

CITY OF THOMPSON FALLS SUBDIVISION REGULATIONS

*Ordinance 349
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Chapter I GENERAL PROVISIONS

I-A. TITLE

These regulations shall be known and cited as the "City of Thompson Falls Subdivision Regulations," hereinafter referred to as "these regulations."

I-B. AUTHORITY

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).

I-C. EFFECTIVE DATE, APPLICABILITY

These regulations take effect on March 8, 2021. Thereafter, they apply to all new subdivision proposals and subdivision exemption requests.

Pursuant to 76-3-604(9), MCA, subdivision review and approval, conditional approval, or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat are deemed to contain sufficient information for review. If regulations change during the element or sufficiency review (See Section II-E), the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.

A final plat whose preliminary plat was approved under the previous regulations will be reviewed under the regulations in effect at the time of preliminary plat approval.

A subdivision exemption request is considered new if it has not yet been submitted to the Exemption Review Board. A subdivision exemption request shall be considered under the regulations in effect at the time of submission to the Exemption Review Board.

The materials included in the appendices are current as of the date of subdivision regulation adoption. The administrative forms may be modified by the Thompson Falls City Planning Department over time. Other lists, documents and Administrative Rules of Montana may be modified by others.

I-D. PURPOSE

Consistent with 76-3-102, MCA, the general purpose of these regulations is to:

1. Promote the public health, safety, and general welfare by regulating the subdivision of land;

2. Prevent the overcrowding of land;
3. Lessen the congestion on the streets and highways;
4. Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;
5. Require development in harmony with the natural environment;
6. Promote preservation of open space;
7. Promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
8. Protect the rights of property owners; and
9. Require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey.

Consistent with 76-1-606 and 76-3-501, MCA, these regulations are also intended to reasonably provide for:

1. The implementation of the applicable goals and objectives of the City of Thompson Falls Growth Policy;
2. The orderly development of the City's jurisdictional area;
3. The coordination of streets within subdivided land with other streets, both existing and planned;
4. The dedication of land for roadways and for public utility easements;
5. The improvement of streets;
6. The provision of adequate open spaces for travel, light, air, and recreation;
7. The provision of adequate transportation, water, and drainage;
8. Subject to the provisions of 76-3-511, MCA, the regulation of sanitary facilities;
9. The avoidance or minimization of congestion;
10. The avoidance of subdivisions which would involve unnecessary environmental degradation;
11. The avoidance of danger or injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services;

12. The avoidance of an excessive expenditure of public funds for the supply of public services;
13. The protection and enhancement of the resources of the City of Thompson Falls;
14. The provision for physical and legal access;
15. The manner and form of making and filing of any plat for subdivided lands; and
16. The administration of these regulations by defining the powers and duties of approving authorities, including procedures for the review and approval of all plats of subdivisions covered by these provisions.
17. Provide for phased developments.

I-E. JURISDICTION

These regulations govern the subdivision of land and review of exemptions from subdivision regulations within the jurisdictional area of the City Council of the City of Thompson Falls.

These regulations supplement all other regulations. Where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply. Other regulations include, but are not limited to, the City's ordinances addressing the regulation of floodplains, buildings for lease or rent regulations, building codes and fire codes.

I-F. ROLES OF THE CITY PLANNING BOARD AND CITY PLANNER

1. Pursuant to 76-1-106 and 107, MCA, the City Long Range Planning Committee (known as the "planning board" from herein) serves in an advisory capacity to the City Council. Its duties include advising the City Council on all matters pertaining to the approval or disapproval of plats or subdivisions.
2. Pursuant to 76-1-306, MCA, the City of Thompson Falls Program Administrators (known as the "planner" from herein) performs ministerial acts on behalf of the City Council, such as providing technical assistance, to the planning board and the Council on subdivision matters. The Program Administrators are an agent of the City Council and shall work for the City Council in cooperation with the Planning Board.
3. In the event there is a lack of a quorum that prevents the planning board from making a recommendation on a subdivision or subdivision-related proposal, the City Council may nonetheless review and act on the proposal.

I-G. SEVERABILITY

Where any word, phrase, clause, sentence, paragraph, section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

I-H. CONSTRUCTION TIMING

The subdivider should not proceed with any construction work on the proposed subdivision, including grading and excavation related to public improvements, until the City Council has issued preliminary plat approval of the proposed subdivision. Any construction activity begun prior to preliminary plat approval is at the subdivider's own risk, including the risk that the work will have to be redone or removed. In addition, 76-4-121, MCA, regulates subdivision activities.

I-I. PERMISSION TO ENTER

The City Council or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as deemed necessary to verify information supplied as a requirement of these regulations. The submission of pre-application materials shall constitute a grant of permission to enter the subject property. However, landowners or their representatives will be notified in advance of any City-sponsored field inspection, and inspections will be carried out at a reasonable time. This consent applies to members of the public attending a noticed public meeting for a site visit.

I-J. NOTIFICATION OF COMPLIANCE CHECKING

After a subdivision is granted preliminary plat approval, the City Council or its designated agent(s) or agency may conduct periodic field inspections to verify that the conditions of subdivision approval are being met. Again, landowners or their representatives will be notified in advance of any such field inspections, and inspections will be carried out at a reasonable time.

A written and signed complaint submitted to the planning board or City Council by a concerned citizen is sufficient basis to prompt a compliance check.

Where a situation of non-compliance is confirmed, the appropriate landowner(s) will be notified. The City Council may confer with the planning board prior to deciding whether or not to refer the situation to the City Attorney for enforcement action, as described in Section V.E.

I-K. DEFINITIONS

Whenever the following words or phrases appear in this text, they shall have the meaning assigned to them by this section. When not consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

ACCESS	<ul style="list-style-type: none">a. Emergency (or Secondary) Access means an ingress or egress route available to emergency service and other vehicles during an emergency situation.b. Legal Access means the subdivision abuts street right-of-way or easement that provides public access to the lot.c. Physical Access means a street which conforms to City design standards and provides vehicular access to the subdivision.
ACCESSORY USE	A land use which is clearly secondary and incidental to the primary land use.
ADJOINING PROPERTY OWNERS	Each owner of record, and each purchaser under contract for deed of property immediately adjacent to the land being proposed for subdivision.
AGGRIEVED PERSON	A person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by a subdivision decision of the City Council.
AGRICULTURAL WATER USER FACILITY	Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.
AGRICULTURE	The practice of cultivating the ground, raising crops, and/or rearing animals.
ALIQUEOT PART	A portion of a United States government lot or section of land. For example, quarter sections are called 1/4 aliquot parts, meaning four (4) equal parts.
ALLEY	(See Street Types)
AMENDED PLAT	(See Plat)
ANNEXATION	The process by which the City Council of Thompson expands the boundaries of the City into adjacent areas not already incorporated into the City.

SUBDIVIDER	A person, or a person's agent, who submits a subdivision application under these regulations.
AQUIFER	A layer of rock which holds water and allows water to percolate through it.
ARTERIAL	(See Street Types)
AUTHORIZED AGENT	Program Administrators, their designee, or other person designated by the Thompson City Council.
BIG GAME WINTER RANGE	Habitat which supports the larger hunted animals (e.g., deer, elk, and moose) during the winter months.
BLOCK	A group of lots, tracts or parcels within well-defined fixed boundaries.
BUFFER AREA OR ZONE	A landscaped area or area of natural vegetation which is intended to separate uses, partially obstruct the view between uses, and/or serve as an attractive boundary.
BUILDING	A structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of persons, animals, or moveable property.
BUILDING ENVELOPE	On a lot, a specified area within which any and all building construction will occur.
CASH DONATION	The fair market value of the unsubdivided, unimproved land (refers to parkland dedication).
CASH-IN-LIEU	A cash payment which is made by the subdivider and which equals the assessed value of the land that would otherwise have been dedicated for park purposes.
CERTIFICATE OF SURVEY (COS)	A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations. A COS may be <u>filed</u> as a legal document to describe land divisions which are exempt from the subdivision review process.
CLUSTERED DEVELOPMENT, OR CLUSTERING	Grouping houses on part of a property while maintaining a large amount of open space on the remaining land.
COLLECTOR	(See Street Types)
COMMERCIAL	Enterprises involving wholesale trade, retail trade, professional services, and/or personal services, whether leased or owned.
CONDOMINIUM	A form of individual ownership with unrestricted right of conveyance of one or more units in a multiple-unit project, with the land and all other parts of the project held in common ownership or use with owners of all units. Pursuant to 70-23-102 (5), MCA, Condominium means the

ownership of single units with common elements located on property submitted to the provisions of the Unit Ownership Act (Title 70, Chapter 23, MCA). This term does not mean Cityhome or Cityhouse.

CONSERVATION
EASEMENT

(See Easement)

CONSTRUCTION
SETBACK

The minimum distance that structures may be located from lot lines, street right-of-ways, rivers, and riparian areas.

CORNER

Unless otherwise qualified, this means a property corner or a property controlling corner or a public land survey corner or any combination of these.

- a. Property corner is a geographic point on the surface of the earth and is on, a part of, and controls a property line.
- b. Property controlling corner for a property is a public land survey corner or any property corner which does not lie on a property line of the property in question but which controls the location of one or more of the property corners of the property in question.
- c. Public land survey corner is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.

CORNER LOT

(See Lot Types)

COVENANT

A limitation contained in a deed or other document that restricts or regulates the use of the real property.

- a. Property owners' association covenants.

Those covenants created in conjunction with a property owners' association. Such covenants outline the powers and duties of the association, including maintenance and repair of common areas, enforcement of use and building design restrictions, and establishment and collection of assessments.

CUL-DE-SAC

(See Street Types)

CUT AND FILL

The excavating of material in one place and depositing of it as fill in an adjacent place.

DEAD-END
STREET

(See Street Types)

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.
DENSITY	The number of buildings or housing units on a particular area of land.
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 or possession of 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.
DRAINAGE	A general term applied to the removal of surface or subsurface water from a given area, either by gravity or by pumping.
DRAINAGE RETENTION STRUCTURE	A structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.
DRAINAGE SYSTEM	The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and manufactured elements including culverts, ditches, channels, retention facilities, and storm sewers.
DRAINFIELD	Also called leach fields or leach drains, are subsurface wastewater disposal facilities used to remove contaminants and impurities from the liquid that emerges after anaerobic digestion in a <u>septic tank</u> .
DRIVEWAY	A vehicular access way that typically services only one residence, but may serve two.
DWELLING	A building or portion thereof used exclusively for residential occupancy.
DWELLING UNIT	One or more rooms for ownership, lease or rent designed, occupied or intended for occupancy by one family and physically independent of any other room or group of rooms or dwelling units which may be in the same structure.
EASEMENT	<p>A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the person who holds title to the land.</p> <p>a. Conservation easement is a voluntary restriction of land use, particularly with respect to residential development. A landowner</p>

may sell or donate a conservation easement to a public or private land trust.

EMERGENCY ACCESS	(See Access)
EMERGENCY SERVICES	Community services such as fire protection, law enforcement, ambulance service, quick response, search and rescue, flood and disaster relief. Emergency services are generally provided by local governments or private, nonprofit organizations.
EROSION	The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as water, wind, ice, and gravity.
EXAMINING LAND SURVEYOR	A registered land surveyor appointed by the City Council to review surveys and plats submitted for filing.
EXEMPTION REVIEW BOARD	A board which acts under the Montana Subdivision and Platting Act to approve, conditionally approve, or deny subdivision exemption requests. For the City of Thompson Falls, the Exemption Review Board is composed of the Public Works Director, City Clerk, and City Planning Board or their designated alternates.
FINAL PLAT	(See Plat)
FINAL PLAT APPLICATION	The additional information and materials to accompany the final plat that include forms and review fee, in order for the plat to be reviewed by the planner and the City Council.
FINDING OF FACT	A written conclusion or determination based on evidence made in support of a decision.
FIRE PREVENTION SPECIALIST	Individual or consultant qualified, trained and paid to inspect proposed subdivisions and make recommendations on fire protection measures.
FIRST MINOR SUBDIVISION	(See Subdivision)
FISH HABITAT	The aquatic environment and the immediately surrounding terrestrial environment that, combined, are required by fish species during various life history stages.
FLAG LOT	(See Lot Types)
FLOOD PRONE AREA	Area having potential to be located in 100 year floodplain as designated on (USGS) maps dated March 10, 1997 or adopted floodplain maps.
FLOOD PLAIN	Generally, the channel of a river or stream and the area adjoining a river or stream, which would be covered by floodwater of a base flood except for designated shallow flooding areas that receive less than one foot of

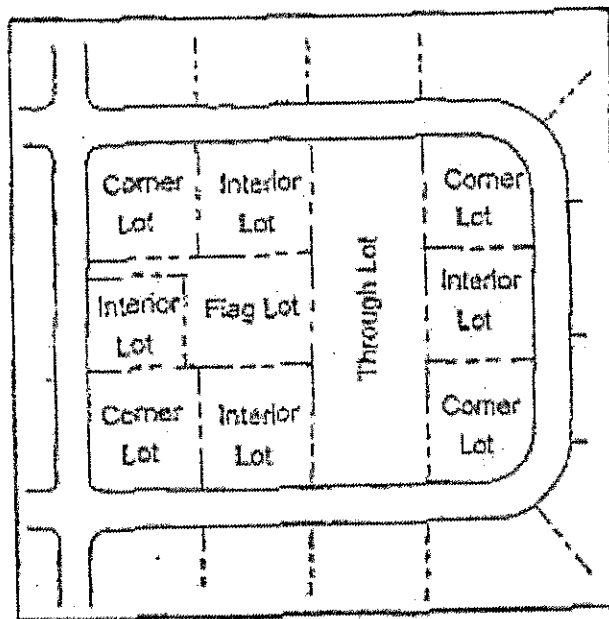
	water per occurrence. The flood plain consists of a floodway and a floodway fringe. <i>See also 76-5-103, MCA.</i>
FRONTAGE or SERVICE ROAD	(See Street Types)
GATED COMMUNITY	A development that uses a gate, manned entryway, or other device to limit public access.
GEOGRAPHIC INFORMATION SYSTEM (GIS)	A method of computer mapping that enables layers of land-related information (e.g., soils, roads, waterways, buildings) to be illustrated and analyzed in various combinations. GIS maps and databases may be used to predict future conditions under different hypothetical scenarios. <i>See also 90-1-403 MCA.</i>
GRADE	The slope of a street or other public way specified in percentage terms.
GROUNDWATER	(See High Water Table)
GROWTH POLICY	Comprehensive plan or master plan as described in 76-1-103(4), MCA) - A publicly prepared plan which describes current and future conditions of the City, outlines goals and objectives for land use and other features of community life, and recommends implementation measures designed to help achieve the goals.
HALF STREET	(See Street Types)
HAZARD	Any condition, either natural or man-made, which presents danger to the public health, safety, and welfare.
HIGH FIRE HAZARD AREA	An area which is located within the wildland residential interface and which due to fire history, vegetation type and density, fuel types and loadings, topography, aspect, and other physical characteristics is more likely than not to experience a wildland fire event.
HIGH WATER TABLE (or GROUNDWATER)	This term is used to describe the vertical distance from the natural ground surface to the upper surface of groundwater (as observed in an unlined hole during the time of year when the groundwater is the highest), when that vertical distance is less than the minimum required by state and local sanitation authorities.
HISTORIC RESOURCES	Various long-established sites and structures which provide a link to the past and may be considered important to preserve. Examples of historic resources include archaeological sites, mining districts, old trails, roads and bridges, irrigation ditches, original farmsteads, homes, schools, churches, and Forest Service guard stations.
HOME-BASED BUSINESS	Commercial activity which takes place in a portion of the home or outbuilding, and which does not generate significant traffic or otherwise significantly impact the neighborhood.

HOMEOWNERS (or PROPERTY OWNERS) ASSOCIATION	A private, nonprofit corporation of homeowners or property owners, established according to state law for the purpose of owning, operating, and maintaining various common properties.
HYDROLOGY	The properties of water, including circulation and distribution, on and below the ground.
IMMEDIATE FAMILY	A spouse, children by blood or adoption, and parents.
INDUSTRIAL	Industrial enterprises involve construction, manufacturing, and/or the extraction of raw materials.
INFRASTRUCTURE	The set of interconnected structural elements that provide a framework supporting an entire structure of development. Facilities such as sewer and water system, roads and bridges, water supply, sewers, electrical grids, telecommunications, and buildings.
INTERIOR LOT	(See Lot Types)
IRREGULARLY SHAPED TRACT OF LAND	A parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
LANDOWNERS	Owners of record and purchasers under contract for deed.
LEGAL ACCESS	(See Access)
LOCAL FIRE AUTHORITY	Thompson Volunteer Fire Department.
LOCAL STREET	(See Street Types)
LOCAL SERVICES	Any and all services and facilities that local government entities are authorized to provide.
LOCATION MAP	A small map showing the location of a tract of land in relation to a larger land area.
LOOP STREET	(See Street Types)
LOT	A parcel, plot or other land area created by subdivision for sale, lease or rent.
LOT MEASUREMENTS	<p>a. Lot Depth - The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.</p> <p>b. Lot Width - The width of the lot measured by averaging its two narrow dimensions.</p>

- c. Lot Frontage - The width of the front lot line.
- d. Lot Area - The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

LOT TYPES

- a. Corner Lot - A lot located at the intersection of two roads
- b. Flag Lot - A lot with access provided by a corridor from the road to the bulk of the lot.
- c. Interior Lot - A lot with frontage on only one road.
- d. Through Lot - A lot with frontage on two nonintersecting roads.



LOW-INCOME HOUSING

Residential dwelling for families whose combined income does not exceed 80 percent of the median family income for the area.

MAJOR SUBDIVISION

(See Subdivision)

MANUFACTURED HOME

(from 15-I-101, MCA): A residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

MINIMUM RADIUS AT EDGE OF INTERSECTION	The back of curb radius at an intersection. In areas with little or no curbing, this dimension refers to the minimum radius allowed for the intersection of the road edges.
MINIMUM STOPPING SIGHT DISTANCE	The length of roadway required for the majority of drivers to safely stop and avoid a collision with an object in the roadway.
MINOR SUBDIVISION	(See Subdivision)
MOBILE HOME	<i>(from 15-1-101-MCA)</i> : Forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.
MOBILE HOME LOT	A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.
MOBILE HOME PARK	A tract of land providing two (2) or more mobile home lots for lease or rent to the general public.
MOBILE HOME STAND	That area of a mobile home lot which has been prepared for the placement of a mobile home.
MODULAR OR FACTORY BUILT BUILDING	A factory assembled structure or structures equipped with the necessary service connections but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation. "Factory-built building" does not include manufactured housing constructed after June 15, 1976 under the HUD National Mobile Home Construction and Safety Act of 1974(50-60-101 MCA).
MONTANA CODE ANNOTATED (MCA)	Montana statutes.
MONUMENT (PERMANENT MONUMENT)	Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument of a survey point, expressly placed for surveying reference.
MUNICIPALITY	City of Thompson Falls.
NATURAL ENVIRONMENT	The physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic considerations.
NATURAL RESOURCES	The natural resources of the state and City include land, soils, natural wild and scenic areas, timber and forests, minerals, farm and grazing

	lands, ground water and surface water, fish and wildlife, and biotic communities.
NO BUILD ZONE	An area in which no building or structure may be constructed or otherwise placed.
NOXIOUS WEED	Any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated by administrative rule of the Montana Department of Agriculture or by a weed management district, pursuant to 7-22-2101, MCA.
OPEN SPACE LAND	<p>Land which is provided or preserved for:</p> <ul style="list-style-type: none"> a. park or recreational purposes; b. conservation of land or other natural resources; c. historic or scenic purposes; or d. assisting in the shaping of the character, direction, and timing of community development. <p>Land designated as open space may not be subdivided.</p>
ORDINARY HIGH-WATER MARK	The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to, deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water marks.
OVERALL DEVELOPMENT PLAN (ODP)	A plan showing the future development potential of areas which are contained within a single tract, and where possible, adjoining tracts held under the same ownership, but not included in a subdivision proposal.
PATTERN OF DEVELOPMENT	<p>(from 76-1-605): after adoption of a growth policy, the City Council within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:</p> <ul style="list-style-type: none"> (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities; (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; (c) adoption of zoning ordinances or resolutions.

PERFORMANCE GUARANTEE	A written instrument guaranteeing the construction and installation of all required development improvements after the final plat has been filed with the county clerk and recorder.
PHASED DEVELOPMENT	A subdivision application and preliminary plat that at the time of submission consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.
PHYSICAL ACCESS	(See Access)
LONG RANGE PLANNING COMMITTEE	The Thompson Falls City Planning Board, created pursuant to Title 76, Chapter 1, MCA.
PLANNED UNIT DEVELOPMENT	A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.
PLAT	<p>A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.</p> <ol style="list-style-type: none"> 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 furnish a basis for review by a City Council. Final Plat - The final drawing of the subdivision and dedication required to be prepared for filing for record with the County Clerk and Recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA). Vacated Plat - A plat which has been removed from the county record under the provisions of Title 76, Chapter 3, MCA. Amended Plat - The final drawing of any change to a platted subdivision required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).
PLAT APPROVAL COVENANTS	(See Covenant)

PRELIMINARY PLAT	(See Plat)
PRESCRIPTIVE EASEMENT	A right to use another's property which is not inconsistent with the owner's rights and which is acquired by a use, open and notorious, adverse and continuous for the statutory period. To a certain extent, it resembles title by adverse possession but differs to the extent that the adverse user acquires only an easement and not title. To create an easement by "prescription," the use must have been open, continuous, exclusive, and under claim of right for statutory period.
PRIVATE PROPERTY RIGHTS	This term applies both to the private landowner(s) proposing a subdivision and to the private landowners who show that they would be affected by a proposed subdivision, and encompasses only those rights as defined by state and federal statutes and case law.
PROGRAM ADMINISTRATORS	The Thompson Mayor & Public Works Director.
PROPERTY OWNERS ASSOCIATION COVENANTS	(See Covenant)
PUBLIC HEALTH AND SAFETY	A condition of optimal well-being, free from danger, risk, or injury for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons.
PUBLIC IMPROVEMENT	Any structure or facility constructed to serve the residents of a subdivision or the general public, such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities, and systems for public water supply, public sewage disposal, and drainage.
PUBLIC STREET	(See Street Types)
PUBLIC SERVICES	Services and facilities provided to the general community by government or quasi-public entities. Examples include: roads and bridges, emergency services, schools and libraries, sewer and water systems, and solid waste disposal.
RECREATIONAL VEHICLE PARK	A place used for public camping where persons can rent or barter space to park individual camping trailers, pick-up campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
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.
REGISTERED (or LICENSED) PROFESSIONAL ENGINEER	A Professional Engineer registered by the Montana State licensing board for engineers. A subdivider for licensing must pass an appropriate written examination and show evidence of substantial professional education and experience. In problems involving geologic

	hazards, the engineer must have broad experience and education in geological engineering and engineering geology.
REGISTERED LAND SURVEYOR	A person licensed in conformance with Title 37, Chapter 67, MCA to practice surveying in the State of Montana.
RESIDENTIAL DEVELOPMENT	A development that includes at least one dwelling unit, including single-family dwellings, two-family dwellings, multiple-family dwellings, fractional fee club units, timeshare units, and condominium units.
RESIDENTIAL UNIT	<ul style="list-style-type: none"> a. a detached dwelling, semi-detached dwelling, or condominium unit; b. a suite or room in a hotel, a motel, an inn, a boarding house or a lodging house or that part thereof that <ul style="list-style-type: none"> (1) is occupied by individual(s) as a place of residence or lodging; or (2) is leased as a place of residence or lodging for individual(s); or (3) is vacant, but was last occupied or supplied as a place of residence or lodging for individual(s); or (4) has never been used or occupied for any purpose, but is intended to be used as a place of residence or lodging for individual(s).
RIGHT-OF-WAY	A strip of land dedicated or acquired for use as a public way.
RIGHT-TO-FARM LAW	A Montana state law which excludes standard agricultural practices from being considered "nuisances" (27-30-101, MCA).
RIPARIAN AREAS	The banks and adjacent areas of water bodies, watercourses, seeps and springs whose waters provide a moister habitat than that of adjacent uplands. Riparian areas integrate the interactions of virtually all the physical, vegetative, and biologic components of a watershed.
RUNOFF	Precipitation that flows off the land without filtering into the soil or being absorbed by plant material.
RURAL SCHOOL DISTRICT	A school district in which a majority of the pupils in the district reside outside the limits of any incorporated city.
SECONDARY ACCESS	(See Access)
SEDIMENT	Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.
SEPTIC	Denoting a drainage system incorporating a septic tank.

SETBACK	The distance which a building or other structure is set back from a street or road, a river or other stream, a shore or flood plain, or any other place which is deemed to need protection.
SITE PLAN	Development plan for a proposed subdivision created by rent, lease, or other conveyance.
SLOPE	The inclination of the surface of the land from the horizontal, prior to development.
SPECIES OF SPECIAL CONCERN	Types of wildlife and vegetation which are considered by the Montana Natural History Program and U.S. Fish and Wildlife Service to be threatened, endangered, or otherwise vulnerable to decline.
STATE	The State of Montana.
STREET TYPES	<p>For purposes of these regulations, street types are defined as follows ("road" and "street" may be used interchangeably):</p> <ul style="list-style-type: none"> a. Alley - A road used primarily for vehicular access to the rear of properties which abut on and are served by public roads. b. Arterial - A road having the primary function of moving traffic and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two (2) to four (4) lanes of moving traffic and should provide only limited access to abutting property. c. Collector - A road having the equally important functions of moving traffic and providing access to adjacent land. Collectors have two moving traffic lanes and up to two parking lanes. d. Cul-de-sac - A road having only one outlet for vehicular traffic and terminating in a turn-around area. Cul-de-sac length is the distance from the beginning of the dead-end road to the beginning of the cul-de-sac bulb. e. Dead-End Street - A road having only one outlet for vehicular traffic. f. Frontage or Service Street - A local road or collector, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

- g. Half-Street - A portion of the width of a road, usually along the outside perimeter of a subdivision, where the remaining portion of the road must be located on adjacent property.
- h. Local Street - A road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local roads have two moving lanes of traffic and up to two parking lanes, and they provide access to abutting properties.
- i. Loop Street - A local road which begins and ends on the same road, generally used for access to properties.

Public Street - A right-of-way or easement dedicated or recorded for public access.

STRUCTURE

Anything constructed or erected.

SUBDIVIDER

A person who causes land to be subdivided or who proposes a subdivision of land. (See Subdivider)

SUBDIVISION

A division of land or land so divided that it creates one or more parcels containing less than one hundred sixty (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 resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

- a. A minor subdivision contains five (5) or fewer parcels from a tract of record. Pursuant to 76-3-609(2), MCA, if a tract of record proposed to be subdivided has not been subdivided or created by a subdivision under the Montana Subdivision and Platting Act or (emphasis added) has not resulted from a tract of record that has had more than five (5) parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision (emphasis added) from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as such. Any minor subdivision that is not a first minor subdivision is a subsequent minor subdivision (emphasis added) and must be reviewed according to the major subdivision requirements.

b. A major subdivision contains six (6) or more parcels from a tract of record.

c. Condominiums, mobile home parks and recreational vehicle parks are subdivisions created for the purpose of renting, leasing, or otherwise conveying individual spaces or units while the tract of land is owned as one parcel under single ownership.

(1) First-time subdivisions from a tract of record where five (5) or fewer spaces or units would be created shall be reviewed as first minor subdivisions, so long as proper access to all spaces or units is provided.

(2) All other subdivisions which would create spaces or units shall be reviewed as major subdivisions.

(3) A landowner who places more than one mobile home on a tract of record must go through the subdivision process, in compliance with 76-3-103(16), MCA.

SUBDIVISION
EXEMPTION

A division of land which, in accordance with the Montana Subdivision and Platting Act, is not subject to review under these regulations.

SUBSEQUENT
MINOR
SUBDIVISION

(See Subdivision)

SWALE

A drainage channel or shallow depression, natural or manmade, designed to direct surface water flow.

THROUGH LOT

(See Lot Types)

TOPOGRAPHY

Characteristics of the ground surface, such as plains, hills, mountains; degree of relief, steepness of slope, and other physiographic features.

CITY COUNCIL

Governing body for the City of Thompson Falls

CITYHOME /
CITYHOUSE

Property that is owned subject to an arrangement under which persons own their units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

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, including: deeds, certificates of survey, subdivision plats, and mining patents.

- a. Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder;
 - (1) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or
 - (2) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.
- b. An instrument of conveyance does not merge parcels of land under subsection a.(1) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels.

VACATED PLAT

(See Plat)

VARIANCE

A device which grants a property owner relief from a regulation standard, where strict enforcement of the standard would create a hardship upon the owner.

VICINITY MAP

A map at a scale suitable to locate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

VIEWSHED

The landscape visible from a particular viewing point.

WATER BODY

Includes rivers, streams, creeks, lakes, and ponds, both natural and man-made, both intermittent and year-round. The term does not include any facility created exclusively for the conveyance of irrigation water.

WATER RIGHT

A right to use water that is protected under the provisions of Title 85, Chapter 2, MCA.

WETLANDS

As defined by the U.S. Army Corps of Engineers, (jurisdictional) wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WILDLAND / RESIDENTIAL INTERFACE

Wildland areas which are bordered by, or intermingled with, residential and other types of development.

WILDLIFE

Living things which are neither human nor domesticated nor plant.

WILDLIFE HABITAT

Place or type of site where wildlife naturally lives and grows.

Chapter II

SUBDIVISIONS SUBJECT TO REVIEW

II-A. PURPOSE

The purpose of this chapter is to outline the subdivision application requirements and review procedures. One generic subdivision process is described, with exceptions noted in accordance with state law.

II-B. PRE-APPLICATION PROCEDURE

1. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the planner, the authorized agent designated by the City Council to review subdivision applications. The meeting shall occur within 30 days after the subdivider submits a written request for the meeting to the planner.
2. The subdivider shall provide the planner with the following items, and as outlined in Pre-Application Checklist (Appendix 5-129) which is available from the planner:
 - a. A brief narrative which:
 - (1) Describes the proposed subdivision;
 - (2) Identifies the landowner (including names of the principals of an LLC or corporation), subdivider, and subdivider representative names, addresses, and telephone numbers;
 - (3) Includes a complete legal description of the property;
 - (4) Documents (as pertinent) the proposed subdivision as a first-time minor subdivision;¹
 - (5) Documents any water rights;
 - (6) Identifies any special improvement districts or rural improvement districts; and
 - (7) Any rights of first refusal for the property.
 - b. Subdivision Assessment Form. The landowner shall read, sign, and date the Subdivision Assessment Form
 - c. A vicinity map showing the location of the proposed subdivision in relation to nearby landmarks (e.g., highways, communities).

¹ A proposed minor subdivision will be presumed to be a subsequent minor, unless adequate documentation is furnished to verify its status as a first time minor subdivision.

- d. Names and addresses of adjoining property owners, lienholders, easement holders, potentially affected water users and property owners' associations that may be affected.
 - e. A sketch plan of the proposed subdivision. The sketch plan must be legibly drawn, showing the layout of proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. If a topo map is not used as the base map for the sketch plan, the sketch plan shall be accompanied by a United States Geological Survey topographic map, with the proposed subdivision located on it. Scale dimensions of the sketch plan shall be noted. The sketch plan shall include:
 - (1) Information on the current status of the site:
 - (a) existing tract and lot boundaries;
 - (b) description of general terrain, including topography;
 - (c) natural features on the land, including water bodies;
 - (d) existing structures and improvements;
 - (e) existing utility lines and facilities serving the site, including irrigation ditches and other water user facilities;
 - (f) existing easements and rights of way;
 - (g) existing zoning or development regulation standards;
 - (h) existing conservation easements;
 - (i) existing covenants or deed restrictions; and
 - (j) adjacent land uses.
 - (2) Information on the proposed subdivision:
 - (a) tract and lot boundaries;
 - (b) land uses;
 - (c) phasing of the development, if applicable;
 - (d) public and private improvements;
 - (e) location of utility lines and facilities;
 - (f) easements and rights of way;
 - (g) parkland, open space, and/or conservation easements; and
 - (h) existing noxious weeds.
- 4. The planner shall determine whether or not the pre-application materials provided by the subdivider are complete.
 - 3. At the pre-application meeting:
 - a. The planner shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process including, but not limited to floodplain regulations, wildlife, building codes and fire codes.

- b. The planner shall discuss with the subdivider the public utilities, local, state and federal agencies, and any other organizations that the subdivider will be expected to contact to solicit comment on the subdivision pre-application.
- c. The planner shall also explain the subdivider's obligation to mail pre-application information to the immediately adjacent landowners, any lienholders or easement holders, and any potentially affected water users. The planner shall identify the timeframes that these parties are given to respond.
- d. The planner shall identify particular additional information the planner anticipates will be required for review of the subdivision application. This does not limit the ability of the planner to request additional information at a later time.
- 4. Unless the subdivider submits a subdivision application within one year of this pre-application meeting, the subdivider must request a new pre-application meeting and repeat the pre-application process prior to submitting the subdivision application.
- 5. Nothing stated by the planner during the pre-application process shall bind the City Council in its ultimate decision on the proposed subdivision.

II-C. OVERALL DEVELOPMENT PLAN

1. Purpose

- a. The overall development plan is intended to promote a coordinated land development for an entire tract of record and, where possible, adjoining tracts held under the same ownership.
- b. At the pre-application meeting, a subdivider proposing to subdivide only a portion of a tract of record may expect the planner or planning board to inquire as to the future development plans for the rest of the tract.

2. When Required

- a. An overall development plan shall be required in conjunction with any subdivision application when only a portion of a tract of record is proposed for subdivision.
- b. The overall development plan shall be prepared and submitted to the planner for review by the planning board and governing body. The subdivider may choose to submit the overall development plan either prior to submitting the subdivision application, or at the same time. When the overall development plan is submitted prior to a subdivision application, the plan shall be submitted at least thirty (30) days prior to the planning board meeting at which it will be discussed. When the

overall development plan is submitted at the same time as the subdivision application, the submittal requirements need only be satisfied once.

3. Exceptions

- a. If a subdivider has no plans for further subdivision of a tract of record or adjoining tracts under the same ownership and no history of proposing successive minor subdivisions or the creation of tracts of land through exemptions, the subdivision application package may simply contain a letter stating there are no plans for further development of the remaining property. Such letter must be signed by the landowner, and notarized.

4. Information required

- a. The overall development plan shall contain the following elements:

- (1) Site plan for total tract (showing areas of proposed development -- now and in the future, streets and utilities, and areas of proposed conservation/open space/continued agriculture or forestry). Where adjoining tracts are under the same ownership as the subject tract of record, the subdivider is encouraged to identify future development plans for these properties as well.
- (2) Topographical map.
- (3) Vicinity map.
- (4) Current land uses on total tract and adjacent properties.
- (5) Type(s) and density of proposed development.
- (6) Brief description of any proposed phasing, if applicable.
- (7) Environmental assessment on the entire tract, where the overall development plan anticipates subdivision phases involving the creation of six (6) or more total lots. Note: If, within a ten-year period of submitting the overall development plan, the subdivider submits one or more subdivision applications covering the entire tract, all or part of the environmental assessment requirement pertaining to the individual subdivision application(s) may be waived by the planning board.
- (8) Formal documentation from the City of Thompson Falls that the subject property has been annexed into the City.
- (9) Detailed plan for the extension of City water and sewer service to each lot in the subdivision. The plan shall include all the associated infrastructure such as lift stations etc. whether located within or outside of the subdivision. The

plan shall be compiled by a professional engineer registered in the State of Montana.

- (10) Evidence that adjacent property owners, lien holders, easement holders, and potentially affected water users (if any, and if known) have been notified.
- (11) Evidence that the following agencies have been notified: City fire chief, City public works director, City floodplain administrator, Montana Department of Fish, Wildlife and Parks, and/or public land management agency if tract is located within two (2) miles of their jurisdictional boundary, or if an agency road would provide access to the proposed development.

5. Review process

a. Public notification and public meeting

- (1) The planning board shall review the overall development plan at a regularly scheduled meeting.
- (2) The planner shall issue a notice of the public meeting by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the meeting.
- (3) The planner shall notify the subdivider, each adjoining property owner, potentially affected water users (if any, and if known) of the meeting, and any existing property owner's association potentially affected by the project as determined by the planner, in writing not less than fifteen (15) days prior to the meeting.

b. Planner review

The planner shall review the overall development plan for its compliance with the subdivision review criteria outlined in Subsection II-E.2. The planner shall provide a written recommendation to the planning board in advance of its meeting to review the overall development plan.

c. Planning board review

The planning board shall review the overall development plan, consider all other pertinent information provided, including any public comment, and make a recommendation to the governing body, as to whether the overall development plan should be accepted, accepted with amendments, or denied.

The planning board's recommendation on the overall development plan should be made separate from and prior to its recommendation on any proposed subdivision associated with the plan, although the reviews may occur simultaneously. The

planning board's recommendation shall be submitted to the governing body in writing.

d. Governing body review and decision

The governing body shall review the overall development plan and consider all other pertinent information provided, at a regularly scheduled public meeting. The subdivider shall receive prior notice of the meeting and of the planning board's recommendation. The governing body shall accept, accept with amendments, or deny the overall development plan before taking action on any subdivision application associated with the overall development plan. In order to accept or conditionally accept an overall development plan, the governing body must find the plan to be in compliance with the subdivision review criteria outlined in Subsection II-E.2. The governing body shall provide written notification to the subdivider of its decision on the overall development plan, along with any plan amendments and the reasons supporting its decision.

e. Denial

If the governing body denies the overall development plan, any subdivision plat based on the plan cannot be approved.

6. Life of overall development plan

Once accepted, an overall development plan remains in effect for ten years. The subdivider can seek plan amendment and/or provide an updated environmental assessment as a part of any subdivision process which undergoes planning board review during the life of the overall development plan.

II-D. PRELIMINARY PLAT SUBMITTAL REQUIREMENTS

1. Items and information required

The subdivider shall submit an application package for the proposed subdivision to the planning board and planner, in accordance with the requirements of this section and in conformance with the design and development standards outlined in Chapter IV of these regulations. The planner shall provide the subdivider with a checklist of the preliminary plat submittal requirements.

a. Subdivision Application Form

The subdivider shall complete a Subdivision Application Form with an accompanying Joint Application. The planner shall provide the subdivider with these forms.

b. Preliminary Plat

The subdivider shall submit a legible preliminary plat, drawn to a scale sufficient to minimize the number of sheets, while maintaining clarity. The preliminary plat shall show particular items on the face of the plat or on separate sheets referenced on the face of the plat. Pursuant to 76-3-601(1), MCA, the preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements.

c. Preliminary Plat Supplements

The subdivider shall provide additional information and materials to accompany the preliminary plat as well as a complete environmental assessment, developed pursuant to 76-3-603, MCA. The planner shall provide the subdivider with a check list of the supplements required for submission with the preliminary plat.

d. Early Agency and Public Notification

In the subdivision application package, the subdivider must demonstrate that adjacent property owners, lien holders, easement holders, potentially affected water users, required review agencies, potentially affected by the project as determined by the planner, have been given at least 30 days prior to the preliminary plat application to review subdivision plans and provide input. The early notification (pre-application) packet must have been reviewed and approved by the planner, prior to its distribution.

Any review comments received by the subdivider shall be included in the subdivision application.

e. Subdivision Review Fee

The subdivider shall pay the appropriate review fee upon submittal of the subdivision application.

f. Preliminary Plat Submittal Checklist

The subdivider shall include a completed copy of a current checklist provided by the planner.

2. Statutory exemptions from environmental assessment

Pursuant to 76-3-609(2), MCA, first minor subdivisions created from a tract of record are exempt from the requirement for providing an environmental assessment. First

minor subdivisions must, however, provide a summary of the probable impacts of the proposed subdivision based on the seven public interest criteria listed in 76-3-608(3), MCA.

3. Special submittal requirements

a. Condominiums, City homes, City houses.

These subdivisions are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act, but depending upon the circumstances may or may not need to be submitted for review and approval by the City Council before the condominium, City home or City house may be sold, rented or leased. If a condominium, City home or City house is eligible for an exemption under 76-3-203, MCA it does not require subdivision review under these regulations.

A preliminary plat is not required for condominiums, City homes or City houses. Instead, the subdivider shall submit a site plan which provides the information needed to evaluate its conformance with the applicable design and development standards outlined in Chapter IV of these regulations. For the remainder of this chapter, preliminary plat references shall pertain also to site plans unless otherwise noted.

If condominiums, City homes, or City houses are proposed for development under the exemptions found in 76-3-203, MCA, then the project(s) are not eligible to use the Municipal Facilities Exemption found under 76-4-125, MCA. Therefore, all proposed sanitation facilities for such projects must undergo review by the Montana Department of Environmental Quality.

b. Remainder parcels

If a proposed subdivision would leave a "remainder" parcel of less than 160 acres that "remainder" parcel will be treated as an additional proposed lot in the subdivision. Therefore, a proposed subdivision of five lots plus a remainder parcel will be treated as a six-lot major subdivision.

c. Water and sanitation information

All new lots created through subdivision review within the City of Thompson Falls shall be served by stormwater drainage, municipal drinking water and wastewater treatment systems provided by the City of Thompson Falls. Thus, subdividers are eligible to utilize the municipal facilities exemption and thus subject to the requirements of 76-4-127, MCA. Therefore, subdivision applications for lands located within the City do not have to provide the water and sanitation information required under 76-3-622 MCA.

In order to utilize the municipal facilities exemption a subdivider is responsible for the installation of all infrastructure necessary to provide service to the

subdivision including but not limited to stormwater drainage facilities, water and sewer mains, pumps and lift stations.

A detailed plan addressing stormwater drainage and water and sewer service to the entire subdivision shall be submitted with the preliminary plat application. The plan shall meet the all applicable City of Thompson Falls and Montana Public Works Standard Specifications and be compiled by a professional engineer registered in the State of Montana.

II-E. PRELIMINARY PLAT REVIEW PROCESS

1. Steps

a. Submittal

One copy of the subdivision application, including preliminary plat, preliminary plat checklist and application fee, may be submitted to the planner for Element Review and Sufficiency Review (see Subsections II-E.1. b. and c.), after the 30-day early agency and public notification period has occurred and within one year of the date the early notifications were mailed by the subdivider. The preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements.

b. Element review

Within five (5) working days of receipt of the subdivision application, the planner shall determine whether the application contains all of the required materials (as listed in a preliminary plat application checklist provided to the subdivider), and shall give written notice to the subdivider or subdivider's representative of such determination.

- (1) If the planner determines that one or more elements are missing from the application, the planner shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the planner until the application is resubmitted.
- (2) The subdivider may correct the deficiencies and resubmit the application.
- (3) If the subdivider corrects the deficiencies and resubmits the application, the planner shall have five (5) working days to notify the subdivider whether the resubmitted application contains all of the required materials.
- (4) This process shall be repeated for up to one year of the original submittal date until the subdivider submits a complete application, or the application is withdrawn. If all of the required materials have not been submitted within one

(1) year of the original application submittal, the application will be considered withdrawn.

c. Sufficiency review

Within fifteen (15) working days after the planner notifies the subdivider or subdivider's representative that the application contains all of the required materials, the planner shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations, and shall give written notification to the subdivider or subdivider's representative of the planner's determination.

- (1) If the planner determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the planner shall identify specific required information in its notification and return the application to the subdivider, and no further action shall be taken on the application by the planner until the material is resubmitted.
- (2) The subdivider may correct the deficiencies and resubmit the application, or withdraw the application. If the corrected submittal is not made within six (6) months of the date the planner notified the subdivider of the deficiency or a one-time extension of up to six (6) months is requested by the subdivider in writing, the application will be considered withdrawn and the review fees forfeited.
- (3) If the subdivider corrects the deficiencies and resubmits the application, the planner shall have fifteen (15) working days from the resubmittal to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.
- (4) This process shall be repeated up to three (3) times, until the subdivider submits an application that, in the planner's view, contains detailed, supporting information that is sufficient for review of the proposed subdivision under these regulations, or the application is withdrawn, or the subdivider appeals to the City Council for a determination of sufficiency.

A determination that an application contains sufficient information for review as provided above does not ensure that the proposed subdivision will be approved or conditionally approved by the City Council and does not limit the ability of the planner, planning board, or City Council to request additional information during the review process.

d. Application review and decision deadlines
(See Chapter III for timetable example)

(1) Major Subdivisions, Subsequent Minor Subdivisions

After the planner has notified the subdivider or subdivider's representative that an application contains sufficient information as provided above, the subdivider shall submit the remaining subdivision application sets within five (5) working days, and the planner shall schedule the application review by the planning board and City Council. The City Council shall approve, conditionally approve, or deny the proposed subdivision within sixty (60) working days for subdivisions of less than 50 lots and eighty (80) working days for subdivisions of 50 lots or more, based on its determination of whether the application conforms to the provisions of state law and these regulations, unless:

- (a) The subdivider agrees to an extension or suspension of the review period, not to exceed one (1) year; or
- (b) A subsequent public hearing is scheduled and held as provided in 76-3-615, MCA.

The review period of 60 or 80 working days begins on the day after the planner notifies the subdivider or the subdivider's agent in writing that the subdivision application is sufficient for review.

(2) First Minor Subdivisions

Pursuant to 76-3-609(2), MCA, in the case of a first minor subdivision application, the planner's determination and notification of element review and sufficiency review must be made in the same manner as outlined in subsections b. and c. above. After the planner has notified the subdivider or subdivider's representative that an application contains sufficient information as provided above, the subdivider shall submit the remaining subdivision application sets within five (5) working days, and the planner shall schedule the application review by the planning board and City Council. The City Council shall approve, conditionally approve, or deny the proposed subdivision within thirty-five (35) working days, based on its determination of whether the application conforms to the provisions of state law and these regulations, unless the subdivider agrees to an extension or suspension of the review period, not to exceed one (1) year.

The review period of 35 working days begins on the day after the planner notifies the subdivider or the subdivider's agent in writing that the subdivision application is sufficient for review.

(3) Agency Review

Pursuant to 76-3-504(1)(i), MCA, affected public utilities or agencies of local, state, and federal government having a substantial interest in a proposed

subdivision may not delay the City Council's action on the plat beyond the statutory time limits, and the failure of any agency to complete a review of a plat shall not be a basis for rejection of the plat by the City Council. However, City of Thompson Falls requires that contacts with agencies be made in a timely manner, in accordance with Subsection II-D.1.d of these regulations (Early Agency and Public Notification).

Any review comments received by the planner shall be made available upon receipt to the subdivider and the general public.

(4) Financial Penalty

Pursuant to 76-3-604(5) MCA, if the City Council does not comply with the 60 or 80-working day deadlines, it is subject to financial penalty.

e. Planner analysis

- (1) Prior to the planning board meeting or public hearing to review the preliminary plat, the planner will provide the planning board with a completed checklist which documents the element review and sufficiency review (provided by the planner).
- (2) The planner will evaluate the subdivision application and any comments received from agency personnel and the public. The planner's evaluation shall include completion of the Growth Policy Compliance Evaluation Checklist (provided by the planner). A staff report with recommendations shall be submitted to the planning board in advance of the planning board meeting or public hearing. A copy of the staff report shall be provided to the subdivider, prior to the planning board meeting or public hearing to review the proposal.

f. Public notification and public hearing

- (1) The planner shall issue a legal notice of the public hearing by publication in a newspaper of general circulation in the county. Said notice should first appear not less than 15 days prior to the public hearing. The notice should run two consecutive weeks.
- (2) The planner shall notify the subdivider and each adjoining property owner (including each purchaser under contract for deed of adjoining property) of the hearing by registered or certified mail not less than 15 days prior to the date of the planning board hearing. The planner shall also notify lien holders, easement holders, potentially affected water users (if any, and if known), plus any existing property owners' association potentially affected by the project as determined by the planner, of the hearing not less than 15 days prior to the hearing.

- (3) The planner shall distribute a project notification letter, plus pertinent application materials to all pertinent review agencies, as deemed necessary by the planner. If the planner contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the planner shall notify the subdivider of the contact and the timeframe for response.
- (4) The subdivider shall post a notice of the proposed subdivision and public hearing at one or more conspicuous places on the boundaries of the proposed subdivision. The subdivider shall be responsible for taking down the notice once the local City Council has made a decision on the application. The planner may supply a pre-printed poster for the subdivider's use.
- (5) Where members of the public wish to visit a tract of land proposed for subdivision in order to participate more knowledgeably in the subdivision review process, the subdivider must provide the public a scheduled opportunity to view the site.
- (6) Pursuant to 76-3-609(2), MCA, the first minor subdivision created from a tract of record is exempted from the public hearing requirements.

g. Planning board review and recommendation

- (1) The planning board shall consider all relevant evidence relating to the public health, safety, and welfare, to determine whether the preliminary plat should be recommended for approval, conditional approval, or disapproval by the City Council. In reviewing the proposed subdivision and arriving at its proposed findings of fact and recommendation, the planning board shall consider:
 - (a) the information submitted by the subdivider, including the environmental assessment if required;
 - (b) the information submitted by review agencies and utilities;
 - (c) the information submitted by the public;
 - (d) the City of Thompson Falls Growth Policy and any other pertinent, officially adopted planning document for the City of Thompson Falls;
 - (e) as applicable, the seven (7) public interest criteria pursuant to 76-3-608(3), MCA, namely, the effect of the proposed subdivision on: agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;

- (f) compliance with the survey requirements detailed in 76-3-401 et seq., MCA;
 - (g) compliance with these regulations and the Montana Subdivision and Platting Act;
 - (h) the provision of easements for the location and installation of any planned utilities; and
 - (i) the provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.
- (2) When a public hearing is held by the planning board, the planning board shall act in an advisory capacity and recommend to the City Council the approval, conditional approval, or disapproval of the preliminary plat. This recommendation must be submitted to the City Council in writing not later than ten (10) working days after the public hearing. This recommendation shall be accompanied by all public comment received, including that pertaining to water and sanitation information. The requirements of this subsection shall also pertain to the planning board meeting where a first minor subdivision created from a tract of record is reviewed.
- (3) The planning board may continue its public hearing or meeting to a subsequent date, if it determines that additional time to review the preliminary plat is needed. In such event, the planner shall repeat the public notification steps described in Subsections II-E.f.(2)-(4) above.
- (4) In its recommendation, the planning board shall advise the City Council as to whether the preliminary plat conforms to the provisions of:
- (a) the Montana Subdivision and Platting Act;
 - (b) these regulations;
 - (c) the City of Thompson Falls Growth Policy and other adopted planning documents for the City; and
 - (d) other City regulations affecting the proposed subdivision.
- (5) The planning board shall submit in writing the following to the City Council:
- (a) its proposed findings of fact based upon Subsection II-E.f.(1) above;
 - (b) a recommendation for approval, conditional approval, or disapproval of the plat;

- (c) a list of proposed conditions, where conditional approval is recommended;
 - (d) a finding as to whether any public comments or documents presented for consideration at the planning board's public hearing constitute information or analysis of information that the public has not had a reasonable opportunity to examine and comment on.
- (6) In order for the planning board to recommend a proposed subdivision for approval or conditional approval, its proposed findings of fact must conclude that the proposed subdivision is in compliance with all applicable rules and regulations, and that potential significant adverse impacts are reasonably mitigated or minimized for each of the seven public interest criteria. Mitigating measures may be required in order to reach these findings.

Pursuant to 76-1-605(2)(b), the planning board may not recommend conditional approval or denial of a subdivision application based solely on compliance with a growth policy or based solely on the impacts to education.

- (7) The planner shall mail a copy of the planning board's recommendation to the subdivider, along with written notification of the time and place that the City Council will consider the preliminary plat.

h. City Council review and action

- (1) No later than two (2) working days before the meeting at which the City Council is to consider the subdivision application and preliminary plat, the subdivider is encouraged to submit in writing to the planner the subdivider's comments on and responses to the planning board's recommendations.
- (2) Within the statutory time limit for action on the proposed subdivision, the City Council shall meet to review the preliminary plat and all pertinent information, including the planning board's recommendation.
- (3) Pursuant to 76-3-615, MCA, the City Council shall determine whether public comments or documents presented for consideration at the planning board's public hearing constitute new information or an analysis of information regarding the subdivision application that the public has not had a reasonable opportunity to examine and comment upon. If so, the City Council shall determine whether the public comments or documents are relevant and credible with regard to the City Council's decision, pursuant to subsections Subsection II-E.h(3)(d) and (e) below.
 - (a) If the City Council determines the new information or analysis of information is either not relevant or not credible, then the City Council shall approve, conditionally approve, or deny the proposed subdivision

without basing its decision on the new information or analysis of information;

- (b) If the City Council determines the new information or analysis of information is relevant and credible, then the City Council shall direct the planning board to schedule a subsequent public hearing.
- (c) The planning board shall consider only the new information or analysis of information that may have an impact on the findings and conclusions that the City Council will rely upon in making its decision on the proposed subdivision.
- (d) New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the City Council will rely upon in making its decision on the proposed subdivision.
- (e) The City Council's consideration of whether or not the new information or analysis of information is credible will include, but not be limited to, the following:
 - (i) physical facts or evidence;
 - (ii) corroborated personal observations;
 - (iii) evidence provided by a person with professional competency in the subject matter; or
 - (iv) scientific data.
- (4) If a subsequent public hearing is held pursuant to subsection (b) above, it must be held within forty-five (45) days of the City Council's decision to request the subsequent public hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing.
 - (a) Notice of the time, date and location of the subsequent hearing shall be given by publication in a newspaper of general circulation in the county, not less than fifteen (15) days prior to the date of the subsequent hearing.
 - (b) At least fifteen (15) days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified mail to the subdivider and each adjoining landowner to the land included in the preliminary plat.
 - (c) The City Council shall require the notice to be posted at a conspicuous place on the site of the proposed subdivision.

- (5) If a subsequent public hearing is held, the 60- or 80-working day review period is suspended as of the date of the City Council's decision to schedule a subsequent hearing. The 60- or 80-working day review period resumes on the date of the City Council's next scheduled public meeting for which proper notice for the public meeting on the subdivision application can be provided.
- (6) Pursuant to 76-3-609(2), MCA, the first minor subdivision created from a tract of record is exempted from the public hearing requirements. Once the planning board makes its preliminary plat recommendation, the City Council may consider no new substantive information, except that pertaining to the subdivider's preference regarding mitigation of impacts, as provided in 76-3-608(5), MCA.
- (7) In arriving at its decision, the City Council shall issue written findings of fact that weigh the criteria in Subsection II-E.2. Review Criteria below, as applicable.
 - (a) Findings of fact approved by the City Council concerning whether the development of the proposed subdivision meets the requirements of the Montana Subdivision and Platting Act must be based on the record of the subdivision application as a whole. The City Council's findings of fact must be sustained unless they are found to be arbitrary, capricious, or unlawful.
- (8) The City Council shall approve, conditionally approve, or disapprove the preliminary plat. Approval or conditional approval of a preliminary plat includes all representations made publicly by the subdivider during the course of the subdivision application and review process. This includes the land use(s) proposed to occur in the subdivision.

In order for the City Council to approve or conditionally approve a proposed subdivision, its findings of fact must conclude that the proposed subdivision is in compliance with all applicable rules and regulations, and that potential significant adverse impact are reasonably mitigated or minimized for each of the seven public interest criteria.

Pursuant to 76-1-605(2)(b), the City Council may not conditionally approve or deny a subdivision application based solely on compliance with the City Growth Policy or based solely on the impacts to education.

- (9) Within thirty (30) working days of approving or conditionally approving a preliminary plat, the City Council shall provide the subdivider with a dated and signed letter of approval that must be made available to the public. The City Council's approval or conditional approval of a preliminary plat shall be in force for three calendar years from the date of approval.

- (a) Pursuant to 76-3-604, 610 and 620, MCA, in the case of conditional approval of a preliminary plat, the City Council's written notification shall include information regarding the appeal process outlined in Chapter V of these regulations. The letter must also identify the regulations and statutes that are used in reaching the decision, and it must explain how they apply to the decision. Further, the letter must provide the facts and conclusions that the City Council relied upon in making its decision, and it must reference documents, testimony, or other materials that form the basis of the decision. Finally, the letter must provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved. The City Council may, in its conditional approval, require that certain conditions (e.g., fire protection provisions) be met before other development activity occurs.
- (b) After a preliminary plat is approved, the City Council and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period, pursuant to 76-3-610(2), MCA.
- (c) The City Council may withdraw its approval of a preliminary plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.
- (10) Pursuant to 76-3-604, 610 and 620, MCA, in the case of denial of a preliminary plat, within thirty (30) working days the City Council shall provide the subdivider with a dated and signed statement of disapproval that must be made available to the public. The letter must contain the items listed in subsection Subsection II-E.h(9)(a) above.

2. Phased Developments

- a. A subdivider applying for the review of a phased development shall submit with the subdivision application an overall phased development preliminary plat on which all of the independent development phases must be presented. The application must also contain the information required pursuant to these regulations and parts 5 and 6 of the Montana Subdivision and Platting Act for all phases of a development and must include a schedule for when the subdivider plans to submit for review each phase of the development. The subdivider may change the schedule for review of each phase of the development upon approval of the City Council after a public hearing as provided for in subsection (2)(d) below. The change in the schedule shall only be approved if the change does not negate the original conditions of approval or otherwise adversely affect public health, safety, and welfare.
- b. Except as otherwise provided by this section, the application for the phased development must be reviewed in conformity these regulations and parts 5

and 6 of the Montana Subdivision and Platting Act. In addition, each phase of the phased development must be reviewed as provided in subsection (2)(d) below.

- c. The City Council may approve phased developments that extend beyond the time limits set forth in 76-3-610 but all phases of the phased development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date that the overall phased development preliminary plat is approved by the City Council.
- d. Prior to the commencement of each phase, the subdivider shall provide written notice to the City Council. The City Council shall hold a public hearing pursuant to 76-3-605(3) within 30 working days after receipt of the written notice from the subdivider. After the hearing, the City Council shall determine whether any changed primary criteria impacts or new information exist that create new potentially significant adverse impacts for the phase or phases. Notwithstanding the provisions of 76-3-610(2), the City Council shall issue supplemental written findings of fact within 20 working days of the hearing and may impose necessary, additional conditions to minimize potentially significant adverse impacts identified in the review of each phase of the development for changed primary criteria impacts or new information. Any additional conditions must be met before final plat approval can occur for each particular phase. The approval for each phase must be in accordance with 76-3-611 and shall not be in force for more than 3 calendar years or less than 1 calendar year within the maximum time frame of 20-years provided in subsection 2(c) above.

3. Review criteria

- a. Pursuant to 76-3-608(1), MCA, the basis for the City Council's decision to approve, conditionally approve, or disapprove a subdivision is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and these regulations. The City Council may not deny approval of a subdivision based solely on the subdivision's compliance with the growth policy or solely on the impacts on educational services.
- b. Pursuant to 76-3-608(3), MCA, a subdivision proposal must undergo review for the following primary criteria:
 - (1) the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;
 - (2) compliance with:

- (a) the survey requirements provided in 76-3-401 through 76-3-406, MCA;
 - (b) these regulations;
 - (c) the subdivision review procedure provided for in 76-3-601 et seq., MCA;
 - (d) the provision of easements for the location and installation of any planned utilities, to and within the subdivision; and
 - (e) the provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.
- a. Consistent with the authority given the City Council in 76-3-501 and 504, MCA, a subdivision proposal must undergo review for substantial compliance with the City of Thompson Falls Growth Policy
 - b. Pursuant to 76-3-608(4), MCA, the City Council may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection b. above. The City Council shall issue written findings to justify the reasonable mitigation required under this subsection.
 - c. Pursuant to 76-3-608(5)(a), in reviewing a subdivision under subsection b. above and when requiring mitigation under subsection d. above, the City Council may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.
 - d. Pursuant to 76-3-608(5)(b), MCA, when requiring mitigation measures under subsection d. above, the City Council shall consult with the subdivider and shall give due weight and consideration to the subdivider's expressed preferences.
 - e. Pursuant to 76-3-510, MCA, the City Council may require the subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to streets, sewer lines and lift stations, water supply lines and fire hydrants and storm drains to serve the subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. The City Council may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education (However, contributions towards any educational facility or equipment improvements required as the result of the subdivision's expected impacts are encouraged).

f. Municipal facilities exemption pursuant to 76-4-125(2)(d), MCA:

1. For a subdivider to qualify for the exemption from sanitation review set out in 76-4-125(2)(d), the City Council, prior to granting final plat approval under these regulations and the Montana Subdivision and Platting Act, must send notice of certification to the Montana Department of Environmental Quality that the subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities (water and sewer) will be provided for the subdivision by the City of Thompson Falls.

Also, in order to be eligible for the exemption, the subdivider must install all the facilities or bond for them through a subdivision improvements agreement prior to the filing of the final plat.

II-F. PRELIMINARY PLAT EXTENSIONS

1. Request requirements

- a. A subdivider may request an extension of the preliminary plat approval period. No later than thirty (30) days prior to the expiration date, such request shall be submitted in writing to the planner, for review and action by the City Council.
- b. The request must address the following points:
 - (1) Progress made in complying with the conditions of preliminary plat approval;
 - (2) Circumstances which have affected the timing of the subdivision development;
 - (3) The extent to which any significant changes in the area have occurred or are expected to occur during the time of the extension period; and
 - (4) Whether or not the provision of public facilities and services in the area will be disrupted by the requested extension.

2. Review process and criteria

- a. The extension request shall be reviewed by the planner, who shall make a recommendation to the City Council. The planner may inspect the subdivision site in developing such recommendation. The subdivider shall receive notice of the planner's recommendation and the time and place of the City Council's review of the extension request.
- b. At a regularly scheduled meeting, the City Council shall review the extension request. For any reason relating to changed circumstances since the time of

preliminary plat approval, the City Council may refer the extension request to the planning board for its review and recommendation, prior to making a decision.

- c. An extension request shall be reviewed to determine whether or not the City's evaluation of the original proposal, and the findings of fact associated with the preliminary plat approval, remain valid.
- d. Pursuant to 76-3-610, MCA, the City Council may extend its preliminary plat approval for no more than one (1) calendar year, except that the City Council may extend its approval for a mutually agreed-upon period of more than one (1) year if that approval period is in writing and dated and signed by the members of the City Council and the subdivider or the subdivider's agent. Any extension may include as a specific condition a written public improvements agreement between the City Council and the subdivider for completion of all or a percentage of improvements related to public health and safety, according to 76-3-507(4), MCA. Phased developments must be completed and with the final plats filed with the County Clerk and Recorder within 20 years of the original preliminary plat approval per Section II.E.2 of these regulations.

II-G. FINAL PLAT SUBMITTAL REQUIREMENTS

1. Items and information required

The subdivider shall submit a final plat application package for the proposed subdivision to the planner, in accordance with the requirements of this section. The planner shall provide the subdivider a checklist of the final plat submittal requirements.

a. Final Plat Application Form

The subdivider shall complete a Final Plat Application Form (provided by the planner).

b. Final Plat

- (1) A final plat shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24" x 36" overall, to include a 1.5-inch margin on the binding side.
- (2) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
- (3) Space on the final plat shall be used efficiently in order to minimize the number of sheets, while maintaining clarity.

- (4) The final plat may constitute only that phase of the approved preliminary plat for all phased development the subdivider wishes to file, provided that such phase conforms to all requirements of these regulations and is approved by the City Council in writing.

As outlined in Appendix 16 the final plat submitted for approval shall show or contain particular items on the face of the plat or on separate recorded sheets referenced on the face of the plat.

c. Final Plat Supplements

As outlined in Appendix 16 the subdivider shall provide additional information and materials to accompany the final plat, in accordance with these regulations and the conditions of preliminary plat approval.

d. Covenants

Many proposed subdivisions contain a set of proposed property owner's association covenants which will restrict land uses within the proposed subdivision, run with the land, and be filed or recorded along with the final plat. Any declaration of covenants prepared in conjunction with the filing of a final plat shall reflect this distinction.

- (1) The City Council has no authority or responsibility to enforce such covenants.

2. Divisions of Land Which May Be Exempt from Review and/or Surveying

- a. Generally, condominiums, Cityhomes, or Cityhouses are subject to review as subdivisions. Under certain circumstances they may be exempt from review, provided they are constructed on land subdivided in compliance with these regulations or on lots within incorporated cities and Citys, and

- (1) The approval of the original subdivision of land expressly contemplated the construction of the condominiums, Cityhomes, or Cityhouses and 76-3-203, MCA is complied with; or
- (2) The condominium, Cityhome, or Cityhouse proposal is in conformance with a governing zoning ordinance.
- (3) If condominiums, Cityhomes, or Cityhouses are proposed for development under the exemptions found in 76-3-203, MCA then the project(s) are not eligible to use the Municipal Facilities Exemption found under 76-4-125, MCA. Therefore, all proposed sanitation facilities for such projects must undergo review by the Montana Department of Environmental Quality.

II-H. FINAL PLAT REVIEW PROCESS

1. Submittal

The final plat application package (application form, final plat, final plat supplements, checklist, and application fee) must be submitted to the planner at least thirty (30) days prior to expiration of the preliminary plat approval period.

2. Planner Review of Final Plat

Within 20 working days of receipt of a final plat, the planner shall review the final plat application package to determine whether it contains the information required under Section II-G (Final Plat Submittal Requirements) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of that determination in writing. The planner may inspect the proposed subdivision site in order to complete the review of the final application.

If the planner determines that the final plat does not contain the information required under Section II-G (Final Plat Submittal Requirements), the planner shall identify the final plat's defects in a written notification to the subdivider or the subdividers agent. The planner may review subsequent submissions of the final plat only for the information found to be deficient during the original review of the final plat application.

If the planner determines that an examining land surveyor must review a final plat, this requirement shall be identified in the original notification to the subdivider or the subdivider's agent. The examining land surveyor will review the final plat for errors and omissions in calculation or drafting. The subdivider is responsible for the cost of the examining land surveyor's review.

The 20 working days for the planner's review of the final plat application applies to each submission of the final plat until the planner provides the subdivider or subdivider's agent with a written determination that the final plat application contains all the information required under Section II-G (Final Plat Submittal Requirements).

Once the planner makes the determination that the final plat application contains all the necessary information, the planner shall prepare a written recommendation to the City Commission. The subdivider shall receive a copy of the planner's recommendation, as well as notification of the time and place of the City Commission's meeting to review the final plat submittal.

3. Public improvements guarantee

Pursuant to 76-3-507, MCA, the City Council shall require the subdivider to complete required public improvements within the subdivision prior to the approval of the final plat, except:

- a. In lieu of the completion of the construction of non-essential public improvements prior to the approval of a final plat, the City Council shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the City Council, providing for and securing the construction and installation of the improvements within a period specified by the City Council and expressed in the bonds or other security. The City Council shall reduce bond requirements commensurate with the completion of improvements.
- b. Where public improvements are not required by the City Council to be completed prior to the filing of the final plat, normal procedures in City of Thompson Falls shall be to enter into a subdivision improvements agreement with the subdivider, including an approved letter of credit or performance bond or other reasonable security equaling 125% of the anticipated costs of the improvements (See Appendix 18 for sample Subdivision Improvements Agreement, Guarantees, and Letter of Credit).

(1) Subdivision Improvements Agreement.

Pursuant to 76-3-507(4), MCA, only those improvements not essential to health and safety can be completed under a Subdivision Improvements Agreement (SIA).

- (a) Essential health and safety improvements include, but are not limited to, street access to the subdivision, street access to each lot, sewage disposal and water supply facilities, fire protection facilities, intersection improvement, street name signs, and traffic safety signage.
- (b) Non-essential improvements include, but are not limited to landscaping, and park and recreation facilities.
- (c) As a condition of final plat approval, the subdivider must have installed all required improvements or have entered into a SIA guaranteeing the construction, installation, and maintenance of all required improvements in conformance with all policies, standards and resolutions adopted by the City (76-3-507, MCA)
- (d) Structures may not be constructed or placed on the parcels until essential improvements related to public health and safety have been installed and engineering plans have been filed.

(2) Security Guarantee

If the subdivider chooses to enter into a SIA guaranteeing the Non-Essential improvements, the subdivider must have an acceptable monetary security guarantee in the form of a bond, escrow account, surety performance bond,

irrevocable letter of credit, or other acceptable guarantee accepted by the City Council. Three bids for the cost of installation of the public improvements shall be obtained by the subdivider. The amount of the guarantee shall be calculated by multiplying 125% by the highest bid. The City of Thompson Falls Council shall be the final decision authority regarding all bids related to a SIA.

(3) Reduction of Guarantees

In those cases, where monetary security guarantees have been made, the amount of the guarantee may be reduced upon installation and acceptance by the City Council of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made of all originally required improvements.

(4) Completion of Improvements; Certification

As the public improvements are installed, the subdivider shall provide a letter to the City indicating such, including a copy of the plans developed by a professional engineer registered in the State of Montana.

- (a) The City's designated agent shall review and certify that all public improvements have been installed in conformance with the plans and specifications.
- (b) If the City determines that a consulting engineer is needed to review and certify the public improvements, the subdivider shall pay for the cost of the engineering services.
- (c) Prior to the release of the guarantee, a copy of the plans, stamped and certified by the subdivider's professional engineer in accordance with their licensing provisions, shall be filed in with the Clerk and Recorder's Office and the City Clerk with reference to the final subdivision plat.

(5) Improvement Guarantee

The subdivider shall provide a guarantee that the improvements will be satisfactorily completed and are guaranteed for 12 months.

(6) Release of Guarantee

Upon completion of required improvements by the subdivider and acceptance of them by the City Council, the subdivider may request that the City Council authorize the release of any remaining portion of the improvement guarantee up to 90% of the original amount. The remaining 10% will be released after any deficiencies are corrected after the one-year warranty inspection. The request and release shall both be in writing.

(7) Special Improvement Districts

The City Council may enter into an agreement with the subdivider, and the owners of the property proposed to be subdivided if other than the subdivider, that the installation of required improvements will be financed through a special improvement district created pursuant to Title 7, Part 41, MCA. This agreement must provide that no parcels within the subdivision will be sold, rented or leased, and no contract for the sale of parcels can be executed before the improvement district has been created.

The subdivider, or other owners of the property other than the subdivider shall waive the right to protest, or petition against the creation of the district under Section 7-12-4110, MCA. This waiver must be filed with the County Clerk and Recorder and will be deemed to run with the land.

4. City Council Review and Decision Process

- a. Within 20-working days of the planner's written determination that the final plat application contains all of the necessary information, the City Council shall review and approve or deny the final plat. The Council's review must be done pursuant to the requirements of 76-3-611, MCA, and the City Council shall examine each final subdivision plat and shall approve the plat only if:

- (1) It conforms to the conditions of approval set forth on the preliminary plat and application and to the terms of the Montana Subdivision and Platting Act and these regulations; and
- (2) The County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

- b. Final plat conformance

The final plat submitted shall conform in all major respects to the preliminary plat as previously reviewed and approved by the City Council and shall incorporate all modifications required in its review. The City Council, however, may approve a final plat which has been modified to reflect improvements in design (such as a reduction in lots) or changes which have occurred in its natural surroundings and environment since the time of the preliminary plat review and approval.

For any reason relating to compliance with the conditions of preliminary plat approval or proposed modifications of the plat, the City Council may refer the final plat submittal to the planning board for review and recommendation, prior to making a decision.

If the final plat was reviewed by an examining land surveyor, the surveyor shall certify compliance in a printed or stamped certificate on the face of the final plat.

The certificate must be signed by the examining land surveyor prior to the plat being filed with the County Clerk and Recorder.

The City Council may provide for the review of the abstract or certificate of title of the land in question by the City Attorney.

Once the planner determines that the final plat is complete, the City Council shall review and act on the final plat within 20 working days of the planner's determination as follows:

- (1) Final plat approval shall be certified by the City Council on the face of the final plat. Acceptance of any land dedication(s) shall be made by specific resolution of the City Council and noted on the plat.
- (2) If the final plat is disapproved, the City Council must provide a written statement to the subdivider explaining the reasons for the plat denial. The subdivider may make the necessary corrections and resubmit the final plat for approval.
- (3) The City Council may withdraw approval of a final plat if it determines that such information provided by the subdivider, and upon which such decision was made, is inaccurate.

5. Final Plat Filing

After it is approved, the final plat may not be altered except as provided in Section V-H Amendment of Recorded Plat. The County Clerk and Recorder may not accept any plat for filing that does not bear the City Council's approval in proper form or that has been altered. The County Clerk and Recorder may file an approved plat only if it accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats.

II-I. ROLE OF THE PUBLIC IN SUBDIVISION REVIEW

Residents of the City of Thompson Falls play an important role in the review of a proposed subdivision. Their input often expands the information base pertinent to the proposed subdivision site and its environs.

Members of the public can offer their verbal input at any public hearing or public meeting of the planning board or City Council. Residents can also make their comments in writing, to either group.

Residents of the City are encouraged to participate in the subdivision review process.

II-J. ROLE OF PUBLIC AGENCIES IN SUBDIVISION REVIEW

City and County departments and State, and Federal agencies also play an important role in the review of a proposed subdivision. The planner can provide a list that identifies which agencies must be contacted prior to the submission of an overall development plan or subdivision application. Whether local service provider, public resource manager, or public land manager, agency representatives should always be asked to consider cumulative impacts when they assess the potential effects of a proposed subdivision.

Chapter III SUMMARY TABLES

This Chapter provides summary tables of the subdivision application and review procedures outlined in Chapter II of these regulations. These summary tables are a guide, but the more complete procedures in Chapter II are controlling.

Summary tables provided are:

1. "First Minor" Subdivision
2. "Major" Subdivision or "Subsequent Minor" Subdivision

“FIRST MINOR” SUBDIVISION

Typical Subdivision Application and Review Process for

- Five or Fewer Lots
 - Five or Fewer Spaces or Units -- Mobile Home Parks, Recreational Vehicle Parks, Condominiums, or Cityhouses
-

STEP ONE. Pre-Application Meeting with Planner and Packet Preparation.

- Fees paid.
- Planner approves pre-application packet, and pre-application appears on Planning Board agenda.
- Subdivider should also meet at this stage with the City Public Works Director regarding streets, water, sewer and stormwater and the use of the Municipal Facilities Exemption.

STEP TWO. Early Notification.

- Subdivider sends out early notifications after Planner approves the packet.

STEP THREE. Preliminary Plat Application Submittal and Review.

- Submit one copy of the subdivision application packet, plus application review fee, to Planner for element review and sufficiency review.

STEP FOUR. Additional sets submitted.

- Once subdivision application packet has passed the element and sufficiency reviews, 20 additional sets must be submitted within five (5) working days (19 to Planning Office, 1 to local public library).
- Thirty-five (35) working day “clock” begins day after written notice of sufficiency.

STEP FIVE. Second Notification.

- Subdivider sends out second notifications
- Subdivider posts property.

STEP SIX. Planning Board Review.

- Planning Board reviews subdivision application and makes recommendation at public meeting.

STEP SEVEN. City Council Decision.

- City Council reviews subdivision application and makes decision at public meeting.

STEP EIGHT. Final Plat Submittal.

- Assuming approval or conditional approval of preliminary plat, submit final plat application package (including final plat review fee) to Planner for review and acceptance.
- Materials must be submitted prior to the expiration of the preliminary plat approval period.

STEP NINE. Final Plat Approval.

- After City Council reviews final plat and makes decision at public meeting.
- Assuming final plat approval, final plat is recorded.