

VIII. ADMINISTRATIVE PROVISIONS

VIII-A. Fee Schedule

VIII-A-1. Preliminary Plat Fees*

To partially cover the costs of reviewing plans, advertising, on-site inspections, holding public hearings, and other activities associated with the review of a subdivision proposal, the subdivider shall pay a non-refundable fee with the submittal of a preliminary plat application. The fees must be made payable to the Big Horn County Treasurer.

<u>Types of Subdivisions</u>
First Subdivision from a Tract of Record-One Lot Subdivision
First Minor Subdivision from a Tract of Record
Subsequent Minor Subdivision from a Tract of Record
Subdivisions with Six or More Lots (All types of subdivisions except Cluster Developments)
Cluster Developments 1-5 Lots 6 or more Lots
Subdivision Regulations

***NOTE:**

- 1) The current fees for each type of subdivision are listed in the Big Horn county Subdivision Review Fee Schedule. The fee schedule is a separate document as of September 2004.
- 2) Reasonable consultant fees, as deemed necessary by the County Planning Board , Subdivision Administrator, and/or governing body may be charged to the subdivider and may include engineering review of public improvements, examining land surveyor, legal review, grading and drainage plan review, or other professional fees as required, but not county subdivision review contract fees as they are already included in the stated fees.

Noxious Weed Inspection and Review

The current fee is listed in a separate document. An advance payment must be submitted with the preliminary plat application.

County Health Department Inspection

Fees for inspection and review of wastewater, water, and stormwater systems by the county health department are required for all lots that are at least 20 acres and no more than 160 acres. The current fees for each system to be reviewed are listed in a separate document and must be submitted with the preliminary plat application.

Other Permits and Fees

Other state and local agencies may charge separate fees, in addition to those described above, for permit applications and review, as necessary for the specific subdivision.

VIII-A-2. Final Plat Fees*

Final Plat Review

To partially cover the cost of on-site inspection of the subdivision and review of the final plat and supplementary material, the subdivider shall pay a non-refundable fee payable to the Big Horn County Treasurer at the time the application is submitted for final review.

<u>Types of Subdivisions</u>
First Minor Subdivision from a Tract of Record
Subsequent Minor Subdivision from a Tract of Record
Subdivisions with Six or More Lots

*NOTE:

- 1) The current fees for each type of subdivision are listed in a separate document entitled "Big Horn County Subdivision Review Fee Schedule."
- 2) Reasonable consultant fees, as deemed necessary by the County Planning Board and/or governing body may be charged to the subdivider and may include engineering review of public improvements, examining land surveyor, legal review, grading and drainage plan review, or other professional fees as required, but not county subdivision review contract fees as they are already included in the stated Review Fee Schedule.

Final Plat Filing

To cover the cost of filing the final plat and supplementary documents such as restrictive covenants, deeds, etc., the following fees must be paid by the subdivider to the County Clerk and Recorder:

1 or more lots--\$5 plus \$.50 per lot up to and including 100 lots;
plus \$.25 per lot for each additional lot in excess of 100;
plus \$2 per page.

VIII-B. Variances

VIII-B-1. Variances Authorized

The governing body may grant variances from Chapter 5, "Design and Improvement Standards," of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. Such variances must not have the effect of nullifying the intent and purpose of these regulations. The governing body will not approve a variance unless it finds that:

- a. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
- b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed;
- c. The variance will not cause a substantial increase in public costs; and
- d. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

VIII-B-2. Variances from Floodway Provisions Not Authorized

The governing body will not by variance authorize subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.

VIII-B-3. Variances for Innovative Energy Savings Authorized

An innovative and valid energy saving proposal which does not circumvent the purpose of these regulations may be reason for granting of a variance by the governing body.

VIII-B-4. Procedures

The subdivider shall include with the submission of the preliminary plat a written statement describing and justifying the requested variance. The planning board will consider the requested variance(s) and recommend approval or denial to the governing body.

VIII-B-5. Conditions

In granting variances, the governing body may impose reasonable conditions to secure the objectives of these regulations.

VIII-B-6. Statement of Facts

When a variance is granted, the motion of approval of the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

VIII-C. Amendment of Regulations

Before the governing body amends these regulations it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than 15 days or more than 30 days before the date of the hearing.

VIII-D. Enforcement, Violations and Penalties, and Appeals

VIII-D-1. Enforcement – Land Transfers

Except as provided in 76-3-303, MCA, every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of this action shall be imposed against the party not prevailing.

VIII-D-2. Violation and Penalties

Any person, firm, corporation, or other entity that violates any of the provisions of the Montana Subdivision and Platting Act or these regulations is guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land or other violation of any provision of the Montana Subdivision and Platting Act or these regulations shall be deemed a separate and distinct offense. (76-3-105, MCA)

VIII-D-3. 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.

VIII-E. Monitoring and Evaluation of Subdivision Regulations

VIII-E-1. Review and Revision of Subdivision Fees

The Planning Board will review and recommend updates to the subdivision review fees, including those for weed field review and bonding, and review by other entities, on an as-needed basis, using information provided by the Subdivision Administrator. The Planning Board will forward their recommendations to the County Commissioners for their review and decision.

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