursement of the original water supply site improvement costs as a condition of preliminary approval of the subsequent subdivision. The reimbursement shall be in effect for a period of 15 years from the date of approval of the original subdivision. The proportionate reimbursement shall be determine based on the ratio of the number of lots in the subsequent subdivision to the total lots served by the fill

site multiplied by the total cost of the subdivision. When the total cost of the fill site has been reimbursed, subsequent subdivisions shall not be subject to the requirement.

- Reimbursement qualifications: The original subdivider shall forward the total costs of the improvement to the planning department within 60 days of completion of the improvement. Subsequent subdividers shall make their payment to the planning department. The planning department shall then forward the funds within 120 days to the organization or individual responsible for the maintenance of the water supply site.

High Fire Hazard Areas. Subdivisions in high fire hazard areas as determined by the chief of the fire department having jurisdiction shall be adequately designed and maintained to provide for fire protection.

- In high fire hazard areas the Fire Prevention and Control Plan shall also include the following:
 - (i) An analysis of the wildfire hazards on the site, as influenced by existing vegetation and topography;
 - (ii) A map showing the areas that are to be cleared of dead, dying, or severely diseased vegetation;
 - (iii) A map of the areas that are to be thinned maintained in a to reduce the interlocking canopy of trees;
 - (iv) The identification of roads, driveways, and bridges that are sufficient for emergency vehicle access and fire suppression activities. Slopes of all roads and driveways must be provided.
 - (v) The designation of building envelopes. Building sites may not be located on slopes greater than 20 percent or at the apex of "fire chimneys" (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).
- At least two entrances/exits must provide escape routes for residents and access to the subdivision by fire-fighting vehicles and be constructed to County minimum standards except that the turning radius shall be 100 feet minimum for curves and switchbacks. Bridges providing access to the subdivision must be built to a design load of 20 tons and constructed of non-flammable materials. Road rights-of-way must be cleared of slash.
- The Fire Prevention and Control Plan must be implemented before the Commission will approve the final plat, and will be considered part of the

subdivider's obligations for land development. The local fire chief, or designee, will inspect and approve the implementation of the Fire Prevention and Control Plan. The Plan will not be considered fully implemented until the fire chief has given written notice to the Subdivision Administrator that the Plan has been completed as approved by the Commission.

- Open space, park land, and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.
- The subdivider shall use the July 1993 *Fire Protection Guidelines for Wildland Residential Interface Development (FPGWRID)* as a model. The standards within *FPGWRID* shall be considered best practices and shall be incorporated into the Fire Prevention and Control Plan for the subdivision.

Construction. The covenants must contain language that requires that No building construction shall begin within a subdivision until the fire department having jurisdiction has certified that the provisions for fire protection have been met. Whenever work is being done contrary to the provisions of this section the fire department having jurisdiction may order the work to be stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such persons shall stop such work until authorized by the fire department to proceed with the work.

V-A-21. Fencing Requirements

Historical location and ownership/responsibility of perimeter fencing will transfer to all subsequent owners of any subdivision lots.

V-A-22. Restrictive Covenants – Approval, Content and Enforcement by Commission

- a. The Commission may require that some or all restrictive covenants governing the use of land within the subdivision, whether proposed by the subdivider or required by the Commission, contain the following language: "This (These) covenant(s) were required for the approval of the preliminary plat and may not be repealed or amended without the prior written consent of the Big Horn County Commission."
- b. The Commission may require that restrictive covenants it has required as a condition of plat approval contain the following language: "The Big Horn County Commission is a party to this restrictive covenant and may enforce its terms."

- c. If common property is to be deeded to a Property Owners' Association, the covenants and by-laws that govern the association must, at a minimum, provide for the:
- (i) Formation of a property owners' association concurrently with the filing of the final subdivision plat;
 - (ii) Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
 - (iii) Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;
 - (iv) Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
 - (v) Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
 - (vi) Adjustment of assessments to meet changing needs;
 - (vii) Means of enforcing the covenants, and of receiving and processing complaints;
 - (viii) Dissolution of the association and modification of the covenants and restrictions only after obtaining the Commission's approval of the change; and
 - (ix) Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

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