

ORDINANCE NO. 26- _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE REGULATIONS IN SECTIONS 23-100 THROUGH 23-1100 BE AMENDED TO CONFORM TO MONTANA LAND USE PLANNING ACT PASSED BY THE 69TH LEGISLATURE IN 2025, TO AMEND AND CLARIFY THE SUBDIVISION REGULATIONS

WHEREAS, Title 76, Chapter 25, MCA, known as the Montana Land Use Planning Act (“MLUPA”), enacted by the Montana Legislature during the 69th Legislative Session (2025), requires cities with populations of 5,000 or more to adopt a new land use plan and future land use map. Additionally, zoning codes and subdivision regulations must conform with MLUPA.

WHEREAS, pursuant to Section 76-25-301, MCA, a local government has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations; and

WHEREAS, sections of Chapter 23 of the Billings, Montana City shall be amended as set forth herein to conform to the current statutory requirements of MLUPA.

WHEREAS, MLUPA mandates ongoing public involvement in the development and adoption of land use policies and regulations, guided by a municipally adopted Public Participation Plan; and

WHEREAS, the Interim Planning Commission held public hearings on _____, 2026, and made a recommendation to the City Council to adopt the proposed amendments to the subdivision regulations; and

WHEREAS, the City Council held a public hearing on May 11, 2026, in order to take public comment on the proposed amendments to the subdivision regulations and to consider the Interim Planning Commission’s recommendations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. Chapter 23 of the Billings, Montana City Code (BMCC) is amended as follows and any sections not amended herein shall remain in effect:

Section 23-101. Title.

These regulations will be known and may be cited as “The Subdivision Regulations of the City of Billings” hereinafter referred to as “these Regulations.”

Section 23-102. Authority.

Authorization for these Regulations is contained in the Montana Land Use Planning Act (76, Chapter 25, Part 401, MCA). The reviewing authority is the City-County Planning

Division, Planning and Community Services Department.

Section 23-103. Purpose.

The purposes and contents of these Regulations is outlined in 76-25-102 and 76-25-404, MCA and is to-Promote the health, safety, and welfare of the residents of the City through a system of comprehensive planning that balances private property rights and values, public services and infrastructure, the human environment, natural resources, and recreation, and a diversified and sustainable economy.

1. Ensure the orderly development of the jurisdictional area in accordance with adopted growth policies, neighborhood plans, motorized and non-motorized transportation plans, park plans, capital improvement plans, and other adopted policies and plans.
2. The coordination and dedication of right of way for roads and utilities within subdivided land with the existing and planned transportation network, including connections to adjacent property.
3. To encourage and support:
 - A. Sufficient housing units for the City's growing population that are attainable for citizens of all income levels;
 - B. The provision of adequate public services and infrastructure in the most cost-effective manner possible, shared equitably among all residents, businesses, and industries;
 - C. The natural environment, including wildlife and wildlife habitat, sufficient and clean water, and healthy air quality;
 - D. Agricultural, forestry, and mining lands for the production of food, fiber, and minerals and their economic benefits;
 - E. The City's economy and tax base through job creation, business development, and the revitalization of the City; and
 - F. Persons, property, infrastructure, and the economy against natural hazards, such as flooding, earthquake, wildfire, and drought.

Section 23-104. Jurisdiction.

These Regulations govern the subdivision of land within the City of Billings. These Regulations do not cover the Town of Broadview, the unincorporated areas of Yellowstone County, or the City of Laurel.

If a proposed subdivision lies partly within an incorporated city or town, and the County, the preliminary plat must be submitted to, and approved by, both the City or Town and the County governing bodies (76-25-408(3)(d), MCA).

If a proposed subdivision lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either the City or the County pursuant to 76-25-213, the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application (76-25-408(3)(c), MCA).

When a proposed subdivision is also proposed to be annexed to a municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of reports and other requirements, whenever possible (76-25-408(3)(a) and 76-25-601(2)(d), MCA).

These Regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, resolutions, or policies the more restrictive requirements apply.

Section 23-105. Exemptions for Certain Divisions of Land.

The Montana Land Use Planning Act provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the method of disposition is adopted for the purpose of evading the requirements of 76-25-402 MCA.

The procedures, criteria and requirements provided in Appendix A shall be used to review an exemption from subdivision review and to evaluate whether the division of land is for the purpose of evading the Montana Land Use Planning Act.

Section 23-106. Construction Timing.

The applicant or his/her contractors may not proceed with any construction work on a proposed subdivision, including grading and excavation relating to public improvements, until the governing body has given preliminary plat approval of the proposed subdivision plat. If improvements are initiated prior to final plat approval, the subdivider shall assume all risks and liability for error in improvement placement and the improvements must comply with the conditions and agreements of the preliminary plat approval.

Section 23-107. Transfers of Title.

Except as noted below, a final subdivision plat must be filed for record with the Yellowstone County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. 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 (76-25-411 (b), MCA).

- A. That under the terms of the contracts the purchasers of lots in the proposed subdivision make all payments to an escrow agent, which must be a bank, savings and loan association, or title/escrow company chartered to do business in the State of Montana;
- B. That 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 County Clerk and Recorder;
- C. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within the period of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- D. That the County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

- E. That the contracts 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 County Clerk and Recorder, title to the property cannot be transferred in any manner.”

Section 23-108. Suitability of Land.

If during the review, the City finds any portion of a parcel of land proposed to be subdivided unsuitable for subdivision because of potential hazards such as flooding, land-slides, steep slopes, rock falls, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, danger from fire or explosion or other features which may be detrimental to the health, safety, or general welfare of existing or future residents, they will not recommend approval of the subdivision unless the hazards can be eliminated or overcome through approved design and construction.

Section 23-109. Permission to Enter.

The governing body 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 a preliminary plat or final plat application constitutes a grant of permission by the subdivider to enter the subject property.

Section 23-110. Severability.

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

Section 23-111. Regulations in Effect.

Review and approval or disapproval of a subdivision under these regulations may occur only under those regulations in effect at the time an application for approval of a preliminary plat, per 76-25-409, MCA, or, for an extension of preliminary plat approval, under those regulations in effect at the time the extension is submitted to the governing body.

Section 23-112 Findings

- A. The governing body of the City of Billings finds that these regulations substantially comply with the adopted land use plan and zoning regulations for the City, including whether these regulations;
1. Enable the development of projected needed housing types identified in the land use plan and zoning regulations;
 2. Reflect applicable strategies from the land use plan and zoning regulations to encourage the development of housing within the jurisdiction;
 3. Facilitate the adequate provision of public safety, emergency, utility, transportation, education, and any other local facilities or services for proposed development, as identified in the land use plan and zoning regulations;
 4. Reflect the standards that provide for existing, new, or expanding commercial, industrial, and institutional enterprises identified in the land use plan and zoning regulations for economic growth;

5. Protect and maximize the potential use of natural resources within the area, as identified in the land use plan and zoning regulations;
 6. Contain standards that minimize or avoid impacts to the natural environment within the area, as identified in the land use plan and zoning regulations; and
 7. Contain standards that avoid or minimize dangers associated with natural hazards in the jurisdiction, as identified in the land use plan and zoning regulations.
- B. The governing body of the City of Billings finds any new or increased potential impacts to or from the local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessments conducted for the land use plan and zoning regulations were analyzed and that the public was provided with a reasonable opportunity to comment on and consider all potential impacts resulting from adoption of these regulations.
- C. The governing body of the City of Billings finds that all subdivisions hereafter determined to be and approved in substantial compliance with these regulations are in substantial compliance with the adopted land use plan and zoning regulations of the City of Billings.

Section 23-113 Responsibility for Interpretation

In the event that any question arises concerning any provision or the application of any provision of these regulations, the Planning Director or designee, in consultation with the City Attorney's Office as may be necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations, the City's zoning regulations and map, the City's Land Use Plan and Map, and the Act for guidance. The Planning Director or designee shall provide such interpretations in writing upon request. An aggrieved party may appeal an administrative interpretation as set forth in 76-25-503, MCA.

Section 23-114 Amendment of the Regulations

Amendments to the subdivision regulations shall follow the provisions within 76-25-403, MCA or as may be amended from time to time.

Article 23-200. DEFINITIONS.

Section 23-201. Definitions.

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. The word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

ACCESS:

a. **LEGAL ACCESS:** When the subdivision abuts a public street or road under the jurisdiction of the City, the County, or the State, or when the subdivider has obtained documented, adequate, and appropriate easements from a public road to the subdivision across all intervening properties.

b. **PHYSICAL ACCESS:** When a road or driveway conforming to City and/or County standards provides vehicular access from a public or private road to the subdivision.

ACTIVE TRANSPORTATION PLAN: Refers to the current bike and trail master plan adopted by City Council.

ADJOINING PROPERTY OWNERS: Persons who are owners of record and/or owners under contract for deed of properties adjoining the land being proposed for subdivision platting.

AGRICULTURE: Montana Code Annotated definitions for “agriculture” and “agricultural” will apply as follows:

41-2-103, MCA. Definitions. As used in this part, the following definitions apply: (1) “Agriculture” means: (a) all aspects of farming, including the cultivation and tillage of the soil; (b)(i) dairying; and (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act [12 U.S.C. 1141j(g)];

(c) the raising of livestock, bees, fur-bearing animals, or poultry; and (d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

81-8-701, MCA. Definitions. The following definitions apply: (1) “Agricultural and food product” includes a horticultural, viticultural, dairy, livestock, poultry, bee, other farm or garden product, fish or fishery product, and other foods.

AGRICULTURAL WATER USER FACILITIES: Those facilities which convey water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including, but not limited to, ditches, drains, pipes, and head gates.

AGRICULTURAL WATER USER: Persons and lands legally entitled to 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.

APPLICANT: The owner of land proposed for subdivision or the owner's legally designated representative for the purposes of submitting a request to subdivide (See SUBDIVIDER).

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries. Such boundaries may include streets, railroads, irrigation ditches, streams, platted lands or a combination thereof.

BOARD OF COUNTY COMMISSIONERS: The governing body for Yellowstone County, Montana.

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

CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

CONSERVATION SUBDIVISION: A development in a rural setting that is characterized

by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

CHECKPRINT (Errors and Omissions): A paper copy of the final plat submitted by the subdivider for review of errors and omissions, and compliance with Administrative Rules of Montana and conditions of approval by staff prior to submitting the final plat on mylar.

CITY COUNCIL: The governing body for the City of Billings, Montana.

CLUSTER DEVELOPMENT: A subdivision of land with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped (See Section 23-711 for example)

CONDOMINIUM: The ownership of single units with common elements located on property submitted to the provisions of 70-23-101, et seq., MCA. The term does not include townhome or townhouse.

COVENANT (DEED RESTRICTION): A limitation contained in a deed that restricts or regulates the use of the real property, and are not enforced by the governing body.

DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted (76-25-103, MCA).

PLANNING DIRECTOR: The Director of the Planning and Community Services Department or an authorized reviewing authority.

DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land (76-25-103, MCA).

DRIVEWAY: A vehicular access serving no more than 2 lots or 5 dwelling units.

DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities. A building designed exclusively for residential purposes, including single-unit, two-unit, and multiple-unit dwellings, but not including hotels or motel units, bed and breakfast guest rooms, boarding or lodging houses, tourist homes, or travel trailers and/or vehicles.

EASEMENT: Authorization by a property owner for another to use the property for a specified purpose, in which the owner agrees not to build, or otherwise obstruct or interfere with the specified purpose.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (67-37, MCA) to practice engineering in the State of Montana.

FLOOD: When water from any watercourse or drainage rises above the bank or moves outside the channel of that watercourse or drainage. (76-5-103, MCA).

100-YEAR FLOOD: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a 1% chance of occurring in any given year. (76-5-103, MCA).

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency (76-5-103, MCA).

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage (76-5-103, MCA).

LAND USE PLAN: The City of Billings adopted land use plan and future land use map pursuant to 76-25-201, MCA.

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

LOCAL SERVICES: Any and all services or facilities that local government entities are authorized to provide.

LOT: A parcel, plot, or other land area created by subdivision or certificate of survey for sale, rent, or lease.

LOT MEASUREMENTS:

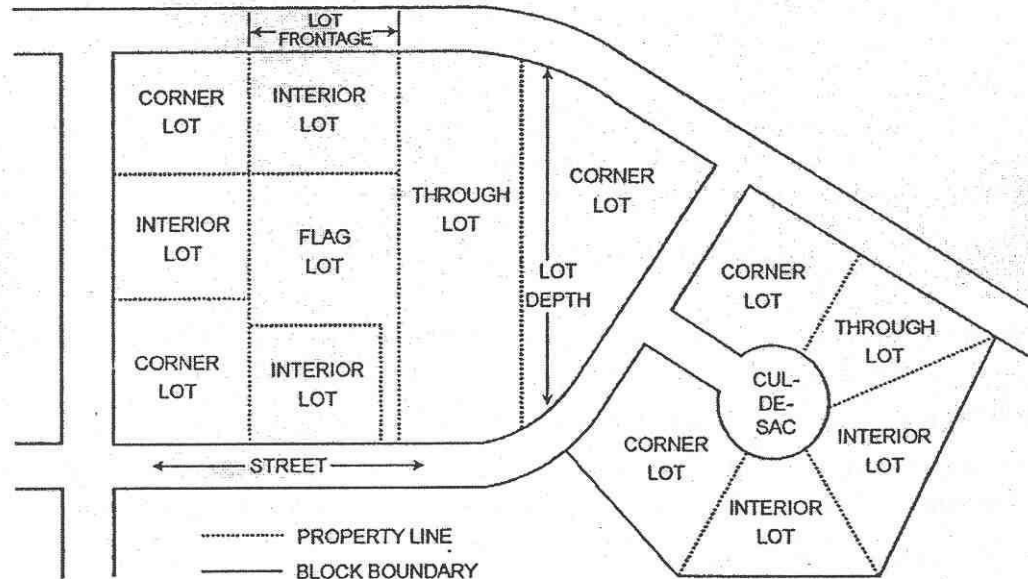
- a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
- b. Lot Width -- The average width of the lot.
- c. Lot Frontage -- The width of the lot line that fronts a public street right-of-way or public road easement where the lot usually has a driveway access.
- d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

LOT TYPES: (See Figure 23.200.1)

- a. Corner Lot: A lot located at the intersection of two streets.
- b. Interior Lot: A lot with frontage on only one street.
- c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
- d. Flag Lot
- e. Irregular Lot

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

Figure 23.200.1. Lot Types



MANUFACTURED HOME SPACE: A designated portion of a parcel of land designed for the accommodation of one manufactured home and its accessory buildings or structures for the exclusive use of the occupants.

MANUFACTURED HOME PARK: A single parcel of land or a lot that is designed or used for temporary or permanent spaces for 2 or more manufactured homes where either the space for a manufactured home or a manufactured home itself is available to the general public for residential use.

MANUFACTURED HOME PAD: That area of a manufactured home space that has been prepared for the placement of a manufactured home.

MASTER PLAN (Overall Plan; Sequential Development): The plan of a subdivision designed for a single tract and proposed to be subdivided in various stages, phases or configurations.

MEDIAN: A raised divider made of dirt, concrete or other material located in the middle of a street or road between travel lanes that is often landscaped (See BOULEVARD).

MOBILE HOME OR TRAILER: See MANUFACTURED HOME.

MODULAR HOME: A dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.

MONUMENT (PERMANENT MONUMENT): Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

MULTI-MODAL TRAIL TYPES:

- a. **Bike Lane:** A portion of the roadway that has been designated by striping, signage, and pavement markings for the preferential or exclusive use of bicyclists. (NACTO)
- b. **Buffered Bike Lane:** Conventional bicycle lanes that are paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane (NACTO).
- c. **Cut-through:** A linking trail through the end of a cul-de-sac or from street to street between lots within a subdivision. It can encourage diverse types of transportation. It can reduce travel time and distance for pedestrians and bicyclists to areas in and out of neighborhoods, thereby reducing vehicle trips. By increasing connectivity with cut-throughs, it can reduce the time it takes to get from point A to point B and promote mobility for people in the subdivision.
- d. **Neighborhood Bikeway:** A local street or series of contiguous street segments that have been modified to function as a through street for bicyclists, while discouraging through automobile travel. (AASHTO Guide for the Development of Bicycle Facilities 4th Edition)
- e. **Neighborhood Trail:** A paved path located outside of the right of way of between 7-9.9 feet in width.
- f. **Separated Bike Lane:** A separated bike lane is a facility for exclusive use by bicyclists that is located within or directly adjacent to the roadway and is physically separated from motor vehicle traffic. A separated bike lane can be configured for one- or two-way travel. (Small Town and Rural Design Guide)
- g. **Shared Lane Markings (also known as sharrows):** Road symbol used to indicate a shared lane environment for bicycles and automobiles. The shared lane marking is a pavement marking with a variety of uses to support a complete bikeway network; it is not a facility type and should not be considered a substitute for bike lanes or other separation treatments where these types of facilities are otherwise warranted or space permits. Sharrows consist of a double chevron and a bike symbol. The Manual on Uniform Traffic Control Devices (MUTCD) outlines guidance for shared lane markings in section 9C.07. (NACTO)
- h. **Shared Use Path:** a multi-use facility outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the right-of-way or within an independent alignment. Shared-use paths are used by pedestrians (including skaters, users of manual and motorized wheelchairs, and joggers), bicyclists, and other authorized motorized and non-motorized users. (AASHTO Guide for Pedestrian Facilities 2nd Edition)
- i. **Sidewalk:** The portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians. Sidewalks are paved in concrete.
- j. **Traffic Calming:** Traffic Calming is the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve

conditions for non-motorized street users and area residents (ITE)

NATURAL ENVIRONMENT: The physical conditions that exist within a given area, including land, air, water, minerals, plants, animals, and objects of aesthetic significance.

NO ACCESS EASEMENT: A line designated on a subdivision plat for the purpose of restricting vehicular access from a public right-of-way to a lot.

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

PARK: Land that is dedicated to the City through (76-25-404 (I), MCA) or acquired through a donation or purchase by the City and designated on a plat as a park. In order to be platted as a park the land must be owned by a public entity and public access is allowed. A park must be classified as defined by the City of Billings Parks Master Plan.

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

- Shade structure.
- Sensory playground equipment.
- Park benches and other park furnishings.
- Water play areas, splash pads.
- Picnic tables and trash cans.
- Challenge course.
- Slides, swings and ziplines.

PHASED DEVELOPMENT: Where a subdivision is platted in whole but developed in phases, a phasing plan shall be prepared and included in the Subdivision Improvement Agreement by the subdivider, and reviewed and approved by the City of Billings with the preliminary plat.

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

PLANNED UNIT DEVELOPMENT (PUD): A subdivision consisting of a planned mixture of land uses such as residential clusters, industrial parks, shopping centers, and/or

office building parks built in a prearranged relationship to each other and having open space and community facilities in common ownership or use (*See* BMCC 27-700).

PLANNING COMMISSION: The Billings Planning Commission.

PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

- a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnishes a basis for review by a governing body.
- b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the County Clerk and Recorder containing all elements and requirements set forth in these regulations and the Montana Land Use Planning Act (76-25-410, MCA).
- c. Amended Plat: The final drawing of any change to a filed platted subdivision.
- d. Exempt Plat: The final drawing of a plat that is exempt from subdivision review but subject to survey requirements in accordance with (76-25-402 MCA).

PUBLIC HEALTH AND SAFETY: A condition of optimal well-being, free from danger, risk, or injury for a community at large, a small class of persons or a specific individual.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public.

PUBLIC ROAD OR STREET: A road, street or easement that has been dedicated for public use.

RECREATIONAL CAMPING VEHICLE: A vehicle primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE PARK: Any area or tract of land containing two (2) or more spaces that are available for rent to the general public for parking or placement of temporary recreational vehicles. This term does not include a parcel composed of individually platted lots.

RECREATIONAL VEHICLE SPACE: A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.

REVIEWING AUTHORITY: City-County Planning Division.

STATE: The State of Montana.

STREET TYPES: For purposes of these regulations, street types are defined using the Institute of Transportation Engineers Manual as follows:

- a. Alley: Minor rights-of-way used primarily for vehicular access to the back or side of properties that abut on and are otherwise served by public roads.
- b. Arterial: Any major carrier of traffic which generally terminates at both ends at a location that will produce more than 2,000 vehicles per day traffic, or upon which the nature of the traffic is such that more than 60% of the vehicles are using the street for mobility rather than land access. They are typically located no more than 1 mile apart.
 - 1. Principal Arterial: A street which serves the major centers of a metropolitan area, the highest traffic volume corridors, and the longest trip desires, and which carries a high proportion of the total urban area travel on a minimum of mileage.
 - 2. Minor Arterial: A street that interconnects with and augments the principal arterials, provides service to trips of moderate length at a lower level of travel mobility than principal arterials, and distributes travel to geographic areas smaller than those identified as principal arterials.
- c. Collector: A street that generally terminates at both ends at an arterial or collector but because of location, curvilinear design, or limited feeder area will not generally serve more than 2,000 vehicles per day, or the nature of the traffic is such that approximately 50% of the traffic is using the street for land access and 50% for mobility. They are typically located between arterial streets at no more than ½ -mile from an arterial street.
- d. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
- e. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.
- f. Half-Street: A portion of the width of a street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street is to be fully constructed.
- g. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic.
- h. Loop: A local street which begins and ends on the same street, generally used for access to properties.

SUBDIVIDER: Any person or entity that owns or buys land, divides it into usable lots and develops or rents the lots, or sells the lots to others for development.

SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold or otherwise transferred and includes any

re-subdivision and a condominium or townhome created in accordance with the Unit Ownership Act (70-23-101, et seq., MCA). However, condominiums or townhomes constructed on land divided in compliance with the Montana Land Use Planning Act are exempt from the provisions of the Act.

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the City of Billings or Yellowstone County to review surveys and plats submitted for filing.

SWALE: A drainage channel or depression designed to direct surface water flow.

TOWNHOME/TOWNHOUSE: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities (70-23-103(16)(a), MCA).

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office (76-25-103, MCA).

TRAFFIC CONTROL DEVICES: All signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or multi-use trail by authority of a public agency having jurisdiction.

TRANSPORTATION PLAN: Currently adopted Billings Urban Area Long Range Transportation Plan, or any newer transportation planning document adopted Transportation Policy Coordinating Committee (TPCC) for the Billings urban area.

UTILITY: A service to the public including, but not limited to, sanitary and storm sewers, water, electric power, gas, telephone, cable television, and other communication means.

VICINITY SKETCH: A map included with a site plan or placed on a plat that enables the viewer to clearly determine the location of a proposed subdivision in the City.

WILDLIFE: Non-domesticated animals.

WILDLAND-URBAN INTERFACE: Areas where wildland vegetation meets urban developments, or where forest fuels meet urban fuels (such as homes). These areas encompass not only the interface (areas immediately adjacent to urban development) but also the continuous slopes and fuels that lead directly to a risk to urban developments, and are generally mapped in the Yellowstone County WUI Community Wildfire Protection Plan.

WILDLIFE HABITAT: A place frequented by wildlife or a site where wildlife lives.

Article 23-300. SUBDIVISION REVIEW

PROCEDURES.

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

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

Section 23-302. Preapplication

- A. **Preapplication Request.** The purpose of the preapplication meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Land Use Planning Act. An applicant may request a preapplication meeting prior to submitting a subdivision application. The preapplication review must take place no more than thirty (30) business days from the date that the Planning Director or designee receives a request for review with the required fee. The Planning Director or designee shall notify the requestor and any affected City Departments or other Agencies of the time of the meeting.
- B. **Preapplication Material.** At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted plans of the proposed subdivision for review and discussion. The plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions.

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an opportunity to provide an overview of state subdivision law, these local subdivision regulations, and other relevant local planning and code requirements that may apply to the subdivision application submitted.

Section 23-303. Preliminary Plat

- A. **Complete and Sufficient Application Review.** The subdivider shall submit one (1) electronic copy of the application including the preliminary plat and supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the electronic copy the Planning Director or designee shall notify the subdivider within ~~five (5)~~ twenty (20) working days that the application contains all information and materials necessary to complete the review of the application as set forth in these regulations. as to the completeness of the application. A complete application will include all those items listed online under "Preliminary Plat Requirements", where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application restarting the twenty working day timeline. The Planning Director or designee may review subsequent submissions of the application only for information found to be deficient during the original review of the application (76-25-408(5)(b), MCA). A determination that an application contains sufficient information for review does not ensure approval or conditional approval of the proposed subdivision and does not limit the ability of the Planning Director or designee to request additional information during the review process (76-25-408(5)(c), MCA).

1. **Survey Element Requirement.** Applicable information required in submittal of plats and supporting

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

2. **Content.** The preliminary plat shall submit all the applicable and complete documents listed in Exhibit 1 and online in “Preliminary Plat Requirements.”
3. **Copies.** The subdivider shall provide one electronic copy of all required documents for the preliminary plat to the Planning Director or designee. All plats shall be scaled to 24 inch by 36-inch in size as specified by the Planning Director or designee.

B. Initial Determination (Section 23-303.B. shall expire July 1, 2027.)

1. Once the Planning Director or designee determines that the application contains sufficient information for review, the Planning Director or designee shall make an initial determination if the proposed application, with or without variances or deviations from adopted standards is:
 - (a) in substantial compliance with the zoning and subdivision regulations, and;
 - (b) all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations.
2. If the Planning Director or designee determines that the application meets the requirements of Section 23-303.B.1, then the Planning Director or designee shall provide fifteen (15) working day public notice of its initial determination in accordance with Section 23-303.D. and Section 23-303.E.

C. Determination (Effective July 1, 2027)

1. Once the Planning Director or designee determines that the application contains sufficient information for review, the Planning Director or designee shall make a determination if the proposed application, with or without variances or deviations from adopted standards is:
 - (a) in substantial compliance with the zoning and subdivision regulations; and
 - (b) all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations.
2. If the Planning Director or designee determines that the application, with or without variances, does not meet the requirements in Section 23-303.C.1, then the Planning Director or designee shall follow the process outlined in Section 23-303.G.
3. If the Planning Director or designee determines that the application meets the requirements of Section 23-303.C.1, then the Planning Director or designee shall the Planning Director or designee shall issue a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

D. Public Notice.

1. Public notice shall be mailed to adjacent property owners.
2. Notice shall be posted on the Planning Division website providing initial determination and materials for review.

3. Notice shall be publicly advertised once.

E. **Public Comment.** The public shall submit comment on or before the last day of the public comment period.

F. **Final Determination. (Section 23-303.E. shall expire July 1, 2027.)**

1. Unless public comment received on or before the last day of the comment period supports a determination that the proposed subdivision fails to meet one or both of the requirements in Section 23-303.B.1, the Planning Director or designee shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

G. **Does not meet requirements.**

1. A proposed subdivision of a site, with or without variances or deviations from adopted standards, must establish:
 - (a) Substantial compliance with the zoning and subdivision regulations; and
 - (b) That all impacts resulting from the proposed subdivision were previously analyzed and made available for public review and comment, including but not limited to the adoption, amendment, or update of the land use plan, zoning regulations, or subdivision regulations.
2. Compliance may be determined:
 - (a) Upon initial review of the planning administrator; or
 - (b) Upon evidence provided by public comment received under Section 23-303.B.2.
3. If compliance is not established, the Planning Director or designee shall:
 - (a) request the applicant to collect any additional data and perform any additional analysis necessary to provide the Planning Director or designee and the public with the opportunity to comment on and consider the lack of substantial compliance with the zoning and subdivision regulations and any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, and subdivision regulations;
 - (b) Provide public notice of the planning administrator's initial or revised initial determination in accordance with Section 23-303.D. and Section 23-303.E. a written comment period of fifteen (15) business days during which the public must have an opportunity to participate in and comment on the data collected and analysis performed.
4. After the public comment period, the Planning Director or designee shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

H. **Written Decision Contents.** The Planning Director or designee shall prepare a written decision evaluating the proposed subdivision and any requested variances for compliance with these regulations. The written decision shall contain:

1. Recommendation for approval, conditional approval including any conditions for mitigation measures, or denial of the subdivision application and preliminary plat;

2. Summary of the basis for the decision, including findings of fact which describe factual evidence and analysis of substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations;
3. A decision for approval or denial of any requested variances (based on review criteria for variances) including any conditions of approval, and a summary of facts forming the basis of the decision;
4. The preliminary plat approval shall be three (3) calendar years; and,
5. Copies of comments received.
6. Made available to the public via the Planning Division website.
7. Be provided to the applicant
8. Include information regarding the appeal process

I. Preliminary Plat Approval Period.

1. The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the Planning Director or designee may, at the request of the subdivider, extend the approval once by written agreement.
2. Upon receipt of a request for an extension, the Planning Director or designee shall determine whether the preliminary plat remains in substantial compliance with the zoning and subdivision regulations. If the preliminary plat is no longer in substantial compliance with the regulations cited above, the extension shall not be granted, per MCA 76-25-409.
3. When considering a request for an extension of the preliminary plat approval period, the Planning Director designee may use the following criteria to evaluate the request:
 - a. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;
 - b. Progress to date in completing the subdivision as a whole and any phases;
 - c. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;
 - d. Dependence of infrastructure development on the subdivision;
 - e. Duration of the requested extension;
 - f. Demonstrated ability of the subdivider to complete the subdivision;
 - g. Such other factors or criteria as deemed material in the discretion of the governing body.
4. After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period.

J. **Appeal Process.** A decision of the City of Billings regarding a preliminary plat of a subdivision may be appealed as provided in 76-25-503, MCA.

Section 23-304 Final Plat.

A. **Checkprint/Errors and omissions Review.** Prior to submitting the final plat on mylar, a subdivider must submit draft electronic copies of all applicable items as required within the “Checkprint/Final Plat Submittal Requirements” (see Exhibit 2 and online) to the Planning Director or designee for review.

1. Copies of submitted documents will be available to reviewers electronically. Reviewing departments shall notify Planning staff of any changes required to conform to the conditions of final plat approval or local regulations and state law within ten (10) business days after receipt of the checkprint.
2. Planning staff shall notify the subdivider no later than fifteen (15) business days after receipt of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer’s comments

B. **Final Plat Application Submittal and Review.**

1. The final plat mylar application including all supplementary documents must be submitted to the Planning Director or designee at least 30 business days prior to the expiration of preliminary plat approval (See Exhibit 2 and online for “Checkprint/Final Plat Submittal Requirements”).
2. Within 10 business days of receiving the final plat application, the Planning Director or designee shall review the final plat and supplemental documents to ensure that all conditions and requirements for final plat approval have been met. The Planning Director or designee will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee, and copies of the final plat have been received. Final plat applications will not be considered complete until all conditions of preliminary approval have been satisfied.
3. If the application is not complete, the Planning Director or designee will submit a written notice to the subdivider indicating the missing information. The subdivider is required to correct the final plat materials in accordance with preliminary plat approval.
4. Once the Planning Director or designee determines that the application is complete, staff shall prepare a report documenting the final plat application materials conform to the conditions of the preliminary plat.

C. **Final Mylar Submittal.** The subdivider shall submit one (1) electronic copy. The subdivider must also submit two (2) signed mylar originals of the final plat and original, wet signature versions of all required documents for recording. (See Exhibit 2 and online for “Checkprint/Final Plat Submittal Requirements”).

D. **Governing Body Decision.** Once the Planning Director or designee determines the final plat application is complete, the governing body shall examine the final subdivision plat and shall approve the document if it conforms to the conditions of the preliminary plat approval, or deny the plat. The governing body shall complete its review within 20 business days of the Planning Director or designee’s determination that the application is complete.

1. If the final plat is approved, the governing body shall certify its approval on the face of the final plat, see Appendix C. When applicable, a certificate of the governing body’s acceptance of any dedicated land, easements, or improvements shall be filed on the face of the final plat and/or on documents that accompany the final plat for recording.

- E. **Filing the Final Plat.** After receiving approval, the final plat may be recorded.
- F. **Amending Final Plats.** An amended plat is subject to the review procedures for subdivisions.
- G. **Public Improvements** shall be provided prior to the approval of the final plat. Except as provided in MCA 76-25-413.

Section 23-30. Amended Plats.

- A. **Required.** A division of lots within a platted subdivision filed with the County Clerk and Recorder that results in an increase in the number of lots, or that redesigns or rearranges six (6) or more lots must be reviewed in accordance with Section 23-300.

Section 23-305 Corrections or Adjustments to Plats, Conditions and Supporting Documents

- A. Minor adjustments may be made, in consultation with the appropriate agencies, prior to the filing of the final plat. Minor adjustments are those changes, which, in the opinion of the Planning Director or designee, do not affect the basic character of lots or blocks, do not affect the open space requirements or amount provided, and do not affect the original street design. Minor adjustments shall not change existing Conditions of Approval or require additional conditions. Minor adjustments may require that a new plat be drawn; however, they do not require that the plat be re-submitted for preliminary plat review.
- B. Major adjustments are those which, in the opinion of the Planning Director or designee, substantially alter the basic design, or change open space requirements or amount provided for the subdivision. Changes to conditions of approval placed on the preliminary plat shall be considered major adjustments. Any changes which constitute a major adjustment shall require that a new plat be drawn and the plat be re-submitted for preliminary plat review as specified in Article 23-300.

Article 23-400. DEVELOPMENT REQUIREMENTS.

Section 23-401. General.

All subdivisions must comply with the provisions of this Article, except where granted a variance pursuant to Section 23-1101, Variances, of these Regulations. The requirements contained in this Article apply to subdivisions within the City of Billings as outlined in Section 23-104 of these Regulations.

Section 23-403. Improvement Design.

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or professional land surveyor as their respective licensing laws allow in accordance with the Montana Land Use Planning Act (MLUPA) and these Regulations. Subdivisions must meet the current Access Management Plan adopted by the City.

Section 23-404. Lots.

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

B. Dimensions, Orientation and Topography: The lot size, depth, shape and orientation shall be appropriate for the location, contemplated use of the subdivision and the zoning of the property. Flag lots shall be prohibited except in cases where zoning districts allow flag lots.

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

C. Frontage: Residential lots shall provide the minimum lot width as required by the existing or proposed zone, as defined in BMCC 27-300 and shall be on a public right of way or private easement. Lots in commercial and industrial subdivisions shall have a minimum lot width, as defined in BMCC 27-400, on a public right of way or private easement, or through a reciprocal access easement.

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

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

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

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

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

Section 23-405. Blocks.

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

TABLE 23-405.1 REQUIRED BLOCK DESIGN

Zone District	Block Length			Block Perimeter		Block Section	
	Max.	Min.	Preferred	Max.	Preferred	Max.	Preferred
N1/NX1	780'	160'	600'	1,900'	1,480'	797'	622'
N2	950'	160'	720'	2,200'	1,700'	960'	740'

N3	1,000'	200'	780'	2,400'	1,900'	1,029'	806'
NX2/NX3	700'	100'	500'	1,200'	800'	708'	510'
RMH	750'	200'	570'	2,000'	1,600'	777'	605'
NO/NMU	780'	160'	600'	1,900'	1,480'	797'	622'
CMU1	700'	160'	500'	1,900'	1,400'	720'	525'
CMU2	1,400'	300'	700'	4,200'	2,800'	1,432'	762'
CX	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I1	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I2	N/A	N/A	N/A	N/A	N/A	N/A	N/A
EBURD/CBD/DX	600'	300'	160'	1,800'	1,200'	622'	340'
Public 1-3	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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

Figure 23-405.2. Block Length

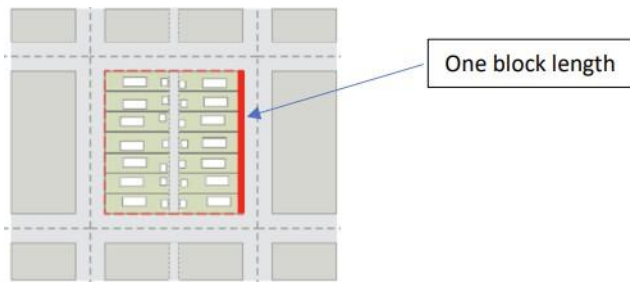


Figure 23-405.3. Block Perimeter



Figure 23-405.4. Block Obstructions



Figure 23-405.5. Block Section

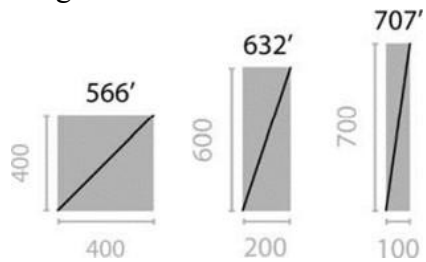
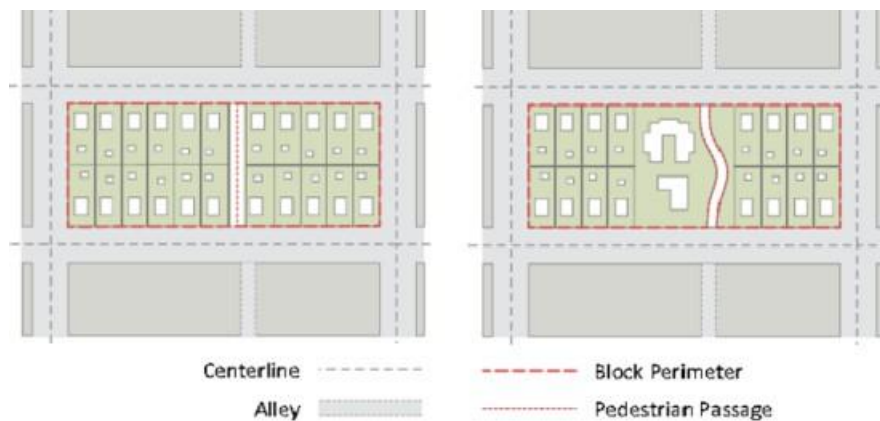


Figure 23-405.6. Breaks in Block Length



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

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

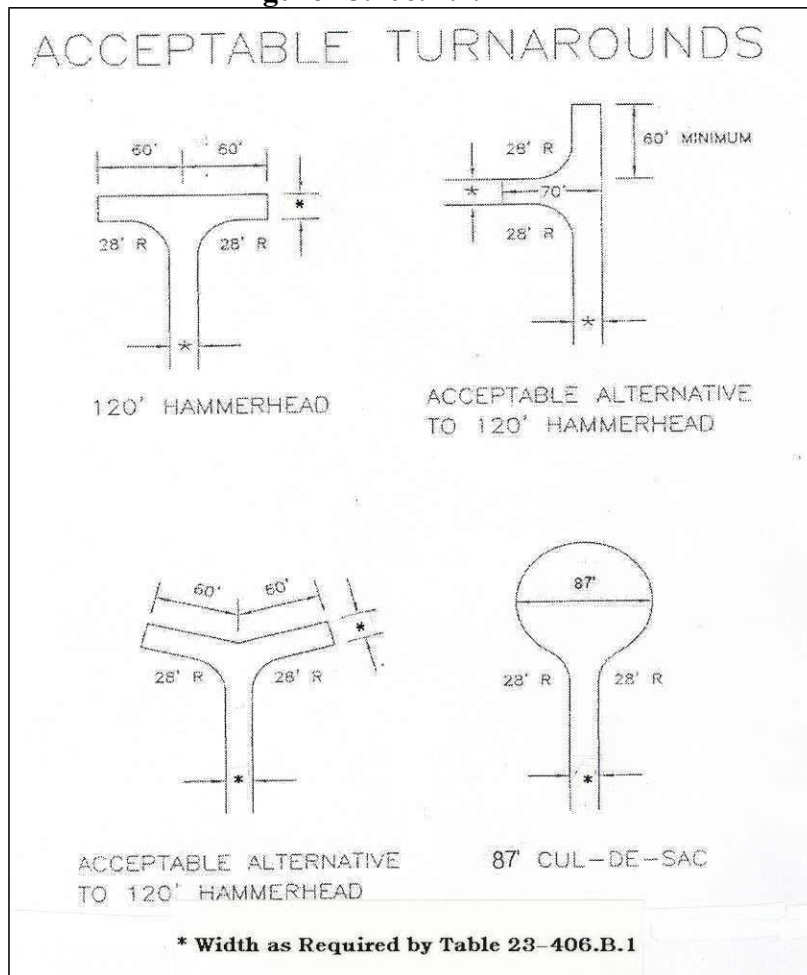
Section 23-406. Streets and Roads.

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

1. **Relation to Undeveloped Areas:** When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. This may require multiple connections to multiple adjacent undeveloped parcels. The maximum distance between connections to undeveloped lands shall not exceed 600 feet. Streets within the proposed subdivision shall be constructed to the boundary lines of the tract to be developed, unless prevented by topography or other physical conditions or granted by a variance. A variance may not be requested to eliminate connectivity to any street proposed on the most recently adopted Functional Classification Map.
2. **Relation to Developed Areas:** The subdivider shall arrange the streets to provide for the continuation of streets between adjacent developed properties, to provide effective provision of emergency services and efficient provision of utilities. Such provision may be waived when prevented by topography or other physical conditions.
3. **Separation of Through and Local Traffic:** Whenever a subdivision abuts or contains an existing or proposed highway, Arterial street or Collector street, the subdivider may be required, as a condition of approval, to provide frontage roads, reverse frontage lots with a no-access strip preventing access along the rear property lines, planting or fencing screens, shared accesses, or other treatment as may be necessary to adequately protect residential properties and to separate through and local traffic.
4. **Distance between Parallel Right-of-Way:** Where a subdivision borders on or contains a railroad, limited access highway, canal, stream or ditch right-of-way, the subdivider may be required to provide a street or easement approximately parallel to and on each side of the right-of-way at a distance sufficient to allow for the operations and maintenance of the intervening land. Such distances shall also be determined with regard for the requirements of approach grades and future grade separation.
5. **Second Access:** To facilitate traffic movement, the provision of emergency services, and the placement of utilities, all major subdivisions and subsequent minor subdivisions shall provide at least two means of vehicular access built to the standards of this Chapter and designed to ensure public health and safety.

- a. Exceptions to the requirement to provide at least two means of vehicular access may be made for major and subsequent minor subdivisions that meet all of the following criteria:
 1. Access is provided by a cul-de-sac with an approved turnaround that is 1,000 feet or less in length; and
 2. The subject cul-de-sac is served by a local, collector, or arterial street that is not classified as a dead-end street; and
 3. The subject cul-de-sac serves no more than 20 lots, and no more than 30 dwelling units, when residential development is proposed.
 - b. Provision of a second means of vehicular access may be required for any subdivision when deemed necessary for public health, safety or welfare.
 - c. When not otherwise exempt, if a second means of vehicular access built to City street standards cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access road, built to the standards detailed in Section 23-413 of these Regulations.
 - d. Variance requirement in relation to Emergency Access Roads (EAR). If a full city standard access road is required, and the developer proposes to build an EAR, a variance shall be required showing the hardship encountered.
6. Dead-end Roads: Dead-end access roads or driveways in excess of one hundred fifty (150) feet shall not be permitted without an approved turnaround at the terminus. Where streets terminate, the subdivider shall provide a “cul-de-sac” or “hammerhead- T” turnaround conforming to the design standards outlined in Figure 23.406.A.1. The maximum allowable length of a dead-end road is one thousand (1,000) feet. In cases where a dead-end road may be extended in the future, a right-of- way easement or dedication will be required to be provided.

Figure 23.406.A.1.



7. Half Streets: Half streets are prohibited except when they are essential to the subdivision, are beneficial to the City, or when the City Public Works Department is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.
8. Street Continuity: Streets that are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide and shall have matching names. In cases where straight continuations are not physically possible, such centerline shall be continued by a centerline offset of not less than one hundred twenty-five (125) feet.
9. Tangent for Reverse Curves: A tangent shall be introduced where necessary as determined by City Engineering between reverse curves on arterial and collector streets.

10. Deflected Street Lines to be Curved: When continuing street lines deflect from each other at any one point by more than five (5) degrees, they shall be connected by a curve with a radius adequate to ensure adequate stopping sight distance at the center line of a street in accordance with the most current American Association of State Highway and Transportation Officials (AASHTO) Manual guidelines.
11. Intersections: Local streets shall be laid out to intersect as nearly as possible at right angles and no local street shall intersect any other local street at less than eighty (80) degrees. Such angle of eighty (80) degrees or greater shall be retained for at least fifty (50) feet back from the intersection. Any street intersection involving an arterial and/or collector street, shall intersect at ninety (90) degrees and shall be retained for at least one hundred (100) feet back from the intersection. Not more than two (2) streets shall intersect at any one point unless specifically approved by the City Public Works Department.
12. Lot Corners at intersections: Lot corners at all street intersections shall be designed to accommodate public infrastructure and the requirements of the American Disabilities Act (ADA).
13. Sight distance: The alignment of all streets and roads must provide adequate sight distances in accordance with Section 27-1802.H, Visibility at Intersections, Billings Zoning Code.
14. Approach Permits: The subdivider shall obtain the applicable approach or curb cut permits for all new accesses to City streets. The subdivider shall obtain an approach permit approved by the Montana Department of Transportation (MDT) for any vehicular access onto a state highway.
15. Street/Road Names and Lot Addresses: New streets/roads aligned with existing streets/roads shall have the same name as the existing street/road. All new street names and lot addresses shall be approved by the City GIS / Land Management prior to final plat approval in order to avoid duplication and confusion with names of existing roads.
16. Street/Road Signs and Traffic Control Devices: Street or road signs and traffic control devices of the size, shape, and height approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the Manual on Uniform Traffic Control Devices.
17. Central Mail Delivery: When required by the United States Postal Service, the developer shall provide a cluster/gang mailbox area for mail delivery. All access provided to these mail delivery systems shall be ADA compliant.

B. Streets and Roads Design and Improvement Standards:

1. General: The design and improvement standards contained in this section shall apply to all construction or reconstruction of streets and roads, public or private, dedicated to the public within the City limits.
2. Improvement Design: All street improvements shall be designed by and constructed under the supervision of a professional Civil Engineer, registered in the State of Montana, and shall meet or exceed the right-of-way and construction standards for the type of street to be constructed found within these regulations, the adopted Transportation Plan, and adopted policies of the City Public Works Department.
3. Plans and Specifications approval: Plans and specifications for all streets shall be provided to and approved by City Engineering. The subdivider shall provide professional engineering services for construction inspections and post-construction certifications. The plans and specifications shall be approved by the City Engineer prior to initiation of any street improvement construction. In addition, a copy of the road plans and specifications for any emergency access roads shall be reviewed and approved by the City Fire Department prior to construction.
4. Traffic Impact Study: At the time of preliminary plat submittal, a traffic impact study shall be prepared and stamped by a Professional Engineer and approved by the City Engineer for any new residential, institutional, commercial or industrial subdivision or development which will generate one thousand (1,000) or more vehicle trips per day or 100 peak-hour trips, as referenced in the Trip Generation Report of the Institute of Transportation Engineers. The Professional Engineer shall certify "that the Traffic Impact Study has been prepared by me or under my immediate supervision and that I have experience and training in the field of traffic and transportation engineering." The report shall be stamped by a Professional Traffic Operations Engineer for generation of five thousand (5,000) or more vehicle trips per day.

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

A vehicular trip is defined as a one-way journey of a person in an automobile or a transit vehicle. If the study indicates a need for the installation of traffic signals, intersection improvements, or other off-site street improvements to facilitate traffic flow generated by the entire proposed development, the identified improvement shall be installed or a financial contribution for the subdivision's proportional share shall be made prior to final plat approval of the subdivision, as determined by City Engineering. The financial contribution for proportionate share shall be by cash contribution, traffic system development fee, or traffic impact fee, whichever is in effect at the time of final plat approval. The applicant shall meet and discuss elements of the study with City Engineering to determine the general extents of the study at the time of the pre-application meeting

All developments generating less than 100 peak-hour trips or 1,000 average daily trips shall analyze and design for the following basic street design elements. The applicant shall review these elements with City Engineering at the time of a preapplication meeting to determine what elements may apply. In addition, the applicant shall provide an explanation of how each element applies or does not apply, and that summary shall be included with the preliminary plat or development application.

- a. Location of approaches (access management);
- b. Sight distance review;
- c. Turn lane analysis;

- d. Connectivity and circulation review;
- e. On-street parking impacts;
- f. Review of impacts to adjacent property streets, accesses, and intersections with site generated pedestrian and vehicular traffic;
- g. Truck circulation, including solid waste pick-up;
- h. Location and type of traffic-control devices;
- e. Traffic calming.

City Engineering reserves the right to require applicant analysis and review of a specific traffic impact due to known traffic or adjacent access issues for a subdivision or development generating less than 100 peak-hour or 1,000 trips per day.

- 5. **Street and Road Dedication:** All streets providing access to the proposed subdivision shall be dedicated to the public.
- 6. **Right-of-Way and Street Widths:** Street right-of-way and surface widths shall be provided as shown in Table 23.406.B.1, below. Street widths (b-b curb width) and lane widths shall be determined and approved by City Engineering. Right-of-Way dedications at intersections shall be determined by City Engineering, and may include chamfered corners in order to accommodate ADA compliance or a future roundabout.

Table 23-406.B.1. Required Dedications and Street Improvements for Subdivisions within the City Limits

Street Type	Right-of-Way	B-B Curb Width Range	Parking Width***	Boulevard Width	Sidewalk Width	Shared Use Path Width
Principal Arterial	120'	*	---	10'	5' **	10'
Minor Arterial	100'	*	---	10'	5' **	10'
Collector	74'	39'-53'*	8'	5'	5'	
Commercial Local Access	70'	39'-45'*	8'	5'	5'	
Residential Local Access	56'	34' min. §	n/s	5'	5'	
Cul-de-Sac 100-1000	56'	34' min.	n/s	5'	5'	
Cul-de-Sac <100 feet	40'	29' min.	n/s	---	---	

* As approved by City Engineering.

** Sidewalk is 5' on one side with a 10-foot multi-use trail on the other side.

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

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

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

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

7. Alleys: Proposed alleys in both residential and commercial subdivision shall meet the following standards:

- a. The width of an alley shall be a minimum of twenty (20) feet.
- b. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be designed to permit single unit truck movement.

- c. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the end.
8. Grading/Cut and Fill: All streets and alleys within or adjacent to the subdivision shall be excavated or filled to the grade established and shall provide for surface water drainage as specified by City Public Works according to City specifications.
 9. Base Construction: The type of base required will vary depending on the nature of the existing material and with the particular type of traffic to be accommodated, and shall be approved by City Public Works according to a geotechnical analysis.
 10. Street Surfacing: A pavement surface shall be required on all streets as specified by City Public Works.
 11. Street Grades: All street grades shall conform to the requirements of the City. Street grades shall not exceed the following, with due allowance for reasonable vertical curves and intersection treatment. Street centerline horizontal curves shall be designed for the following maximum speeds:

Street Type	Percent Grade	Speed (M. P. H.)
Collector	7	25-35
Local Access	12	25

12. Curbs and Gutters: Standard integral curb and gutter shall be placed on all arterial, collector and commercial streets. Standard integral curb and gutter is required on local residential streets, but ribbon curb may be approved by City Engineering as part of the storm drain design for the subdivision.
13. Sidewalks: Boulevard-style sidewalks shall be installed on both sides of all streets, except cul-de-sacs less than one hundred (100) feet in length. Arterial and Collector streets may have a multi-use trail on one side in lieu of one of the required boulevard sidewalks. City Engineering may recommend to the City Council that it waive or modify the requirement for boulevard walks on both sides of a local residential street when the subdivision constructs an approved multi-use bicycle/pedestrian path connected and ADA accessible to all lots in combination with or in lieu of sidewalks. Required sidewalk and boulevard widths shall follow those listed in Table 23-406.B.1, above.
14. Street Lights: Street lights shall be installed within residential subdivisions. Residential street lights shall be designed by a licensed professional engineer in accordance with the American National Standard Practice for Roadway Lighting RP- 8, current edition.
 - a. New Street Lighting:
 1. Residential Light Fixture Configuration: Street light fixtures installed after the effective date of these regulations shall be equipped with full cutoff optics,

and positioned to minimize any glare source and not create light spillover.

2. Mercury Vapor Bulbs or Lamps: Mercury Vapor bulbs or lamps may not be used in Residential street lights installed after the effective date of this ordinance. LED type luminaires shall be utilized in new street lights.
 3. Residential Street Light Mounting Height: Residential Street Light fixtures installed after the effective date of this ordinance shall not be mounted higher than 30 feet above grade.
 4. Exceptions to the requirements of 23-406.B.14.
 - a. Traffic signals and other traffic safety and control devices
 - b. Historic streetlights
15. Access Driveways: Access driveways to new lots shall be allowed as regulated by the City's Curb Cut Regulations found in Article 6-1208, BMCC.
16. Permanent cul-de-sac streets may not represent more than 20% of total roadway miles in a subdivision unless approved by a variance.
- a. Exceptions to this do not require a variance but can be approved administratively. Exception provisions are:
 1. Infill projects where a dead-end cul-de-sac is the only viable road option.
 2. Long narrow lots that are not wide enough for more than a single road that is less than 1,000 feet long. Future connections to adjacent properties shall be provided as outlined in Section 23-406.A.1. and Section 23-406.A.2.
 3. Topography that does not allow for a grid system as outlined in the subdivision regulations.
 - b. Developments with cul-de-sacs must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonable expected future streets, schools, shopping, parks, trails or open space, bus stops and community facilities.
- C. **Multi-Use Trails, General:** All subdivisions must be reviewed for compliance with the currently adopted Active Transportation Plan to provide multi-use trail and greenway corridors for safe, convenient non-motorized transportation routes throughout the City and County.
1. To comply with the currently adopted Active Transportation Plan, all subdivisions shall provide a thirty (30) foot wide multi-use trail easement across the property if:
 - a. The currently adopted Active Transportation Plan indicates that a proposed multi-use trail corridor crosses the subdivision property;

2. If the currently adopted Active Transportation Plan indicates that a proposed trail crosses the subdivision property, and a segment of the trail has already been provided on adjacent property, then the subdivision shall connect the trail at the property lines to provide for a continuous trail corridor.
3. Trail infrastructure identified and designated as Neighborhood Bikeways, Bike Lanes, Shared Use Path in the currently adopted Active Transportation Plan are required to be constructed by the developer when the trail is in the adjacent right of way or within the development itself. This is considered a public improvement.

Section 23-411.

Watercourse and Irrigation Easements 76-25-404(1)(d)(3)

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

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

B. Exclusion of easement requirements for irrigation within the subdivision: The subdivider need not establish irrigation easements as provided in Section A. above if one of the following is met:

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 governing body, 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; or
2. The water rights are removed from the property being subdivided or evidence is provided by the subdivider that the appropriate legal or administrative process has been initiated to

remove the water rights from the land within the subdivision. Furthermore, the fact the water rights have been or will be removed from the land within the subdivision shall be 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. Easements through the subdivision for the benefit of downstream water users:

Easements are required to be shown on the face of the preliminary and final plats for all drainage ways, irrigation canals/ditches and their laterals, and below-ground pipelines on the property being subdivided 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. In addition, an easement document shall be recorded with the final plat. The easements provided shall meet the following standards:

1. Easements shall be provided in locations of appropriate topography and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
2. Easements of a sufficient width to allow for construction, repair, maintenance, and inspection of the ditch shall be provided. The easement width shall be based on the policy of the appropriate irrigation district; and
3. The easement document shall prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the water users.

D. Additional Provisions:

1. The realignment or relocation of active irrigation ditches or pipelines is discouraged. If an irrigation facility is proposed to be realigned or relocated, the developer shall receive written permission of the appropriate irrigation district and/or water user and the subdivider's Professional Engineer shall certify prior to final plat approval that the water entering and exiting the realigned or relocated irrigation facility is the same quality and amount of water that entered or exited the facility prior to realignment or relocation.
2. New storm water generated from a subdivision shall not be discharged into an irrigation facility unless the subdivider receives written approval from the appropriate irrigation district and/or water user prior to final plat approval.

Section 23-412.

Disposition of Water Rights (76-25-404(1)(c)(i), MCA).

The subdivider shall submit evidence with the final plat indicating that either A. and B., below, or C., below, has been provided:

- A. Reservation and transfer of water rights:** The subdivider shall reserve all of the water rights on the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water; and

- B. **Establish landowner's water use agreement:** 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, the subdivider shall establish 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. **All rights severed and granted to the City:** All surface water rights and/or ditch shares shall be severed from the land proposed for subdivision and granted to the City.

Section 23-413. Fire Protection Requirements.

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

A. **Definitions.**

Approved: Acceptable to the fire department having jurisdiction.

Fire Department having jurisdiction: The Fire Department or Fire District serving the area in which the subdivision is located.

- B. **Major, Minor, and Subsequent Minor Subdivisions:** For all subdivisions, the subdivider shall provide the following minimum mechanism for fire suppression: A pressurized fire hydrant system meeting the flow requirements of the adopted Fire Code, National Fire Protection Association (NFPA) 1142, and the City of Billings Public Utilities Department Rules and Regulations.
- C. **Emergency Secondary Access Roads:** In the event that an emergency secondary access road is approved, through the variance process, as a means of providing a second access to a subdivision, as required by Section 23-406.A.5. of these Regulations, it shall be built to the following standards:
1. Emergency access roads shall be designed to a minimum unobstructed surface width of not less than twenty (20) feet and shall be constructed to support a forty (40) ton vehicle with a surface that provides all weather driving capabilities. The road shall be constructed to City standards. The emergency access road shall be maintained throughout the year including the removal of snow and ice. Where required by the Fire Department having jurisdiction, gates or other approved barricades shall be required at either end of the road to restrict through traffic. A sign shall be fixed to each gate in a conspicuous manner. The sign shall read "EMERGENCY ACCESS ONLY" using black letters not less than two (2) inches wide and six (6) inches high on a white retro reflective background.
 2. Prior to construction, a cross-sectional design of the road including location, section, surfacing, and drainage, and design of gates or barriers shall be submitted to and approved by the Billings Fire Department and the City Engineer's Office. The storm drain design shall accommodate runoff during a ten (10) year storm event to ensure that there is no blockage of the roadway in the event of an emergency. The drainage shall not encroach into the travel way.

3. Emergency access roads will be assigned a name by City GIS / Land Management. In order to ensure the roads are entered into and reflected on the County GIS mapping system, the road shall be shown on the plat along with the name assigned to the road. Emergency access roads will not have conventional street signs identifying them by the assigned name.

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

Section 23-414. Flood Hazard Evaluation.

If any portion of a proposed subdivision is within the floodway of a flood of one hundred year frequency as defined by 76-5-103(9), MCA and the Federal Emergency Management Agency (FEMA), or deemed subject to flooding by the City, or if any portion of a proposed subdivision is within two thousand (2,000) horizontal feet and less than twenty (20) vertical feet of a live stream draining an area of twenty-five (25) square miles or more, the flood hazard evaluation criteria found in Appendix B shall be applied, as applicable.

Article 23-500. GUARANTEE OF PUBLIC IMPROVEMENTS.

Section 23-501. Subdivision Improvements Agreement.

Prior to granting approval of the final plat by the governing body, the subdivider shall:

1. Have installed all of the required improvements as stipulated in these regulations; or
2. Prior to receiving approval of the final plat, provide a financial guarantee in accordance with Section 23-502 and enter into a written subdivision improvement agreement (SIA) with the governing body guaranteeing the construction and installation of all required improvements in conformance with all policies, standards and ordinances adopted by the City.
 - a. The agreement shall stipulate terms including, but not limited to:
 - i. which type of security arrangements acceptable to the governing body the subdivider elects to use;
 - ii. the time schedule acceptable to the City;
 - iii. the subdivider's plans for accomplishing the required improvements; and
 - iv. an agreement that the subdivider shall guarantee all improvements for a period of two years from the date of acceptance by the City.

Section 23-502. Security Guarantee. (76-25-413, MCA).

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

A. Escrow account. The subdivider shall deposit cash, or other instrument readily convertible

into cash at face value, either with the City, or in escrow with a financial institution. The use of any instrument other than cash, and in the case of an escrow account, the financial institution with which the funds are to be deposited, shall be subject to the approval of the governing body or designee. In the case of an escrow account, the subdivider shall file with the City an agreement between the financial institution and the subdivider guaranteeing the following:

1. That the funds of the escrow account shall be held in trust until released by the governing body or designee and may not be used or pledged by the subdivider as security in any other matter during that period; and
2. That in the case of a failure on the part of the subdivider to complete the improvements, then the financial institution shall immediately make the funds in the account available to the City for use in the completion of those improvements.

B. Irrevocable letter of credit. The subdivider shall provide, from a financial institution or other reputable institution subject to the approval of the governing body or designee, an irrevocable letter of credit. This letter shall be deposited with the City and shall certify the following:

1. That the creditor does guarantee funds of the required amounts, as estimated by the subdivider and approved by the Public Works Department, for completing all required improvements; and
2. That, in the case that the subdivider fails to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter; and
3. That the letter of credit may not be withdrawn, or reduced in amount, until released by the governing body or designee; and
4. That the letter of credit shall be renewed from year to year until such time the improvements are completed.

C. Bond. The subdivider shall provide a surety bond to guarantee the funds to complete improvements, subject to any requirements of the bonding company. The bond shall be payable to the City and shall remain in effect until the improvements have been completed and accepted by the City. The subdivider shall bear all costs associated with the provision of the guarantee.

D. Phased Development. For phased developments, the phasing plan shall be included in the SIA and shall describe which lots are included in each phase, and what improvements shall be completed with each phase. Improvements included in the first phase shall be constructed or guaranteed using one of the acceptable monetary security guarantees prior to final plat approval by the governing body. Lots within subsequent phases shall be restricted from being transferred or developed, and a "Restrictions on Transfers and Conveyances" contract shall be entered into for subsequent phases by the subdivider and the governing body and shall be filed with the final plat documents with the Clerk & Recorder.

A release on the restrictions on transfers and conveyances may be filed with the Clerk & Recorder only after the necessary improvements for each particular phase are constructed,

approved and accepted by the City, or guaranteed using one of the acceptable monetary security guarantees.

The subdivider shall set a future date that each phase is proposed to commence not exceeding twenty (20) years. For a period of five (5) years after approval of the phased preliminary plat, the subdivider may apply for final plat of any one or more phases following the process set forth in Section 23-304.

After five (5) years have elapsed since approval of a phased preliminary plat, the Planning Director or designee shall review each remaining phase to determine if a phase may result in new or significantly increased potential impacts that have not been previously identified or considered in the adoption of the land use plan, zoning or subdivision regulations, or review and approval of the phased preliminary plat using the criteria within Section 23-303.I. If the planning administrator identifies any new or significantly increased potential impacts not previously identified and considered, the planning administrator shall proceed as set forth Section 23-303.G.

- E. **Provision for security requirement to ensure construction of public improvements.** The subdivider may provide a monetary security guarantee by any other method specified in 76-25-413, MCA, that is also acceptable to the governing body. In all circumstances the guarantee method shall provide the City of Billings as the beneficiary.

Section 23-503. Reduction of Guarantees.

In those cases where improvement guarantees have been made as provided in Section 23-502, the amount of the guarantee shall be reduced upon installation and acceptance by the City of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made up of all originally required improvements.

Section 23-504. Release of Guarantee.

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

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

Section 23-601. **Development subject to this Section must follow requirements in BMCC 27-1619.**

Article 23-700. CLUSTER DEVELOPMENTS

Section 23-702. **Definitions.**

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

Cluster Development: A Cluster Development is a subdivision creating five or more lots clustered in a group that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

Master Plan: A master plan is a site plan for a Planned Neighborhood Development that shows lots, blocks, streets, alleys and areas for various land uses including open space within the development. The master plan shall be part of the subdivision approval and any significant change to such master plan shall be considered an amended subdivision.

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

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

1. The open space may be dedicated to the public upon acceptance of the open space, which shall be at the discretion of the governing body, as recommended by the City's Park and Recreation Department's staff. Open space must allow public access through a plat dedication or easement; or
2. A Homeowners' Association representing residents of the subdivision may own the open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. Open space owned by a Homeowners' Association must indicate through a plat dedication or easement, whether or not there is public access to the open space. The park will display signs indicating public or private use.

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

1. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance as provided in subsection 23-707.C, below, and for long-term capital improvements;
2. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outlines the means by which such funding will be obtained or provided;
3. Provides that any changes to the Management Plan be approved by the Planning Department, or in the case of publicly accessible open space, approved by the Parks and Recreation Department; and

4. Provides for enforcement of the Management Plan.

C. Maintenance.

1. Open space dedicated to the public shall be maintained according to the Management Plan by a Park Maintenance District (PMD) to be established prior to final plat approval.
2. Maintenance of open space owned by a Homeowner's Association shall be the responsibility of the Homeowner's Association. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition the City of Billings may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowners' Association, or to the individual property owners that make up the Homeowners' Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

Article 23-800. CONDOMINIUMS AND TOWNHOMES.

Section 23-801. Condominium and Townhome or Townhouse Development.

- A. **Exemptions.** All condominium, townhome, or townhouse developments are subject to the terms of these Regulations and the Montana Land Use Planning Act (76-25-402 (1)(I), and 70-23-102, MCA).
1. The approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses, and any applicable park dedication requirements are complied with; or
 2. The condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.

Article 23-900.RESERVED.

Article 23-1000. DEDICATION OF PARKS, TRAILS AND OPEN SPACE

Section 23-1001. Purpose.

The purpose of parkland dedication is to: Meet the objectives associated with adopted City plans and policies and comply with 76-25-404, MCA.

Section 23-1002. Park Land Dedication Requirements (76-25-404, MCA).

- A. Except as provided in Sections 23-1008 and 23-1009, a subdivider shall dedicate to the City cash or land donation equal to the below. The required donation shall not exceed .03 acres per dwelling unit:
1. 11% of the area of the net land proposed to be subdivided into parcels of one-half acre or smaller;
 2. 7.5% of the area of the net land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

3. 5% of the area of the net land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
 4. 2.5% of the area of the net land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.
- B. Park dedication requirements for subdivisions that provide for multi-family and condominium developments, and that provide permanent, multiple spaces for recreational camping vehicles or manufactured homes shall be in lieu of those provided in Section 23- 1002(A) and are as follows:
1. 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acre or less;
 2. 7.5% of the area of the net land proposed to be developed at a density of between one dwelling unit per half acre and one dwelling unit per one acre;
 3. 5% of the area of the net land proposed to be developed at a density of between one dwelling unit per one acre and one dwelling unit per 3 acres; and
 4. 2.5% of the area of the net land proposed to be developed at a density of between one dwelling unit per 3 acres and one dwelling unit per 5 acres.
- C. A park dedication may not be required for:
1. Land proposed for subdivision into parcels larger than 5 acres;
 2. Subdivision into parcels that are all nonresidential;
 3. A subdivision in which parcels are not created, except when that subdivision provides multiple permanent spaces for recreational camping vehicles, mobile homes, or condominiums;
 4. Subdivision in which only one additional parcel is created.
- D. The Planning Director or designee, Parks and Recreation Department, and the subdivider may determine suitable locations for parks. Land dedicated for park purposes shall:
1. Be usable land;
 2. Street frontage requirements for parks is 200 continuous, linear, feet for each park of one acre, and 30 feet of frontage for every acre after that. The 30 feet segments are not required to be continuous with the original 200 feet. Example: 5-acre park requires 200 linear feet for first acre and $4 \times 30 = 120$ for the others for a total of 320 linear feet. The developer shall coordinate park street frontage openings with the City of Billings Parks Department before the preliminary plat is completed. Minimum width for additional accesses into parkland shall be 30 feet. If the parkland dedication requirement is under 1 acre the required street frontage will be a percentage of the one acre minimum. Minimum street frontage is 60 linear feet for parks less than 1 acre. For example: If 20,000 square feet is what is required by sub regs, $20,000 \div 43,560 = 46\%$. $200 \times 46\% = 92$ feet of frontage.
 3. Accessible to bicycle and pedestrian facilities where possible;
 4. At least 50% of the park must have slopes under 5%.

- E. Land not suitable to meet parkland dedication:
1. More than 5% of the area has grades 25% or higher;
 2. Riparian resources and areas adjacent to or within irrigation, floodway or wetlands unless it includes a programmable space.
 3. Monument entry areas and central landscaped boulevards;
 4. Exclusively stormwater facilities;
 5. Street lights, cell towers, overhead power, major transmission lines, or other similar uses;
- F. A Park Maintenance District shall be formed or expanded with any new parkland dedication. If a developer provides cash in lieu, but is located directly adjacent to an existing public park maintained by a PMD, the PMD shall be expanded to include the newly subdivided lots.
- G. Irrigation of public and private parkland are encouraged to be provided by ditches or wells when possible. If neither of these methods is possible, city treated water is an alternative.

Section 23-1003. School Land Dedication in lieu of Park Land Dedication (76-25-404 (6)(b), MCA)

Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (6)(a) to a school district to be used for school facilities or buildings.

Section 23-1007. Use of Dedicated Money or Land for Parks

The governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision and community as follows:

- A. The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas, or use the money for the purchase of public open space or conservation easements only if:
1. The park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and
 2. The City Council has formally adopted a park plan that establishes the needs and procedures for use of the money.
 3. The governing body may not use more than 25% of the dedicated money for park maintenance.

Section 23-1008. Waiving Park Land Dedication Requirement

The Planning Director or designee waive the park dedication requirement if:

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

- B. The subdivision provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be subdivided, by virtue of providing long-term protection is reduced by an amount equal to or exceeding the area of the dedication required under Section 23-1002 of this Article.
- C. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of Sections 23-1009.A. and B. of this Article, is reduced by an amount equal to or exceeding the area of the dedication required under Section 23-1002 of this Article.
- D. The subdivider dedicates 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 equals or exceeds the area of the dedication required under Section 23-1002 of this Article.

Article 23-1100. ADMINISTRATIVE PROVISIONS.

Section 23-1101. Variances.

The City may grant reasonable variances from the design and improvement standards of these Regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these Regulations or justifying submission of an incomplete application. The City may not approve a variance that would permit structures within the floodway of the 100-year floodplain, as defined in BMCC 23-201.

- A. **Requesting a Variance.** The subdivider shall include with the submission of the variance request, a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, for which a fee shall be required. Information addressing each of the following findings shall accompany the application. The Planning Director or designee shall review the submitted findings and make a recommendation to the City on whether the request satisfies the following findings:
 - 1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 - 2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
 - 3. The variance will not result in an increase in taxpayer burden;
 - 4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and
 - 5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
- B. In granting variances, the City may require conditions of approval that will, in their

judgment, secure the objectives of these Regulations.

- C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

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

- A. Corrections to recorded final plats shall be processed as exempt plats pursuant to the requirements, provided that there is evidence of at least one of the following:
1. There is a discrepancy in the map.
 2. Material evidence is provided that does not appear on any map filed by the Yellowstone County Clerk and Recorder.
 3. There is evidence that suggests alternate locations of lines or points.
 4. The recorded plat does not positively show the location, size of lots or blocks, or the location or width of any street or alley.
- B. Corrections to a recorded Subdivision Improvements Agreement (SIA) or other supporting document of the final plat to which the City Council is party, may be submitted provided that they do not significantly alter the original approval. Requests to alter a recorded SIA or supporting document shall follow these procedures:
1. A written request to amend the recorded document shall be submitted to the Planning Department.
 2. The request will be circulated for review by the agencies affected by the proposed amendment. The Planning Department will, in consultation with the affected agencies, submit a recommendation to the City Council.
 3. A public hearing may be required based on the information received by the reviewing agencies. Notice of the public hearing shall be given in accordance with these Regulations.
 4. The City Council may approve the request if it does not significantly alter the original approval and does not conflict with the review criteria set forth in these Regulations.
- C. Any plat prepared and recorded in accordance with these Regulations may be vacated, either in whole or in part in consultation with 76-25-411, MCA.
1. If the vacation affects five (5) or fewer lots it shall be processed as an exempt plat pursuant to the requirements.
 2. If the vacation affects twelve (12) or more lots it shall be reviewed as an amended plat pursuant to Section 23-300 of these Regulations.

Section 23-1105. Schedule of Fees.

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

APPENDIX A Evasion Criteria

City of Billings Evasion Criteria

A. Purpose.

The State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the development is an attempt to evade the Montana Land Use and Planning Act (76-25-402 MCA).

The following procedures, criteria and requirements shall be used to review an exemption from subdivision review and to determine whether the division of land is for the purpose of evading the Montana Land Use Planning Act (MLUPA).

B. Procedures and General Requirements.

1. Any person seeking exemption from the requirements of MLUPA shall submit to the Planning Director or designee (1) a certificate of survey, exempt amended plat, or where a survey is not required an instrument of conveyance, (2) evidence of, and a notarized statement affirming, entitlement to the claimed exemption signed by the landowner, and (3) all documents identified in Exhibit 3 “Exempt Plat Submittal Requirements.”
2. When a certificate of survey, exempt amended plat, or instrument of conveyance is submitted to the Planning Department, the Planning Department shall cause the documents to be examined by the designated agents of the governing body: (the City Works Department, City Attorney, Treasurer, and Clerk and Recorder). The agents shall examine the proposed land division to determine whether it complies with the requirements set forth in these regulations, the Montana Land Use Planning Act and the Montana Sanitation in Subdivisions Act (76-4-101, et seq., MCA).
3. After the review to evaluate compliance with the requirements contained in this section, the agents shall submit written comments as to whether the use of the exemption is intended to evade the purposes of the Act, after which a written recommendation will be presented to the governing body for its review.
4. If the designated agents find that the proposed use of the exemption complies with the statutes and these criteria, they shall recommend to the Clerk and Recorder to file the certificate of survey, exempt amended plat, or record the instrument of conveyance and accompanying documents. If the agents find that the proposed use of the exemption does not comply with the statutes and these criteria, they shall advise the Clerk and Recorder of their determination and recommend whether or not to file or record the documents, and upon his/her concurrence, the Clerk shall return the materials to the landowner with an explanation as to why the recordation was declined.

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5. Any person whose proposed use of an exemption has been denied by the designated agents may appeal the agents' decision to the governing body. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the Act.

If the governing body concludes that the information provided by the developer overcomes the recommendation by staff that the exemption is being used to evade the Act, they may authorize the use of the exemption in writing. A certificate of survey claiming such an exemption from subdivision review, which otherwise is in proper form, may be filed (or an exempt amended plat or an instrument of conveyance recorded) if the governing body has signed a certificate of an exemption as provided in these regulations.

6. Landowners or their representatives are encouraged to meet with the governing body's designated agents to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.

The agents may issue an advisory opinion only, and the opinion does not constitute a commitment by the local officials when the documents creating the proposed land division are submitted to the Clerk and Recorder.

7. The governing body and its agents, when determining whether an exemption is claimed for the purpose of evading MLUPA, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: (1) the nature of the use of the parcel, (2) the prior history of uses of the particular tract in question, (3) the proposed configuration of the tracts if the proposed exempt transaction is completed, and (4) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review (State ex rel. Dreher v. Fuller, 50 St. Rptr. 454, 1993).
8. Exempt divisions of land that would result in a pattern of development equivalent to a subdivision shall be presumed to be adopted for purposes of evading the Act. A "pattern of development" occurs whenever three (3) or more parcels of less than 160 acres each with common covenants or facilities pertaining to each parcel have been divided from the original tract.
9. If the use of an exemption is determined to be an evasion of MLUPA, the landowner may submit a subdivision application for the proposed land division.

C. Exemption as a Gift or Sale to a Member of the Immediate Family (76-25-402 MCA)

1. Statement of Intent: The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

APPENDIX A
Evasion Criteria

2. "Immediate family" is defined as the spouse, children by blood or adoption, or parents of the grantor (76-25-402 MCA)
3. Any certificate of survey filed that would use this exemption to create a parcel for conveyance to a family member must clearly identify the name of the grantee, the grantee's relationship to the landowner, and the parcel to be conveyed under this exemption, and be accompanied by, or contain, the landowner's written certification of compliance. The certificate of survey or other instrument must also cite the exemption claimed and include the proper language. Also, the certificate of survey or instrument of conveyance shall be accompanied by a deed or other conveying document.
4. One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review. However, the use of the exemption may not result in more than one remaining parcel of less than 160 acres.
5. Any proposed use of the family conveyance exemption to divide a tract that was previously created through use of an exemption shall be presumed to be an evasion of the Act if it creates a pattern of development consistent with an overall plan with characteristics such as common roads, utility easements, restrictive covenants, open space or common marketing. This presumption will not be rebutted by previous ownership of the tracts, and pertains to remaining tracts of less than 160 acres as well as to those tracts that were previously created through the use of one or more of the exemptions.
6. The use of the family conveyance exemption to divide tracts that were created with the subdivision process are allowed as long as they can also meet the requirements of zoning.
7. An immediate family member or the spouse of an immediate family member who receives a division of land as part of a gift or sale may not transfer or otherwise convey the division of land for a period of up to 2 years after the date of the division. The governing body may authorize variances from these requirements to address hardship situations.

D. Exemption to Provide Security for a Construction Mortgage, Lien or Trust Indenture (76-25-402 MCA)

1. Statement of Intent: Under policies of many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a landowner who is buying a tract using financing or a contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.
2. When claiming this exemption, the landowner shall submit the following documents to the City-County Planning Department:

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Evasion Criteria

- a. A signed statement from both the landowner and the lending institution that the creation of the exempted parcel is necessary for the owner to secure construction financing through a construction mortgage, lien or trust indenture on the exempted parcel.
 - b. Any certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the exemption claimed, and include the language provided in Section H. of this Chapter.
3. The use of this exemption is presumed to have been adopted for the purpose of evading MLUPA if:
- a. It will create a site for more than one dwelling unit;
 - b. The loan is for someone other than the owner of record or the recorded contract purchaser of the parcel to be divided.
 - c. It will create a pattern of development which is equivalent to a subdivision with characteristics such as common roads, sewer, water, utility easements, restrictive covenants, open space or a common marketing or promotional plan.

E. Exemption for Agricultural Purposes (76-25-402 MCA)

1. Statement of Intent: The intention of this exemption is to allow a landowner to create a parcel without local review where the parcel will be used only for production of livestock or agricultural crops and where no residential, commercial, or industrial buildings will be built.
2. "Agricultural Purpose," for purposes of these evasion criteria, means the use of land for raising crops or livestock, or for the preservation of open space, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the Montana Department of Environmental Quality (MDEQ), provided the applicable exemption is properly invoked by the property owner.
3. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purposes of evading MLUPA.
 - a. The parties to the transaction by gift, sale, or agreement, must enter into a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by the property owner, the buyer or lessee and the governing body. An example of a covenant is provided in Section H. of

this Chapter.

- b. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings will be built (e.g., a statement signed by the buyer).
- c. Any change in use of the land for anything other than agricultural purposes subjects the parcel to full review as a subdivision.
- d. Residential, commercial and industrial structures, including facilities for commercial processing of agricultural products are excluded uses on parcels created under this exemption unless the covenant is revoked and the land division is reviewed under (76-25-402 MCA).
- e. A certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the exemption claimed, and include the language provided in Section H. of this Chapter.

F. Relocation of Common Boundary (76-25-402 MCA)

1. Statement of Intent: The intended purpose of this exemption is to allow a change in the location of a boundary line between two parcels and to allow a one-time transfer of a tract to affect that change in location without subdivision review.
2. If the relocation of a common boundary would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision. If a temporary tract is created, language shall be added to indicate that the temporary tract is merged forever with the adjacent tract.
3. Within a platted subdivision, a division of lots that redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the County Clerk and Recorder in accordance with Section 306 of these Regulations.
4. Certificates of survey or amended plats claiming this exemption must be clearly distinguished between the existing boundary location and the new boundary. This shall be accomplished by representing the existing boundary with a dashed line and the new boundary with a solid line. The appropriate certification must be included on the certificate of survey as provided in Section H. of this Chapter.

G. Remainder Parcels.

Statement of Intent: Any part of an original tract of record, less than 160 acres that is left following the segregation of other parcels from the tract for the purpose of transfer shall be reviewed as part of the subdivision.

APPENDIX A
Evasion Criteria

H. Certification.

1. **Exemption Certificates.** The following represents examples of certificates to be used on certificates of surveys for the following types of exemptions: relocation of common boundaries, land gift or sale to family member, agricultural exemption, and security for constructions.

CERTIFICATE OF EXEMPTION
(RELOCATION OF COMMON BOUNDARY)

I (We) certify that the purpose of this survey is to relocate common boundaries between adjoining properties. Therefore, this survey is exempt from review as subdivision pursuant to Section 76-25-402 (1)(m)(MCA.

DATED THIS _____ day of _____, 20

(Signature) _____
Property
Owner(s)

CERTIFICATE OF EXEMPTION
(FAMILY GIFT OR SALE)

I (We) certify that the purpose of this survey is to create Tract # _____ for transfer of ownership as a family gift or sale and that no prior family sale has been conveyed to ((name), our(my) (relationship) and that this exemption complies with all conditions imposed on its use. Therefore this survey is exempt from review as a subdivision pursuant to Section 76-25-402(n) MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property
Owner(s)

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CERTIFICATE OF EXEMPTION
(FOR AGRICULTURAL PURPOSES)

I (We) certify that the purpose of this survey is to create Tract # _____, as shown on this certificate of survey, for gift or sale, which is to be used for agricultural purposes only, and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-25-402(f) MCA and the City of Billings Subdivision Regulations.

I also hereby enter a covenant, to run with the land, that Tract _____ as shown hereon, will be used exclusively for agricultural purposes only. No building or structure requiring water or sewer facilities shall be utilized on Tract _____. This covenant is revocable only by the mutual consent of the governing body and the property owner.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property Owner(s)

CERTIFICATE OF EXEMPTION
(SECURITY FOR CONSTRUCTION)

I certify that the purpose of this survey is to create a parcel of land to provide security for construction or loan purposes and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-25-402(1)(b)MCA and from review by the Montana Department of Environmental Quality (16.16.605(1)(b)).

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property Owner(s)

APPENDIX A
Evasion Criteria

2. **Governing Body Certification.** If the exemption is approved after appeal to the Governing Body, the Governing Body shall so certify in a printed certificate on the Certificate of Survey.

I, Mayor of the City of Billings, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the MLUPA, Section 76-25-402, et. seq., MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Mayor, City of Billings

Attest: *(Signature)* _____

APPENDIX B
Flood Hazard Evaluation

- A. Definitions. (Sec. 76-5-103, MCA) Whenever the following words and phrases are used in this Appendix, they shall be given the meaning attributed to them by this section.
1. Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
 2. Flood Fringe: the identified portion of the floodplain outside of the floodway.
 3. Flood of 100-year Frequency: A flood magnitude expecting to recur on the average of once every 100 years or a flood magnitude that has a 1% chance of occurring in any given year.
 4. Floodplain: The area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency, except for sheet flood areas that receive less than 1 foot of water per occurrence and are considered "shaded X zone" by the federal emergency management agency.
- B. Floodway: The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainway.
1. Land located within the floodway of a flood of 100-year frequency as defined by Title 76, chapter 5, MCA, may not be subdivided for building purposes, or other uses that may be prohibited by state or local floodplain regulations.
 2. Where the 100-year floodway has been delineated by a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), or a City- or County-approved study on land in a subdivision, the 100-year floodway boundary and 100-year floodplain boundary shall be shown on the plat of the subdivision and the area within the 100-year floodway shall be labeled as a "No-Build Zone."
 3. Any development of land that is in the flood fringe, a Zone A as shown on a FIRM, or an identified flood prone area is subject to the requirements of the City of Billings Floodplain Regulations.

**APPENDIX B
Flood Hazard Evaluation**

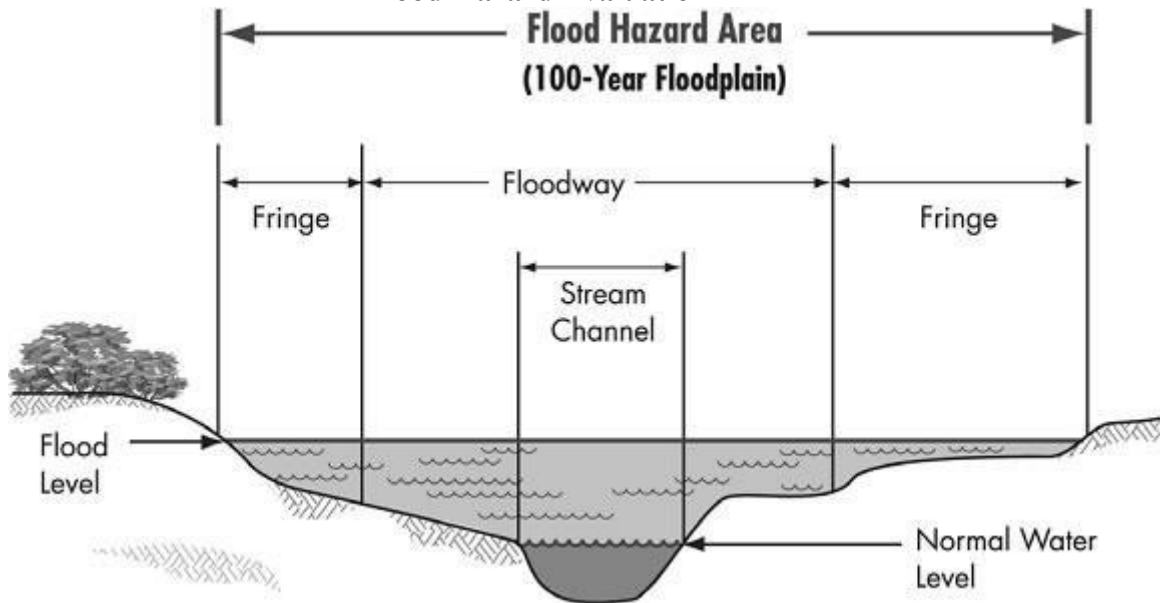


Figure 1. 100-Year Floodplain Cross-Section Diagram

APPENDIX C
Final Plat Certification

I, Mayor of the City of Billings, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Montana Land Use Planning Act, Section 76-25-410, et. seq., MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Mayor, City of Billings

Attest: (Signature) _____

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinance, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on the first reading this 11th day of May, 2026.

PASSED, ADOPTED and APPROVED on second reading this 26th day of May, 2026.

CITY OF BILLINGS

By _____
Mike Nelson, Mayor

Attest:

BY: _____
Denise R. Bohman, City Clerk