

SUPPLEMENT NO. 3
April 2023

**THE CODE
OF THE CITY OF
THOMPSON FALLS, MONTANA**

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 356, enacted January 9, 2023.

See the Code Comparative Table for further information.

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**THE CODE
OF THE CITY OF
THOMPSON FALLS, MONTANA**

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 353, enacted August 8, 2022.

See the Code Comparative Table for further information.

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**THE CODE
OF THE CITY OF
THOMPSON FALLS, MONTANA**

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 345, enacted July 8, 2019.

See the Code Comparative Table for further information.

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THE CODE
OF THE CITY OF
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Published by Order of the City Council

Republication 2018

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PREFACE

This Code constitutes a republication of the general and permanent ordinances of the City of Thompson Falls, Montana.

Source materials used in the preparation of the Code were the 1985 Code, as updated through July 14, 2014, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1985 Code, as supplemented, and any subsequent ordinance included herein.

Title, Chapter and Section Numbering System

The title, chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of three parts separated by a hyphen. The figure before the first hyphen refers to the title number, and the figure between the first hyphen and the second hyphen refers to the chapter number. The figure appearing after the second hyphen refers to the position of the section within the chapter. Thus, the first section of chapter 1 in title 1 is numbered 1-1-1, and the second section of chapter 1 in title 1 is 1-1-2. Under this system, each section is identified with its chapter and title and, at the same time, new sections can be inserted in their proper place by using the hyphenation system for amendments. For example, if new material consisting of one section that would logically come between sections 1-4-1 and 1-4-2 is desired to be added, such new section would be numbered 1-4-1-5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters or titles may be included by using one of the reserved chapter or title numbers.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a title of the Code, the number to the left of the colon indicates the number of the title. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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The index been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Tassy Spinks, Vice President of the Supplement Department, Michelle Y. Walsh, Editor, of the Municipal Code

Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Chelsea Peterson, City Clerk/Treasurer, and Kathryn McEnery, City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the City's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Thompson Falls, Montana. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Thompson Falls, Montana.

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Municipal Code Corporation and the City of Thompson Falls, Montana, 2018.

ORDINANCE NO. 338

AN ORDINANCE ADOPTING THE CITY CODE OF
THE CITY OF THOMPSON FALLS, MONTANA

NOW BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF THOMPSON FALLS, MONTANA, AS FOLLOWS:

Section 1. The Code entitled "The Code of the City of Thompson Falls, Montana," published by Municipal Code Corporation, consisting of Titles 1 through 10, each inclusive, is hereby adopted as the official code and law of the City as enacted by its Mayor and Council.

Section 2. All ordinances of a general and permanent nature enacted on or before January 8, 2018, and not included in the Code or recognized and continued in force by reference therein, are hereby repealed. All ordinances of a special and temporary nature, such as tax levy ordinances, bond ordinances, franchises, vacating ordinances and annexation ordinances shall continue in full force and effect unless specifically repealed or amended by a provision of the City Code.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that was repealed by a subsequent ordinance which is now repealed by this ordinance.

Section 4. Forthcoming ordinances of a general and permanent nature, or additions or amendments to the Code when passed in such form as to indicate the intention of the town council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments. The Office of the City Clerk shall maintain copies of forthcoming ordinances, certified as to correctness and available for inspection at any and all times that said office is regularly open.

Section 5. It shall be unlawful for any person, firm, or corporation to change or amend by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

Section 6. Ordinances adopted after January 8, 2018 that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective February 8, 2018 and shall be remain in full force and effect from and after its passage, approval and publication as provided by law.

Passed and adopted by the City Council of the City of Thompson Falls, Montana, this 8th day of January, 2018.

By:

/s/

Mark Sheets, Mayor

Attest:

/s/

Chelsea Peterson, City Clerk/
Treasurer

1st Reading: December 11, 2017

2nd Reading: January 8, 2018

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(This checklist will be updated with the
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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SUPPLEMENT HISTORY TABLE

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In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the code's historical evolution.

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TITLE 1

ADMINISTRATION

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- Sec. 1-1-2. Acceptance.
- Sec. 1-1-3. Amendments.

Chapter 2. Saving Clause

- Sec. 1-2-1. Repealing ordinance; effect.
- Sec. 1-2-2. Constitutionality.
- Sec. 1-2-3. Rules for construction.

Chapter 3. Definitions

- Sec. 1-3-1. Construction of words.
- Sec. 1-3-2. Definitions, general.

Chapter 4. General Penalty

- Sec. 1-4-1. General penalty.

Chapter 5. City Officers and Employees

- Sec. 1-5-1. Elective and appointive officers.
- Sec. 1-5-2. Salaries and bonds.
- Sec. 1-5-3. Indemnification.

Chapter 5A. City Officers and Employees

Article A. City Clerk-Treasurer

- Sec. 1-5A-1. Offices consolidated.

Chapter 6. General and Corporate Provisions

- Sec. 1-6-1. Wards.
- Sec. 1-6-2. Ordinances.
- Sec. 1-6-3. Elections.

CHAPTER 1. THOMPSON FALLS CITY CODE**Sec. 1-1-1. Title.**

This compilation, revision and codification of the general ordinances of the City of Thompson Falls is hereby declared to be and shall hereafter constitute the official Code of General Ordinances of the City of Thompson Falls, Montana.

(1985 Code 1.00.01)

Sec. 1-1-2. Acceptance.

This code shall hereafter be known as and referred to as the official Code of the City of Thompson Falls, Montana and a copy or copies of such code in printed form shall be received without further proof as the ordinances of permanent and general effect in the City Of Thompson Falls in all courts and administrative tribunals of this state.

(1985 Code 1.00.02)

Sec. 1-1-3. Amendments.

Any ordinance amending this code shall set forth in full the section or sections of the code being amended, and this shall constitute a sufficient compliance with any statutory requirement that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full.

(1985 Code 1.00.03)

CHAPTER 2. SAVING CLAUSE

Sec. 1-2-1. Repealing ordinance; effect.

The repeal of ordinances as provided shall not affect any right which has accrued, any duty imposed, any penalty incurred, or any action or proceeding as commenced under or by virtue of the ordinance repealed, or the tenure of office of any person holding office at the time when they take effect; nor shall the repeal of any ordinance thereby have the effect of reviving any ordinance therefor repealed or superseded.

(1985 Code 1.00.04)

Sec. 1-2-2. Constitutionality.

Should any portion of this official code be declared by any court of competent jurisdiction to be unconstitutional or void, such adjudication shall in no way affect the remaining portion of this code.

(1985 Code 1.00.05)

Sec. 1-2-3. Rules for construction.

In the construction of the official code and all ordinances amendatory thereof or supplementary thereto the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the legislative body or repugnant to the context:

- A. *Intent to defraud.* Whenever, by any of the provisions of the official code, an intent to defraud is required in order to constitute an offense, it is sufficient if any intent appears to defraud any person, association or body politic or any combination of persons.
- B. *Liability of employers and agents.* When the provisions herein contained prohibit the commission or omission of any act, not only the person actually doing the prohibited thing or omitting the directed act, but also the employer and all other persons concerned in aiding or abetting the person shall be guilty of the offense described and liable to the penalty set forth.

(1985 Code 1.00.05)

CHAPTER 3. DEFINITIONS**Sec. 1-3-1. Construction of words.**

- A. The singular number includes the plural.
- B. Words used in the present include the future.
- C. Words used in the masculine gender include, as well, the feminine and neuter.
- D. Words prohibiting anything being done, except in accordance with a license or permit or authority from a board of officers, shall be construed as giving such board of officers power to license or permit or authorize such thing to be done.
(1985 Code 1.00.05E)

Sec. 1-3-2. Definitions, general.

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

Chief of police means the city marshal or other designated officer.

City or town means the City of Thompson Falls, County of Sanders, State of Montana.

Clerk-treasurer means the city clerk or city treasurer of the City of Thompson Falls as the case may be applicable.

Council means the city council of the City of Thompson Falls.

Day means any 24-hour period from 12:00 midnight to 12:00 midnight.

Depose means every mode or oral statement under oath or affirmation.

Knowingly imparts a knowledge that the fact exists which brings the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.

Land, real estate and real property includes lands, tenements, hereditaments, water rights, possessory rights and claims.

May is discretionary.

Neglect, negligence, negligently impart a want of such attention to nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

Oath includes affirmation.

Occupant or tenant as applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

Officers includes any officers and boards in charge of departments and the members of such boards of the City of Thompson Falls.

Official time means standard time in the City of Thompson Falls.

Owner as applied to a building or land, shall include any part owner, joint owner, tenant in common, and joint tenant or lessee of the whole or of a part of such building or land.

Person includes bodies politic and corporate, partnerships, associations and corporations.

Personal property includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

Property includes both real and personal property.

Public thoroughfare. includes streets, alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

Quarter means any three-month period, ending with the last day of March, June, September and December.

Shall is mandatory.

Signature includes any name, mark or sign written with the intent to authenticate any instrument of writing.

Swear includes affirm.

Wilfully when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make intent to violate law or to injure another or to acquire an advantage.

Work month means a calendar month unless otherwise expressed.

Year means any one calendar year unless otherwise expressed.
(1985 Code 1.00.05E)

CHAPTER 4. GENERAL PENALTY**Sec. 1-4-1. General penalty.**

A. *Penalty.* Whenever in any provision of this Code or other ordinance of the city any act is prohibited or is made or declared to be unlawful, a misdemeanor or an offense, or whenever in any such provision or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided therefor, any person upon conviction for the violation of any such provision of this Code or ordinances shall be punished by a fine not exceeding \$500.00 or by imprisonment not to exceed six months, or both such fine and imprisonment for each such offense. Each day any violation of any provision of any ordinance shall continue shall constitute a separate offense.

B. *Construction; interpretation.* In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

(1985 Code 1.04.01)

CHAPTER 5. CITY OFFICERS AND EMPLOYEES

Sec. 1-5-1. Elective and appointive officers.

A. *Elected officers.* The elected officers of the city shall be: one mayor of the city and two aldermen from each ward as provided by law.

B. *Appointed officers.* The appointed officers of the city shall consist of one city clerk-treasurer, one city attorney, one city judge, a chief of police, and a superintendent of streets and water, and such other officers as the council may from time to time create or authorize, or as may be allowed by law and authorized by the council, who shall be appointed by the mayor, with the advice and consent of the city council.

C. *Qualifications.* All elective and appointive officers of the city shall possess such qualifications as from time to time provided by the Montana state statutes.

D. *Duties.* The duties of the elective and appointive city officers shall be as provided by the Montana state statutes, and if no such provision is made in said statutes, then as appropriately directed by the mayor and city council.

(1985 Code 2.02.01—2.02.04)

Sec. 1-5-2. Salaries and bonds.

A. *Salaries.* The salaries of the officers and employees of the city shall be set by resolution of the city council

B. *Bonding of officers.* The city officers shall be bonded for the faithful performance of their duties; said bond to be executed by a duly authorized surety company, the premiums thereon to be paid by the city.

(1985 Code 2.00.01, 2.00.02)

Sec. 1-5-3. Indemnification.

In any civil action brought against any public official or employee of the city alleging a violation of initiative 75, the city shall defend the action on behalf of the official or employee and indemnify the official or employee for any liability resulting from the alleged violation of initiative 75.

(Ord 320, 1-1999)

CHAPTER 5A. CITY OFFICERS AND EMPLOYEES

ARTICLE A. CITY CLERK-TREASURER

Sec. 1-5A-1. Offices consolidated.

The office of city treasurer and the office of city clerk be, and the same are hereby consolidated and shall be held by one person who shall perform all of the duties pertaining to that of city clerk and that of city treasurer.

(1985 Code 2.06.01)

CHAPTER 6. GENERAL AND CORPORATE PROVISIONS**Sec. 1-6-1. Wards.**

The territory embraced and included within the corporate limits of the city shall be and the same is hereby divided into three wards which wards are bounded and described as follows.

- A. *Ward One.* Beginning at the intersection of the centerline of Spruce Street with the northerly city limits; thence southerly along the centerline of Spruce Street to its intersection with the northerly line of Preston Avenue; thence southeasterly to the intersection of the southerly line of Main Street with the centerline of Mill Street; thence southerly along the centerline of Mill Street to its intersection with the southerly city limits.
- B. *Ward Two.* Beginning at the intersection of the centerline of Woodland Street with the northerly city limits; thence southerly along the centerline of Woodland Street to its intersection with the northerly line of Preston Avenue; thence southerly to the intersection of the southerly line of Main Street with the East line of Block 14 of the Original Town site of Thompson Falls; thence southerly along the East line of said Block 14 to its intersection with the southerly city limits.
- C. *Ward Three.* All that territory within the corporate limits of the city lying easterly of the easterly line of Ward Two as above described.

(1985 Code § 1.02.01)

Sec. 1-6-2. Ordinances.

A. *Passage.* Passage of ordinances shall be in accordance with the provisions of the Montana state statutes.

B. *Posting.* It is the duty of the city clerk-treasurer, upon passage and approval of any ordinance, to forthwith post copies of the same in three public places within the city as designated in the council procedures, and such posting shall be a sufficient posting or publication of such ordinances unless otherwise specially ordered by the council.

(1985 Code 1.06.01; 1985 Code 1.06.02; amd. 2010 code)

Sec. 1-6-3. Elections.

A. *Elections in accordance with state statutes.* All primary and general elections shall be held in accordance with the statutes of the State of Montana

B. *Qualifications of electors.* Any person shall be qualified to vote in any and all city elections provided he is a resident of the city or any area which has been annexed and certified as such by the clerk and recorder of Sanders County.

(1985 Code 1.08.01, 1.08.02)

TITLE 2

BOARDS AND COMMISSIONS

Chapter 1. Board of Adjustment

- Sec. 2-1-1. Created.
- Sec. 2-1-2. Membership; terms.
- Sec. 2-1-3. Meetings.
- Sec. 2-1-4. Quorum.
- Sec. 2-1-5. Duties and powers.
- Sec. 2-1-6. Bylaws.
- Sec. 2-1-7. Records.
- Sec. 2-1-8. Changes in regulations, restrictions and boundaries.

Chapter 2. Planning Board

- Sec. 2-2-1. Establishment.
- Sec. 2-2-2. Jurisdiction.
- Sec. 2-2-3. Duties, services and functions.
- Sec. 2-2-4. Composition and appointment of members.
- Sec. 2-2-5. Officers.
- Sec. 2-2-6. Board procedures.
- Sec. 2-2-7. Schedule of meetings.
- Sec. 2-2-8. Voting and quorum.
- Sec. 2-2-9. Compensation and expenses.

CHAPTER 1. BOARD OF ADJUSTMENT**Sec. 2-1-1. Created.**

A city board of adjustment is established as authorized by MCA 76-2-321 through 76-2-328.
(Ord. 322, 2-14-2000)

Sec. 2-1-2. Membership; terms.

A. *Membership.* The board shall be comprised of city residents, consisting of regular members and one alternate member appointed by the mayor, with the approval of city council, for terms of three years. The alternate board member shall serve as a regular board member and vote as a regular board member whenever one of the regular board members is unable to attend a board meeting.

B. *Term.* The initial board membership shall consist of two individuals appointed to a one-year term, two individuals appointed to a two-year term, and one individual and one alternate member appointed for three-year terms. Successive appointments to the board shall be for three-year terms; provided that in the event any individual does not complete a term, his or her replacement shall be appointed to fill the remainder of the term.
(Ord. 322, 2-14-2000)

Sec. 2-1-3. Meetings.

The board shall hold its meetings at city hall or such place in the city as may be designated by its chairperson.
(Ord. 322, 2-14-2000)

Sec. 2-1-4. Quorum.

The presence of four members shall be necessary to constitute a quorum.
(Ord. 322, 2-14-2000)

Sec. 2-1-5. Duties and powers.

The board's duties and powers shall be as defined by state law and as defined herein. It shall be the duty of other departments of the city to render such assistance as may be reasonably required or requested by the board.

- A. *Zoning regulations.* Where there are practical difficulties or unnecessary hardships in the application of the provisions of title 10 of this Code, or any amendment thereto, the board of adjustment in a specific case shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the regulations or provisions relating to the construction, structural change, or alteration of buildings or structures, in harmony with their fundamental purpose and intent, or any use thereof, so that the public health, safety, and general welfare may be conserved and substantial justice done.
- B. *Setback requirements.* Where there are practical difficulties or unnecessary hardships in the application of the provisions of all sections of the city ordinances, or any amendment thereto,

the board of adjustment in a specific case shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the regulations or provisions relating to the setback requirements contained in said ordinance, so that the public health, safety and general welfare may be conserved and so that substantial justice is done; provided, that structural changes or alterations of buildings or structures is completed in harmony with the fundamental purpose and intent of the ordinance.

- C. *Burden of proof.* In every case where a variance is granted by the board of adjustment, it must be affirmatively shown by the record before the board that an unnecessary hardship or practical difficulty exists, and the records of the board shall clearly indicate in what particular and specific respect an unnecessary hardship or practical difficulty would be created. The burden shall be on the party appealing to the board to present sufficient evidence to establish a record justifying board action granting their request.

(Ord. 322, 2-14-2000)

Sec. 2-1-6. Bylaws.

The board of adjustment shall be charged with adopting bylaws providing for the conduct of its meetings and business. The bylaws shall include the guidelines for notice of meetings and actions to be taken by the board of adjustment, and shall be reviewed by the board on an annual basis and ratified by the city council.

(Ord. 322, 2-14-2000)

Sec. 2-1-7. Records.

The record kept by the board and created by the board shall be retained in the permanent files of the city, with variances granted pursuant to this chapter being indexed by street address and/or legal description of the premises that is affected.

(Ord. 322, 2-14-2000)

Sec. 2-1-8. Changes in regulations, restrictions and boundaries.

Any changes in the regulations, restrictions, and boundaries of any zoning district may be made only by the city council, and in a manner designated by law. Any changes in regulations, restrictions, and/or boundaries of any other city ordinance may be made only by the city council, and in the manner designated by law.

(Ord. 322, 2-14-2000)

CHAPTER 2. PLANNING BOARD**Sec. 2-2-1. Establishment.**

The Thompson Falls Planning Board is established to undertake the responsibilities herein defined, pursuant to and under the provisions of the statutory authority provided to the City of Thompson Falls. (Ord. No. 344, 6-10-2019)

Sec. 2-2-2. Jurisdiction.

The jurisdictional area of the board includes the area within the incorporated limits of the city. (Ord. No. 344, 6-10-2019)

Sec. 2-2-3. Duties, services and functions.

A. *Generally.* In general, the board shall perform and provide the duties, services and functions established and assigned through city ordinance, resolution, agreements, this chapter including the authority and responsibility to:

1. Advise the city council on all community planning and land development activities specified under city ordinances and plans, as well as any other duties, functions, services and activities requested or assigned;
2. Undertake and perform other duties, services and functions, as requested by the city council.

B. *Long-range planning.* The board shall have the authority and responsibility to:

1. If requested by the city, initiate, prepare, review, hear, and make recommendations to the city council on the adoption or amendment of a growth policy and such ordinances and resolutions necessary to implement the growth policy;
2. Initiate, prepare, review, hear and make recommendations to the city council on the adoption or amendment of any planning documents designed to guide the orderly development of the community.

C. *Subdivision, annexation review.* The board shall have the authority and responsibility to review, hear, and make recommendations to the city council on major subdivision applications and plats and annexations.

(Ord. No. 344, 6-10-2019)

Sec. 2-2-4. Composition and appointment of members.

A. *Number and appointment.* The board shall consist of seven members appointed by the city council, which will include:

1. One member to be appointed by the city council from its membership;
2. One member to be appointed by the city council, who may in the discretion of the city council be an employee of or hold public office in Thompson Falls;

3. One member to be appointed by the mayor upon the designation by the Sanders county commission;
4. Four citizen members to be appointed by the mayor.

B. *Terms.* Each member shall be appointed to a three-year term, beginning and ending on the first day of January.

C. *Vacancies.* When a position becomes vacant before the end of the term, the position shall be filled by the city council for the unexpired term.

D. *Conditions for removal.* A member may be removed from office by a majority vote of the city council.

(Ord. No. 344, 6-10-2019)

Sec. 2-2-5. Officers.

A. *Election.* At its first regular meeting in each calendar year, the board shall elect from its members a chair and vice-chair to serve for a period of one year. If there is more than one nominee for any office, voting shall be by secret ballot.

B. *Terms of office.* All elective offices shall be for one year. An officer whose term has expired shall hold office until a successor is elected.

C. *Vacancies.* In the event of a vacancy in any office, the chair, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.

D. *Rights of chair.* The chair shall have all the rights and privileges of a board member.

E. *Duties of chair.* The chair shall:

1. Preside at all meetings of the board;
2. Act as a liaison between the board and the city council;
3. Execute all legal documents on behalf of the board;
4. Authorize all financial transactions upon approval of a majority of members present;
5. Call special meetings as provided herein; and
6. Act as the public representative of the board or designate an alternate.

F. *Duties of vice-chair.* The vice-chair shall perform the duties of the chair in all cases in which the chair is unable to serve or as otherwise directed by the chair.

G. *Duties of secretary.* The city clerk shall function as the secretary of the board. The secretary shall maintain the minutes and records of the board and issue calls and notices pertaining to the board, prepare and distribute the agenda for all regular meetings at least four days prior to the meeting, keep a roll of membership and attendance, and supervise the balloting at all elections.

(Ord. No. 344, 6-10-2019)

Sec. 2-2-6. Board procedures.

The board shall be governed by the rules contained in "Robert's Rules of Order, Revised," in all parliamentary procedures, as applicable.

(Ord. No. 344, 6-10-2019)

Sec. 2-2-7. Schedule of meetings.

The board shall fix the time for holding regular meetings but shall meet at least once in the months of January, April, July, and October.

(Ord. No. 344, 6-10-2019)

Sec. 2-2-8. Voting and quorum.

A. *Requirements for quorum.* A quorum shall consist of four members.

B. *Requirements for official action.* Each decision of the board shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.

C. *Disqualification or voluntary abstention from voting.* In adjudicative decisions, a member shall abstain from voting on an issue or shall be disqualified by majority vote of the remaining members present, if any of the following circumstances apply:

1. The member has a direct financial interest in the outcome of the matter at issue; or
2. The member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; or
3. The member owns property within the area entitled to receive written notice; or
4. Participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
5. Other applicable law that applies.

(Ord. No. 344, 6-10-2019)

Sec. 2-2-9. Compensation and expenses.

Members shall receive no salary for serving on the board but may be reimbursed for transportation and actual expenses up to but not exceeding state transportation reimbursements and allowable expenses for attendance at conferences, workshops, training sessions, etc.

(Ord. No. 344, 6-10-2019)

TITLE 3

BUSINESS AND LICENSING REGULATIONS

Chapter 1. Liquor Control

- Sec. 3-1-1. License required; fees.
- Sec. 3-1-2. Application for license.
- Sec. 3-1-3. Collection of fees.
- Sec. 3-1-4. On-premises wine license.
- Sec. 3-1-5. Conditions of issuance and renewal.
- Sec. 3-1-6. Term.
- Sec. 3-1-7. Location near schools, churches.
- Sec. 3-1-8. Definition of "premises" for beer.
- Sec. 3-1-9. One liquor license per person.
- Sec. 3-1-10. Transfer place of business.
- Sec. 3-1-11. Transfer of license.
- Sec. 3-1-12. Display of license.
- Sec. 3-1-13. Revocation of licenses.
- Sec. 3-1-14. Penalty.

Chapter 2. Solicitors

- Sec. 3-2-1. Definitions.
- Sec. 3-2-2. License required.
- Sec. 3-2-3. Fees.
- Sec. 3-2-4. Application.
- Sec. 3-2-5. Issuance of license.
- Sec. 3-2-6. Must carry license.
- Sec. 3-2-7. Revocation.
- Sec. 3-2-8. Bond.
- Sec. 3-2-9. Exceptions.
- Sec. 3-2-10. City parks.
- Sec. 3-2-11. Door-to-door hours.
- Sec. 3-2-12. Permit restrictions.

Chapter 3. Video Draw Poker Machines

- Sec. 3-3-1. License required.
- Sec. 3-3-2. Application.
- Sec. 3-3-3. Fee; term.
- Sec. 3-3-4. Revocation.

CHAPTER 1. LIQUOR CONTROL**Sec. 3-1-1. License required; fees.**

It is hereby required that any person who shall desire to sell beer, wine or liquor at retail within the city under authority of Montana law shall apply for and obtain a such license an annual fee payable annually in advance. Such fees shall be in the amount of \$40.00 for wine license, \$60.00 for beer license and \$80.00 for liquor license.

(1985 Code 5.06.01)

Sec. 3-1-2. Application for license.

A. *Written application; appearance before council.* Every person required by this chapter to obtain a license and who is applying therefor for the first time, and every person whose license has been previously refused or revoked, must either file with the city clerk-treasurer an application, in writing, as hereinafter specified, or appear in person before the city council in regular meeting, and shall answer such questions as may be propounded and produce such evidence as the council may request.

B. *Required information.* If such application is made in writing, it shall specify the location of the premises where the business is to be carried on, the names of the persons conducting the business, and shall further state whether such business is to be carried on as a sole proprietorship, partnership or in some other form.

(1985 Code 5.06.02)

Sec. 3-1-3. Collection of fees.

The city clerk-treasurer shall be charged with the collection of the license fees herein required. The application, whether made in person or in writing, and any request for renewal of such license shall be accompanied by tender of the required fee.

(1985 Code 5.06.03)

Sec. 3-1-4. On-premises wine license.

The applicant shall show to the satisfaction of the council that the sale of wine for on-premises consumption, for which the license is sought, would be supplementary to a restaurant or prepared food business.

(1985 Code 5.06.04)

Sec. 3-1-5. Conditions of issuance and renewal.

The issuance and renewal of such license shall be conditioned, among other things, upon the possession by the applicant of an existing license for retail on-premises sale of beer and wine issued by the state department of revenue. The applicant shall also be required to have a concurrent retail beer license issued by the city.

(1985 Code 5.06.05)

Sec. 3-1-6. Term.

All licenses issued under this chapter in any one year shall expire at 12:00 midnight on June 30 of each year.

(1985 Code 5.06.10)

Sec. 3-1-7. Location near schools, churches.

The provisions of MCA 16-3-306(1) shall not apply to Main Street in the city. Any business or enterprise whose premises front Main Street may conduct retail sales of alcoholic beverages, provided the business shall have first obtained the necessary permits and licenses from the city, state and federal government.

(Ord. 294, 4-8-1989)

Sec. 3-1-8. Definition of "premises" for beer.

A "premises" within the meaning of this chapter is defined as a dispensing bar or any arrangement or device from which beer is dispensed or served.

(1985 Code 5.06.07)

Sec. 3-1-9. One liquor license per person.

Not more than one license for the retail sale of liquor shall be issued to any person, firm, association or corporation.

(1985 Code 5.06.08)

Sec. 3-1-10. Transfer place of business.

The licensee may transfer his place of business from one place to another providing he shall make application to and obtain from the mayor and city council leave so to do. Such change shall be noted on the records of the city clerk-treasurer.

(1985 Code 5.06.09)

Sec. 3-1-11. Transfer of license.

A. *Application for transfer.* Licenses may be sold and transferred by the licensee, but before any sale or transfer is made, application shall be made, in writing, to the city council for leave to make such transfer. The proposed assignee may be required to appear and answer such questions and produce such evidence as is required of applicants upon first issuance of a license.

B. *Council action.* Such assignment and transfer may be refused by the mayor and city council in their discretion. If leave is granted for an assignment, the city clerk-treasurer shall make proper notations thereof upon the license record.

C. *State approval required.* A transfer of any such license may be made only on application to the city council, accompanied by satisfactory evidence of an approval of the transfer of the license issued by the state department of revenue, for such business.

D. *Prorated fee; refund.* Where a license hereunder is issued for a period commencing subsequent to the first day of the current year for which such license may be issued, a pro rata fee calculated by a quarterly basis shall be charged for the balance of such current year; and provided, further, that nothing herein shall be construed to entitle any licensee hereunder to any refund of any portion of any license fee in the event of his discontinuing such business or the suspension or revocation of this license prior to the expiration of such year.

(1985 Code 5.06.09, 5.06.10)

Sec. 3-1-12. Display of license.

All licenses issued under the provisions of this chapter shall, at all times, be prominently displayed in the place of business of such license.

(1985 Code 5.06.11)

Sec. 3-1-13. Revocation of licenses.

All licenses issued under this chapter shall be revocable by the city council for proper cause, or the council may refuse to reissue or extend such license when its term expires, for the same reason. All such licenses shall be conditioned that the licensee will conduct his business in a quiet, orderly manner and will observe and obey the laws of the United States and the state, and the ordinances of the city and shall further be conditioned that the licensee will not permit upon the premises where his business is conducted any disorderly, noisy, offensive or illegal conduct; and such license may be summarily suspended or revoked by the council for a breach of any of the conditions of the license or any of the terms of this chapter. Where any such license is revoked prior to the expiration of the term for which payment has been made, the unearned portion shall be retained by the city.

(1985 Code 5.06.06)

Sec. 3-1-14. Penalty.

Penalties for the violation of this chapter shall be in accordance with the general penalty found in section 1-4-1 of this Code.

(1985 Code 5.06.12)

CHAPTER 2. SOLICITORS***Sec. 3-2-1. Definitions.**

A solicitor within the meaning of this chapter is defined to be any person who goes from house to house, or place to place within the corporate limits of the city (or from a stand, wagon, railroad car, motor vehicle, or upon any street or upon any public ground or from temporary quarters within the city, whether such business be conducted by personal contact and interview or by use of telephone for such purposes), selling or taking orders for or offering to sell or take orders for goods, wares, merchandise, professional or personal services, or for the making, manufacturing, or repairing of any article or thing whatsoever, except those selling to merchants for resale.

(Ord. No. 328, § 1, 6-14-2010)

Sec. 3-2-2. License required.

It shall be unlawful for any person to act as solicitor within the meaning and application of this chapter unless he or she or their employer shall have first secured a license therefore in the manner provided by this chapter. Each license shall be issued in the name of the applicant and firm and is not transferable to any other person or firm.

(Ord. No. 328, § 2, 6-14-2010)

Sec. 3-2-3. Fees.

The license fee for solicitors hereunder shall be as follows: \$50.00 per annum for each calendar year or fraction thereof, payable in advance, for each firm employing solicitors, as defined in section 3-2-1, and one solicitor employed by said firm. The license fee for each additional solicitor in excess of one employed by any firm shall be \$20.00 per calendar year or fraction thereof, payable in advance.

In addition to said license fee, any person, firm or corporation so engaged in such occupation or business who at the time of his application shall not maintain an established place of business within the city shall pay an investigation fee of \$35.00, which sum shall be used to investigate the ability of the applicant to qualify for a license under this chapter. Any sum not used for such investigation shall be returned to the applicant. The sum is payable at the time the application is filed. Where the applicant has been previously granted a license within a period of 12 months prior to the date of application, he shall not be required to pay the investigation fee.

(Ord. No. 328, § 3, 6-14-2010)

Sec. 3-2-4. Application.

Any person or firm desiring to secure a solicitor's license shall apply therefore in writing over his or her signature to the clerk on forms provided by the city, such application shall state as to each solicitor:

- A. The name and address of each solicitor;

***Editor's note**—Ord. No. 328, §§ 1—12, adopted June 14, 2010, amended ch. 2 in its entirety to read as herein set out. Former ch. 2, §§ 3-2-1—3-2-12, pertained to similar subject matter and derived from Ord. 301, adopted Jan. 1992.

- B. The name and address of the person, firm or corporation by whom employed; if the firm be a partnership, showing the names and addresses of all partners; if the employing firm be a corporation, showing the address of the principal place of business;
 - C. The length of service of each such solicitor with such employer;
 - D. The place of residence and nature of employment of each solicitor during the last preceding year;
 - E. The nature or character of good, wares, merchandise or services to be offered by each solicitor.
- (Ord. No. 328, § 4, 6-14-2010)

Sec. 3-2-5. Issuance of license.

If the chief of police shall determine after 30 days' investigation that the facts set forth in the application are true, that the solicitor proposes to engage in a lawful and legitimate commercial or professional enterprise, the chief of police shall then approve the application and the clerk may issue the license applied for. Such licenses shall expire on December 31 of the year in which such licenses have been issued. Except as hereinafter provided, no license shall be issued until the conclusion of 30 days' investigation.

(Ord. No. 328, § 5, 6-14-2010)

Sec. 3-2-6. Must carry license.

Such license with attached personal description shall be carried at all times by each solicitor for whom issued when soliciting or canvassing in the city and shall be exhibited by such solicitor when requested to do so by any police officer or person solicited.

(Ord. No. 328, § 6, 6-14-2010)

Sec. 3-2-7. Revocation.

Any such license may be revoked by the clerk or chief of police for the violation by the solicitor or by the solicitor's employer of any of the laws of the city or of any state or federal laws, or whenever such solicitor shall, in the judgment of the council cease to possess the character and qualification required by this chapter for the issuance of such permit.

(Ord. No. 328, § 7, 6-14-2010)

Sec. 3-2-8. Bond.

If any applicant for a license, including solicitor or his employer, shall be unwilling to receive a license only upon the conclusion of a 30-day period of investigation as provided in section 2-2-5 hereof, and he desires the issuance of a license by the clerk a cash or surety bond in the sum of not less than \$10,000.00 at the discretion of the clerk or city attorney, said surety bond to be executed by a company authorized to write such bonds in the State of Montana, which bond shall be in the favor of the city covering the period for which said license is issued plus a period of 90 days thereafter and conditioned that said business will be conducted in a lawful and proper manner and that all goods, wares, merchandise or personal or professional services sold by the solicitor will be delivered in accordance with the terms of the written order, or failing therein, that the advance payment made by the buyer on such order shall be

refunded; thereupon such license or licenses may be immediately issued. Any person aggrieved by the action of such solicitor shall have a right of action on the bond for the recovery of money or damages or both. Such remaining cash bond will be returned at the termination of the license plus a period of 90 days without interest.

(Ord. No. 328, § 8, 6-14-2010)

Sec. 3-2-9. Exceptions.

The provision of this chapter shall not apply to:

- A. A person using a vehicle owned by him whether operated by him or his agent, for the transportation of farm produce raised or produced by him on his own or leased premises, when the entire course of such transportation extends not more than the confines of the territorial limits of the State of Montana.
- B. To any regularly licensed auctioneer in pursuit of his profession.
- C. To any local religious, charitable or social institution when the solicitors so engaged are bona fide residents of the city, employed without compensation or remuneration, to further and advance the aims and purposes of such institutions.
- D. To any regularly established and recognized charitable or welfare institutions or organizations of and within the State of Montana and whose benefits are available to any person within the State of Montana.
- E. To wholesalers calling upon established businesses in the city.
- F. To all class and yearbooks sponsored by public and parochial schools of the State of Montana.
- G. Special events preapproved by the city council as provided by Resolution No. 603.

(Ord. No. 328, § 9, 6-14-2010)

Sec. 3-2-10. City parks.

There shall be no soliciting allowed upon any city parks within the city. This provision shall apply to all persons whether licensed or not, and including those exceptions listed in section 3-2-9.

(Ord. No. 328, § 10, 6-14-2010)

Sec. 3-2-11. Door-to-door hours.

Solicitors conducting their business from door-to-door, shall operate only between the hours of 9:00 a.m. to 5:00 p.m.

(Ord. No. 328, § 11, 6-14-2010)

Sec. 3-2-12. Permit restrictions.

The city in its discretion may restrict a permit to provide that no solicitor shall operate in competition with any local religious, charitable, or social institution when the members of such organization so engaged are bona fide residents of the city, employed without compensation or remuneration, to further and advance the aims and purposes of such institutions.

(Ord. No. 328, § 12, 6-14-2010)

CHAPTER 3. VIDEO DRAW POKER MACHINES**Sec. 3-3-1. License required.**

No person, firm or corporation shall install, operate or engage in the business of an operator or proprietor of a "video draw poker machine" as defined by Montana law without having first obtained a license as provided in this chapter.

(Ord. 280, 8-1985)

Sec. 3-3-2. Application.

The applications for such licenses shall be made to the city clerk-treasurer and shall identify the video draw poker machine to be licensed and specify the location of the machine.

(Ord. 280, 8-1985)

Sec. 3-3-3. Fee; term.

The amount of the annual license fee shall be set and may be changed by resolution of the city council, but in no case shall the fee exceed \$1,000.00 for each video draw poker machine. The license expires on June 30 of each year and the fee is prorated.

(Ord. 280, 8-1985)

Sec. 3-3-4. Revocation.

The mayor shall have the right to revoke any license issued hereunder for the violation of any state law or administrative regulation governing the operation of video draw poker machines.

(Ord. 280, 8-1985)

TITLE 4

PUBLIC HEALTH AND SAFETY

Chapter 1. Control and Abatement of Nuisances

- Sec. 4-1-1. Power to enact.
- Sec. 4-1-2. Purpose.
- Sec. 4-1-3. Definitions.
- Sec. 4-1-4. Prohibitions.
- Sec. 4-1-5. Shielding.
- Sec. 4-1-6. Reporting and complaints.
- Sec. 4-1-7. Enforcement.
- Sec. 4-1-8. Right of entry.
- Sec. 4-1-9. Abatement.
- Sec. 4-1-10. Municipal infraction, penalties.
- Sec. 4-1-11. Procedures, remedies and costs.

Chapter 2. Civil Defense

- Sec. 4-2-1. Preamble.
- Sec. 4-2-2. Mayors and county commissioners.
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Chapter 3. Open Burning

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- Sec. 4-3-3. Residential burning.
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- Sec. 4-3-5. Precautions.
- Sec. 4-3-6. Prohibited.
- Sec. 4-3-7. Violation—Penalty.

Chapter 4. Hauling and Dumping Garbage

- Sec. 4-4-1. Littering.
- Sec. 4-4-2. Dumping.

Chapter 5. Littering

- Sec. 4-5-1. Littering.
- Sec. 4-5-2. Vehicles to be covered.

Chapter 6. Noise and Disturbances

- Sec. 4-6-1. Authority.
- Sec. 4-6-2. Purpose.
- Sec. 4-6-3. Definitions.
- Sec. 4-6-4. [Prohibited acts.]

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- Sec. 4-6-5. Exceptions.
- Sec. 4-6-6. Exemptions.
- Sec. 4-6-7. Penalty.

CHAPTER 1. CONTROL AND ABATEMENT OF NUISANCES***Sec. 4-1-1. Power to enact.**

For the statutory provisions giving the city power to define and abate nuisances, see § 7-5-4104, MCA. (Ord. 356, § 2, 1-9-2023)

Sec. 4-1-2. Purpose.

The purpose of this chapter is to regulate, control, and prohibit conditions that constitute public nuisances and community decay which:

- A. Are injurious to public health, safety and welfare;
- B. Obstruct the free use of property or interfere with the comfortable enjoyment of life or property and to provide for the abatement of such nuisances;
- C. Serve to protect the public health, safety, and welfare and promotes the economic development within the incorporated areas of the City of Thompson Falls.

It is also the purpose of this chapter to prevent and prohibit those conditions which reduce the value of private property, interfere with the enjoyment of public and private property, create and constitute public nuisances and contribute to the degradation of the character and the depreciation of property values.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-3. Definitions.

In addition to all other definitions cited in this title, which are specifically incorporated herein by reference, the following definitions apply:

Abate means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means, in such a manner and to such an extent that is determined necessary in the interest of the health, safety and general welfare of the city.

Accumulate means to store, gather, collect, heap or pile up.

Attractive hazard means the open storage on property of any container that may attract children and having a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and cannot be easily opened from the inside.

Community decay means a public nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or which obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property.

***Editor's note**—Ord. 345, §§ 1, 2, adopted Jan. 9, 2023, repealed the former ch. 1, §§ 4-1-1—4-1-11, and enacted a new ch. 1 as set out herein. The former ch. 1 pertained to similar subject matter, and derived from Ord. 345, § 2, adopted July 8, 2019.

"Community decay" as used in this chapter should not be construed or defined to apply to:

1. Normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations;
2. Properly permitted construction or demolition projects during the time any necessary permits are in effect;
3. Persons servicing, manufacturing or processing materials, goods, or products on lots in public view, so long as the materials used in the normal operation of the business are neatly stacked or piled; or
4. Normal residential maintenance or landscaping.

Dangerous structure means any dangerous, decaying, unkempt, falling or damaged residential dwelling or other structure suitable for human occupancy excluding any structure related to an agricultural or farming operation.

Enforcement officer means the City of Thompson Falls and/or its designee.

Junk includes, but [is] not limited to, the open storage of old appliances, equipment, or parts thereof, old iron or other scrap metal, automobile or truck tires, cardboard, old lumber or scrap wood, rags, rope, paper, debris, rubble, batteries, rubber debris, mattresses or any worn out, cast off or discarded article or material which is ready for destruction or has been collected or stored as salvage, for conversion to some other use or for reduction into components and is not part of a commercial or public salvaging or recycling operation.

Junk farm or lawn and garden equipment means any farm or lawn and garden equipment, including component parts, that is discarded, ruined, wrecked or dismantled; that is not lawfully and validly licensed; and remains inoperative or incapable of being driven.

Junk recreational equipment means any discarded, wrecked, ruined, scrapped, junked, dismantled, or inoperable recreation vehicles and/or their component parts (including, but not limited to, snowmobiles, four-wheelers, recreational vehicles (RVs), camp trailers, travel trailers, pedal bikes, motorbikes and boats) or such recreational vehicles that are not otherwise capable of immediate and legal operation on public roads, if applicable;

Junk vehicle means any motor vehicle, including component parts, that:

1. Is discarded, ruined, wrecked or dismantled;
2. Is inoperable;
3. Is not capable of being promptly started and driven under its own power;
4. Is not currently licensed; or
5. Lacks any of the following items, which is otherwise standard factory equipment:
 - a. Windshield.
 - b. Side or rear window(s).
 - c. Door(s).

- d. Fender(s).
- e. Headlamp(s).
- f. Muffler(s).
- g. Wheel(s).
- h. Inflated tires.

Nuisance means a situation created or allowed to continue by the owner or occupant of real property which is injurious to health; indecent or offensive to the senses; an obstruction to the free use of another's property, so as to interfere with the comfortable enjoyment of life or property; renders any public right-of-way dangerous for passage; or adversely affects the property values of adjacent properties.

Obstruction to the public right-of-way means the placement of any debris, refuse, rubble, dirt, gravel, soil, fence, junk, junk vehicles or other personal property so as to obstruct traffic, drainage, pedestrians or otherwise safe and open access to such right-of-way.

Open storage means exposed to the elements or not stored inside an enclosed structure which includes walls on all sides and a roof.

Owner means an individual, firm, partnership, company, association, corporation, city, town, or any other entity, whether organized for profit or not, owning any land, easement, or right-of-way as recorded in the official record of the Sanders County Clerk and Recorder.

Person means an individual, firm, partnership, company, association, corporation, or any entity, public or private.

Premises means any lot, parcel of land, building, parcel, real estate, land or portion of land whether improved or unimproved including any portion of any street, right-of-way or alley lying between such lot or parcel of land and the center of such street, right-of-way or alley.

Public nuisance means a nuisance that affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Public view means any area visible from a point up to six feet above the surface of the center of any public roadway or right-of-way.

Responsible person means any agent, lessee, owner or other person occupying or having charge or control of any premises.

Shielding means any natural barriers, fencing, or other manmade barriers used to conceal from public view.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-4. Prohibitions.

It is unlawful under this chapter for any owner or other responsible person on the premises that they occupy or control within the limits of the City of Thompson Falls, or adjacent to any City of Thompson Falls property to create, continue, suffer, maintain, or in any manner allow any condition that contributes

to the creation of a public nuisance and is injurious to health or safety, is offensive to the senses, or obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property, or obstructs a public right-of-way. Such condition shall be deemed a nuisance if it affects an entire community or neighborhood or any considerable number of persons.

A. Conditions that may contribute to public nuisances include, but are not limited to, the following:

1. The open storage, accumulations, or presence in public view for more than 30 consecutive days of:
 - a. Metal fixtures, appliances, and related items (including, but not limited to, iron metal, component vehicle and machine parts, household appliances, barrels, and other salvaged metal items);
 - b. Boxes, building materials, and related items (including, but not limited to, cardboard, packing material, construction and building materials, demolition waste, concrete or concrete blocks, or other similar and/or related materials);
 - c. Modular or mobile homes, sheds, and buildings (including, but not limited to, mobile or permanent structures) that are dilapidated due to neglect or are uninhabitable;
 - d. Garbage or trash that is not contained in a garbage receptacle;
 - e. Household furniture not designed for outdoor use;
 - f. Raw materials, equipment parts, or bulk commodities;
 - g. Other rubble, debris, junk, or refuse without removing such material to a legal disposal site or placing such collection inside a storage building or garage.
2. Maintaining a junk vehicle(s) on any premises in public view for more than 30 days without removing such vehicle(s) to a legal disposal site or placing said junk vehicle(s) inside a storage building or garage.

However, up to two junk vehicles may be stored on a residential property if (1) they are parked in the side or rear yard, and (2) screened from public view as required by section 4-1-5.
3. Maintaining junk farm equipment on any premises in public view for more than 30 days without removing such equipment to a legal disposal site or placing said equipment inside a storage building or garage.
4. Maintaining junk recreational vehicles or equipment on any premises in public view for more than 30 days without removing such equipment to a legal disposal site or placing said junk recreational vehicles or equipment inside a storage building or garage.
5. Maintaining an attractive hazard on any premises for more than 24 hours without removing the door, lid, or locking or fastening device from such container.
6. Maintaining a dangerous structure for more than 30 days without securing such property against entry or abating the dangerous condition of such structure.

7. Creating or maintaining on any premises an amount of decaying matter, animal or vegetable, which is not part of an agricultural or farming operation, so as to contaminate the atmosphere and be offensive to the senses and obstruct the free enjoyment of life and property.
 8. Allowing a structure to:
 - a. Remain unsecured from unauthorized entry; or
 - b. Become an eyesore or blight on a neighborhood by neglect or failure to make necessary repairs; or
 9. Allowing a residential structure to become unsuitable for human habitation, by failure to maintain the structure.
 10. Not maintaining the structurally safe and sound condition of fences and/or buildings which are allowed to deteriorate.
 11. Creating or maintaining an obstruction to a public right-of-way.
- B. Violations of this section may be grounds for a civil abatement action as provided in this Chapter or for a criminal citation as provided for under Montana law, § 45-8-111, MCA.
(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-5. Shielding.

The open storage, accumulations, or presence of items or materials that would be considered a public nuisance under section 4-1-4 shall be lawful if such materials are shielded from public view in accordance with the following standards:

- A. All shielding barriers must conform to all local zoning, planning, building and protective covenant requirements.
- B. All shielding barriers shall be of sufficient height and density to conceal any violation on the premises from public view.
- C. Any manmade shielding barriers must be constructed of sound building materials. Lumber or better is required. Other types of fencing of equivalent performance, attractiveness, and shielding qualities are also acceptable. The barriers must be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.
- D. Shielding with shrubs and trees, while not subject to precise measurements, must provide a similar degree of shielding at all times of the year.
- E. No more than one of the approved shielding materials shall be used on any one side of the property.
- F. Plastics or other materials placed over junk vehicles are not acceptable, except that reasonably attractive car covers specifically designed to attach tightly to and cover motor vehicles is acceptable for shielding up to two junk vehicles at a single residential location as provided in subsection 4-1-4(A)(2). Car covers must be maintained and secured at all times and cannot be ripped, torn, or blowing.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-6. Reporting and complaints.

Any citizen or employee of the City of Thompson Falls so affected by a nuisance and/or community decay is entitled to make a verbal or written complaint to the City Hall of Thompson Falls. Such complaint shall include, whenever possible:

- A. The nature of the nuisance and/or community decay;
- B. The location of the nuisance, including the address;
- C. The name of the owner, occupant, or manager of the premises, if known;
- D. The duration of the nuisance and/or community decay, if known.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-7. Enforcement.

Upon receipt of a complaint, or if an enforcement officer becomes aware of a condition or situation that may constitute a nuisance, the enforcement officer shall investigate the condition or situation within ten working days.

If it is determined that a nuisance exists as defined herein, the city will give notice of the violation to the property owner and the responsible person who is maintaining or creating such nuisance of the specific nature of the violation.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-8. Right of entry.

If entry upon the property is necessary by the enforcement officer, the enforcement officer will contact the owner of the premises and the responsible person, either in writing or by telephone, prior to entry upon the premises. The purpose of this initial contact is to request consent to be on the property. If the owner or responsible person does not consent to entry onto the property, a search warrant or other court order will be obtained prior to any entry onto private property, unless exigent circumstances exist that require immediate entry.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-9. Abatement.**A. *Emergency abatement.***

1. Whenever an enforcement officer has reason to believe that a nuisance exists, and that such nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the enforcement officer, his authorized representative, a fire marshal, or law enforcement, may immediately enter into any building or upon any premises within the jurisdiction of the city for purposes of inspection or abatement.
2. Whenever a nuisance exists which constitutes an emergency presenting imminent danger of serious injury to persons or property, an enforcement officer may order, without notice or judicial action, that the nuisance be immediately abated by removal, destruction or mitigation.

3. If the owner or responsible person fails to comply with the enforcement officer's order immediately, or cannot be located, the enforcement officer shall cause the structure to be demolished and removed, or the nuisance otherwise abated or mitigated, either through an available public body or agency or by contract or arrangement with private persons. The cost of such abatement shall be paid by the owner of the property upon which the nuisance existed, pursuant to the procedures established in section 4-1-11.

B. Voluntary abatement.

1. Unless a nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the city shall contact the property owner and the responsible person who is maintaining or creating such nuisance and provide notice of the violation and afford 30 days to voluntarily abate the nuisance.
2. Included in the notice must be the specific condition or conditions to be abated and the specific abatement required to be undertaken.
3. If the owner believes abatement cannot be completed within the 30 days provided for in the notice, the owner may submit a written request to the city for additional time to abate beyond the 30 days.
 - a. The written request must include:
 - i. A plan of abatement;
 - ii. An explanation of why abatement cannot be completed within 30 days;
 - iii. The date for commencement and completion; and
 - iv. If the responsible person is different than the owner of the premises, both parties must sign the request.
 - b. The mayor or their designee may accept such plan and defer further proceedings under this chapter.
 - c. The plan shall not exceed 90 days unless approved by mayor and/or police.
 - d. The written request and the acceptance will be placed in the public record of the complaint.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-10. Municipal infraction, penalties.

Violations of this chapter are civil municipal infractions within the exclusive jurisdiction of the City Court of the City of Thompson Falls. Violations are punishable by a civil penalty of not more than \$300.00 for each violation.

Any condition that constitutes a nuisance condition where the same, or substantially similar, condition has been the subject of two or more enforcement actions within any 12-month period is deemed to be a continuing violation. Continuing violations are punishable by a penalty not to exceed \$500.00 for each repeat violation.

(Ord. 356, § 2, 1-9-2023)

Sec. 4-1-11. Procedures, remedies and costs.

A. The remedies specified in this section shall be in addition to all other remedies provided by law.

B. When a nuisance has not been voluntarily abated within the time specified in the notice to abate, or the voluntary abatement agreement the following procedures apply:

1. The city may bring a civil action in the City Court of the City of Thompson Falls, in the name of the citizens of the city, by filing a complaint to have the nuisance declared as such by the court and for an order enjoining the public nuisance or authorizing its restraint, removal, termination or abatement.
2. The complaint shall be verified or supported by an affidavit. Summons shall be issued and served as provided by state law for civil cases. If the owner or responsible person cannot be personally served after good faith efforts, service may be made by publication as provided in state law for matters concerning real property.
3. A notice of appearance shall be served with the summons and complaint. The appearance date shall not be less than 21 days from the date of service of the summons and complaint. The trial shall be held upon the appearance date, unless the court grants a continuance for good cause shown.
4. The respondent shall file a response on or before the appearance date set forth in the notice of appearance.
5. Upon the date and at the time set for appearance and trial, if the respondent has filed no response and fails to appear and if the city proves that proper service was made on the respondent at least 21 days prior to the appearance date, the court may grant such orders as are requested by the city. The court shall order that enforcement by the city be stayed for ten days and that a copy of the court's order be mailed to the respondent at his/her last known address. Failure to appear on any other date set for trial shall be grounds for entering a default and judgment thereon against a non-appearing party. For good cause shown, and prior to enforcement, the court may set aside an entry of default and the judgment entered thereon.
6. The prevailing party in a proceeding pursuant to this chapter may bring an action in the city court for attorney fees and costs and the city court may, in its discretion, allow the prevailing party reasonable attorney fees and costs.
7. The judgment of the city court may be appealed to the district court.
8. The enforcement officer will coordinate the abatement project and oversee the work as it is being performed.
9. The enforcement officer has the discretion to coordinate and incur reasonable costs and services necessary for the safe, effective, and efficient cleanup of designated involuntary abatement properties.

10. The procedure for determining the cost of abatement of a nuisance will be as follows:
 - a. The city will secure a contract for removal of the nuisance by following the usual city procurement process and/or may use city resources, including staff and equipment, to complete some or all components of a court-ordered abatement.
 - b. The enforcement officer will notify the city clerk/treasurer before any additional contracted costs in excess of \$500.00 are incurred.
 - c. After the enforcement officer has approved the final bill(s), it will be forwarded to the city clerk/treasurer for payment.
 - d. A copy of approved bill(s) and proof of disbursement will be placed in the enforcement file.
 - e. The city shall determine the actual costs of cleanup and involuntary abatement actions and document such costs on an itemized abatement expense report which will determine the total cost of abatement for the property.
 - f. Costs that may be included on the abatement expense report are:
 - i. The assessment of the fair market value for the use of staff and equipment.
 - ii. City staff time, mileage and other costs;
 - iii. Postage/mailing and service costs;
 - iv. Other direct costs associated with abatement; and
 - v. An interest fee of six percent per annum will be computed on above costs.
 - g. When complete, the abatement expense report must be certified and transmitted to the city clerk/treasurer for the approval of assessment on the real property being abated.
 - h. The property owner will then be sent the abatement expense report for the subject property and will be given notice that any assessment that is not paid within 30 days shall become a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes.
 - i. Any interest fees will be waived for any payments made within 30 days of notice.
11. A summary listing of the assessments, tax codes, and property owners will be kept by the clerk and recorder through August 31 of each year, and the list shall be presented to the department of revenue for billing on the next real property tax statement.
12. A special abatement fund will be established to account for costs, collections, and transactions necessary to the efficient operation of the program. Assessment funds collected are returned to the designated abatement account for future use on other involuntary property abatements or for transfer back to the city general fund.

(Ord. 356, § 2, 1-9-2023)

CHAPTER 2. CIVIL DEFENSE**Sec. 4-2-1. Preamble.**

The County of Sanders and the municipalities of Hot Springs, Plains and Thompson Falls Civil Defense Plan provides for an integrated cities-county organization for civil defense and for operations during periods of emergency. It thereby constitutes the most effective and efficient means of meeting the civil defense needs of the city and its citizens by making maximum use of the existing agencies and capabilities of local government within Sanders County. Supported by volunteers and private sector personnel and resources, it could prevent or minimize loss of life and property that could be caused by enemy attack or other disaster affecting the city. The mayor is hereby authorized to approve such revisions of such civil defense plan as may be made from time to time if he deems the revisions to be necessary to meet the civil defense needs of the city and its citizens.

(1985 Code 9.06.01)

Sec. 4-2-2. Mayors and county commissioners.

The mayors of the municipalities of Hot Springs, Plains and Thompson Falls and the board of county commissioners for Sanders County shall, during periods of emergency caused by enemy attack or other catastrophe or disaster affecting the city, jointly direct and control the operations of the cities-county organization for civil defense established in such civil defense plan. The mayor is hereby authorized and directed to take, during such periods of emergency, such actions as are reasonably necessary to prevent or minimize loss of life and property, in cooperation with said board of county commissioners and the county civil defense director.

(1985 Code 9.06.02)

Sec. 4-2-3. County civil defense director.

The county civil defense director, under policy guidance of the board of county commissioners in coordination with the mayors, is responsible to conduct the following: day to day training, assignment of personnel, licensing, marking and stock of public shelters, preparation of program paper, administration of civil defense program, coordination of the program with all departments, development of civil defense plan and supporting documents for approval by the mayors of Hot Springs, Plains and Thompson Falls and county commissioners. The civil defense director will act as chief of staff to the executives of the county and cities.

(1985 Code 9.06.03)

CHAPTER 3. OPEN BURNING***Sec. 4-3-1. Purpose.**

Ordinance No. 316 of the City of Thompson Falls, Montana (dated April 23, 1996) is hereby amended to allow a small firepit no larger than three feet in diameter and not less than one-foot deep. (Ord. No. 330, § 1, 10-11-2010)

Sec. 4-3-2. Definitions.

Burn permit means a permit for outdoor burning issued by the Thompson Falls Fire Department.

Residential burning means the burning of small outdoor fires consisting of leaves, grass, prunings and other yard and gardening refuse burned on lands immediately adjacent to and in close proximity to a human dwelling by the property owner or his designees. No garbage, railroad ties or tires may be burned. A small firepit shall be allowed. (Ord. No. 330, § 2, 10-11-2010)

Sec. 4-3-3. Residential burning.

There shall be no outdoor burning within the city, except residential burning and small firepits which may be permitted only under the conditions set out in this chapter. (Ord. No. 330, § 3, 10-11-2010)

Sec. 4-3-4. Permit.

A fire permit must be obtained prior to the commencement of any residential burning larger than four feet in diameter and three feet in height. Any fire permit so obtained may be cancelled by the Thompson Falls Fire Department upon its finding that this chapter is not complied with or that the residential burning causes a hazard or a nuisance. Upon the cancellation of a fire permit, any fire started pursuant to that permit shall be extinguished immediately. (Ord. No. 330, § 4, 10-11-2010)

Sec. 4-3-5. Precautions.

The following precautions shall be taken:

- A. The fire shall be attended at all times.
- B. Sufficient means to extinguish the fire shall be provided at all times, i.e. water, shovel, bucket, etc.
- C. No fire shall be started earlier than 10:00 a.m., nor burned after sundown except for firepits.
- D. No fire shall be closer than ten feet to any structure.
- E. No fire shall endanger persons or property.

***Editor's note**—Ord. No. 330, §§ 1—7, adopted 10-11-2010, amended ch. 3 in its entirety to read as herein set out. Former ch. 3, §§ 4-3-1—4-3-6, pertained to similar subject matter and derived from Ord. 316, adopted June, 1996.

- F. The property owner shall be responsible should the fire cause damage to other property or if the fire department must be called out. Property owner may be billed at the discretion of the fire chief or his designated representative.
 - G. Open burning shall comply with all forest service regulations and dates.
 - H. This permit covers pile burning only. Lot burning must be inspected and specifically approved by the fire chief.
- (Ord. No. 330, § 5, 10-11-2010)

Sec. 4-3-6. Prohibited.

The burning of any material not described in section 4-3-2.B is prohibited.
(Ord. No. 330, § 6, 10-11-2010)

Sec. 4-3-7. Violation—Penalty.

Any person who violates or fails to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor.
(Ord. No. 330, § 7, 10-11-2010)

CHAPTER 4. HAULING AND DUMPING GARBAGE

Sec. 4-4-1. Littering.

It shall be unlawful for any person hauling garbage, refuse or litter in any vehicle within the city to allow said garbage, refuse or litter to fall, blow, or in any way be scattered upon the streets, alleys and roads of the city.

(1985 Code 7.08.01)

Sec. 4-4-2. Dumping.

It shall be unlawful for any person to throw or dump garbage, refuse or litter from any vehicle upon any street, alley or road within the city.

(1985 Code 7.08.02)

CHAPTER 5. LITTERING**Sec. 4-5-1. Littering.**

A. *Prohibited.* It shall be unlawful for any person to cast, throw, sweep or deposit in any manner in or upon any public way or other public place in the city, or any river, drain, gutter, sewer or receiving basin within the jurisdiction of the city, any kind of dirt, rubbish, waste article, thing or substance whatsoever, whether liquid or solid. Nor shall any person cast, throw, sweep or deposit any of the aforementioned items anywhere within the jurisdiction of the city in such manner that it may be carried or deposited in whole or in part by the action of the wind, sun, rain or snow, into any of the aforementioned places.

B. *Exception.* Provided, that this section shall not apply to the deposit of material under a permit authorized by any ordinance of the city, or to goods, wares or merchandise deposited upon any public way or other public place temporarily in the necessary course of trade and removed therefrom within two hours after being so deposited, or to articles or things deposited in our conducted into the city sewer system through lawful drains in accordance with the ordinances of the city relating thereto.

(1985 Code 9.08.01)

Sec. 4-5-2. Vehicles to be covered.

It shall be unlawful for any person to use any vehicle to haul any kind of dirt, rubbish, waste, article, thing or substance, whether liquid or solid, unless such vehicle is covered so as to prevent any part of its load from spilling or dropping at all times while such vehicle is in motion on any street or alley in the city: provided, however, that the requirements herein for covering such vehicles shall not apply to vehicles carrying brush cutting, tree trimmings, branches, logs and similar waste material, if such matter securely lashed to such vehicle to prevent spilling or dropping as aforesaid.

(1985 Code 9.08.02)

CHAPTER 6. NOISE AND DISTURBANCES***Sec. 4-6-1. Authority.**

This chapter is adopted under authority of 24 V.S.A. 2291(14) and 24 V.S.A. Chapter 59. (Ord. No. 342, § 1, 10-10-2018)

Sec. 4-6-2. Purpose.

This chapter is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the City of Thompson Falls through the reduction, control and prevention of noise. The intent of this chapter is to establish standards which will eliminate and reduce unnecessary noises which are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business.

(Ord. No. 342, § 2, 10-10-2018)

Sec. 4-6-3. Definitions.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

(Ord. No. 342, § 3 10-10-2018)

Sec. 4-6-4. [Prohibited acts.]

The following acts are declared to be loud, objectionable, and unnecessary noises, are therefore a public nuisance, and are prohibited by this chapter:

- A. *Defect in vehicle or operation of vehicle.* The operation of an automobile or motorcycle which creates squealing, squealing of tires, loud and unnecessary grating, grinding, exploding-type, rattling, muffler MCA 61-9-403 or other noises.
- B. *Loud speakers, amplifiers for advertising.* The use, operation, or permitting the use or operation of any radio receiving set, musical instrument, phonograph, loud speaker, amplifier, or other device for the production or reproduction of sound which is cast upon the public streets.
- C. *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle except as a danger warning; the creation, by means of other signaling device, of unreasonably loud or harsh sound; and the sounding of any such device for unnecessary and/or unreasonable periods of time.
- D. *Radios, phonographs, etc.* The use, operation, or permitting the use or operation of any radio or television receiving set, musical instrument, phonograph, or other machine or device for the

***Editor's note**—Ord. No. 342, §§ 1—7, adopted Oct. 10, 2018, amended ch. 6 in its entirety to read as herein set out. Former ch. 6, §§ 4-6-1—4-6-6, pertained to similar subject matter and derived from Ord. No. 341, §§ 1—7, adopted July 12, 2018.

production or reproduction of sounds in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such a machine or device is operated and who are voluntary listeners thereto.

- E. *Dogs, cats and other animals.* The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming.
- F. *Vocal disturbances.* Yelling, shouting, whistling, singing or making any other loud vocal disturbance so as to disturb, destroy, or endanger the peace of persons in the immediate vicinity of the noise or disturbance.
- G. *Construction noise.* Noises emanating from the excavation, demolition, alteration or repair of buildings, structures, property or highways between the hours of 10:00 p.m. and 5:00 a.m., except for emergency repairs necessary to protect people or property.
- H. *Parties and other social events.* Loud or offensive noises caused by a person attending and/or caused or permitted by a person in charge of a party or social event which are plainly audible from another property or from the street. A person shall be deemed to be in charge of a party or social event when the event occurs on private property and the person is present at the party or social event, resides at the premises involved and has authorized the use of the premises for the party or social event. There may be more than one person in charge for purposes of this chapter.
- I. *Jake brakes prohibited.* No person operating a motor vehicle shall use jake brakes (engine compression brakes) to slow a vehicle except in emergency stopping situations within the city limits as well as certain other locations within five miles of the city limits. The locations outside the city limits shall be determined jointly by the city engineer and the county surveyor upon request and approval by the county commissioners.

This section may not be enforced against an operator of a motor vehicle until such time as appropriate signs in the proper position with the appropriate legend informing the motorist are placed.

(Ord. No. 342, § 4, 10-10-2018)

Sec. 4-6-5. Exceptions.

This chapter shall not be construed to prohibit the following:

- A. A vocal disturbance, whether or not it is electronically amplified, by spectators or participants in an athletic event, Main Street business or assembly sponsored by a public entity or private school between the hours of 5:00 a.m. and 10:00 p.m.
- B. A public address system being operated to request medical or vehicular assistance or to warn of a hazardous road condition.
- C. An emergency or public safety device operating in its official capacity.
- D. Any device owned and operated by the city or a gas, electric, communications or water utility company operating in its official capacity.
- E. Any person, organization, group or business that has obtained a prior waiver from the mayor.

F. The use of firearms when used in accordance with fish and wildlife laws or when used for sport shooting between the hours of 5:00 a.m. and 10:00 p.m.
(Ord. No. 342, § 5, 10-10-2018)

Sec. 4-6-6. Exemptions.

Letter by mayor for exemptions for specific events giving date and time of exemption from the ordinance.
(Ord. No. 342, § 6, 10-10-2018)

Sec. 4-6-7. Penalty.

A violation of this chapter shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. 1974a and 1977 et seq. A civil penalty of \$50.00 may be imposed for the initial violation of this chapter. The penalty for the second offense within a six-month period shall be \$100.00, and the penalty for subsequent offenses within a six-month period shall be \$200.00.
(Ord. No. 342, § 7, 10-10-2018)

TITLE 5

POLICE REGULATIONS

Chapter 1. Police Policy, Procedure and Jurisdiction

- Sec. 5-1-1. Police policy and procedure.
- Sec. 5-1-2. Jurisdiction.

Chapter 2. General Offenses

- Sec. 5-2-1. Prohibited sexual behavior.
- Sec. 5-2-2. Public drinking, public display or exhibition of alcoholic beverages.
- Sec. 5-2-3. Coasting or sliding.
- Sec. 5-2-4. Placing signs or posters on city poles.
- Sec. 5-2-5. Reserved.

Chapter 3. Animal Control

Article A. Animals

- Sec. 5-3A-1. Definitions.
- Sec. 5-3A-2. Certain animals prohibited.
- Sec. 5-3A-3. Care of animals.
- Sec. 5-3A-4. Running at large.
- Sec. 5-3A-5. Public nuisance.
- Sec. 5-3A-6. Keeping of chickens, ducks, Coturnix quail, rabbits.

Chapter 3. Animal Control

Article B. Dogs

- Sec. 5-3B-1. Purpose.
- Sec. 5-3B-2. Licenses and registration.
- Sec. 5-3B-3. Tag and collar.
- Sec. 5-3B-4. Running at large.
- Sec. 5-3B-5. Impoundment.
- Sec. 5-3B-6. Rabies.
- Sec. 5-3B-7. Nuisance animals.
- Sec. 5-3B-8. Vicious dogs.
- Sec. 5-3B-9. Investigation.
- Sec. 5-3B-10. Right to seize.
- Sec. 5-3B-11. Interference.
- Sec. 5-3B-12. Cruelty to animals; poisoning.
- Sec. 5-3B-13. Provoking animals.
- Sec. 5-3B-14. Illegal opening of pound.
- Sec. 5-3B-15. Supervision of pound.
- Sec. 5-3B-16. Private dog kennels.
- Sec. 5-3B-17. Penalty.

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Chapter 4. Minors

- Sec. 5-4-1. Prohibited in saloons.
- Sec. 5-4-2. Curfew.

Chapter 5. Air Guns, Firearms, Bows and Arrows

- Sec. 5-5-1. Definition.
- Sec. 5-5-2. Discharge prohibited.
- Sec. 5-5-3. Exceptions; permit required.
- Sec. 5-5-4. Law enforcement officers.
- Sec. 5-5-5. Penalty.

Chapter 6. Fireworks

- Sec. 5-6-1. Discharge prohibited; public display.
- Sec. 5-6-2. Sale prohibited.

CHAPTER 1. POLICE POLICY, PROCEDURE AND JURISDICTION

Sec. 5-1-1. Police policy and procedure.

This section is reserved for use by the city for ordinances concerning police policy, procedures, and other police administration ordinances.

(Ord. 291, 12-1988)

Sec. 5-1-2. Jurisdiction.

The police of the city are authorized to make arrests of person charged with crime within the limits of the city and within five miles thereof and along the line of water supply of the city.

(Ord. 292, 12-1988)

CHAPTER 2. GENERAL OFFENSES

Sec. 5-2-1. Prohibited sexual behavior.

A. Prohibited acts.

1. There shall be no performance of acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts in a public place.
2. There shall be no public performance of actual touching, caressing or fondling of the breast, buttocks and/or genitals of a person in public place.
3. There shall be no public display of pubic hair, anus, vulvas or genitals or the areola of a female during a public performance.

B. Penalty. A person convicted of a nude performance in a public place shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this Code.
(Ord. 295, 7-1989; amd. 2010 Code)

Sec. 5-2-2. Public drinking, public display or exhibition of alcoholic beverages.

A. Definitions. The following words and phrases used in this section shall be defined as follows:

Beer as set forth in MCA 16-1-106.

Liquor as set forth in MCA 16-1-106.

Motor vehicle means every vehicle which is self-propelled by which any person or property is, or may be, transported or drawn upon a public highway.

Public display or exhibition of beer, table wine or liquor means the carrying and exhibiting of open cans or bottles of beer, or the carrying and exhibiting of glasses or other types of containers containing beer, table wine or liquor, to any "public place" as defined in this section, or to, in, on or within any motor vehicles while parked or operated on any "public place" as defined in this section; but does not include carrying or transporting such beer, table wine or liquor from retail liquor or beer establishments in sacks, cases, boxes, cartons or other similar containers with unbroken seals when no display or exhibition is made, nor transporting from private residences.

Public drinking means the drinking or consuming of beer, table wine or liquor in any "public place" as defined in this section, or within or upon any motor vehicle while parked or operated in any "public place" as defined in this section.

Public place means all streets, avenues, alleys, stadiums, athletic fields, public parks, sidewalks, public parking lots and motor vehicles when parked or operated on streets, avenues, alleys, athletic fields, public parks or public parking or public parking lots within the city limits. For purposes of this definition, a public parking lot shall be deemed to be any parking lot, whether owned by the city or by private individuals, to which the general public has access to park.

B. *Prohibited.* "Public drinking" and "public display or exhibition of beer, table wine or liquor" as defined herein is hereby prohibited, and it shall be unlawful for any person to engage in "public drinking" as herein defined within the limits of the city, and it shall be unlawful for any person to engage in any "public display or exhibition of beer, table wine or liquor" as herein defined within the city.

C. *Notice.* The owner of every business licensed to sell liquor, table wine and beer at retail within the city limits shall obtain from the city clerk-treasurer and post in a conspicuous place inside said premises adjacent to each exit a notice reading as follows:

NOTICE

It is a misdemeanor punishable upon conviction by a fine not exceeding \$300.00 or by imprisonment not exceeding 90 days, or by both such fine and imprisonment, to leave any premises licensed to sell beer, table wine or liquor at retail with an open container of beer, table wine or liquor.

Failure to post such notice shall be deemed a misdemeanor and punishable as such.

D. *Permit for gathering.*

1. *Power to grant.* The mayor may grant a permit to a group of citizens or an organization to allow the public consumption of alcoholic beverages including beer and table wine in any city parks or public parking lots.
2. *Application.* Before any such permit shall be granted, application shall be made to the chief of police at least two weeks prior to the event.
3. *Size of group; deposit.* No permit shall be issued for a group of fewer than ten persons. For groups between ten and 20 persons, \$50.00 deposit shall be required. For groups of 20 persons or more, a \$100.00 deposit shall be required.
4. *Refund of deposit.* The deposit shall be held by the city to ensure that the park grounds or public parking lots are left free of refuse. The grounds or lots must be cleaned of all litter or refuse from the event by 10:00 a.m. of the day following the event, and after the grounds have been checked by a city police officer and determined to have been properly maintained, the deposit shall be refunded in full. If the grounds or lots have not been properly maintained, the deposit money shall be used to offset the cost of necessary cleanup.
5. *Glass containers prohibited.* In no event shall any beer in glass containers be brought into the parks or public parking lots, nor shall any alcoholic beverage other than beer be brought into the parks or public parking lots.
6. *Noise; disorderly conduct.* Violation of any city ordinances regarding excessive noise, disturbance of the peace or disorderly conduct during the event shall be grounds for the immediate revocation of such permit.
7. *Hours permitted.* Permits shall be valid from 10:00 a.m. until 10:00 p.m. on the day of the event only, unless otherwise specified, in writing, by the city council.

8. *Indemnification.* Where any city property or facilities are used for a special event, each applicant must indemnify and hold the city harmless for any and all liability arising out of the use of said property or facility.

E. *Restroom facilities.* If a permit is issued for a public place that does not have permanent restroom facilities, the person or organization requesting the permit shall provide temporary restroom facilities.

F. *Penalty.* A violation of this section shall be deemed a misdemeanor, and shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this Code.

(Ord. 315, 4-10-1996; Ord. 315, 4-10-1996; amd. Per correspondence dated 2-9-2009; amd. 2010 Code)

Sec. 5-2-3. Coasting or sliding.

It is unlawful for any person to coast or slide except as posted in or upon any street used by the public within the corporate limits of said city; or to coast or slide in or upon any street within the corporate limits of said city which intersects with any street used by the public at said point of intersection.

(1985 Code 9.02.01)

Sec. 5-2-4. Placing signs or posters on city poles.

It shall be unlawful for any person to place any sign, poster, placard, advertisement or card upon any telegraph, telephone or electric light pole, or upon any pole belonging to the city, or any flag pole, or upon any street sign or marker belonging to the city or the state highway commission or to the bureau of public roads, in or upon any street or alley in the city.

(1985 Code 9.04.01)

Sec. 5-2-5. Reserved.

Editor's note—Ord. No. 339, adopted Feb. 12, 2018, repealed § 5-2-5, which pertained to refusal to submit to a breath, blood alcohol or drug test—unlawful, and derived from Ord. No. 333, §§ 1—4, adopted June 13, 2011.

CHAPTER 3. ANIMAL CONTROL***ARTICLE A. ANIMALS****Sec. 5-3A-1. Definitions.**

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

Animals includes any living creature, domestic or wild, kept within the city, specifically excluding dogs and cats.

Owner, in addition to its usual meaning, includes the parents or legal guardians of minors who own animals kept within the city, and shall also include any person who shall harbor or habitually permit an animal or animals to be kept or fed on or about such person's property.

(1985 Code 8.04.01, 8.04.02; amd. 2010 Code)

Sec. 5-3A-2. Certain animals prohibited.

A. *Keeping prohibited.* No person shall keep within the city limits any cattle, horses, mules, sheep, goats, swine, or other wild or domesticated animals. Some ducks or chickens or rabbits may be kept only by compliance with a city permit. This section shall not be applicable to cats, licensed dogs, or other household pets.

B. *Penalty.* Any person violating the provisions of this section shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this Code.

(1985 Code 8.02.01, 8.02.02; amd. 2010 Code)

Sec. 5-3A-3. Care of animals.

It shall be unlawful and a violation of this chapter for an owner to keep an animal within the city without providing such animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, adequate space, clean and wholesome enclosure, and humane care and treatment.

(1985 Code 8.04.03)

Sec. 5-3A-4. Running at large.

It shall be unlawful and a violation of this chapter for an owner to permit an animal to run at large in the city.

(1985 Code 8.04.03)

***Note**—See section 5-3B-12 of this chapter for provisions prohibiting the poisoning of animals or cruelty to animals. See section 5-3B-13 for provisions prohibiting the provoking, teasing or tormenting of animals.

Sec. 5-3A-5. Public nuisance.

A. *Unlawful.* It shall be unlawful and a violation of this chapter for an owner to fail to properly care for an animal within the city to prevent it or them from becoming a public nuisance.

B. *Nuisance declared.* Failure to provide the care required in section 5-3A-3 of this article shall result in such animal being deemed a public nuisance.

C. *Abatement.* The city may bring a civil action in any appropriate forum for the abatement of a public nuisance arising hereunder.

(1985 Code 8.04.04; 1985 Code 8.04.05; amd. 2010 Code)

Sec. 5-3A-6. Keeping of chickens, ducks, Coturnix quail, rabbits.

A. *Purpose.*

Ordinance No. 332 of the City of Thompson Falls, Montana (dated March 15, 2011) is hereby amended to allow for the keeping of up to eight female chickens, eight ducks, 20 Coturnix quail, and five adult rabbits (three does and two bucks).

B. *Conditions of having chickens, ducks, Coturnix quail in the city limits.* Chickens, ducks, or Coturnix quail within the city limits of the City of Thompson Falls shall be kept in the following manner:

1. The chickens, ducks, and Coturnix quail must be kept on a single-family parcel(s) and may be kept on a parcel(s) under one ownership with more than one dwelling if all residents and the owner consent in writing to allowing them on the property. When chickens, ducks, or Coturnix quail are kept on a multi-dwelling parcel(s), the owner shall keep a copy of the signed approval document for inspection upon request by animal control personnel.
2. The owner must obtain an annual permit from the city clerk. The permit shall be per the fee schedule of the city of Thompson Falls. Chickens, ducks, and Coturnix quail require separate permits.
3. Chicken, duck, Coturnix quail requirements:
 - a. The chickens, ducks, or Coturnix quail shall be provided with a covered, predator proof chicken, duck, Coturnix quail house that is thoroughly ventilated, of sufficient size to allow free movement of the chickens, ducks, or quail, designed to be easily accessed, cleaned, and maintained by the owners and be at least two square feet per chicken or duck and one square foot per quail in size. House must allow space for food and water bowls.
 - b. Chickens and ducks shall be confined to the enclosure at night, from sunset to sunrise, Coturnix quail are to remain in their enclosure throughout the day and night.
 - c. During daylight hours, chickens and ducks will have access to the chicken or duck house and, weather permitting, shall have access to an outdoor enclosure on the owner's property, which will be adequately fenced to contain the chickens or ducks to prevent access to chickens or ducks by dogs or other predators.

4. Rabbit requirements:
 - a. The rabbits shall be provided with a predator-proof rabbit hutch that is thoroughly ventilated, of sufficient size to allow free movement of each rabbit housed, allowing rabbits to lie with legs stretched, and allowing for litter trays, and food and water bowls. Hutch size requirements will depend on size of rabbits based on breed and number of rabbits housed. Hutch size must be long enough to allow rabbits to take at least three to four hops without bumping noses on the end. Hutch must be designed to be easily accessed, cleaned, and maintained by owners.
 - b. The rabbits shall not be allowed to run free on the owner's premises or access adjoining property.
 - c. The owner must obtain an annual permit from the city clerk. The permit for rabbits shall be per fee schedule of the City of Thompson Falls.
5. No chicken, duck, Coturnix quail, or rabbit house/hutch shall be located closer than 20 feet to any residential structure occupied by someone other than the chicken, duck, Coturnix quail, or rabbit owner, custodian, or keeper.
6. Stored feed must be kept in a rodent and predator-proof container.
7. Remains of butchered animals or fowl are to be disposed of in enclosed garbage cans or taken to refuse facility. Remains are not to be retained at a residence long enough for noxious odors to occur which could attract animals or be noticed by neighbors.
8. Butchering is not to be done within view of the public.
9. It is unlawful for the owner, custodian, or keeper of any chicken, duck, Coturnix quail, or rabbit to allow them to be a nuisance to any neighbors, including, but not limited to: noxious odors from their enclosure; noise of a loud, persistent, and habitual nature. Animal control will determine whether or not a nuisance exists on a case by case basis.

C. Notice of violation and order to take corrective action. Upon receiving a complaint of a possible violation, animal control will investigate and determine if a violation exists. When animal control determines a violation of the Code has occurred, animal control may issue written "notice of violation and order to take corrective action" to the owner, custodian, or keeper, either personally or by certified mail. Such notice shall specify the provision or provisions alleged to have been violated, along with a short and plain statement of the facts that constitute the violation. Animal control will revisit the owners address within ten days of issuing the notice of violation. If the owner, custodian, or keeper has failed to comply with the "notice of violation and order to take corrective action", animal control may issue a citation to the owner, custodian, or keeper for failure to comply with the "notice of violation and order to take corrective action" as well as failure to comply with any other applicable requirement of this section.

D. Penalty—Fines. The city judge of Thompson Falls shall assess animal violation fines. An owner, custodian, or keeper of a chicken, duck, Coturnix quail, or rabbit who is found guilty of any provision of this section shall be guilty of a misdemeanor and fined an amount not less than \$25.00 or more than

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\$500.00. Failure to comply with a property issued "notice of a violation and order to take corrective action" shall be counted as a separate offense from a citation issued after the compliance date described in the order. Each day an offense exists shall constitute a separate offense pursuant to this section.

(Ord. 332, §§ 1—4, 3-15-2011; Ord. No. 350, §§ 1—4, 6-30-2021)

Editor's note—Ord. 350, §§ 1—4, adopted June 30, 2021, amended the title of § 5-3A-6 to read as herein set out. The former § 5-3A-6 title pertained to keeping of chickens, ducks, rabbits.

CHAPTER 3. ANIMAL CONTROL**ARTICLE B. DOGS****Sec. 5-3B-1. Purpose.**

The city council has determined it to be in the best interest of the inhabitants of the city that dogs within the city limits be properly controlled and licensed. Enforcement of this article shall be primarily the responsibility of the dog warden or pound master (if any shall have been appointed), the city marshal and such other individuals that may from time to time be designated by the city council. All persons so designated shall have the right to arrest or cause to be arrested any person or persons, to serve summons or warrants of arrest and notices to appear upon any persons who may violate the provisions of this chapter and to otherwise take action as may be reasonably necessary to enforce the provisions hereof as the same relate to dog control licensing.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-2. Licenses and registration.

A. *License required.* It is unlawful for any person to keep, maintain or harbor in the city any dog over five months of age unless the dog is duly registered and licensed as herein provided. License shall be issued by the city clerk-treasurer or by duly appointed license agents, upon payment of an annual license fee.

B. *Fees.* Every person registering a neutered male or spayed female dog shall pay license fees of \$5.00 per dog and every person registering an unsprayed female or unneutered male shall pay license fees of \$15.00 per dog. Citizens who will be 60 years of age or older in the licensing period shall pay only one-half of the regular licensing fee. Licenses for dogs used to assist persons with disabilities shall be furnished without charge.

C. *Dogs newly brought into city limits.* Dogs newly brought into the city limits shall be registered within 30 days.

D. *Owner required to obtain license.* Licenses must be obtained by the owner of the dog in question and licenses shall not be issued to any person under the age of 18 years unless a parent or guardian signs the application as co-owner. For these purposes, "owner" shall be deemed to be any person who is the actual owner of said dog or who shall harbor it or let it habitually remain or be fed in or about his house, store, enclosure or premises.

E. *Exemptions.* This section shall not apply to nonresidents having dogs under leash within the city for less than 15 days or to any dogs brought into the city for exhibition.

F. *Vaccination certificate.* At the time of application for a new license or renewal of a license of a dog that is over the age of three months, the applicant shall be required to provide to the city clerk-treasurer a veterinarian's certificate showing the dog has current vaccinations against rabies.

G. *Term; renewal.* All licenses issued for dogs shall expire on December 31 of each year and licenses for the current year must be obtained on or before February 15 of that year. Failure to purchase a license by February 15 shall result in a late charge to be set by the city council.

(Ord. 317, eff. 7-13-2009; 2010 Code)

Sec. 5-3B-3. Tag and collar.

A. *Issuance or certificate and tag.* Upon receipt of a proper application and the license fee, the city clerk-treasurer or license agent shall issue to the applicant a license certificate and metallic tag.

B. *Metal tag.* It shall be the duty of the city clerk-treasurer to provide a metallic tag of such size and shape as he or she shall deem expedient. The shape of the tag shall be changed each year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the application and certificate of license.

C. *Registry.* The city clerk-treasurer shall keep the dog registry and the city shall provide him or her with the necessary books and metallic tags.

D. *Collar.* It shall be the responsibility of the owner of the dog to provide the dog with a substantial collar to which the license tag shall be affixed at all times. Any dog found off the owner's premises without a license tag shall be deemed to be not licensed even though a license has been issued for such dog.

E. *Duplicate tag.* In the event that a dog tag is lost or destroyed, a duplicate shall be issued by the city clerk-treasurer upon presentation of an affidavit to that effect and the payment of a fee of \$1.00 for the duplicate license.

F. *Transferability.* License tags are not transferable from one dog to another, and it shall be unlawful for any person to cause or permit a license tag to be placed upon a dog for which it was not issued. Any dog found with a license tag issued for another dog shall be deemed not to be licensed.

G. *Refunds.* No refund shall be made on any dog license fee because of the death of the dog or the owner leaving the city before the expiration of the license period.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-4. Running at large.

A. *Definition.* "At large" shall mean off the premises of the owner and not under the immediate control of the owner or a member of his family either by leash, cord or chain not to exceed six feet in length. Any dog not so restrained shall be considered to be at large except that dogs which are at all times at the obedience of their master by being confined within a vehicle or by being "at heel" shall not be considered to be "at large".

B. *Declared nuisance; prohibited.* The practice of any dogs running at large within the city limits is hereby declared to be a nuisance, harmful to lawns, gardens, shrubs, trees and other property, and an interference in the orderly administration of the school systems and the conduct of affairs within the city and is hereby prohibited. No person owning or having the custody, control or possession of a dog shall permit said dog to be at large within the city limits at any time.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-5. Impoundment.

A. *Authority to impound.* Unlicensed dogs or dogs found at large and not under restraint may be taken up by the pound master or any law enforcement officer and impounded. Any dog may be taken up and impounded by using a tranquilizer gun or by any other means deemed effective and appropriate by the enforcement officer.

B. *Register.* Impounding authorities shall make a complete register of every dog impounded showing breed and sex of animal, date and location of the place of taking, the name of the owner, if known, and the date of redemption or date and means of disposing of the dog.

C. *Notice of impoundment.* In addition, if the owner of an impounded dog can be identified by the license tag or any other means, the impounding authorities shall forthwith notify the owner by telephone or other expedient means of the fact of impoundment.

D. *Redemption.* It is hereby declared to be the duty of every owner of any dog or other animal to know its whereabouts at all times. In the event that a dog shall have been impounded, the owner shall redeem the same within 72 hours or it shall be subject to disposal by authorities as hereinafter provided.

E. *License and impoundment fees.* Dogs which shall have been impounded may be redeemed by paying the license fee, if appropriate, and an impound fee to be set by the city council for each 24-hour period or part thereof of which said dog was impounded, including the impoundment day.

F. *Disposition of unredeemed animals.*

1. *Sale.* If an impounded dog or other animal is taken and impounded, the owner thereof forfeits all right, title and interest therein and the pound master shall offer the same for sale. The sale price shall correspond with the redemption fees. The purchaser of the dog automatically shall be issued a certificate of sale to confer title and ownership of the dog or other animal, free of all claims and interest of the previous licensee or owner.
2. *Unsold, unclaimed animals.* In the event that any impounded dog or other animal is not redeemed by the owner or purchased upon its being offered for sale, it shall be put to death under the supervision of the pound master in a medically approved and humane manner.
3. *Infectious disease.* Any dog or other animal suffering from an infectious disease shall not be released but must be put to death unless the county health officer and/or a licensee's veterinarian shall otherwise request.

(Ord. 317, eff. 7-13-2009; amd. 2010 Code)

Sec. 5-3B-6. Rabies.

A. *Animal that bites person.* Any dog or other animal which bites a person may be quarantined by the dog warden for up to 15 days. During quarantine, the animal shall be securely confined in the dog pound at the owner's expense. At the discretion of the dog warden, the quarantine may be on the premises of the owner or other approved place.

B. *Animal bitten or exposed to suspected rabid animal.* Every dog or other animal which has been bitten by or exposed to any animal suspected to have been infected with rabies shall be forthwith seized and taken up by the dog warden or any law enforcement officer and securely and separately impounded

in the city animal shelter. All such animals shall be quarantined in the pound or at a licensed veterinarian hospital within the city for a period of 15 days. It shall be the duty of the dog warden to notify the county health officer of every such animal impounded.

C. *Animals adjudged free of rabies.* If, after observation under the supervision of the county health officer for such period, any such animal is adjudged free of rabies, the owner may reclaim the animal, upon payment of the regular keeping fees and upon compliance with licensing requirements, if appropriate.

D. *Diagnosed as rabid; vicious dogs.*

1. In the event that any animal under quarantine is diagnosed as being rabid, it shall be disposed of only under the orders and directions of the county health officer in his or her absolute discretion. No person shall kill, or cause to be killed, any animal suspected of being rabid, unless such action is necessary to protect lives or property. If a veterinarian diagnoses rabies in an animal in quarantine, then the animal shall be humanely killed and the head of such animal sent to a laboratory for pathological examination and confirmation of diagnosis.
 2. Nothing herein shall prevent disposition of a vicious dog which does not have rabies.
- (Ord. 317, eff. 7-13-2009)

Sec. 5-3B-7. Nuisance animals.

A. *Declared nuisance.* It is hereby declared a public nuisance for any dog or other animal to destroy property or other pets, to bite, or chase after persons not trespassing on the property of the owner, to chase vehicles in public streets or ways, or by prolonged howling, yelping, barking, or by any other means, cause annoyance or disturbance to any person.

B. *Prohibited.* It is unlawful for any person to own, harbor, keep, or maintain any such nuisance animal, and it shall be the duty of the dog warden and all law enforcement officers to issue citations and file complaints for all such violations occurring in their presence.

C. *Complaint.* Any person aggrieved by the nuisance animal may file a complaint in the city court charging the owner with the violation of this section where the offense is not committed in the presence of the dog warden or a law enforcement officer.

D. *Seizure; impoundment.* Upon a third conviction under this section, the nuisance animal shall be seized and taken up by the dog warden. In the event the nuisance animal is seized and impounded and shall thereafter be redeemed as in the case of nonlicensed or "at large" dogs, an impoundment fee shall also be paid as in those cases.

(Ord. 317, eff. 7-13-2009; amd. 2010 Code)

Sec. 5-3B-8. Vicious dogs.

A. *Affidavit; order to appear.* Whenever affidavit shall be made before the city judge that any dog has bitten a person in said city or is terrorizing the residents of any portion of the city, and that the bitten person so terrorized by such animal was not at the time trespassing upon the person or property of the owner or possessor of said dog, the judge shall issue an order directing the owner or possessor of said dog to appear in court for disposition of the charge.

B. *Dog bite defined.* "Dog bite" shall mean a wound either of lacerated or punctured type wherein the continuity of the skin is broken, such wound having been inflicted by the teeth of a dog.

C. *Report of bite.* If any dog bites any person in the city, such dog bite shall be reported immediately to the county health officer or the chief of police by such person, his parent or guardian.

D. *Impoundment.* At the discretion of the county health officer or the pound master, such dog shall be isolated in strict confinement and observed in a pound or veterinary hospital at the owner's expense. Such dog shall not be released until 15 days after the infliction of the bite.

E. *Redemption.* The owner may claim such dog after this time by paying all costs of confinement and all other charges which may be due.

F. *Unclaimed animals.* Biting dogs not claimed by the owner must be destroyed or sold after expiration of the confinement period.

G. *Order to destroy.* The judge shall also, in his discretion, order the dog killed within 24 hours if deemed necessary. Refusal or neglect to kill any such animal within 24 hours after receiving such order shall constitute a violation of this chapter.

H. *Confinement; muzzle required.* The owner shall confine within a building or secure enclosure every fierce, dangerous, or vicious dog or other animal and shall not take such dog or other animal out of such building or enclosure unless it is securely muzzled.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-9. Investigation.

For the purpose of discharging the duties imposed by this article and enforcing its provisions, the dog warden or any police officer is empowered to demand from the occupants of any premises upon or in which a dog or other animal is kept or harbored, the exhibition of such dog or other animal and the license for such dog. It shall be unlawful for any person to refuse such demand. The dog warden may make such a demand at premises where any animal is kept in a reportedly cruel or inhumane manner and examine such animal and take possession of the same when in his opinion it requires humane treatment.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-10. Right to seize.

Any authority enforcing the provisions of this chapter shall have the right to pursue animals upon private property when he shall have discovered a violation or shall be investigating the possibility of a violation or when acting under a court order, warrant, affidavit of a vicious animal or when attempting to seize any animal suspected of having been exposed to rabies.

(Ord. 317, eff. 4-13-2009)

Sec. 5-3B-11. Interference.

A. *Interference prohibited.* It is unlawful for any person to hinder, delay or obstruct the dog warden, pound master, or other officer, while engaged in the performance of any duty or power imposed on him by this article, or to release, or attempt to release, any animal liable to be impounded under the provisions hereof.

B. *Release of animals prohibited.* It shall also be unlawful for any person to open gates or doors or otherwise cause or permit dogs or other animals to escape confinement against the wishes of the owner. (Ord. 317, eff. 7-13-2009)

Sec. 5-3B-12. Cruelty to animals; poisoning.

It is unlawful for any person to willfully and cruelly inflict pain upon or injure any animal. It is unlawful for any person to lay out or expose any poison for killing any dog or other animal, or to aid or abet any person in so doing. No owner shall fail to provide dogs or other animals with sufficient good and wholesome feed and water, proper shelter and protection from the weather. No person shall beat, ill-treat, torment, overwork, or otherwise abuse any animal. No owner of any animal shall abandon such animal.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-13. Provoking animals.

It is unlawful for any person to provoke, harass, tease, torment, or in any way disturb a dog or other animal with the intent to cause it to bark or attack any person.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-14. Illegal opening of pound.

Any person breaking open or otherwise injuring or in any manner directly or indirectly aiding, counseling or advising the breaking open or injuring the city pound shall be deemed guilty of a misdemeanor.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-15. Supervision of pound.

The pound master shall have the general supervision of the dog pound and shall see that the same is kept in sanitary condition and conducted in a quiet, reliable and proper manner.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-16. Private dog kennels.

It shall be unlawful for any person to maintain or operate, or cause to be maintained or operated, at any place within the city any dog kennel.

(Ord. 317, eff. 7-13-2009)

Sec. 5-3B-17. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 nor more than \$100.00 on the first offense and not less than \$75.00 nor more than \$300.00 for a subsequent offense, and/or imprisonment in jail for not more than ten days.

(Ord. 317, eff. 7-13-2009)

CHAPTER 4. MINORS**Sec. 5-4-1. Prohibited in saloons.**

It shall be unlawful for the owner or operator of any saloon or cocktail lounge in the city to permit any minor, either alone or in company with any adult, to enter or stay in his place of business.
(1985 Code S 7.02.01)

Sec. 5-4-2. Curfew.

A. *Curfew hours.* It shall be unlawful for minors under the age of 18 years to be in or upon or to loiter upon or frequent the streets, sidewalks, alleys, and public places within the city between the hours of 11:00 p.m. and 5:00 a.m. the following day; except, on the days of Friday and Saturday there shall be no nighttime restrictions until 1:00 a.m. the following day.

B. *Exceptions.* The provisions of this section shall not apply to any minor going to or return from his or her place of employment nor to any minor accompanied by his or her parents, guardian, or other adult person having the care or custody of such minor or where such minor is engaged upon an errand or business directed by his or her parent, guardian, or adult person having his or her care or custody; provided, however, that such minor embraced within the provisions of this section shall not unnecessarily linger or loiter at any time while engaged or occupied as in this subsection provided.

C. *Parental responsibility.* It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 18 years to allow or permit such minor to violate the curfew stated herein. In any prosecution under this section against the parent, guardian or other adult person having the care and custody of a minor under said age, it shall not constitute a defense thereto that said person did not have knowledge that such minor violated said curfew hours.

D. *Penalty.* Any minor violating the provisions hereof shall be dealt with in accordance with and pursuant to the pertinent provisions of the statutes of Montana.
(1985 Code § 7.10.02; 1985 Code § 7.10.03; Ord. 289, 8-8-1988; amd. 2010 Code)

CHAPTER 5. AIR GUNS, FIREARMS, BOWS AND ARROWS

Sec. 5-5-1. Definition.

Wherever the term "weapon" is used in this chapter, the term shall mean any instrument used in the propulsion of shot, shell, bullets, arrows or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs, or by the power of bowstring and bow limbs.

(Ord. 296, 1-8-1990)

Sec. 5-5-2. Discharge prohibited.

It shall be unlawful for any person to fire or discharge any weapons within the city limits except as in this chapter provided.

(Ord. 296, 1-8-1990)

Sec. 5-5-3. Exceptions; permit required.

The mayor and council may, at any time upon receipt of proper application, grant permits to shooting galleries, gun clubs and others for shooting in fixed localities under specified rules. Such permits shall be in writing, attested by the clerk-treasurer, conforming to such requirements as the mayor and council shall demand, and the permit thus issued shall be subject to revocation at any time by action of the mayor and council.

(Ord. 296, 1-8-1990)

Sec. 5-5-4. Law enforcement officers.

This chapter shall have no application to a law enforcement officer engaged in the performance of his duty.

(Ord. 296, 1-8-1990)

Sec. 5-5-5. Penalty.

Any person who shall violate any of the provisions of this chapter shall upon conviction, be subject to penalty as provided in section 1-4-1 of this Code.

(Ord. 296, 1-8-1990; amd. 2010 Code)

CHAPTER 6. FIREWORKS

Sec. 5-6-1. Discharge prohibited; public display.

It shall be unlawful to use or discharge firecrackers, Roman candles, rockets, torpedoes or fireworks of any kind within the corporate limits of the city; provided, however, that the mayor or city council may permit the public display of fireworks by properly qualified individuals under the direct supervision of experts in the handling of fireworks; and provided further, that such display or displays shall be of such a character, and so located and discharged or fired as, in the opinion of the mayor, shall not be hazardous to surrounding property, or dangerous to the life or safety of individuals.

(1985 Code 9.12.01)

Sec. 5-6-2. Sale prohibited.

It shall be unlawful to sell, or offer for sale or delivery within the city any firecrackers, torpedoes, rockets, Roman candles, or any fireworks of any description whatever.

(1985 Code 9.12.02)

TITLE 6

MOTOR VEHICLES AND TRAFFIC

Chapter 1. Parking

- Sec. 6-1-1. No parking zones.
- Sec. 6-1-2. Time limitations.
- Sec. 6-1-3. Penalty.

Chapter 2. U-Turns

- Sec. 6-2-1. Prohibited.

Chapter 3. Bicycles, Roller Skates, Rollerblades and Skateboards

- Sec. 6-3-1. Prohibited.

Chapter 4. Cleated Vehicles

- Sec. 6-4-1. Prohibited.

Chapter 5. Regulation of Storage, Maintenance and Occupation of Recreational Vehicles

- Sec. 6-5-1. [Intent.]
- Sec. 6-5-2. [Definitions.]
- Sec. 6-5-3. [Rules for recreational vehicles.]
- Sec. 6-5-4. [Permits and fees.]
- Sec. 6-5-5. Extensions.
- Sec. 6-5-6. Penalty.

CHAPTER 1. PARKING**Sec. 6-1-1. No parking zones.**

A. *Designated; signs.* "No parking" zones on the streets of the city shall be designated by appropriate signs being posted at the entrance and exit of such zones. It shall be unlawful for any person to park a motor vehicle within any such "no parking" zone.

B. *Zone established.* There shall be no parking of a wheeled vehicle on the north side of Main Street from the west boundary of the intersection of Gallatin and Main Streets, thence westerly for a distance of 200 feet.

(Ord. 298, 3-11-1991; Ord. 309, 11-1994)

Sec. 6-1-2. Time limitations.

A. *Two-hour limit.* It shall be unlawful for any person to park a motor vehicle for a period of time exceeding two hours in the following locations in the city:

1. South side of Main Street;
2. West side of Mill Street from Main Street south one-half block to the intersection with the alley;
3. Both sides of Fulton Street from Main Street south one block to Maiden Lane;

These restrictions shall be in effect from 9:00 a.m. to 6:00 p.m. each day, except holidays and Sundays.

B. *Fifteen minute loading zone.* There shall be a 15 minute loading zone on the east side of Mill Street south to the alley.

C. *Twenty-four hour limit.* There shall be a 24-hour parking limit in the following locations in the city:

1. On the north side of Main Street and all city maintained parking lots.
2. On both sides of South Jefferson Street from Main Street south one block to Maiden Lane.

D. *Exceptions.* The owners or occupants of the following real property shall have parking for one vehicle without any time restrictions on the south side of Main Street bordering the respective properties:

1. Lots 3 and 4 of Block 11, plat of Thompson Falls original Townsite, Sanders County, Montana.
2. Lots 5 and 6 of Block 11, plat of Thompson Falls original Townsite, Sanders County, Montana.
3. Lots 5 and 6 of Block 12, plat of Thompson Falls Original Townsite, Sanders County, Montana.

(Ord. 298, 3-11-1991; Ord. 346, 7-13-2020)

Sec. 6-1-3 Penalty.

Any person violating this chapter shall be punished upon conviction thereof by a fine not exceeding \$10.00 for the first offence and upon being convicted of a second or subsequent offense shall be fined in any sum not less than \$10.00 or more than \$50.00.

(Ord. 309, 11-1994)

CHAPTER 2. U-TURNS

Sec. 6-2-1. Prohibited.

U-turns are prohibited on that portion of Main Street from and including the intersection of Main Street with Wild Goose Landing Park to and including the intersection of Main Street with Pond Street. Appropriate signs shall be posted to inform motorists where U-turns are prohibited.
(Ord. 286, 8-10-1987, eff. 9-9-1987; amd. Ord. 319, 11-19-1998)

CHAPTER 3. BICYCLES, ROLLER SKATES, ROLLERBLADES AND SKATEBOARDS

Sec. 6-3-1. Prohibited.

It shall be unlawful for any person to ride or propel a bicycle, tricycle or any other kind of a velocipede, except a baby carriage, or to use roller skates, rollerblades or skateboards upon any of the public sidewalks in the city.

(1985 Code 10.04.01; amd. 2010 Code)

CHAPTER 4. CLEATED VEHICLES

Sec. 6-4-1. Prohibited.

It shall be unlawful for any person to operate or drive any threshing machine, steam engine, caterpillar, tractor or motor vehicle of any kind whatsoever having a cleat tread through, over or upon any street in the city which has been oiled or treated with oil.

(1985 Code 10.06.01)

**CHAPTER 5. REGULATION OF STORAGE, MAINTENANCE AND OCCUPATION OF
RECREATIONAL VEHICLES**

Sec. 6-5-1. [Intent.]

No person shall place, keep, maintain a recreational vehicle, camper, or trailer on any street, alley, or lot as a residence or temporary living accommodation, within the corporate limits of the city for more than 30 days, except in a licensed trailer court or as otherwise stated below.

(Ord. 343, § 1, 1-14-2019; Ord. 348, § 1, 10-13-2020)

Sec. 6-5-2. [Definitions.]

Recreational vehicle means a vehicular unit designed as temporary living quarters for recreation, camping, travel, seasonal or temporary use, with or without motive power or is mounted on, or towed by, another vehicle. Such vehicles are not limited to camping trailers, fifth-wheel trailers, motor homes, park trailers, travel trailers, and truck campers. Unoccupied recreational vehicles in long term or temporary storage are not included in this ordinance if they are operable, licensed, and legally parked, or stored on private property.

(Ord. 343, § 2, 1-14-2019; Ord. 348, § 2, 10-13-2020)

Sec. 6-5-3. [Rules for recreational vehicles.]

The following rules are hereby adopted and apply to recreational vehicles as described above:

1. A recreational vehicle used by the occupant while employed by a private company, a recreational vehicle occupied during construction (including remodeling or reconstruction of a residence or commercial building containing a residence), or a recreational vehicle used in the city for employment purposes within the city limits shall obtain a temporary occupancy permit from the city and may not be occupied until permit is issued.

(Ord. 343, § 3, 1-14-2019; Ord. 348, § 3.a., 10-13-2020)

Sec. 6-5-4. [Permits and fees.]

A. Permits for temporary recreational vehicle occupancy must be filed in writing with [the] city clerk on approved city form containing the following information: Location where recreational vehicle is to be temporarily occupied, make, model, license plate number, VIN number, length of occupation.

1. Recreational vehicles to be occupied must comply with the Community Decay Ordinance (Ordinance 345) adopted by Thompson Falls, Montana.
2. Vehicles must be connected to city water and sewer or applicant must disclose on the permit where sewage or waste water generated in the recreational vehicle will be disposed. Disposal of sewage and waste water must be at an approved, permitted facility located within the county.

B. Applicant will pay a permit fee specified in the fee schedule resolution as part of permission request to reside temporarily in recreational vehicle. Permit will be valid for 30 days.

(Ord. 343, §§ 4—6, 1-14-2019; Ord. 348, §§ 3.b.—3.e., 10-13-2020)

Sec. 6-5-5. Extensions.

Extensions of 30 days must be requested prior to expiration of current permit and must provide reason for requesting extension of time. Extensions shall be approved on a case-by-case basis by the mayor.

(Ord. 343, § 7, 1-14-2019; Ord. 348, § 3.e., 10-13-2020)

Sec. 6-5-6. Penalty.

A violation of this chapter will be a civil matter enforced in accordance with the provisions 7-1-4150, MCA. A civil penalty of \$100.00 will be imposed for initial violation of this chapter. Penalty for second offense within a six-month period will be \$200.00, and the penalty for subsequent offenses within a six-month period will be \$500.00. The civil penalty for ongoing offenses outside the six-month timeframes previously referenced shall not exceed \$500.00 for each repeat violation. This chapter will be enforced by the city attorney, who will issue a civil citation to individual(s) violating the chapter. Citation may be served by personal service, certified mail addressed to owner of recreational vehicle at last known mailing address with return receipt requested, or by publication. A copy of the issuing citation must be retained by the issuing officer and one copy must be sent to the clerk of the city court. The citation must serve as notification that a municipal infraction has been committed and must contain the information contained in 7-1-4150(4), MCA.

(Ord. 343, § 8, 1-14-2019; Ord. 348, § 4, 10-13-2020)

TITLE 7

PUBLIC WAYS AND PROPERTY

Chapter 1. Construction of Sidewalks

- Sec. 7-1-1. Permit required.
- Sec. 7-1-2. Duty of city officials.
- Sec. 7-1-3. Insurance.
- Sec. 7-1-4. Ordering of construction.
- Sec. 7-1-5. Notice.
- Sec. 7-1-6. Failure to comply; construction by city.
- Sec. 7-1-7. Bond of contractor; bids.
- Sec. 7-1-8. Lien on property.
- Sec. 7-1-9. Sidewalks in unsafe condition.
- Sec. 7-1-10. Repairs to sidewalks.
- Sec. 7-1-11. Snow and debris removal.
- Sec. 7-1-12. Penalty.

Chapter 2. Maintenance of Sidewalks

- Sec. 7-2-1. Duty of property owner.
- Sec. 7-2-2. Snow and ice removal.
- Sec. 7-2-3. Defective sidewalks.
- Sec. 7-2-4. Driving over, defacing or destroying sidewalks.
- Sec. 7-2-5. Penalty.

Chapter 3. Obstruction of Streets and Alleys

- Sec. 7-3-1. Obstructions.
- Sec. 7-3-2. Right of removal.
- Sec. 7-3-3. Lien.
- Sec. 7-3-4. Foreclosure.

Chapter 4. Obstruction of View at Intersections

- Sec. 7-4-1. Declared nuisance.
- Sec. 7-4-2. Notice of obstruction.
- Sec. 7-4-3. Failure to remove; abatement.
- Sec. 7-4-4. Lien.
- Sec. 7-4-5. Foreclosure.

Chapter 5. Uniform Right-of-Way Encroachment Code

- Sec. 7-5-1. Title.
- Sec. 7-5-2. Purpose; intent.
- Sec. 7-5-3. Definitions.
- Sec. 7-5-4. Regulation.
- Sec. 7-5-5. Projection and clearance.
- Sec. 7-5-6. Minimum standards.

THOMPSON FALLS CODE

Chapter 6. Excavations

- Sec. 7-6-1. Permission.
- Sec. 7-6-2. Safeguards.

Chapter 7. Closing Streets

- Sec. 7-7-1. Closing, notice.
- Sec. 7-7-2. Travel prohibited.

Chapter 8. Trees within the Public Right-of-Way

- Sec. 7-8-1. Definitions.
- Sec. 7-8-2. Creation and establishment of city tree board.
- Sec. 7-8-3. Term of office.
- Sec. 7-8-4. Compensation.
- Sec. 7-8-5. Duties and responsibilities.
- Sec. 7-8-6. Operation.
- Sec. 7-8-7. Street tree species to be planted.
- Sec. 7-8-8. Spacing.
- Sec. 7-8-9. Distance from street corners, fireplugs and property lines.
- Sec. 7-8-10. Utilities.
- Sec. 7-8-11. Public tree care.
- Sec. 7-8-12. Tree topping.
- Sec. 7-8-13. Pruning, corner clearance.
- Sec. 7-8-14. Newly planted trees on private property not in compliance with chapter.
- Sec. 7-8-15. Removal of stumps.
- Sec. 7-8-16. Interference with city tree board.
- Sec. 7-8-17. Damage to public trees prohibited.
- Sec. 7-8-18. Selection of arborist.
- Sec. 7-8-19. Review by city council.
- Sec. 7-8-20. Penalty.

CHAPTER 1. CONSTRUCTION OF SIDEWALKS**Sec. 7-1-1. Permit required.**

A. *Required.* No person shall construct any sidewalks on any of the streets or avenues of the city without a permit from the city superintendent, in writing.

B. *Application.* Applications for permit may be made by the parties employed to construct the work or by the owners of the property and must state the location, the name of the owner, the number of the lot and block abutting upon the sidewalk to be built.

(Ord. 300, 5-13-1991)

Sec. 7-1-2. Duty of city officials.

It shall be the duty of all of the police officers of the city, and the city superintendent or his assistants in all cases where they may find any person engaged in the work of constructing sidewalks, to ascertain at once if such person has a permit to perform such work and, in the event of such person not having a permit, to cause them to cease work until proper application has been made and a permit issued.

(Ord. 300, 5-13-1991)

Sec. 7-1-3. Insurance.

A. *Required.* Before any contractor shall be granted a permit to construct sidewalks in the city, he shall file with the clerk-treasurer a public liability insurance policy in such amount as the council shall deem necessary.

B. *Indemnification.* Such contract will indemnify and save harmless the city from all suits, accidents and damages consequent thereupon for or by reason of any opening in the streets and walks made by him or those in his employ, or any such damages due to any act of the contractor or those in his employ, by reason of the performance of such construction work.

C. *Exception.* No bond shall be required from the owner of any lot who wishes to actually construct the walk himself.

(Ord. 300, 5-13-1991)

Sec. 7-1-4. Ordering of construction.

Whenever, in the judgement of the council, a sidewalk or curb shall be constructed in front of any lot or parcel of land within the city, it shall, by majority vote, order the construction of the same. The order shall be entered upon the minutes of the council, shall name the street or avenue along which said sidewalk or curb is to be constructed and shall specify the general character of material of which such sidewalk or curb shall be constructed.

(Ord. 300, 5-13-1991)

Sec. 7-1-5. Notice.

A. *Publication.* Thereafter the clerk-treasurer shall cause to be published in one issue of the official newspaper of the city a notice that the council has ordered the construction of a sidewalk or curb, giving the description of the lot or parcel of land in front of which a sidewalk or curb is to be constructed, which notice shall state that if the owners or agents of the owners of lots or parcels of land in front of which such sidewalks or curbs are to be constructed shall fail for a period of 30 days after the date of the publication of such notice, to cause such sidewalks or curbs to be constructed, the city will cause such sidewalks or curbs to be constructed and will assess the cost thereof against the property in front of the which the same is constructed.

B. *Service by mail.* On or before the second day following the date of publication of said notice, the clerk-treasurer shall mail a copy thereof to the owner or agent of the owner of each lot or parcel of land in front of which a sidewalk or curb has been ordered constructed as specified in said notice.

(Ord. 300, 5-13-1991)

Sec. 7-1-6. Failure to comply; construction by city.

If the owner or agent of the owner of any lot or parcel of land in front of which any sidewalk or curb shall be ordered constructed shall fail or neglect, during such period of 30 days, to construct such sidewalk or curb, the council may cause the same to be constructed by the letting of a contract for the construction thereof to the lowest responsible bidder, after advertising for bids for the construction thereof; or upon failure to receive an acceptable bid, may order the city superintendent to construct such sidewalk or curb on force account.

(Ord. 300, 5-13-1991)

Sec. 7-1-7. Bond of contractor; bids.

If the construction of such sidewalk or curb is done by contract after advertisement for bids, such advertisement for bids and contract may be for sidewalks or curb in front of one or more lots or parcels of land as the council shall determine. All sidewalks and curbs constructed by the city shall be constructed in accordance with specifications therefor prepared by the city superintendent. Any contractor to whom a contract is let for the construction of sidewalks or curbs shall, before commencing work, execute and deliver to the city public liability and property damage insurance as provided in section 7-1-3 of this chapter.

(Ord. 300, 5-13-1991; amd. 2010 Code)

Sec. 7-1-8. Lien on property.

The cost and expense of the construction of sidewalks and curbs under the provisions of this chapter shall be a lien upon the lot or parcel of land in front of which the same is constructed. If the cost and expenses of construction are not paid by the responsible party, then the property against which the same is levied and assessed shall be sold by the clerk-treasurer, the same as the sale of property for nonpayment of assessments and levies for the making of improvements in special improvement districts.

(Ord. 300, 5-13-1991)

Sec. 7-1-9. Sidewalks in unsafe condition.

Whenever any sidewalk is in unsafe condition for pedestrians, it shall be the duty of the city superintendent to place a suitable obstruction on either side of that part of the sidewalk which is in unsafe condition and notify the owner or occupant of the abutting property that such sidewalk must be repaired. If the abutting property be unoccupied and the owner cannot be found within the city, then the city superintendent shall post a notice on such property requiring such walk to be repaired. If such walk is not properly repaired within 24 hours of the giving of the notice as herein provided, then the city superintendent shall report the facts to the mayor and the mayor may cause such sidewalk to be repaired or removed by the city as provided herein.

(Ord. 300, 5-13-1991)

Sec. 7-1-10. Repairs to sidewalks.

All repairs to sidewalks made by the city shall be paid out of the general fund. The clerk-treasurer shall keep a separate account of the cost of such repairs and charge the abutting property therewith, and shall certify a list of all property chargeable with repairs of sidewalks with the amount of the cost of repairs for which each separate parcel is chargeable, to which cost he shall add interest at the rate of six percent per annum from the date of the incurring of such charge by the city, and ten percent additional to cover costs and charges of administration, and such items shall constitute a tax against the property affected thereby. Such tax shall be collected or the property sold for delinquency as in the case of special improvement assessments. All money collected under the provisions of this chapter shall be placed in the general fund of the city.

(Ord. 300, 5-13-1991)

Sec. 7-1-11. Snow and debris removal.

The owner or occupant of the property abutting any sidewalk shall keep the same free of accumulations of snow, ice and other debris.

(Ord. 300, 5-13-1991)

Sec. 7-1-12. Penalty.

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be fined in any sum not exceeding \$10.00 for the first offense and upon being convicted of a second offense shall be fined in any sum not less than \$10.00 or more than \$50.00. In the prosecution of any violation of this chapter, prior verbal or written warnings provided by any city official to the alleged violator shall be deemed admissible in any trial of the case.

(Ord. 300, 5-13-1991)

CHAPTER 2. MAINTENANCE OF SIDEWALKS**Sec. 7-2-1. Duty of property owner.**

It is the duty of the owners or tenants of any premises within the city to keep the sidewalks in front of and adjoining their premises in good, safe and substantial condition and repair. The owners or tenants shall see that all breaks and unsoundness of any character resulting from natural deterioration, or from any cause whatever, are repaired with all possible dispatch.

(Ord. 299, 4-1991)

Sec. 7-2-2. Snow and ice removal.

A. *Duty to keep clean.* It is the duty of the owners or tenants of any premises within the limits of the city to keep the sidewalk in front of and adjoining his premises clean and safe for pedestrians; and, with all possible dispatch, to remove snow, ice, slush and other impediments to safe and convenient foot travel and prevent continuous accumulation of the same upon such sidewalks.

B. *Dumping in street prohibited.* In no case in the city shall the snow, ice, slush, mud or other such material removed from such sidewalk be dumped, placed or deposited in the adjoining streets or avenues within two feet of the curb line.

C. *Time allowed for removal.* Sidewalks must, in all cases, be freed from the night's accumulation of snow, ice, slush, mud or other like impediment before 9:00 a.m. of the following morning.

D. *Use of sand or deicing agents.* When, from freezing of water, snow or slush thereon, or by reason of such compaction resulting from the wear of foot travel or from any cause whatever, sidewalks are rendered dangerous, unsafe or difficult to the free passage of pedestrians, it shall be the duty of the owners or tenants of premises in front of or adjoining such sidewalks to forthwith remedy such condition by sprinkling sand or deicing agent on the sidewalks, chipping or other safe and efficient means.

(Ord. 299, 4-1991)

Sec. 7-2-3. Defective sidewalks.

A. *Accidents; police report.* Police officers shall, and any other persons may, report to the city clerk-treasurer all defective or unsafe sidewalks or crossings as well as the particulars of any accidents that may occur by reason of any defective or unsafe sidewalk or crossing and the names of witnesses and persons injured thereby. A copy of this report shall be given to the city engineer who will in turn notify the owners of repairs required.

B. *Failure to repair.* Upon the refusal or neglect of the owners or tenants of any premises to remove obstructions from, or to make necessary repairs to, the sidewalks in front of or adjoining the premises, and when, in the opinion of the city engineer, immediate repairs or the removal of obstructions are necessary to prevent accidents, the city engineer may immediately proceed with the same. The full cost of such repairs or removal of such obstructions shall be assessed against the premises as provided in section 7-1-10 of this title.

C. *Absence of notice not defense.* Absence of notice to owners or tenants to repair dangerous or unsafe sidewalks or to remove snow, ice, slush or other obstructions therefrom shall not constitute a valid excuse against the payment of any fine, damage or assessment by such owners or tenants; and nothing contained in this chapter shall be so construed as to release the owners or tenants of real estate from the duty of keeping the sidewalks in front of and adjoining their respective premises in good and thorough state of repair, but such duty is hereby expressly enjoined and imposed upon all such owners or tenants.
(Ord. 299, 4-1991; amd. 2010 Code)

Sec. 7-2-4. Driving over, defacing or destroying sidewalks.

It shall be unlawful for any person to drive any vehicle of any kind upon, over or across any sidewalk, curb, parkway, or boulevard unless a driveway approach has been constructed. To mark, deface or destroy any sidewalk or curb or cause the same to be done is also unlawful.
(Ord. 299, 4-1991)

Sec. 7-2-5. Penalty.

A. *Violation.* Any person who shall violate any of the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor.

B. *Jurisdiction.* Jurisdiction for such violation shall be in the city court.

C. *Penalty.* The penalty shall be a fine in any sum not exceeding \$10.00 for the first offense and upon being convicted of a second offense shall be fined in any sum not less than \$10.00 or more than \$50.00.

D. *Prior verbal or written warnings.* In the prosecution of any violation of this chapter, prior verbal or written warnings provided by any city official to the alleged violator shall be deemed admissible in any trial of the case.
(Ord. 299, 4-1991)

CHAPTER 3. OBSTRUCTION OF STREETS AND ALLEYS

Sec. 7-3-1. Obstructions.

It shall be unlawful to place or to permit to remain within the boundaries and rights-of-way of streets and alleys any vehicles, campers, trailers, lumber, firewood or other obstacles or materials in such a fashion as to prevent or impair the ability of the city to properly maintain, develop and care for said streets and alleys or to remove snow therefrom.

(1985 Code 12.02.01)

Sec. 7-3-2. Right of removal.

In addition to the imposition of penalties, the city shall have the further right, in its discretion, to remove an offending obstruction from city streets, alleys and rights-of-way and assess the cost of removal (and any costs related thereto, such as storage) against the owner of the obstruction.

(1985 Code 12.02.02)

Sec. 7-3-3. Lien.

A. *Statement of lien claim.* Costs which arise under section 7-3-2 of this chapter shall be a lien and a charge upon the property removed or upon the premises of the owner thereof. Whenever a bill for such charge remains unpaid for 60 days after it has been rendered, the clerk-treasurer may file with the county clerk and recorder a statement of lien claim. This statement shall contain a legal description of the premises charged, the expenses and costs incurred and the date that the obstacle was removed, and a notice that the city claims a lien for this amount.

B. *Notice.* Notice of such lien shall be mailed to the owner of the premises charged at his or her last known address. Failure of the owner to receive the notice shall not affect the right to foreclose the lien.

(1985 Code 12.02.03)

Sec. 7-3-4. Foreclosure.

Property subject to a lien so created shall be sold and the proceeds of such sale shall be applied to pay the expenses and charges after deducting costs of foreclosure as in the case of the foreclosure of liens upon real or personal property under the state law. Such foreclosure shall be brought in the name of the city and the city attorney is hereby authorized and directed to institute such proceedings in any court having jurisdiction over such matters.

(1985 Code 12.02.04)

CHAPTER 4. OBSTRUCTION OF VIEW AT INTERSECTIONS**Sec. 7-4-1. Declared nuisance.**

It shall be a nuisance and unlawful to plant or permit the growth of shrubs, trees or other plants including weeds, or to construct or maintain any fence, wall or other structure, in such manner as to create a traffic hazard by obstructing the view of motorists approaching any street intersection in this city.

(1985 Code 12.04.01)

Sec. 7-4-2. Notice of obstruction.

It shall be the duty of the city marshal, or other person designated by the council, to serve a notice upon the owner or occupant of any premises upon which any such obstruction is found to exist, demanding the removal of the obstruction within ten days.

(1985 Code 12.04.02)

Sec. 7-4-3. Failure to remove; abatement.

If the person so served does not abate the condition within ten days, the city may proceed to abate such nuisance, keeping an account of the expenses of the abatement, and such expenses shall be charged to and paid by the owner of the premises.

(1985 Code 12.04.03)

Sec. 7-4-4. Lien.

A. *Statement of lien.* Charges for such abatement shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for 60 days after it has been rendered, the clerk-treasurer may file with the county clerk and recorder a statement of lien claim. This statement shall contain a legal description of the premises, the expenses and costs incurred and the date the condition was abated and a notice that the city claims a lien for this amount.

B. *Notice.* Notice of such lien claim shall be mailed to the owner of the premises at his last known address. Failure of the owner to receive the notice shall not affect the right to foreclose the lien.

(1985 Code 12.04.04)

Sec. 7-4-5. Foreclosure.

Property subject to a lien so created shall be sold and the proceeds of such sale shall be applied to pay the expenses and charges after deducting costs of foreclosure, as in the case of the foreclosure of liens upon real estate under the state law. Such foreclosure shall be brought in the name of the city and the city attorney is hereby authorized and directed to institute such proceedings in any court having jurisdiction over such matters.

(1985 Code 12.04.05)

CHAPTER 5. UNIFORM RIGHT-OF-WAY ENCROACHMENT CODE

Sec. 7-5-1. Title.

This chapter shall be known as the Thompson Falls Uniform Right-of-Way Encroachment Code.
(1985 Code 12.06.01)

Sec. 7-5-2. Purpose; intent.

The purpose of this chapter is to provide standards for the regulation and control of encroachments and private use of public rights-of-way within the incorporated limits of this city. This chapter will ensure full compliance by this incorporated city with all applicable federal, state and local laws, in the interest of public safety and the free and safe flow of traffic.
(1985 Code 12.06.02)

Sec. 7-5-3. Definitions.

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

Curb line means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the city officials.

Encroachments include all private devices placed upon the public right-of-way including devices which overhang or underlie the right-of-way.
(1985 Code 12.06.03; amd. 2010 Code)

Sec. 7-5-4. Regulation.

No private signs, eaves, marquees, or similar device will be allowed to encroach on the public rights-of-way of this city within the incorporated limits except as provided herein and then only by permit issued by the proper authorities and revocable on ten days' written notice to the permittee. No gainful private or commercial use of the public right-of-way will be allowed. Examples: nonemergency servicing of vehicles, parking or placing of portable advertising devices on the public right-of-way.
(1985 Code 12.06.04)

Sec. 7-5-5. Projection and clearance.

The outermost portion on an overhanging device should be at least five feet behind the face of the curb; where there is no curb, it shall be as established by city officials. The lowest portion of an overhanging device should be at least ten feet above the top of the curb, sidewalk or roadway shoulder elevation.
(1985 Code 12.06.05; amd. 2010 Code)

Sec. 7-5-6. Minimum standards.

It is the purpose and intent of this chapter to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the placement of all signs and sign structures within the incorporated limits so as to prevent the obstruction of view of any official traffic sign, signal or device.

(1985 Code 12.06.06)

CHAPTER 6. EXCAVATIONS

Sec. 7-6-1. Permission.

It shall be unlawful for any person to make any excavation in any street or alley of the city for the purpose of laying down gas, water or other mains or making any repairs or improvements upon any mains now laid on said streets or alleys, without the written permission of the city council or its authorized officer.

(1985 Code 12.08.01)

Sec. 7-6-2. Safeguards.

Any person, firm or corporation receiving a permit to do any such work in or upon any street or alley shall be required to properly safeguard the said work in order that no one can be injured in person or property while using said streets or alleys. Barricades must be kept around the works and red lights shall be placed on all obstructions and all openings in the streets or alleys where same are left for the night; and the said streets and alleys must be placed in as good condition by the person making the excavation as they were before the excavation was made, and the mains laid down or repairs and improvements made, and in default thereof the city council may order the same to be done at the expense of such person, firm or corporation.

(1985 Code 12.08.02)

CHAPTER 7. CLOSING STREETS**Sec. 7-7-1. Closing, notice.**

During the construction or the repairing of any street, alley or sidewalk within the corporate limits of the city, the person, firm or corporation in charge of any such construction or repair work shall in some way indicate to the public that such street, alley or sidewalk upon which this work is being performed is closed to the public by either roping off or boarding off the part or portion thereof which is being so worked upon.

(1985 Code 12.10.01)

Sec. 7-7-2. Travel prohibited.

During such construction or repairing, it shall be unlawful for anyone to go or travel thereon, either on foot or otherwise, except those actually engaged in such construction or repair work or supervising such work.

(1985 Code 12.10.01)

CHAPTER 8. TREES WITHIN THE PUBLIC RIGHT-OF-WAY

Sec. 7-8-1. Definitions.

Street trees means trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways with the city.

Park trees means trees, shrubs, bushes and all other woody vegetation in city parks and all other areas owned by the city.

(Ord. No. 334, § 1, 8-12-2013)

Sec. 7-8-2. Creation and establishment of city tree board.

There is hereby created and established a city tree board for the City of Thompson Falls, Montana, which shall consist of five members, two city residents, two city council members of the recreation and public properties committee, and one member of the city public works crew. They shall be appointed by the mayor with the approval of the city council.

(Ord. No. 334, § 2, 8-12-2013)

Sec. 7-8-3. Term of office.

The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of the two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(Ord. No. 334, § 3, 8-12-2013)

Sec. 7-8-4. Compensation.

Members of the board shall serve without compensation. Except, for the member from the public works crew.

(Ord. No. 334, § 4, 8-12-2013)

Sec. 7-8-5. Duties and responsibilities.

It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, a written plan and inventory for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets right-of-way and in other city owned properties. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Thompson Falls, Montana. The board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming with the scope of its work.

(Ord. No. 334, § 5, 8-12-2013)

Sec. 7-8-6. Operation.

The board shall choose its own officers, make its own rules and regulations and report to the city council its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. No. 334, § 6, 8-12-2013)

Sec. 7-8-7. Street tree species to be planted.

The following list constitutes the official street tree species for Thompson Falls, Montana. No species other than those included in this list may be planted as street trees without written permission of the city tree board.

(A list will be on file with the public works director at city hall)
(Ord. No. 334, § 7, 8-12-2013)

Sec. 7-8-8. Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in section 7-8-7 of this chapter, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.
(Ord. No. 334, § 8, 8-12-2013)

Sec. 7-8-9. Distance from street corners, fireplugs and property lines.

No street tree shall be planted closer than 15 feet of any street corner, measured from the point of nearest intersecting right-of-way lines. No street tree shall be planted closer than ten feet of any fireplug. No tree shall be planted closer than five feet from a property boundary.
(Ord. No. 334, § 9, 8-12-2013)

Sec. 7-8-10. Utilities.

No street trees other than those species listed as small trees in section 7-8-7 of this chapter may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.
(Ord. No. 334, § 10, 8-12-2013)

Sec. 7-8-11. Public tree care.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and city property, as may be necessary to insure public safety or preserve or enhance the symmetry and beauty of such city property, and larger tracts of land (ie. sewer lagoon, community center, pump house site and city shop area) shall be managed in accordance with best management practices issued by the department of state lands.

The city tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. (Ord. No. 334, § 11, 8-12-2013)

Sec. 7-8-12. Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on city property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the city tree board. (Ord. No. 334, § 12, 8-12-2013)

Sec. 7-8-13. Pruning, corner clearance.

Every private property owner of a tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign, interferes with the passage of traffic, or prevents an open sight path of intersecting traffic. (Ord. No. 334, § 13, 8-12-2013)

Sec. 7-8-14. Newly planted trees on private property not in compliance with chapter.

Any newly planted tree that is not in compliance with this chapter, will have to be moved to a correct placement or removed. The owner will be notified by letter and have 45 days from receipt of the letter to comply with the chapter. If compliance is not done, the city crew will remove the tree. (Ord. No. 334, § 14, 8-12-2013)

Sec. 7-8-15. Removal of stumps.

All stumps of street and park trees shall be removed to or below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. No. 334, § 15, 8-12-2013)

Sec. 7-8-16. Interference with city tree board.

It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, or removing of any

street trees, or park trees. Before any spraying of trees by the city tree board or its agents, all neighbors will be notified. If the neighbors have a problem with the spaying to be done, they will have the ability to work with the city to see if there are other alternatives to the spraying.

(Ord. No. 334, § 16, 8-12-2013)

Sec. 7-8-17. Damage to public trees prohibited.

Unless specifically authorized by the public works director, it is unlawful for any person to intentionally damage, cut, carve, transplant or remove any tree in the public right-of-way or from publicly owned property; attach any rope, wire, nails, or other contrivance to any public tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof could injure any portion of any public tree.

(Ord. No. 334, § 17, 8-12-2013)

Sec. 7-8-18. Selection of arborist.

The city shall select only a suitably qualified firm or person to maintain its street and/or park trees. They will have to meet the city's normal requirements for workman's comp insurance and liability insurance to indemnify the city or any person injured or damaged from the completion of the agreed upon tasks.

(Ord. No. 334, § 18, 8-12-2013)

Sec. 7-8-19. Review by city council.

The city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city council who may hear the matter and make a final decision.

(Ord. No. 334, § 19, 8-12-2013)

Sec. 7-8-20. Penalty.

Any person violating any provision of this chapter shall be, upon conviction or plea of guilty, subject to a fine not to exceed \$300.00.

(Ord. No. 334, § 20, 8-12-2013)

TITLE 8

BUILDING REGULATIONS

Chapter 1. Fire District

Sec. 8-1-1. Established; zones.

Chapter 2. House Numbers

Sec. 8-2-1. Numbers required.
Sec. 8-2-2. Specifications.
Sec. 8-2-3. Assignment of numbers.
Sec. 8-2-4. Penalty.

Chapter 3. Sign Regulation (Main Street)

Sec. 8-3-1. Restriction.

Chapter 4. Fair Housing

Sec. 8-4-1. Regulation.

CHAPTER 1. FIRE DISTRICT

Sec. 8-1-1. Established; zones.

The entire incorporated area in the city is hereby declared to be and is hereby established as a fire district and such fire district shall be designated and known as fire zones 1, 2 and 3, each zone shall include such territory or portions of the city as illustrated, outlined and designated on a certain map on file in the office of the city clerk-treasurer, being marked and designated as "fire zones of the City of Thompson Falls, Montana," which is hereby adopted as the fire zoning map of the city.

(1985 Code 15.06.01)

CHAPTER 2. HOUSE NUMBERS

Sec. 8-2-1. Numbers required.

The owners of all businesses and residences in the city shall install street numbers on their buildings.
(Ord. 303, 2-1992)

Sec. 8-2-2. Specifications.

The individual numbers shall have a height of no less than three inches. The numbers shall be placed in a prominent location on or near the front of the structure and be clearly visible and legible from the street which the building fronts.
(Ord. 303, 2-1992; Ord. No. 2016-337, 3-14-2016)

Sec. 8-2-3. Assignment of numbers.

These numbers shall be obtained from the clerk-treasurer through the city hall.
(Ord. 303, 2-1992; amd. 2010 code)

Sec. 8-2-4. Penalty.

Any person violating the provisions of this chapter shall, upon conviction thereof, be fined the sum of \$50.00.
(Ord. 303, 2-1992)

CHAPTER 3. SIGN REGULATION (MAIN STREET)**Sec. 8-3-1. Restriction.**

It shall be unlawful for any person to build, construct or maintain across or over any part or portion of Main Street any sign or advertising device suspended or held in place by means of cable, wire, rope or in any other manner; subject, however, to the rights of any property owner or tenant to erect and maintain a sign or advertising device from his, her or its place of business to the curb line along such street providing such sign or advertising device does not interfere with the use of the sidewalk along said street.

(1985 Code 9.08.01)

CHAPTER 4. FAIR HOUSING

Sec. 8-4-1. Regulation.

It shall be unlawful for any person to refuse to sell, lease or rent any housing accommodation or property to any person because of race, gender, creed, religion, color, age or national origin.
(1985 Code 9.10.01; amd. 2010 Code)

TITLE 9

WATER AND SEWER

Chapter 1. Water

- Sec. 9-1-1: Rules.
- Sec. 9-1-2: Relation of rules to water ordinances.
- Secs. 9-1-3, 9-1-4. Reserved.

Chapter 2. Sewer

- Sec. 9-2-1. Definitions.
- Sec. 9-2-2. Use required.
- Sec. 9-2-3. Reserved.
- Sec. 9-2-4. Sanitary sewers, building sewers and connections.
- Sec. 9-2-3. Reserved.

Chapter 3. Reserved

Chapter 4. Reserved

CHAPTER 1. WATER**Sec. 9-1-1: Rules.**

Pursuant to MCA 69-7-201, the city shall, by resolution, adopt rules for the operation of the water utility. Such rules shall be made and adopted in accordance with such statutory section and other applicable statutory sections and amendments thereto. The rules shall provide for the regulatory measures permitted thereunder and may provide for the adoption and modification of schedules of charges for water services.

(1985 Code 4.02.01)

Sec. 9-1-2: Relation of rules to water ordinances.

The rule making authority granted by section 9-1-1 of this chapter shall not preclude the city from exercising any or all of its authority to regulate the water utility and to adopt a water service charge schedule by ordinance instead of or in combination with rules adopted pursuant to section 9-1-1 of this chapter.

(1985 Code 4.02.02)

Secs. 9-1-3, 9-1-4. Reserved.

Editor's note—Ord. No. 335, adopted April 21, 2014, repealed §§ 9-1-3, 9-1-4, which pertained to water meters and pits, and irrigation restrictions and derived from Ord. 308, adopted Aug. 8, 1994; Ord. 307, adopted June 14, 1993; and amd. 2010 Code.

CHAPTER 2. SEWER**Sec. 9-2-1. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Centigrade, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal. Also called house connection.

City means the City of Thompson Falls, Montana.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Easement means an acquired legal right for the specific use of land owned by others.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. a wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

Industrial wastes means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

May means permissive.

Natural outlet means any outlet, including storm sewers and combined sewer overflow, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Person means any individual, firm, company, association, society, corporation or group.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration of the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH of 7 and a hydrogen ion concentration of 10⁻⁷.

Properly shredded garbage means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Sanitary sewer means a sewer that carries liquid and water carried waste from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, stormwater and surface waters that are not admitted intentionally.

Sewage means the spent water of a community. The preferred term is "wastewater".

Sewer means a pipe or conduit that carries wastewater or drainage water.

Shall means mandatory.

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Storm drain or *storm sewer* means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

Superintendent means the superintendent (of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control) of the city or his authorized deputy, agent or representative.

Suspended solids means total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater facilities means the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant".

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

(Ord. 281, 1-6-1986)

Sec. 9-2-2. Use required.

A. *Prohibited deposits.* It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

B. *Discharge prohibited.* It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

C. *Construction of privy, septic tank, cesspool.* Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

D. *Connection required.* The owners of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, are hereby required, at the owners' expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 120 days after date of official notice to do so; provided, that said public sewer is within 50 feet of the property line.

(Ord. 281, 1-6-1986)

Sec. 9-2-3. Reserved.

Editor's note—Ord. No. 336, adopted July 14, 2014, repealed § 9-2-3, which pertained to private waste disposal and derived from Ord. 311, adopted July 10, 1995; and amd. 2010 Code.

Sec. 9-2-4. Sanitary sewers, building sewers and connections.

A. *Permit required.* No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

B. *Classes of permit; application.* There shall be two classes of building sewer permits: 1) for residential and commercial service; and 2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the superintendent.

C. *Fees.* A permit and inspection fee for a residential or commercial building sewer permit and for an industrial building sewer permit in amounts to be set by resolution or regulation of the city council shall be paid to the city at the time the application is filed.

D. *Costs and expenses; indemnification.* All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

E. *Separate sewer required; exception.* A separate and independent building sewer shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

F. *Old building sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

G. *Construction specifications.* The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city and the state. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF "Manual Of Practice No. 9" shall apply.

H. *Elevation.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

I. *Surface runoff, groundwater prohibited.* No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the superintendent and the state department of health for purposes of disposal of polluted surface drainage.

J. *Connection.* The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city and the state, or the procedures set forth in appropriate specifications of the ASTM and the WPCF "Manual Of Practice No. 9". All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

K. *Supervision; inspection.* The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.

L. *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (Ord. 281, 1-6-1986)

Secs. 9-2-5—9-2-9. Reserved.

Editor's note—Ord. No. 336, adopted July 14, 2014, repealed §§ 9-2-5—9-2-9, which pertained to: use of public sewers; protection from damage; inspectors; hearing board; and penalty and derived from Ord. 281, adopted Jan. 6, 1986; and amd. 2010 Code.

CHAPTER 3. RESERVED

Editor's note—Ord. No. 336, adopted July 14, 2014, repealed ch. 3, which pertained to sewer charges and derived from Ord. 283, adopted July 14, 1986.

CHAPTER 4. RESERVED

Editor's note—Ord. No. 336, adopted July 14, 2014, repealed ch. 4, which pertained to outdoor privies and derived from 1985 Code 7.06.01—7.06.03.

TITLE 10

ZONING ORDINANCE*

Chapter 1.

- Sec. 10-1-1. Short title.
- Sec. 10-1-2. Authority.
- Sec. 10-1-3. Purpose and intent of zoning ordinance.
- Sec. 10-1-4. Jurisdictional area.
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- Sec. 10-1-12. "B" residential district.
- Sec. 10-1-13. Commercial district.
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- Sec. 10-1-16. Mixed commercial/residential district.
- Sec. 10-1-17. Nonconforming uses generally.
- Sec. 10-1-18. Rezoning.
- Sec. 10-1-19. Variances.
- Sec. 10-1-20. Conditional use.

Chapter 2.

- Sec. 10-2-1. Fencing.

***Editor's note**—Ord. 353, adopted Aug. 8, 2022, repealed the former tit. 10, chs. 1—3, §§ 10-1-1, 10-2-1—10-2-5, and 10-3-1—10-3-4, and enacted a new tit. 10 as set out herein. The former tit. 10 pertained to zoning regulations, and derived from 1985 Code, §§ 11.04.01—11.04.04; Ord. 324, adopted July 14, 2008; and the 2010 Code.

CHAPTER 1.**Sec. 10-1-1. Short title.**

This title shall be known and cited as the "Zoning Ordinance of the City of Thompson Falls, Montana."

(Ord. 353, 8-8-2022)

Sec. 10-1-2. Authority.

This zoning ordinance is adopted under the authority of the Municipal Zoning Enabling Act (76-2-301—76-2-328, MCA).

(Ord. 353, 8-8-2022)

Sec. 10-1-3. Purpose and intent of zoning ordinance.

The purpose of this zoning ordinance is to repeal and replace the existing zoning ordinance for the city and to promulgate and adopt regulations that:

1. Are designed in accordance with a comprehensive plan.
2. Are designed to lessen congestion in the streets.
3. Will secure safety from fire, panic and other dangers.
4. Will protect health and the general welfare.
5. Will provide adequate light and air.
6. Will avoid undue concentration of the population.
7. Will facilitate the adequate provision of transportation, water, sewage, waste disposal, schools, parks and such other public requirements.
8. Give reasonable consideration to the character of the district, and of the city, and preservation of the character of the city.
9. Give reasonable consideration to the district's peculiar suitability for particular uses.
10. Give reasonable consideration to conserving the value of building.
11. Will encourage the most appropriate use of land throughout the jurisdictional area.
12. Insure that the land uses of the community are properly situated in relation to one another, providing adequate space for each type of development, and preventing problems associated with incompatible uses.
13. Control the density of development in each area of the community so that property can be adequately serviced by such public facilities as streets, schools, recreation, and utility systems.
14. Improve the quality of the physical environment of the community.
15. Protect and maintain property values.
16. Preserve and develop the economic base of the community.

17. Encourage the provision of affordable housing for families of all income levels.
(Ord. 353, 8-8-2022)

Sec. 10-1-4. Jurisdictional area.

The zoning jurisdiction of the City of Thompson Falls shall include all land within the corporate limits of the City of Thompson Falls.
(Ord. 353, 8-8-2022)

Sec. 10-1-5. Incorporation of official zoning map.

A. The official zoning map of the City of Thompson Falls, Montana, and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this title.

B. The official zoning map shall be kept in city hall, and shall be the controlling authority as to the current status of zoning districts in the City of Thompson Falls.

C. Whenever any changes are made to the district boundaries in accordance with the procedures of this title, those changes approved by the city council shall be promptly entered on the official zoning map, and a signed and dated certification shall be attached to the map. No amendment to district boundaries shall become effective until those changes are presented to the city council and approved by them.

D. No changes of any nature shall be made to official zoning map, except in conformity with the procedures specified in this title.
(Ord. 353, 8-8-2022)

Sec. 10-1-6. Definitions.

When used in this title, the following words and phrases shall have the meaning ascribed to them in this section:

"Accessory building" means a subordinate building or portion of the main building which is located on the lot of the main building, and the use of which is clearly incidental to the use of the main building.

"Building" means a structure having a roof supported by columns or walls and which is placed on a permanent foundation for the support or enclosure of persons, animals or chattels.

"City" shall mean the City of Thompson Falls, Montana.

"Depth of lot" means the horizontal distance between the front and the rear lot lines.

"District" means a section of the city for which the regulations governing the use of buildings and premises are the same.

"Foundation" means a concrete footing with a concrete or cinder block and mortar wall and anchored to the structure.

"Lot" means land occupied or to be occupied by one building and accessory buildings and uses, including open spaces required under this title.

"Lot lines" means lines bounding a lot.

"Manufactured homes" means a single-family dwelling, which is a structure constructed off site with the intention of the same being transferred on wheels and axles in one or more sections. Said home must meet the U.S. Department of Housing and Urban Development Code or the Uniform Building Code, in its construction, 400 square feet minimum.

"Nonconforming use" means a use of a building or premises that does not conform with the regulations of the use district in which it is situated.

"Rear yard" means an open space unoccupied except for accessory buildings on the same lot with a main building, between the rear lines of the main building and the rear line of the lot, for the full width of the lot.

"RV" or "recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own mode of power or is mounted on or towed by another vehicle, including, but not limited to a:

1. Travel trailer;
2. Camping trailer;
3. Truck camper; or
4. Motor home.

"Setback" means the minimum horizontal distance between the street wall of a building and the street line, or the wall of a building and the adjacent lot line.

"Side yard" means an open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard, or to the rear line of the lot where no rear yard is required.

"Single-family dwelling" means a detached building having accommodations for and occupied by one family only. It also means a detached building used as a foster home, boarding home or community residential facility.

"Street line" means the boundary where the property meets the city right-of-way.

"Street wall" means the main wall nearest to and fronting on a street, including sun parlors, but not including bay windows or porches which are not closed in, and extend less than five feet from the main wall of the building.

"Temporary structure" means a structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the structure was erected has ceased. A temporary structure must adhere to the same setback requirements as permanent structures, determined by the particular zoning of the property and have a maximum time limit of 18 months, with a provision to apply for a six-month extension.

"Tiny house" means a permanent, single-family dwelling under 400 square feet on a foundation. No additions to a tiny house are allowed.

"Zoning compliance officers" means public works director and chief of police.
(Ord. 353, 8-8-2022)

Sec. 10-1-7. Administration and enforcement.

A. Prior to locating any improvement on property within the city limits, the owner of such property shall make application to the city clerk for a zoning compliance permit on a form supplied therefore. There shall be an application fee as established in the schedule of fees of the City of Thompson Falls. The application shall include the property description, the owner of the property, and a narrative description of the proposed improvement. A sketch of the property showing the proposed location of the improvement shall be included with the application. The sketch shall show distances from the improvement to the property boundary. The applicant shall be required to establish property boundaries to the satisfaction of the zoning compliance officer. The zoning compliance officer shall be charged with the enforcement of this title.

B. Violation—Prosecution. Prosecutions for violation of this title shall be in the municipal court of the city, upon written complaint of the zoning compliance officer, or the city council, or in the court having the appropriate jurisdiction.

C. Violation—Penalty. Persons violating any provision of this title shall be subject to the general penalty provided by Montana law. Fines are on the city's fee schedule per offense and injunctive relief allowable by law, to include reasonable costs of investigation and prosecution. Each day that a violation is permitted to exist shall constitute a separate offense.

D. Ordinances in conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

E. Severability. The invalidity of any section, clause, sentence or provision of this title shall not affect the validity of any other part of this title that can be given effect without such invalid part or parts.

F. Effective date. The ordinance from which this title is derived shall be in full force or effect 30 days after its final adoption, passage, approval, recording and publication as provided by law.
(Ord. 353, 8-8-2022)

Sec. 10-1-8. Appeals.

A. Appeal from the rulings of the zoning compliance officer concerning the enforcement of the provisions of this title may be made to the board of adjustment within 30 days. The appellant shall file with the board of adjustment a notice of appeal specifying the grounds thereof. The zoning compliance officer shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed was taken.

B. An appeal stays all proceedings in furtherance of action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment that a proceeding shall not be stayed except by a restraining order from the board of adjustment or from a court of record. (Prior code § 10-1-08)
(Ord. 353, 8-8-2022)

Sec. 10-1-9. Use districts generally.

Use districts designated. For the purpose of classifying and regulating the use of real property, in the city limits, use districts are identified as follows:

1. "A" Residential;
2. "B" Residential;
3. Commercial;
4. Central Business District;
5. Mixed Commercial-Residential District;
6. Industrial.

(Ord. 353, 8-8-2022)

Sec. 10-1-10. District boundaries.

A. The boundaries of the use districts shall be as shown on the use district map which is on file in the office of the city clerk.

B. The use district map is adopted and incorporated as fully as if reproduced in this title.

C. No land shall be used, and no building shall be erected or altered within a use district except in conformance with the regulations provided in this title.

(Ord. 353, 8-8-2022)

Sec. 10-1-11. "A" residential.

A. *Conformance with provisions required.* No building shall be erected or altered in "A" residential district except in conformity with the regulations prescribed in this chapter.

B. *Permitted uses.* In any "A" residential district, no land shall be used, and no building shall be erected or altered except for the following uses:

1. Schools;
2. Parks, recreation buildings and country clubs not conducted as a business or for profit;
3. Accessory uses incident to the uses listed in this section, including private garages;
4. Fire departments;
5. Churches and temples;
6. Libraries;
7. Senior centers;
8. Single family residences, including manufactured homes and mobile homes of any size that meet or exceed the construction standards promulgated under the Uniform Building Code or by the U.S. Department of Housing and Urban Development (U.S.C. 42 § 5401) that are 20 years old or newer where lots allow for minimum setbacks. The tongue, axles, transportation lights and

removable towing apparatus shall be removed from any such home within 30 days of it being placed upon the premises and a weather resistant skirting, compatible with the exterior siding shall be installed around the perimeter of said home within 60 days.

C. *Development standards—General.* In "A" residential district, the following standards apply:

1. Building area. Except as otherwise provided in this chapter, no building with its accessory buildings shall be erected or altered so as to occupy more than 50 percent of the area of a corner lot.
2. Rear yards. Except as otherwise provided in this chapter, every building shall have a rear yard, the depth of which shall not be less than ten feet for all lot sizes.
3. Side yards. Except as otherwise provided in this chapter, every lot shall have two side yards, each of not less than five feet in width.
4. Height. Except as otherwise provided in this chapter, no building shall exceed 35 feet in height.
5. Setback line. No building shall be erected or altered so as to place its street wall nearer than ten feet from the street line and adjoining property lines and 15 feet on corner lots.
6. For all new builds, there shall be no less than two off-street parking spaces per unit, ten feet wide by 20 feet deep per vehicle.
7. All permanent dwellings must be connected to city water and sewer and approved electric. Generators shall not be the main source of power for any dwelling in any zone within the city limits. Generator use must be limited to use as a temporary power supply during emergency situations or construction.
8. It is the responsibility of the property owner to comply with insurance requirements.
9. Prior to erecting any fence, property owner shall locate survey pins indicating property boundaries. If pins cannot be located, a survey must be conducted.

D. *Development standards—Schools, churches, temples, libraries, senior centers and fire departments.*

1. For the purpose of erecting schools, churches, temples, libraries, senior centers or fire departments, two or more adjoining lots shall be considered a single lot (hereinafter called a "plot"), provided, that the side line, rear yard and building setback provisions are observed.
2. Two side yards of not less than five feet in width shall be provided on each plot.
3. The depth of the rear yard of the plot shall not be less than ten feet.
4. The street wall of the building erected on the plot shall be placed no closer than ten feet to the street line and 15 feet on corner lots.
5. The building shall not exceed 35 feet in height.

(Ord. 353, 8-8-2022)

Sec. 10-1-12. "B" residential district.

A. *Conformance with provisions required.* No building shall be erected or altered in a "B" residential district except in conformity with the regulations prescribed in this chapter.

B. *Permitted uses.* In any "B" residential district, no land shall be used, and no building shall be erected or altered except for the following uses:

1. Any use permitted in an "A" residential district;
2. Manufactured homes and mobile homes of any size that meet or exceed the construction standards promulgated under the Uniform Building Code or by the U.S. Department of Housing and Urban Development (U.S.C. 42 § 5401) that are 20 years old or newer and at least 400 square feet. The tongue, axles, transportation lights and removable towing apparatus shall be removed from any such home within 30 days of it being placed upon the premises and a weather resistant skirting, compatible with the exterior siding shall be installed around the perimeter of said home within 60 days;
3. Apartment houses and multiple-family dwellings;
4. Hospitals;
5. Police departments;
6. Professional or commercial offices;
7. Tiny houses.

C. *Development standards.* In a "B" residential district, the following standards apply:

1. Building area. No building with its accessory buildings shall be erected or altered so as to occupy more than 50 percent of the area of an interior lot, or more than 60 percent of the area of a corner lot.
2. Rear yards. Every building shall have a rear yard, the depth of which shall not be less than ten feet for all lot sizes.
3. Side yards. Two side yards shall be provided on every lot. The width of each side yard shall not be less than five feet from adjoining property lines.
4. Setback line. No building shall be erected or altered so as to place its street wall nearer than ten feet from the street line and 15 feet on corner lots. No accessory building shall be erected nearer than 15 feet from the street line.
5. Height. No building shall exceed 35 feet in height. (Prior code §§ 10-3-03—10-3-07)
6. For all new builds, there shall be no less than two off-street parking spaces per unit ten feet by 20 feet deep per vehicle.
7. All permanent dwellings must be connected to city water and sewer and approved electric.
8. Generators shall not be the main source of power for any dwelling in any zone within the city limits. Generator use must be limited to use as a temporary power supply during emergency situations or construction.
9. It is the responsibility of the property owner to comply with insurance requirements.
10. Prior to erecting any fence, property owner shall locate survey pins indicating property boundaries. If property pins cannot be located, a survey must be conducted first.

11. There shall be a maximum limit of two tiny houses per lot separated by ten feet, each connected individually to water, sewer and power.
12. Recreational vehicles (RVs). Refer to Ordinance No. 343.
(Ord. 353, 8-8-2022)

Sec. 10-1-13. Commercial district.

A. *Conformance with provisions required.* No building shall be erected or altered in a "commercial" district except in conformity with the regulations prescribed in this chapter.

B. *Permitted uses.* In any commercial district, no land shall be used, and no building shall be erected or altered except for the following uses:

1. Any use permitted in an "A" or "B" residential district.
2. Light manufacturing carried on within entirely closed building, and which creates no objectionable noise, odor, smoke fumes, vapor, dust or gas.
3. Residential single-family homes may be permitted where such residential use is in support of and attendant to a commercial business or enterprise. A residential single-family home shall be defined as a frame dwelling with at least one bedroom and bathroom or a manufactured home of 400 square feet in size with tongue and axles removed and placed upon a foundation consistent with municipal building codes.

C. *Prohibited uses.* The following uses are prohibited in commercial district:

1. Storage yards for scrap, bulk or raw materials;
2. Railroad yards;
3. Livestock corrals or feed lots;
4. Junkyard.

D. *Screening and buffering.* Whenever a nonresidential use or off-street parking area abuts a residential use, the use shall be effectively screened at the property line on all sides which adjoin or face the residential district or institutional use by a sight-obstructing wall, fence or planting screen, acceptable to the zoning compliance officer, not less than four feet nor more than eight feet in height, and shall be maintained in good condition.

(Ord. 353, 8-8-2022)

Sec. 10-1-14. Central business district.

A. *Permitted uses.* In any "central business" district, no land shall be used, and no building shall be erected or altered except for the following uses:

1. Amusement and recreational facilities in enclosed building and parks;
2. Attached apartments;
3. Auditoriums, theaters;
4. Businesses or services conducted primarily within enclosed buildings;

5. Financial institutions;
6. Government, educational and institutional uses;
7. Professional clinics and offices;
8. Museums and art galleries;
9. Police and fire stations;
10. Libraries;
11. Restaurants;
12. Bars, taverns, lounges, night clubs;
13. Senior citizen centers;
14. Other uses commensurate with the above uses and compatible with the purposes of this district;
15. Marijuana sales—medical and recreation (no manufacturing or cultivation);
16. Liquor stores;
17. Adult oriented businesses.

B. *Prohibited uses.* In any "central business" district, no land shall be used, and no building shall be erected or altered for the following uses:

1. Detached living quarters;
 2. Storage yards for scrap, building or raw materials;
 3. Livestock corrals or feed lots;
 4. All businesses which create objectionable noise, odor, smoke, fumes, vapor, dust or gas.
- (Ord. 353, 8-8-2022)

Sec. 10-1-15. Industrial district.

A. *Permitted uses.* Buildings and premises may be used for any of the following industrial operations as hereinafter defined shall be permitted with zone "industrial" of the city zoning area:

1. The construction, maintenance, and operation of wood and metal product manufacturing plants.
2. The storage of finished products and the movement thereof.
3. The processing of manufactured products.
4. The construction, maintenance and operation of machinery and physical plant for manufacturing purposes.
5. Includes only those industries that manufacture, produce, process, or fabricate materials.
6. Railroad.

B. *Prohibited uses.* No building or occupancy permit shall be issued for any of the following uses, until and unless, the location of such uses shall have been approved by the council:

1. Wood pulp or paper processing plant.
 2. Acid manufacture.
 3. Distillation of bones, coal, or wood.
 4. Explosive manufacture or storage.
 5. Fat rendering.
 6. Fertilizer manufacture.
 7. Garbage, offal, or dead animal reduction.
 8. Petroleum refining.
 9. Smelting of any metals or ores.
 10. Stock yards or slaughter animals.
- (Ord. 353, 8-8-2022)

Sec. 10-1-16. Mixed commercial/residential district.

A. *General requirements.* This provides area for a compatible mixture of business and residential land uses.

1. Height: Buildings shall not be more than 35 feet.
2. Setbacks/yards: No front, back, or side yards shall be required for commercial buildings in this district. Residential buildings shall comply with setback regulations as otherwise provided in this Code.
3. Lot area per family: Every building hereafter erected, structurally altered or maintained for residential purposes shall provide a lot area of not less than 3,480 square feet per family.
4. Use: No building, structure or premises shall be used, and no building or structure shall be erected, structurally altered or maintained, unless otherwise provided in this article, except for one or more of the uses listed below. No business, trade or industry shall be permitted in this district which is noxious or offensive by reason of the emission of odor, dust, smoke, gas, vibration or noise, or which imposes any extraordinary hazard to life or property.

B. *Permitted uses.* The following uses are permitted in a mixed commercial/residential area:

1. Adult oriented businesses located not less than 500 feet from a church or similar place of worship or a school.
2. Any use permitted in the "B" residential district along with any specific requirements therein.
3. Apartments, condominiums and cityhouses. Apartments or condominiums may be located above retail or business operations. The minimum lot area per family in subsection A.3. above and the design standards located in the "B" residential district do not apply when located above

retail or business operations. The minimum living area per family unit is 500 square feet. When one or more residences are located above a business, one off-street parking space ten feet by 20 feet per unit is required.

4. Amusement arcade providing games of skill to patrons at a cost where wholly contained within the building.
5. Art galleries and studios.
6. Assembly hall.
7. Automobile repair shops, garages and sales.
8. Bakery.
9. Bank.
10. Bar.
11. Barber shop/Beauty parlor.
12. Boarding house.
13. Bowling alley.
14. Building supply store.
15. Business or professional office.
16. Car wash.
17. Casino.
18. Coffee shop, cafe, espresso stand.
19. Computer services.
20. Dry cleaning and dyeing.
21. Electronics service and repair.
22. Florist shop.
23. Feed store.
24. Food products or preparation, except such uses as are involved in handling live animals or fowls to finished products.
25. Furniture store.
26. Gasoline or oil retail supply station, including filling station.
27. Gift store.
28. Greenhouse.
29. Grocery store.
30. Governmental, cultural and institutional facilities.
31. Hardware store.

32. Health studio, gym.
 33. Hospitals, clinics and related medical goods and services.
 34. Hotels, motels and other hospitality and entertainment uses.
 35. Ice plant or ice storage for less than five tons.
 36. Laundry.
 37. Light manufacturing in connection with uses herein permitted, provided that no more than 25 percent of the total floor space of the building or structure in this district is not used for manufacturing.
 38. Liquor store.
 39. Machine shop.
 40. Motor vehicle sales.
 41. Marijuana sales.
 42. Music and video studio.
 43. Public or private garage or parking area.
 44. Newspaper publishing, printing and bookbinding.
 45. Radio or television broadcasting station.
 46. Retail sales and service.
 47. Restaurant.
 48. Senior citizen center.
 49. Sheet-metal working.
 50. Shoe-shining or shoe repairing.
 51. Signs.
 52. Sporting goods store.
 53. Storage facility.
 54. Theater.
 55. Upholstery and drapery shops.
 56. Veterinarian office, small animal.
 57. Wireless communication facility with one or all antennae located on an existing tower or monopole or attached to an existing building or structure, camouflaged and/or hidden to the extent possible, collocated to the extent possible and not greater than 70 feet in height.
 58. Wholesale business.
- (Ord. 353, 8-8-2022)

Sec. 10-1-17. Nonconforming uses generally.

A. *Application of chapter.* The provisions of this chapter shall apply to building, structures, lands and uses that are nonconforming, as defined.

B. *Nonconforming lots of record.*

1. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record, with the county clerk and recorder, on the effective date of adoption or amendment of the ordinance codified in this chapter. The lot must be in separate ownership and not contiguous frontage with other lots in the same ownership. This section shall apply although the lot fails to meet the requirements for area or width, or both, generally applicable in the district, except that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district.
2. If two or more vacant lots or combinations of lots and portions of lots with contiguous frontage are in single ownership of record at the time or passage or amendment of the ordinance codified in this chapter, and if all or part of the lots do not meet the requirements for lot widths and areas as established by this chapter, the lots shall be deemed to be an undivided parcel for the purpose of this chapter, and no portion of said parcel which does not meet lot widths and area requirements established by this chapter shall be used for a building site. No division of the lots shall be made which leaves remaining any lot with width or area smaller than the requirements in this chapter.

C. *Nonconforming uses of land.* A lawful use of land existing on the effective date of adoption or amendment of any ordinance or district regulation governing its use, or change of district boundaries, made no longer permissible by such adoption, amendment, or change in district boundaries, may be continued so long as it remains otherwise lawful, subject to the following conditions:

1. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of any ordinance, or change in district boundaries;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of any ordinance, or change in district boundaries;
3. If the nonconforming use of land ceases for any reason for a period of two years, subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which the land is located.

D. *Nonconforming structures.* A lawful structure existing on the effective date of adoption or amendment of the ordinance codified in this chapter which could not be built under this chapter by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on that lot, may be continued so long as it remains lawful, subject to the following conditions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration is required by law;

2. Any such structure destroyed by any means to an extent that the cost of replacement is more than 50 percent of the cost of replacing the entire structure at the time of destruction shall not be reconstructed or replaced except in conformity with the provisions of all applicable ordinances;
3. Any structure moved for any reason for any distance whatever shall thereafter conform to the regulation for the district in which it is located after it is moved;
4. Any structure may be altered if necessary to adapt a nonconforming building to a new technologies or equipment pertaining to uses housed in such building, but any enlargement necessary to adapt to new technologies shall be authorized only by a variance.

(Ord. 353, 8-8-2022)

Sec. 10-1-18. Rezoning.

A. If the boundary change is requested by petition or initiated by the city council, the same shall then be referred to the city council, which shall make a careful investigation and hold public hearing thereon. The city council shall cause notice to be published twice in the local newspaper of the city and at city hall of the time and the place set for the hearing upon the boundary changes. The first publication of such notice shall be made no less than 15 days before the date of such hearing. One hundred percent of affected property owners need to be notified of change by certified mail. At such hearing, the city council shall hear all persons and all objections and recommendations relative to the proposed change. Action shall be taken upon such ordinance by the city council at the next regularly scheduled meeting and the action shall be final and conclusive as to all matters and things involved in the boundary change signed by the owners of 35 percent or more, either of the area of the lots included in the proposed change, or of those immediately adjacent in the rear thereof extending 150 feet therefrom, or those adjacent on either side thereof within the same block, or of those directly opposite thereof extending 150 feet from the street frontage of such opposite lots, the amendment shall not become effective except by the favorable vote of three-fourths of all members of the city council. Individual owners requesting rezone will be responsible for all fees associated with the project, postings, certified mail expense, letters and time invested by city employees.

B. Such protest petitions must be filed with the city clerk's office by 3:00 p.m. of the Thursday preceding the public hearing before the city council.

C. When such proposed amendment has been rejected by the city council, neither it nor one involving only the same property shall be offered for adoption within one year after such rejection.

(Ord. 353, 8-8-2022)

Sec. 10-1-19. Variances.

A. A board of adjustment is established as provided by 76-2-321—76-2-328, MCA. It shall consist of five members appointed by the mayor, with the approval of the city council, for terms of three years. It shall hold its meetings in the main city hall or at such other place as may be designated by its chairman in the city, and the presence of four members shall be necessary to constitute a quorum. Its duties and powers shall be as defined by state law, and it shall be the duty of other departments of the city to render such assistance as may be reasonable required.

B. Changes in the regulations, restrictions and boundaries of districts may be made only by the city council, and in the manner designated by law.

C. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, or any amendment thereto, the board of adjustment shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the regulations or provisions relating to the construction, structural changes or alterations of buildings or structures in harmony with their fundamental purpose and intent, or any use thereof, so that the public health, safety and general welfare may be conserved and substantial justice done.

D. In every case, however, where a permit is either granted or revoked by the board of adjustment, it must be affirmatively shown that an unnecessary hardship or practical difficulty exists, and the records of such board shall clearly indicate in what particular and specific respects an unnecessary hardship or practical difficulty would be created.

(Ord. 353, 8-8-2022)

Sec. 10-1-20. Conditional use.

Generally: A conditional use permit may be required when a resident operates a business or function, that is not permitted in a particular zone designation.

- A. An application and guidelines for conditional use is available from the city clerk.
- B. Completed application, supporting documentation, and fees must be submitted to the zoning compliance officer before application will be considered by city council. See appendix: table of fees.
- C. Applicant must show proof that the conditional use will not negatively impact the community, and provide affidavits of approval from residents and property owners impacted by the conditional use.
- D. Upon reviewing the application for conditional use and supporting documentation, the city council may grant approval for the conditional use.
- E. Conditional use is temporary, having a start date and end date.
- F. Conditional use permit may be renewed, pending review by city council.

(Ord. 353, 8-8-2022)

CHAPTER 2.

Sec. 10-2-1. Fencing.

A. *Purpose.* Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit public safety, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an

unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones. These standards are applicable to all zoning designations within the City of Thompson Falls.

B. *Materials.* Perimeter fences and walls shall not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:

1. Barbed wire is permitted on top of a six-foot-tall fence in commercial, industrial, and commercial zones. The total height of the fence and barbed wire is limited to eight feet. Barbed-wire-only fences are prohibited except as allowed in subsection B.2.
2. *Large animal containment.* Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the city, barbed wire is permitted within six inches from the top of a fence at least four feet tall that is used to contain or restrict large animals.
3. *Deer fence.* Fence installed for the purpose of exclusion of deer from a property must not restrict drivers' vision of the roadway or intersection. The total height of the fence is limited to eight feet and must be open wire.
4. Electrically charged fences are not permitted as perimeter fence except for around beehives, chickens, ducks, quail, rabbits and garbage cans. Any electric charged fence permitted under this section shall be noticed and clearly identified as being electrically charged.

C. *Standards.* Fences and walls shall meet the following standards. If a fence or wall is used to meet required screening, it shall meet the provisions in Chapter 18.08.060.

1. *Standards in residential zones (see also subsection C.3., standards for all fences).*
 - a. Fences shall be no taller than six feet.
 - b. Corner properties, which by definition have two front yards, may have a fence no taller than six feet in the front yard adjacent to the street that does not contain the main door entrance which does not restrict a driver's vision of the roadway or intersection.
 - c. All fences must be on or behind the property line.
 - d. Interior fences shall not be regulated.
2. *Standards in commercial and industrial zones.* Fences in front yards. Fences shall be no taller than six feet in required front yards. Six-foot fences containing barbed wire on top or fences taller than six feet are not permitted in the front yards.
3. *Standards for all fences.*
 - a. In no instance or zone shall a fence exceed six feet except when permitted in fence ordinance.
 - b. In no instance shall a fence extend beyond the property line.
 - c. Should an existing structure sit on a common property line, no fence shall be placed that prevents use of an existing or required emergency exit.
 - d. No fences shall restrict a driver's vision of the roadway.

4. *Measuring fence height.* Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. Fence height includes the height of the fence, wall, or picket and does not include the posts, or arbors and trellises at entrance gates.
5. *Maintenance.* Every fence, whether required or not, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to, noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.

D. *Nonconforming fences.* Existing fences that were constructed legally and/or that were in place at the time the property was annexed to the city that do not meet the current fencing standards shall be considered a legal nonconforming use, provided that the barbed wire or upturned barbed selvage does not extend over a street or alley and where it does slant toward the public right-of-way it shall not be located less than one foot from said right-of-way.

(Ord. 353, 8-8-2022)

TITLE 11

SUBDIVISION REGULATIONS*

Chapter I. General Provisions

- Sec. 11-I-A. Title.
- Sec. 11-I-B. Authority.
- Sec. 11-I-C. Effective date, applicability.
- Sec. 11-I-D. Purpose.
- Sec. 11-I-E. Jurisdiction.
- Sec. 11-I-F. Roles of the city planning board and city planner.
- Sec. 11-I-G. Severability.
- Sec. 11-I-H. Construction timing.
- Sec. 11-I-I. Permission to enter.
- Sec. 11-I-J. Notification of compliance checking.
- Sec. 11-I-K. Definitions.

Chapter II. Subdivisions Subject to Review

- Sec. 11-II-A. Purpose.
- Sec. 11-II-B. Pre-application procedure.
- Sec. 11-II-C. Overall development plan.
- Sec. 11-II-D. Preliminary plat submittal requirements.
- Sec. 11-II-E. Preliminary plat review process.
- Sec. 11-II-F. Preliminary plat extensions.
- Sec. 11-II-G. Final plat submittal requirements.
- Sec. 11-II-H. Final plat review process.
- Sec. 11-II-I. Role of the public in subdivision review.
- Sec. 11-II-J. Role of public agencies in subdivision review.

Chapter III. Summary Tables

Chapter IV. Design and Development Standards

- Sec. 11-IV-A. General standards.
- Sec. 11-IV-B. Specific standards.

***Editor's note**—Printed herein are the subdivision regulations of the city, Ordinance No. 349, as adopted by the city council on March 8, 2021. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

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Chapter V. Administrative Provisions

- Sec. 11-V-A. Schedule of fees.
- Sec. 11-V-B. Variances.
- Sec. 11-V-C. Amendment of regulations.
- Sec. 11-V-D. Transfer of title.
- Sec. 11-V-E. Enforcement.
- Sec. 11-V-F. Vacation of recorded plats.
- Sec. 11-V-G. Correction of recorded plat.
- Sec. 11-V-H. Amendment of recorded plat.

Chapter VI. Subdivision Exemptions

- Sec. 11-VI-A. Purpose.
- Sec. 11-VI-B. Types of exemptions.
- Sec. 11-VI-C. Exemption request and review procedures.
- Sec. 11-VI-D. Exemption review criteria.
- Sec. 11-VI-E. Special requirements.

Appendices

- Appendix 1 Review Agencies and Sources of Information
- Appendix 2 Montana Environmental Permits
- Appendix 3 Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats
- Appendix 4 Subdivision Review Fee Schedule
- Appendix 5 Pre-Application Checklist
- Appendix 6 Subdivision Assessment Form
- Appendix 7 Sample Notification Letter: Pre-Application Phase
- Appendix 8 Preliminary Plat Checklist
- Appendix 9 Environmental Assessment
- Appendix 10 Subdivision Application Cover Sheet and Form (Includes Appendices 11—13)
- Appendix 11 Joint Application
- Appendix 12 DEQ Subdivision Checklist (Lots and Tracts under 20 Acres)
- Appendix 13 Reviewing for Growth Policy Compliance, Evaluation Checklist (For Overall Development Plans and Proposed Subdivisions)
- Appendix 14 Sample Notification Letter (After Subdivision Application is Submitted)
- Appendix 15 Final Plat Checklist
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- Appendix 17 Sample Subdivision Improvement Agreement; Guarantees, and Letter of Credit
- Appendix 18 Sample Certificates
- Appendix 19 Summary of Exemptions from Survey Requirements, Subdivision Review, and Sanitation Review
- Appendix 20 Request for Exemption Review
- Appendix 21 Exemption Review Board Checklist
- Appendix 22 Sample Agricultural Covenant
- Appendix 23 Request Form to Lift an Agricultural Exemption
- Appendix 24 Variance Application Form
- Appendix 25 Amended Plat Checklist
- Appendix 26 Preliminary Plat Extension Form
- Appendix 27 Exemption Review Checklist (Part 2)

CHAPTER I. GENERAL PROVISIONS**Sec. 11-I-A. Title.**

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

Sec. 11-I-B. Authority.

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

Sec. 11-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 11-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.

Sec. 11-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.

Sec. 11-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.

Sec. 11-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.

Sec. 11-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.

Sec. 11-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, 76-4121, MCA, regulates subdivision activities.

Sec. 11-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.

Sec. 11-I-J. Notification of compliance checking.

After a subdivision is grant 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 11-V-E.

Sec. 11-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 means:

- 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 means a land use which is clearly secondary and incidental to the primary land use.

Adjoining property owners means each owner of record, and each purchaser under contract for deed of property immediately adjacent to the land being proposed for subdivision.

Aggrieved person means 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 means any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.

Agriculture means the practice of cultivating the ground, raising crops, and/or rearing animals.

Aliquot part means a portion of a United States government lot or section of land. For example, quarter sections are called one-quarter aliquot parts, meaning four equal parts.

Alley (see street types).

Amended plat (see plat).

Annexation means the process by which the city council of Thompson expands the boundaries of the city into adjacent areas not already incorporated into the city.

Aquifer means a layer of rock which holds water and allows water to percolate through it.

Arterial (see street types).

Authorized agent means program administrators, their designee, or other person designated by the Thompson city council.

Big game winter range means habitat which supports the larger hunted animals (e.g., deer, elk, and moose) during the winter months.

Block means a group of lots, tracts or parcels within well-defined fixed boundaries.

Buffer area or zone means 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 means 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, means a specified area within which any and all building construction will occur.

Cash donation means the fair market value of the unsubdivided, unimproved land (refers to parkland dedication).

Cash-in-lieu means 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) means 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 filed as a legal document to describe land divisions which are exempt from the subdivision review process.

City council means [the] governing body for the City of Thompson Falls.

Cityhome/cityhouse means 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.

Clustered development or *clustering* means grouping houses on part of a property while maintaining a large amount of open space on the remaining land.

Collector (see street types).

Commercial means enterprises involving wholesale trade, retail trade, professional services, and/or personal services, whether leased or owned.

Condominium means 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 means the minimum distance that structures may be located from lot lines, street rights-of-way, rivers, and riparian areas.

Corner, unless otherwise qualified, 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 means 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 means the excavating of material in one place and depositing of it as fill in an adjacent place.

Dead-end street (see street types).

Dedication means 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 means the number of buildings or housing units on a particular area of land.

Division of land means 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 means 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 means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

Drainage system means 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*, means subsurface wastewater disposal facilities used to remove contaminants and impurities from the liquid that emerges after anaerobic digestion in a septic tank.

Driveway means a vehicular access way that typically services only one residence, but may serve two.

Dwelling means a building or portion thereof used exclusively for residential occupancy.

Dwelling unit means 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 means 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.

- a. *Conservation easement* is a voluntary restriction of land use, particularly with respect to residential development. A landowner may sell or donate a conservation easement to a public or private land trust.

Emergency access (see access).

Emergency services means 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 means 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 means a registered land surveyor appointed by the city council to review surveys and plats submitted for filing.

Exemption review board means 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 means 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 means a written conclusion or determination based on evidence made in support of a decision.

Fire prevention specialist means [an] 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 means 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 means [an] area having potential to be located in [a] 100-year floodplain as designated on (USGS) maps dated March 10, 1997 or adopted floodplain maps.

Flood plain generally means 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. See also 76-5-103, MCA.

Frontage or service road (see street types).

Gated community means a development that uses a gate, manned entryway, or other device to limit public access.

Geographic information system (GIS) means 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. See also 90-1-403, MCA.

Grade means the slope of a street or other public way specified in percentage terms.

Groundwater (see high water table).

Growth policy means [the] 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 means any condition, either natural or man-made, which presents danger to the public health, safety, and welfare.

High fire hazard area means 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) 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 means 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 means 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 means 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 means the properties of water, including circulation and distribution, on and below the ground.

Immediate family means a spouse, children by blood or adoption, and parents.

Industrial means industrial enterprises involve construction, manufacturing, and/or the extraction of raw materials.

Infrastructure means 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 means 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 means owners of record and purchasers under contract for deed.

Legal access (see access).

Local fire authority means [the] Thompson Volunteer Fire Department.

Local street (see street types).

Local services means any and all services and facilities that local government entities are authorized to provide.

Location map means a small map showing the location of a tract of land in relation to a larger land area.

Long range planning committee means the Thompson Falls City Planning Board, created pursuant to Title 76, Chapter 1, MCA.

Loop street (see street types).

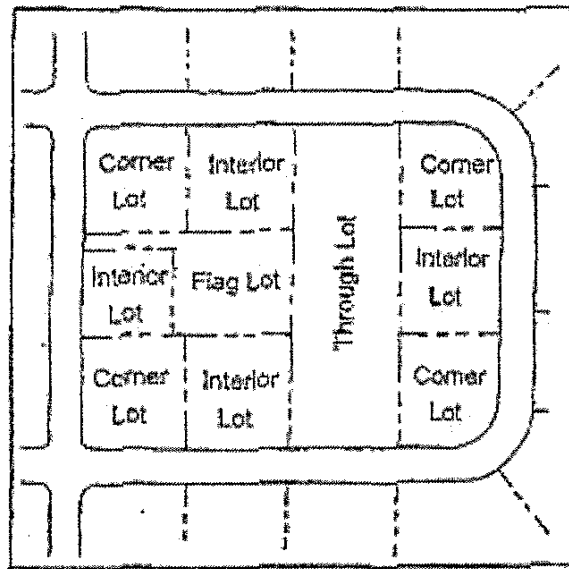
Lot means a parcel, plot or other land area created by subdivision for sale, lease or rent.

Lot measurements:

- a. *Lot depth* means the length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
- b. *Lot width* means the width of the lot measured by averaging its two narrow dimensions.
- c. *Lot frontage* means the width of the front lot line.
- d. *Lot area* means the area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

Lot types:

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



Low-income housing means 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 15-1-101, MCA) means 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 means 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 means 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 (from 15-1-101, MCA) means forms of housing known as "trailers," "housetrailers," or "trailer coaches" exceeding eight 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 eight feet in width or 45 feet in length used as a principal residence.

Mobile home lot means 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 means a tract of land providing two or more mobile home lots for lease or rent to the general public.

Mobile home stand means that area of a mobile home lot which has been prepared for the placement of a mobile home.

Modular or factory built building means 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) means Montana statutes.

Monument (permanent monument) means 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 means [the] City of Thompson Falls.

Natural environment means 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 means the natural resources of the state and city, including 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 means an area in which no building or structure may be constructed or otherwise placed.

Noxious weed means 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 means land which is provided or preserved for:

- 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.

Land designated as open space may not be subdivided.

Ordinary high-water mark means 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) means 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 (from 76-1-605, MCA) means after adoption of a growth policy, the city council within the area covered by the growth policy pursuant to 76-1-601, MCA, must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:

- 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 means 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 means 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).

Planned unit development means 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 means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

- a. *Preliminary plat* means 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.
- b. *Final plat* means 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).
- c. *Vacated plat* means a plat which has been removed from the county record under the provisions of Title 76, Chapter 3, MCA.
- d. *Amended plat* means 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 means 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 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 means the Thompson Falls mayor and public works director.

Property owners association covenants (see covenant).

Public health and safety means 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 means 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 services means 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.

Public street (see street types).

Recreational vehicle park means 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 means 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 land surveyor means a person licensed in conformance with Title 37, Chapter 67, MCA to practice surveying in the State of Montana.

Registered (or licensed) professional engineer means 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.

Residential development means a development that includes at least one dwelling unit, including single-family dwellings, two-family dwellings, multiple-family dwellings, fractional fee club units, time-share units, and condominium units.

Residential unit means:

- 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:
 - (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 means a strip of land dedicated or acquired for use as a public way.

Right-to-farm law means a Montana state law which excludes standard agricultural practices from being considered "nuisances" (27-30-101, MCA).

Riparian areas means 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 means precipitation that flows off the land without filtering into the soil or being absorbed by plant material.

Rural school district means 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 means 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 means denoting a drainage system incorporating a septic tank.

Setback means 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 means development plan for a proposed subdivision created by rent, lease, or other conveyance.

Slope means the inclination of the surface of the land from the horizontal, prior to development.

Species of special concern means 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 means the State of Montana.

Street types. For purposes of these regulations, street types are defined as follows ("road" and "street" may be used interchangeably):

- a. *Alley* means a road used primarily for vehicular access to the rear of properties which abut on and are served by public roads.
- b. *Arterial* means 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 to four lanes of moving traffic and should provide only limited access to abutting property.
- c. *Collector* means 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* means 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* means a road having only one outlet for vehicular traffic.
- f. *Frontage or service street* means 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* means 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* means 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* means a local road which begins and ends on the same road, generally used for access to properties.

- j. *Public street* means a right-of-way or easement dedicated or recorded for public access.

Structure means anything constructed or erected.

Subdivider means a person, or a person's agent, who causes land to be subdivided or who proposes a subdivision of land by submitting a subdivision application under these regulations.

Subdivision means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels maybe 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 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 parcels created from that tract of record under 76-3-201 or 76-3-207, MCA, 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 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 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 means 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 means a drainage channel or shallow depression, natural or manmade, designed to direct surface water flow.

Through lot (see lot types).

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

Tract of record means 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 means 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 means 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 means the landscape visible from a particular viewing point.

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

Water right means 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 means wildland areas which are bordered by, or intermingled with, residential and other types of development.

Wildlife means living things which are neither human nor domesticated nor plant.

Wildlife habitat means place or type of site where wildlife naturally lives and grows.

CHAPTER II. SUBDIVISIONS SUBJECT TO REVIEW**Sec. 11-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.

Sec. 11-II-B. Pre-application procedure.

1. Prior to submittal of a subdivision application, the subdivider shall request a preapplication 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;*
 - (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).
- 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

*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.

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.

5. 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.
6. 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.
7. Nothing stated by the planner during the pre-application process shall bind the city council in its ultimate decision on the proposed subdivision.

Sec. 11-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 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 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 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 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 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 11-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 11-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.

Sec. 11-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.

Sec. 11-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 11-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 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 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 year of the original application submittal, the application will be considered withdrawn.
- c. *Sufficiency review.* Within 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 months of the date the planner notified the subdivider of the deficiency or a one-time extension of up to six 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 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 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 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 60 working days for subdivisions of less than 50 lots

and 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 year; or
- (b) A subsequent public hearing is scheduled and held as provided in 76-3615, 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 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 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 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 11-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 within 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 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 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 11-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 11-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), MCA, 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 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 11-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 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 15 days prior to the date of the subsequent hearing.
 - (b) At least 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 76-3608(5), MCA.
- (7) In arriving at its decision, the city council shall issue written findings of fact that weigh the criteria in subsection 11-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 tire 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 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 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 11-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, MCA, 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), MCA, 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), MCA, 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, MCA, and shall not be in force for more than three calendar years or less than one 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.
- c. 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.
- d. 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.
- e. Pursuant to 76-3-608(5)(a), MCA, 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.
- f. 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.
- g. 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).

- h. *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), MCA, 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.

Sec. 11-II-F. Preliminary plat extensions.

1. *Request requirements.*
- a. A subdivider may request an extension of the preliminary plat approval period. No later than 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 calendar year, except that the city council may extend its approval for a mutually agreed-upon period of more than one 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 11-II-E.2. of these regulations.

Sec. 11-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 inches by 36 inches 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 city; 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.

Sec. 11-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 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 11-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 11-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 11-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 percent 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 percent 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 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 percent of the original amount. The remaining ten percent 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 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 11-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.

Sec. 11-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.

Sec. 11-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. <ul style="list-style-type: none"> - Fees paid. - Planner approves pre-application packet, and pre-application appears on planning board agenda. - Subdivider should also meet at this stage with the with the city public works director regarding streets, water, sewer and stormwater and the use of the municipal facilities exemption.
STEP TWO.	Early Notification. <ul style="list-style-type: none"> - Subdivider sends out early notifications after planner approves the packet.
STEP THREE.	Preliminary Plat Application Submittal and Review. <ul style="list-style-type: none"> - 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. <ul style="list-style-type: none"> - Once subdivision application packet has passed the element and sufficiency reviews, 20 additional sets must be submitted within five working days (19 to planning office, one to local public library). - Thirty-five working day "clock" begins day after written notice of sufficiency.
STEP FIVE.	Second Notification. <ul style="list-style-type: none"> - Subdivider sends out second notifications - Subdivider posts property.
STEP SIX.	Planning Board Review. <ul style="list-style-type: none"> - Planning board reviews subdivision application and makes recommendation at public meeting.
STEP SEVEN.	City Council Decision. <ul style="list-style-type: none"> - City council reviews subdivision application and makes decision at public meeting.

"FIRST MINOR" SUBDIVISION
Typical Subdivision Application and Review Process for

- 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.

"MAJOR" SUBDIVISION OR "SUBSEQUENT MINOR" SUBDIVISION
Typical Subdivision Application and Review Process for

- Six or more lots or six or more spaces or units—Mobile home parks, recreational vehicle parks, condominiums, or cityhouses
 - Five or fewer lots, subsequent minor subdivision from a tract of record
 - Five or fewer spaces or units, subsequent minor—Mobile home parks, recreational vehicle parks, condominiums, or cityhouses
-

- STEP ONE. Pre-Application Meeting with Planner.
- Pre-application materials submitted to planner.
 - Fees paid.
 - Meeting held with planner.
 - 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 the 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 working days (19 to planning office, one to local public library).
 - Sixty or 80 working day "clock" begins day after written notice of adequate sufficiency review.
- STEP FIVE. Second Notification.
- Planner issues legal notices.
 - Subdivider posts property.

- STEP SIX. Planning Board Review.
- Planning board reviews subdivision application and holds public hearing.
 - Planning Board makes recommendation.
- 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.
- City council reviews final plat and makes decision at public meeting.
 - Assuming final plat approval, final plat is recorded.

SUBDIVISION APPLICATION REVIEW TIMETABLE—EXAMPLE

Step	Statutory and/or County Deadline	Estimated Date
<i>Pre-Application</i>		
Planner receives written request for pre-application meeting.		June 1, 2018
Pre-application meeting with planner is held.	Within 30 days of receipt of written request.	By June 30, 2018
Subdivider sends out early notifications to neighbors and agencies.	After pre-application meeting and planner approval of packet.	July 1, 2018
<i>Preliminary Plat</i>		
Subdivider submits subdivision application + fee to planner.	No earlier than 31 days after early notifications are sent.	August 3, 2018
Element review completed by planner.	Five working days of application submittal.	By August 10, 2018
Sufficiency review completed by planner.	15 working days of element review OK.	By August 31, 2018
Application review "clock" begins.*	Upon sufficiency review OK.	August 31, 2018

Step	Statutory and/or County Deadline	Estimated Date		
		Subdivision Type		
		"Major" (1—49 lots) "Subsequent Minor" (1—5 lots)	"Major" (50+ lots)	"First Minor" (1—5 lots)
Planning board meeting and recommendation.		(public hearing) September 28, 2018		September 28, 2018
City council review and action.		October 4, 2018		October 4, 2018
DECISION DEADLINE*	60, 80 or 35 working days	November 27, 2018	December 28, 2018	October 21, 2018

* Until the subdivision application is quite far along in the process, there is no assurance of a decision deadline date.

CHAPTER IV. DESIGN AND DEVELOPMENT STANDARDS

All subdivision applications will be reviewed based upon the provisions of this chapter. Subdivisions approved by the city council shall comply with all applicable provisions, except where modifications are allowed in the review of planned unit developments (PUDs) and except where a proposed subdivision is granted a variance pursuant to chapter V of these regulations. These standards will apply unless more stringent standards are subsequently adopted by City of Thompson Falls.

Sec. 11-IV-A. General standards.

1. *Conformance to existing policies and regulations.*
 - a. All subdivision plats should be in substantial compliance with the City of Thompson Falls growth policy. Substantial compliance, in these regulations, means that a proposed subdivision is reasonably consistent with the guiding principles, goals and objectives, and development policies outlined in the growth policy. A proposed subdivision may deviate from one or more of the plan compliance elements and still be found in substantial compliance. Such deviations should be few in number and limited in scope and severity.
 - b. However, in accordance with 76-1-606, MCA, the city council may not withhold, deny, or impose conditions on a proposed subdivision based solely on compliance with the City of Thompson Falls growth policy.
 - c. All subdivision plats shall comply with applicable laws, ordinances, and regulations. This includes, but is not limited to:
 - (1) All applicable provisions of the Montana Code Annotated (MCA), as amended;
 - (2) The requirements of the Montana Department of Transportation, if the subdivision or any lot contained therein will access directly onto a state highway or connecting street;
 - (3) The regulations of the Montana Department of Environmental Quality;
 - (4) The City of Thompson Falls ordinances which have been adopted for jurisdictional area of the city;
 - (5) The applicable standards for the design and installation of municipal drinking water and sewer service;
 - (6) Any other applicable regulations of the City of Thompson Falls;
 - (7) Applicable street design and construction standards for the City of Thompson Falls; and
 - (8) Any other regulations applicable to the land proposed for subdivision, such as irrigation or fire department regulations.

In addition, subdivisions shall comply with the following fire codes:

- (1) For commercial, industrial and mixed use subdivisions, the design and development standards of the Uniform Fire Code adopted by the State of Montana; and
- d. All subdivision plats shall be reviewed against the seven public interest criteria listed in 76-3-608(3), MCA.

2. *Design by licensed professionals.* As deemed necessary to protect the public health, safety, and welfare, the city council may require engineering plans, specifications, and reports in connection the public improvements for a proposed subdivision to be prepared by a registered professional engineer in accordance with the Montana Subdivision and Platting Act and these regulations. The city council may require the subdivider to engage the services of licensed professionals in order to design other subdivision elements.

3. *Lands considered unsuitable for development.*

a. *Areas of natural or human-caused hazards.* Lands which are considered unsuitable for subdivision development include, but are not limited to, areas where one or more of the following hazards exists or potentially exists:

- (1) Flooding;
- (2) Swelling soils;
- (3) Steep slopes in excess of 25 percent grade;
- (4) Subsidence or slumping;
- (5) High water table;
- (6) High voltage lines or high pressure gas lines;
- (7) Air pollution or vehicular traffic hazards or congestion;

Pursuant to 76-3-504(1)(e), MCA, subdivision of any such lands is prohibited unless the hazard(s) can be eliminated or overcome by approved construction techniques.

b. *Floodplain.*

- (1) Land located in the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA, as delineated by the Montana Department of Natural Resources and Conservation, or land deemed subject to flooding as determined by the city floodplain administrator shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate flood hazards to life, health, or property.
- (2) All subdivision proposals shall be submitted to the city floodplain administrator for review and all subdivision proposals shall comply with the City of Thompson Falls flood damage prevention regulations.
- (3) Land shall not be subdivided for building or residential purposes, or be subject to other uses that may increase or aggravate flood hazards to life, health, welfare, or property, if any of the following are in effect:
 - (a) The land is located in the floodway of a 100-year frequency flood event or in the designated 100-year floodplain, as defined by Title 76, Chapter 5, MCA, and indicated on city-adopted 100-year floodplain/floodway maps.
 - (b) The land is deemed subject to flooding, as determined by the city floodplain administrator.
 - (c) The proposal is otherwise prohibited by state or local floodplain or floodway regulations.

- (4) No new structures shall be located in the 100-year floodplain.
 - c. *Riparian areas.*
 - d. Areas which would unreasonably burden the general public due to:
 - (1) An excessive expenditure of public funds;
 - (2) Environmental degradation;
 - (3) Adverse impact on resource production, management, or improvement; or
 - (4) Some other threat to the health, safety, and welfare of existing or future residents.
4. *Land use.* Appropriateness of the proposed land use in relation to the city's growth policy and will be considered in the review of the subdivision application package. Different types of land use have different types of impacts.
5. *Standards for lots (refer to section 11-I-K, definitions).*
- a. No single lot shall be divided by the city boundary.
 - b. No single lot shall be divided by a street, alley, or utility right-of-way or easement.
 - c. No lot shall be surrounded by another single lot.
 - d. Each lot shall have legal access. Alleys may not be used to provide the primary means of access to a lot.
 - e. Each lot shall have physical access, according to the street design and development standards outlined in this chapter.
 - f. Lots shall have a width sufficient to allow normal construction without said construction encroaching on property lines.
 - g. Corner lots. Corner lots should have driveway access to the same road as interior lots. Corner lots must be of sufficient area to provide acceptable visibility for traffic safety.
 - h. Through lots. Through lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.
 - i. Flag lots. Flag lots shall not be used to avoid road construction.
6. *Standards for blocks.* Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use(s) contemplated, and to consider the opportunities and/or constraints presented by the topography and other natural features. Block length shall not exceed 800 feet.
7. *Sidewalks and bikeways.*
- a. Sidewalks. Sidewalks may be required in order to provide circulation or safe access to schools, playgrounds, shopping, transportation, and other community facilities.
 - b. Where sidewalks are required, the subdivider shall make the appropriate arrangements with the United States Postal Service for the placement of mailbox sleeves. Mailboxes and/or sleeves

shall not be placed in the sidewalk. The boxes shall be either consolidated at one location, or the sidewalk shall be placed a sufficient distance from the curb to create a boulevard for mailbox placement. Where sidewalks meet roadways, adequate sight distance shall be maintained to ensure safe pedestrian travel.

- c. Bikeways may be considered in the planning of a subdivision. Bikeways should be built to the minimum standards given in the American Association of State Highway & Transportation Officials (AASHTO) Guide for the Provision of Bicycle Facilities.

8. *Streets, general standards.* All roadway improvements shall meet the standards outlined below unless more stringent standards are subsequently adopted by the City of Thompson Falls.

- a. *Subdivision design.* The roadway system of a proposed subdivision shall be designed after giving due consideration to existing and other planned streets, topographical and other natural conditions, public convenience and safety, and the proposed land use(s) to be served.

- b. *Roadway improvements.*

- (1) Subdivision roadway improvements shall be required wherever the city council determines that current access to lots within a proposed subdivision is inadequate. "Roadway improvements" refer to: subgrade preparation; placement of base course and surface material; construction of bridge and drainage systems; and, where required, construction of sidewalks, curbs and gutters.
- (2) As outlined in section 11-II-H.3. of these regulations, all required roadway improvements shall be completed prior to the filing of the final plat, or shall be guaranteed by the subdivider through an approved letter of credit or performance bond or other reasonable security equaling 125 percent of the anticipated costs of the improvements.
- (3) All roadway improvements for the subdivision are required to be designed by and constructed under the supervision of a registered professional engineer, as-constructed drawings stamped by the engineer will be submitted to the city council.

Upon completion of such roadway improvements, the registered professional engineer shall certify that said roadway improvements meet the standards herein. Such certification shall occur in accordance with the conditions of subdivision approval. In some instances, the engineer's certification will be required as a prerequisite to the filing of the final plat. Where the improvements are not required to be constructed and certified prior to the filing of the final plat, the engineer's certification will be a condition of the city council's issuance of a satisfaction of improvements guarantee. The city council may choose to not issue a satisfaction of improvements guarantee until a specific period of time has passed, so that the performance of the guaranteed improvement can be properly evaluated.

- c. *Street rights-of-way.* Streets providing access to and through a proposed subdivision must be accessible to the public. Subdivision streets shall be designated as public rights of way and maintained by the City of Thompson Falls. Private "gated communities" are not permitted within the city.

- d. *Relation to adjacent areas.*
- (1) When a proposed subdivision will adjoin unsubdivided land and reasonable access thereto must pass through the new subdivision, streets and right-of-way may be required so as to allow suitable access to the unsubdivided land. In such cases, proposed streets shall be extended to the boundary lines of the tract to be subdivided. Said access should be negotiated between the affected landowners.

Where a prescriptive easement exists, it may be required to be shown on the final plat.
 - (2) When a new subdivision will adjoin subdivided land, the arrangement of streets in the new subdivision may be required to provide for the continuation of streets from the adjacent subdivided properties, when such continuation is practical and necessary for the convenient movement of traffic, effective provision of emergency services, and efficient provision of utilities.
- e. *Separation of through and local traffic.* Where a proposed subdivision abuts or contains an existing or proposed highway or major arterial/collector, the city council may require frontage roads or other access controls, deep lots, screen plantings, or other such measures to protect public safety, enhance the character of the subdivision, and ensure separation of through and local traffic. Local streets shall be laid out so their use by through traffic is discouraged.
- f. *Parallel rights-of-way.* Where a subdivision borders on or contains a limited access state highway, canal, ditch, or stream right-of-way, the city council may require construction of a street parallel to and on each side of such right-of-way, at a distance suitable to allow for the appropriate use of the intervening right-of-way. Such distance shall also be determined with due regard for the requirements of approach grades and future grade separation.
- g. *Dead-end streets.* Dead-end streets are not permitted unless they terminate in a cul-de-sac or, if the street serves less than five homes, a hammerhead or tee turnaround.
- h. *Half-streets.* Half-streets are prohibited except where essential to the development of the subdivision and where the city council is assured that it will be possible to require the dedication of the other half of the street when the adjoining property is subdivided. Wherever an existing half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract.
- i. *Emergency (or secondary) access.* To facilitate traffic, the provision of emergency services, and the placement of utility easements, an emergency access may be required of any subdivision if it is determined that a single street may be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access or emergency egress.
- j. *Intersections.* Intersection design shall conform to accepted traffic safety and engineering standards.

Intersections of local streets with major arterials or highways shall be kept to a minimum. Frontage roads may be required.

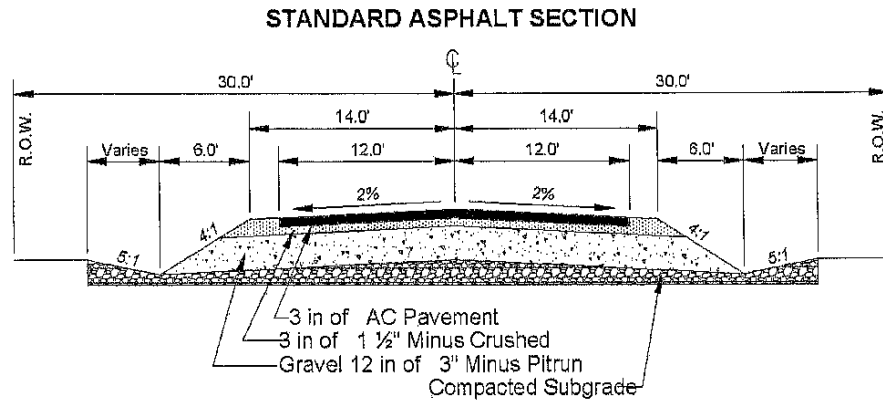
- k. *Streets names and addressing.*
 - (1) A new street aligning with an existing street shall have the same name as the existing road; and
 - (2) A street addressing plan developed in accordance with the City of Thompson Falls applicable street numbering system and approved by the City of Thompson Falls is required prior to final plat approval. The plan must include: a route map showing the range of addresses for each street.

- 9. *Roadway design, material, and drainage standards.*
 - a. *General.* The design and improvement standards contained in this section shall apply to all construction and reconstruction of streets within subdivisions.
 - b. *Improvement design.* All street improvements shall be designed by and constructed under the supervision of a professional civil engineer. All improvements shall meet or exceed the right-of-way and construction standards for the type of street to be constructed found within these regulations and adopted policies of the city public works department as appropriate.
 - c. *Plans and specifications.* A complete set of professionally certified plans and specifications shall be provided to the public works department prior to initiation of any street improvement construction. The subdivider shall provide professional engineering services for construction inspections and post-construction certifications. Record drawings shall be submitted to the public works department upon completion of construction.
 - d. *[Post-construction certifications.]* Post-construction certifications shall include, but not be limited to, the following:
 - (1) Compaction test results;
 - (2) Certification that all required improvements are complete;
 - (3) Certification that the subdivider knows of no defects from any cause in those improvements;
 - (4) Certification that these improvements are free and clear of any encumbrance or lien;
 - e. *[Subdivision streets.]* Subdivision streets shall be designed and constructed meeting the standards identified in the current version of the Association of State Highway and Transportation Officials (AASHTO) published Policy on Geometric Design of Highways and Streets and in current version of the Montana Public Works Standard Specifications.
 - (1) Street right-of-way and surface widths shall comply with the standards in in Table IV-1 below depending upon street classification:

Table IV-1: [Street Right-of-Way and Surface Widths]

Street Type	Right-of-Way	Road Width	Lane Width	Parking Width	Turn Lane Width
Major Collector	80'	49'	24.5'	8'	—
Minor Collector	80'	34'	17'	8'	—
Local Access	80'	34'	17'	8'	—

- f. *Roadway material.* All streets within or adjacent to the subdivision shall be surfaced with flexible pavement (asphalt). (See figure 1 below):



- g. *Roadway drainage (see also subsection 11-IV-A.12, grading and drainage).*
 - (1) *Roadway surface.* The street surfaces shall be sloped with a crown of two percent.
 - (2) *Curb and gutter.* Curbs and gutters may be required by the city council for stormwater drainage according to the character of the area, density of proposed development, and nature of adjoining properties.
 - (3) *Drainage ditches and swales.* If required, drainage ditches or swales along the sides of streets maybe required in order to convey runoff produced by the roadway. Where required, drainage ditches shall have a minimum grade of 0.4 percent, and may have grades up to eight percent where lined with established grasses or rip rap, or where velocity control devices are provided.
 - (4) *Culverts.* Culverts are required where streets cross any ditch or watercourse. They are also needed at intersections with other streets and at designed intervals underneath elevated portions of roadways to prevent ponding. It is preferable to provide drainage at frequent intervals rather than concentrate water into one large conduit. Culverts shall have a minimum diameter of 18 inches, although a larger diameter may be required as deemed necessary by the City public works director to assure adequate runoff conveyance. A smaller culvert of no less than 15 inches may be installed if approved by the city public works director. Culverts should be of sufficient length to allow construction of a driving

surface consistent with the width of adjacent sections of the roadway. Installation of the culverts should be in accordance with generally accepted standards, with attention given to the details of bedding, compaction, and erosion control.

- (5) *Effect on adjacent properties.* Roadway drainage features constructed for a subdivision shall not cause stormwater discharge which will in any way adversely affect neighboring properties.
- h. *Reclamation of disturbed areas.* To protect subdivided lands within the city from erosion and the spreading of noxious weeds, the subdivider shall provide a plan for reclaiming disturbed areas for cut and fill slopes and borrow areas, which may include topsoil and mulching as necessary, and planted with appropriate ground cover during the earliest suitable season.
- i. *Safety considerations.* The safety of a street is directly related to the standard of its design and the quality of workmanship in its construction. All street construction shall comply with applicable ASSHTO standards for safety including site distances and vertical clearances.
- j. *Preservation of vegetation.* Existing trees and other vegetation shall be preserved when possible. Plantings may be required for buffering, screening, or erosion control and are subject to approval by the city council.
- k. *Signs and traffic control devices.* Road signs and traffic control devices of the size, shape, and height approved by the city council shall be placed at all intersections and other locations required by the city council by the subdivider. Where roadwork is not scheduled for completion until after the final plat is filed, any required road signs and traffic control devices shall be included as part of the public improvements guarantee.

Traffic control devices shall be consistent with the "Manual on Uniform Traffic Control Devices," available from the Montana Department of Transportation. Other signs shall meet any applicable standards adopted by the City of Thompson Falls.

Street address signs on posts six to eight feet high, reflective lettering of white on green for public access ways and white on blue for private access (unless otherwise approved), letters four inches high, visible in both directions.

- k. *Street lighting.* Street lighting with subdivisions and along new subdivision streets may be required by the city council. Where roadwork is not scheduled for completion until after the final plat is filed, any required street lighting shall be included as part of the public improvements guarantee.

10. *Bridges.* Bridges can serve as an integral part of any subdivision roadway system. Where bridges are required, they shall meet the following minimum standards:

Width	Same as roadway, driving surface width
(AASHTO) Design Load	In conformance with AASHTO LRFD Bridge Design, with current interims, HL-93 Live Load
Vertical Clearance (above decking)	15 feet

11. *Easements.* Where determined necessary in order to protect the public health, safety, and welfare, the city council shall require that legal easements be provided for utilities, drainage, irrigation ditches (see section 11-IV-B.3.), watercourses, vehicular or pedestrian access, emergency access, emergency service facilities (such as fire stations or hydrants), screen plantings, and wellhead protection areas (for community water wells). Any such existing easements shall be shown on the preliminary plat and summary or final plat. Where easements already exist, the subdivider shall notify the easement holder(s) of the proposed subdivision, prior to submitting the subdivision application.

- a. *Utility easements.* Utility easements shall meet the following standards:
 - (1) Utility easements shall be centered along-side any rear lot lines of subdivision lots wherever possible or located within the right-of-way of dedicated streets.
 - (2) Utility easements along lot lines shall be 20 feet wide, except the city council may require easements for sanitary sewer, storm sewer, and water lines to be 30 feet wide.
 - (3) Where a utility easement is to be located in an existing, dedicated street right-of-way, an encroachment permit must be obtained from the City of Thompson Falls prior to the installation of utilities.
- b. *Drainage easements.* Where a subdivision is traversed by a watercourse, drainage way, channel, ditch or canal, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance and protection. Before any maintenance or improvements are performed on any water course, drainage way, channel, ditch, or canal, the owner of the waterway must give written permission for the work to be done. See subsection 11-IV-A.B.3., irrigation ditches, for specific standards regarding irrigation ditch easements.
- c. *Access easements.* Streets providing primary access to and through a proposed subdivision must be accessible to the public. Subdivision streets shall be designated as public rights of way and maintained by the City of Thompson Falls.

12. *Grading and drainage.*

- a. When required as per subsection 11-IV-A.2., design by licensed professionals, grading and drainage plans pertaining to proposed roadway improvements and drainage facilities must be designed and certified by a registered professional engineer. They shall show the proposed grades of roads and proposed drainage facilities for all lots, blocks, and other areas. The plans shall display accurate dimensions, courses, and elevations.
- b. Where proposed subdivision lots are less than 20 acres in size, the drainage system and facilities required for any surface runoff affecting the proposed subdivision or adjacent properties shall meet the minimum drainage standards of the Montana Department of Environmental Quality.
- c. Curbs and gutters or swales may be required by the city council according to the character of the area, density of proposed development, and nature of adjoining properties.
- d. The subdivider shall provide suitable drainage facilities for any surface runoff affecting the proposed subdivision. Such facilities must be large enough to accommodate potential runoff

from upstream drainage areas. The design of such facilities shall be based upon local soil factors, topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water.

- e. Unless an adequate storm sewer exists or is provided, all surface runoff in addition to that normally present before subdivision shall be retained on-site or released from the site in a manner which will not substantially increase the peak runoff normally present before subdivision. Drainage easements across undeveloped land to the nearest drainage way may be required.
- f. Drainage systems shall not discharge into any sanitary sewer facility.

13. *Emergency services.*

- a. The subdivider shall contact the City of Thompson Falls emergency service providers (law enforcement, fire district, quick response unit, and ambulance service) before completing the design of a proposed subdivision and submitting the subdivision application.

As much as possible, the local emergency service providers should work together to provide consensus recommendations on proposed subdivisions. Their recommendations are not binding upon the city council. Their recommendations become binding upon the subdivider only if included as conditions of subdivision approval by the city council.

- b. *Fire protection standards.* All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons and property. Standards shall include:
 - (1) Meeting street and access standards identified in section 11-IV-A.8.
 - (2) Providing a fire protection water supply per the direction of the city director of public works and the Thompson Volunteer Fire Department which would include one of the following:
 - (a) Installation of municipal fire hydrants within the subdivision.
 - (b) Contribution of proportional monies for the construction of or maintenance of an offsite fire protection water supply within the City of Thompson Falls that will provide water for direct protection of the subdivision.
 - (3) Comply with the City of Thompson Falls street naming and addressing system for each lot/home in the subdivision.

14. *Utilities.* All public and private utilities should be placed underground when undergrounding is technically feasible.

- a. *Underground utilities.* Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate so far as practicable the necessity for disturbing such surfacing for the connection of individual services.

- b. *Overhead utilities.* Overhead utility lines shall be located at the rear property line, where practical. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

15. *Sanitation (water supply, wastewater treatment, stormwater management, and solid waste disposal).* 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.

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.

15.1 *Water.*

- a. The water distribution system for the subdivision must be designed to connect to the existing city's water distribution system and provide each lot with water service.
- b. The water system must be designed according to the most current version of the Montana Public Works Standards Specifications (MPWSS) and requirements of the city and may include for the provision of fire hydrants.

15.2 *Wastewater.*

- a. The wastewater collection system for the subdivision must be designed to connect to the city's wastewater collection system and to provide each lot with wastewater service. No drainfields or septic systems will be allowed.
- b. The wastewater collection system must be designed according to the most current version of the Montana Public Works Standards Specifications (MPWSS) and requirements of the city.

15.3 *Stormwater drainage.*

- a. The subdivider shall include provisions for stormwater management in the subdivision that are designed that meet the applicable standards of the Montana Department of Environmental Quality and the city.
- b. Stormwater management shall be subject to approval by the Montana Department of Environmental Quality and city public works director. Construction must not proceed on property intended for subdivision until city approval of a stormwater management.

15.4 *Solid waste.*

- a. The subdivider shall include provisions for collection and disposal of solid waste within the subdivision that meet the applicable minimum standards of the Montana Department of Environmental Quality and requirements of the city.
- b. The subdivision street system must be designed to provide access for the collection and disposal of solid waste for each lot in the subdivision.

16. *Park land.*

- a. Except as provided below, a subdivider shall dedicate parkland to the City Council in the form of cash or a land donation equal to:
 - (1) Eleven percent of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
 - (2) Seven and one-half percent of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre;
 - (3) Five percent of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres; and
 - (4) Two and one-half percent of the area of the land proposed to be subdivided into parcels larger than three acres and not larger than five acres.
- b. A park dedication is not required for:
 - (1) Land proposed for subdivision into parcels larger than five acres;
 - (2) Subdivision of parcels for nonresidential uses;
 - (3) Subdivisions in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or
 - (4) Subdivisions which will create only one additional parcel.
- c. In accordance with 76-3-621(8)(a), MCA, the city council requires park dedication for all minor subdivisions within the city's jurisdictional boundaries.
- d. The city council, in consultation with the subdivider and the planning board, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.
- e. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision.
- f. The city council will waive the park dedication requirement if it determines that:
 - (1) The preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (16)(a) above;
 - (2) The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values;

and by virtue of providing this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under subsection (16)(a) above;

- (3) The area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (16)(f)(1) and (2) above, is reduced by an amount equal to or exceeding the area of the dedication required under subsection (16)(a) above; or
 - (4) The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (16)(a) above.
- g. The city council may waive the park dedication requirement if:
- (1) The subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
 - (2) The area of the land to be subject to long-term protection, as provided in subsection (g)(1) above, equals or exceeds the area of dedication required under subsection (16)(a).
- h. Subject to the approval of the city council and acceptance by the school district trustees, a subdivider may dedicate a land donation provided under subsection (16)(a) to a school district, adequate to be used for school facilities or buildings.
- i. The city council may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks, trails, or recreational areas, or use the money for the purchase of parkland only if:
- (1) The parkland is within a reasonably close proximity to the proposed subdivision within the city; and
 - (2) The city council has formally adopted a parks plan that establishes the needs and procedures for use of the money.
- j. Based upon the requirements of subsection 16(1) above, the city council may not use more than 50 percent of the dedicated money for park maintenance.
- k. For the purposes of this section, *cash donation* means the fair market value of the unsubdivided, unimproved land.

17. *Noxious weed control.* Each approved subdivision in the city must have a noxious weed management plan approved by the City of Thompson Falls. (See appendix 15, noxious, weed management plan application form).

18. *Wildlife and wildlife habitat protection.* Review of a proposed subdivision for the effects on wildlife and wildlife habitat shall include consideration of the following factors:

- a. The types of wildlife found, or likely to be found, in the habitat where the subdivision is proposed.

- b. Whether the proposed subdivision is designed to minimize its effects on wildlife and wildlife habitat.
- c. What cumulative effect the proposed subdivision may have on wildlife populations and wildlife habitat.

A more detailed analysis of the proposed subdivision's impact on wildlife and wildlife habitat may be required as part of the environmental assessment.

If city review determines that a proposed subdivision may negatively impact wildlife and wildlife habitat, building setbacks, building envelopes, or other special design/development standards may be required in order to mitigate project impacts.

19. *Other resource protection.* In designing the development proposal, the subdivider shall consider the historic, cultural, and scenic resources of the City of Thompson Falls and attempt to minimize any negative impact of the proposed subdivision on such resources. In particular, the subdivider may be required to notify the Montana State Historical Society prior to submitting the subdivision application, in order to determine the potential for existing significant historic resources. If the Historical Society recommends a "walk-through" or inventory of historic resources on the land proposed for subdivision, such action shall be taken prior to submittal of the subdivision application and prior to any construction activity connected with the proposed subdivision.

If the city review determines that a proposed subdivision may negatively impact the historic, cultural, and scenic resources of the City of Thompson Falls, a building setback, building envelope, or other special design/development standard maybe required in order to mitigate project impacts.

20. *Other mitigation.* The city may require additional design and development standards beyond those listed in this chapter, in order to mitigate the negative impacts of a proposed subdivision. For example, all outdoor lighting must be directed so as to avoid glare and excessive light spillage on adjacent properties.

Sec. 11-IV-B. Specific standards.

1. *Construction setbacks from water bodies.* Riverfront property in Thompson is very desirable for new development, but it can be located within the 100-year floodplain. and can pose a potential risk to public health and safety. In addition, river frontage can be of major ecological importance for wildlife habitat and the protection of water quality.

- a. *Purpose.* The purpose of these construction setbacks is to:
 - (1) Protect the water quality, floodplain, and riparian resource of the Clark Fork River and other water bodies located with or adjacent to the City of Thompson Falls;
 - (2) Protect the visual resource enjoyed from these waterways; and
 - (3) Protect the health and safety of the residents of the City of Thompson Falls.
- b. *Applicability.* The construction setbacks pertain to all new buildings in subdivisions. The setback shall be depicted on the final plat or accompanying final plat documents to be filed with the clerk and recorder's office. These standards do not include irrigation ditches, which are addressed in subsection 11-IV-B.2.

c. *Setbacks.*

- (1) The minimum construction setback from the Clark Fork River shall be 150 feet from the mean high water mark or located outside the designated 100-year floodplain, whichever distance is greater.
- (2) The minimum construction setback from other waterways in the city shall be 50 feet from the mean high water mark.

2. *Commercial and industrial subdivisions.* Nonresidential land uses differ in their positive and negative impacts upon a community. For this reason, commercial and industrial subdivisions and lots warrant somewhat different design and development standards as outlined below. These standards supplement those outlined previously in this chapter and apply to mixed use subdivisions containing commercial and/or industrial lots.

a. *Transportation design.*

- (1) *Commercial.* Streets and accessory parking areas serving a proposed commercial subdivision (or commercial lots within a subdivision) shall connect to arterials and shall not generate additional traffic on local roads. Intersections of driveways from parking areas with arterials or collectors shall be designed to cause the least possible interference with traffic movement. The city council may require frontage or service roads to provide maximum safety and convenience.
- (2) *Industrial.* Collector streets for industrial subdivisions (or industrial lots within a subdivision) shall be planned to serve industrial areas exclusively and shall connect to arterials or nonresidential collectors. The intersections of frontage or service roads from parking areas with arterials or collector streets shall be at least 125 feet apart.
- (3) *Service access.* Provisions shall be made for service access, such as off-street loading, unloading and parking. Such provisions shall be adequate to support the proposed use(s). Parking areas shall be located so as to preclude motorists from backing onto any public right-of-way.

b. *Signage.* No sign within a subdivision shall project or extend into a public right-of-way or block sight visibility on any street.

c. *Lighting.*

- (1) No lighting treatment shall, whether by brilliance or reflected light, be a detriment to surrounding properties or prevent the reasonable enjoyment of adjacent properties.
- (2) Street lights shall be aimed downward.
- (3) Where signs are illuminated, the illumination shall shine only on the sign or on the property on which the sign is located. Sign illumination shall not shine onto any other property in any direction, except by indirect reflection.
- (4) All outdoor lighting must be directed so as to avoid glare and excessive light spillage on adjacent properties.

- d. *Fire protection.* Any commercial and industrial standards contained in the Uniform Fire Code, as adopted by the State of Montana, shall apply.
3. *Mobile home and recreational vehicle parks, condominiums, cityhomes and cityhouses.*
 - a. *Additional state regulations.*
 - (1) Mobile home and recreational vehicle parks are required to be licensed by the Montana Department of Environmental Quality under the provisions of Title 50, Chapter 52, MCA.
 - (2) Condominium developments must comply with all provisions of the Unit Ownership Act, 70-23-102 through 70-23-613, MCA.
 - b. *Special provision.* The city council may require provision for:
 - (1) Storage facilities on the lot or in compounds located within a reasonable distance;
 - (2) A central area for storage or parking of boats, trailers, or other recreational vehicles;
 - (3) An off-street area for mail delivery or post office box; and
 - (4) Street lighting.

Mobile/manufactured home park standards. Mobile home parks are residential developments containing mobile homes, as defined in section 11-I-K. Mobile home parks do not pertain to residential developments using modular or factory-built buildings, as defined in section 11-I-K.

- (1) *Mobile/manufactured home spaces.*
 - (a) Mobile/manufactured home spaces must be arranged to permit the safe and practical placement and removal of mobile homes.
 - (b) All mobile/manufactured homes must be located at least 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park.
 - (c) The mobile/manufactured home pad must be located at least ten feet from the street that serves it.
 - (d) The size of the mobile/manufactured home pad must be suitable for the general market to be served and must fit the dimensions of mobile/manufactured homes anticipated.
 - (e) A mobile/manufactured home pad may not occupy more than one-third of the area of its space. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds of the area of a space.
 - (f) The city council may require that the mobile/manufactured home pad be improved to provide adequate support for the placement and tie-down of the mobile home.
 - (g) No mobile/manufactured home or its attached structures, such as awnings and carports, may be located within 20 feet of any other mobile home or its attached structures.
 - (h) No detached structure, such as a storage shed, may be located within five feet of any mobile/manufactured home or its attached structures.

- (i) A minimum of two off-street parking spaces must be provided on or adjacent to each mobile/manufactured home space. The driveway must be located to allow for convenient access to the mobile/manufactured home, and be a minimum of ten feet wide.
 - (j) One guest parking space must be provided for each ten mobile/manufactured home spaces. Group parking may be provided.
 - (k) The limits of each mobile/manufactured home space must be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of space limits on the ground must be approximately the same as those shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground.
 - (l) Each mobile/manufactured home must be skirted within 30 days after it is moved to a space within the mobile/manufactured home park. The skirting must be of a fire-resistant material similar to that of the mobile/manufactured home exterior.
- (2) Streets.
- (3) Streets within a mobile/manufactured home park must meet the standards specified in section 11-IV-A.8. Streets must be designed to allow safe placement and removal of mobile homes.
- (a) Streets must be designed to provide safe access to public roads.
 - (b) Streets within the mobile/manufactured home park must be designed to provide safe traffic circulation and parking.
 - (c) One-way streets must be at least 15 feet wide; two-way roads must be at least 24 feet wide.
- (4) Electrical systems. Electrical systems must be designed and installed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installations must be designed and constructed in accordance with the applicable state electrical standards.
- (5) Gas systems.
- (a) Gas equipment and installations must be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation must be designed and constructed in accordance with the applicable provisions of the "National Fuel Gas Code" (NFPA Pamphlet 54-1981) and the "Standard for the Storage and Handling of Liquefied Petroleum Gases" (NFPA Pamphlet 58-1981).
 - (b) A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system must be installed near to the point of connection of the liquefied petroleum gas container.
 - (c) Each mobile/manufactured home lot must have an accessible, listed gas shutoff installed. This valve must not be located under a mobile home. Whenever the mobile home lot gas outlet is not in use, the shutoff valve must be plugged to prevent accidental discharge.

- c. *Recreational vehicle park standards.*
 - (1) *Recreational vehicle spaces.*
 - (a) Spaces in recreational vehicle parks must be arranged to allow for the safe movement of traffic and access to spaces.
 - (b) Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking.
 - (c) Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.
 - (d) No recreational vehicle space may be located less than 25 feet from any public street or highway right-of-way.
 - (2) *Density.* The density of a recreational vehicle park must not exceed 25 recreational vehicle spaces per acre of gross site area.
 - d. *Condominiums (and cityhouses).*
 - (1) *Development design.* The proposed subdivision may be required to:
 - (a) Provide an on-site open area for storage or parking of boats, trailers, other recreational vehicles belonging to residents.
 - (b) Landscape and/or fence any on-site storage areas.
 - (c) Landscape and/or fence along the property boundary line in order to provide separation between adjoining land uses.
 - (d) Provide an area for visitor parking.
4. *Planned unit developments (PUD).* The subdivider may choose to submit a proposed subdivision application as a PUD.
- a. *Purpose.* The purpose of this subsection is to allow flexibility in design and development standards, in cases where the subdivider proposes a creative concept which clusters development to promote the efficient provision of services and the preservation and enhancement of open space and other natural or cultural features. The PUD concept supports the planned development of an individual tract for either a single land use such as residential, or for a harmonious combination of land uses, such as a mixture of residential and commercial.
 - b. *Special requirements.* In addition to the standard application package requirements discussed in chapter II of these regulations, a PUD subdivision application must demonstrate a clustered development design and include the following information in narrative form:

In addition to the standard application package requirements discussed in Chapter II of these regulations, a PUD subdivision application must demonstrate a clustered development design and include the following information in narrative form:

 - (1) A description of proposed open space and recreational facilities, streets and any other public improvements;

- (2) A description of plans for the long-term management of open space, whether commonly owned or not;
- (3) A description of plans for the long-term management of common facilities or property;
- (4) A schedule for installing proposed road and utility improvements;
- (5) A description of any proposed modifications from the design and development standards outlined in this chapter; and
- (6) A statement of how the proposed PUD would accomplish any or all of the following purposes:
 - (a) Preserve to the maximum extent possible, the natural characteristics of the land including topography, vegetation, streams, and other bodies of water.
 - (b) Provide economies in the provision of roads and other public improvements.
 - (c) Preserve productive agricultural lands, wildlife habitat, or other significant open space.
 - (d) Protect important historic sites or structures.
 - (e) Provide development facilities for recreational purposes.

A PUD project must advance three or more of the five purposes outlined in subsections (6)(a)—(e) above.

A PUD does not have to adhere to all of the design and development standards outlined in earlier subsections of this chapter. The planning board shall consider any request for modified standards as a part of its overall review of the proposed PUD. Such request for modifications shall not be treated as a variance request, as described in section 11-V-B, of these regulations.

CHAPTER V. ADMINISTRATIVE PROVISIONS**Sec. 11-V-A. Schedule of fees.**

Pursuant to 76-3-602, MCA, the city council may establish reasonable fees to be paid by the subdivider to defray the expense of reviewing subdivision plats. The current fee schedule is available from the City of Thompson Falls Clerk.

Sec. 11-V-B. Variances.

1. *Application requirements.* Where a variance from one or more of the design and development standards outlined in chapter IV of these regulations is sought as a part of the subdivision application, the subdivider shall submit a variance application form and appropriate variance review fee, along with the subdivision application package.

If a subdivider seeks more than one variance, the subdivision application package shall contain a separate variance application form and fee for each variance request.

2. *Application review and decision (process is outlined in accordance with 76-3-506, MCA).*

- a. *Public notification and review.* The variance request shall be noted in all written public notifications issued by the city and the subdivider regarding the proposed subdivision.
- b. *Public hearing requirement.* The variance request shall be considered by the planning board at a properly noticed public hearing. Pursuant to 76-3-506(1) and (3), MCA, variances for first minor subdivisions are exempt from the public hearing requirement and shall be considered by the city council in conjunction with the subdivision application.
- c. *Planning board review and recommendation.* The planning board shall consider the variance request and make a written recommendation to the city council, as to whether the variance request should be approved or denied. The planning board's recommendation shall contain findings of fact which address the criteria outlined in subsection 11-V-B.4. below.
- d. *City council review and action.*

- (1) The city council shall consider the variance request, the planning board's recommendation, and all other pertinent information at its public meeting to review the proposed subdivision. The city council may approve or deny the variance. In granting a variance, the city council may impose such conditions as will, in its judgment, secure substantially the objectives of these regulations. Whenever a variance request is granted, the city council's motion of subdivision approval shall contain a statement describing the variance and the findings of facts and conditions supporting its approval.

3. *Review criteria.* Pursuant to 76-3-506, MCA, the city council may grant a variance from the design and development standards of these regulations when strict compliance will result in undue hardship on the subdivider and when it is not essential to the public welfare.

A variance approval shall not have the effect of nullifying the intent and purpose of these regulations.

The city council shall approve a variance request only if it finds that, based on the evidence of the specific case:

- a. The variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties;
- b. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced.
- c. The variance will not cause a substantial increase in public costs; and
- d. The variance should not place the proposed subdivision in substantial non-compliance with the City of Thompson Falls growth policy.

The city council may not grant a variance which will allow building in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.

Notwithstanding subsection 11-V-B.4.b. above, an innovative development proposal which does not circumvent the purpose of these regulations may be reason for a variance approval.

4. *Variance requests after preliminary plat approval.* A subdivider who has received preliminary plat approval may request a variance from one or more of the design and development standards outlined in chapter IV of these regulations. Where such a variance is sought, the subdivider shall submit a variance application form and appropriate variance review fee at least 30 days prior to the date of the planning board's public hearing on the variance request. The variance request must be reviewed by the planning board at least by its second regularly scheduled meeting from when the request was received.

At least 30 days prior to the planning board public hearing, the subdivider is required to:

- a. Notify each adjoining property owner and any existing property owners association potentially affected by the project as determined by the planner, by certified and return receipt mail; and
- b. Post a notice of the variance request at one or more conspicuous places on the boundaries of the property.

Review of this type of variance request shall follow the same process as outlined above. The planner shall notify the subdivider, each adjoining property owner, and any existing property owners' association potentially affected by the project as determined by the planner, of the public hearing before the planning board, by certified and return receipt mail not less than 15 days prior to the date of the hearing.

Sec. 11-V-C. Amendment of regulations.

Before the city council amends these regulations, it may seek the planning board's recommendation and it shall hold a public hearing. The city council shall give public notice of its intent to amend these regulations and of the public hearing by publication of notice of the time and place of the hearing in a newspaper of general circulation in Thompson or Sanders County not less than 15 or more than 30 days prior to the date of the hearing.

Sec. 11-V-D. Transfer of title.

1. Preliminary and final plats. Pursuant to 76-3-301(1), MCA, and except as noted below, every final subdivision plat must be filed for record with the Sanders County clerk and recorder before title to the subdivided land can be sold or transferred in any manner. The clerk and recorder shall refuse to accept any plat for record that fails to have the city council's approval in proper form.

Pursuant to 76-3-303, MCA, after the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

- a. That under the terms of the contracts, the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana;
- b. That under the terms of the contracts and the escrow agreement, the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the clerk and recorder;
- c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- d. That the Sanders County treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and
- e. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."

2. In accordance with 47 Op. Att'y. Gen. No. 10 (1997), the clerk and recorder may refuse for recording a United States government lot or an aliquot part of a government survey section less than 160 acres or less than one-quarter section aliquot part, unless it is described as an individual parcel of land in a prior deed or unless it is being segregated and conveyed in compliance with the Montana Subdivision and Platting Act.

Sec. 11-V-E. Enforcement.

1. *Unlawful transfers or conveyances.* If transfers or conveyances not in accordance with section 11-V-D above are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of such action shall be imposed against the party not prevailing.

2. *Violations or appeals.*

- a. Pursuant to 76-3-105, MCA, any person who violates any provision of the Montana Subdivision and Platting Act or these regulations shall be guilty of a misdemeanor and punishable by a fine of not less than \$100.00 or more than \$500.00 or by imprisonment in a county jail for not

more than three months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of the Act or these regulations shall be deemed a separate and distinct offense.

- b. Actions against the city council, pursuant to 76-3-625, MCA.
 - (1) A person who has filed with the city council an application for a subdivision under the Montana Subdivision and Platting Act may bring an action in district court to sue the city council to recover actual damages caused by a final action, decision, or order of the city council or a regulation adopted pursuant to the Act that is arbitrary or capricious.
 - (2) A party identified in subsection 11-V-E.2.b.(3) below who is aggrieved by a decision of the city council to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days of the date of the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
 - (3) The following parties may appeal under the provisions of subsection 11-V-E.2.b.(2) above:
 - (a) The subdivider;
 - (b) A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
 - (c) A nearby municipality, as described in 7-1-4111, MCA.
 - (d) For the purposes of this section, "aggrieved" means 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 the decision.

Sec. 11-V-F. Vacation of recorded plats.

Pursuant to 76-3-305, MCA, any recorded plat may be vacated either in whole or in part, as provided by 7-5-2501, 7-5-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and (2), and 7-14-4115, MCA. Upon vacation, the city council or the district court, as provided in 7-5-2502, MCA, shall determine to which properties the title to the streets and alleys of the vacated portions, must revert. The city council or the district court, as provided in 7-5-2502, MCA, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

However, when any pole line, pipeline, or any other public or private facility is located in a vacated street or alley at the time of the reversion of the title to the vacated street or alley, the owner of the public or private utility facility has an easement over the vacated land to continue the operation and maintenance of the public utility facility.

Sec. 11-V-G. Correction of recorded plat.

1. *By city council.* Pursuant to 76-3-614, MCA, when a recorded plat does not definitely show the location or size of lots or blocks or the location or width of any street or alley, the city council may at its own expense cause a new and correct survey and plat to be made and recorded in the office of the Sanders County clerk and recorder. The corrected plat must, to the extent possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat referring to the original plat and noting the defect existing therein and the corrections made.

2. *By landowner.* A landowner or landowner's representative may submit a corrected final plat to the city council for review and approval. Eligible correction(s) are only those drafting or surveying errors that, in the judgment of the city council, do not materially alter the plat. The plat shall be entitled, "Corrected Plat of the (name of subdivision) Subdivision." The surveyor issuing the corrected plat shall endorse its face, refer to tire original plat, note the defect existing therein, and explain the correction(s) made on the face of the new plat.

3. *Filing of corrected plats.* Once the city council has reviewed and approved a corrected plat, it may be filed with the Sanders County clerk and recorder.

Sec. 11-V-H. Amendment of recorded plat.

1. *Exemption from amended plat review.* Pursuant to 76-3-207(1)(d) and (e), MCA, the following plat amendments are exempt from review as a subdivision:

- a. For five or fewer lots, the relocation of common boundaries;
- b. For five or fewer lots, the aggregation of lots; and
- c. Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

2. *Amended plat review.* The city council shall review and approve all other amended plats, pursuant to 76-3-207(2), MCA, as follows:

- a. A proposal that increases the number of lots, or redesigns or rearranges six or more lots within a platted subdivision, where such change would result in a higher development density, shall undergo subdivision review in accordance with chapter II of these regulations and the subdivision review fee schedule available from the planner or city clerk.
- b. A proposal for other types of changes to a filed final plat or plan [e.g., increased number of lots or redesign or rearrangement of six or more lots but no increase in development density, or changes to land uses, building setback requirements or road and utility easements] will be reviewed by the city council, which has the discretion to determine whether the proposed changes constitute a material alteration to the original plat or plan. If the changes constitute a material alteration, the city council may require the amended plat request to undergo subdivi-

sion review in accordance with chapter II of these regulations and the subdivision fee schedule available from the planner or city clerk. If the changes do not constitute a material alteration, an amended plat review fee shall apply.

3. All amended plats must be filed with the Sanders County clerk and recorder.

CHAPTER VI. SUBDIVISION EXEMPTIONS

Divisions of land meeting one or more of the descriptions listed in this chapter are not subject to subdivision review as described in chapter II of these regulations, but they may be subject to some procedural requirements. In accordance with 76-3-504(1)(p), MCA, the city council has established criteria to determine whether a proposed exemption is an attempt to evade the subdivision review process.

Sec. 11-VI-A. Purpose.

Montana state statutes provide that certain divisions of land which would otherwise constitute subdivisions are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the subdivision review process as outlined in the Montana Subdivision and Platting Act (76-3-101 et seq., MCA).

1. The exemptions from subdivision review under 76-3-201 through 76-3-207, MCA, are intended to relieve a landowner from the requirements of local review when the division of land either creates no additional building sites (agricultural exemption or boundary line adjustment) or creates so few building sites that only minimal impact will likely result. The purpose of the exemptions is not to provide a means of creating numerous building sites without subdivision review, but rather to deal with the exceptional circumstances when plenary subdivision review is unnecessary;
2. The proper use of an exemption will not compromise or conflict with the purpose of the Subdivision and Platting Act, which is to:
 - a. Promote the public health, safety, and general welfare by regulating the subdivision of land;
 - b. Prevent overcrowding of land;
 - c. Lessen congestion on the streets and highways;
 - d. Provide for adequate light, air, water supply, sewage disposal, park and recreational areas, ingress and egress, and other public requirements;
 - e. Require development in harmony with the natural environment;
 - f. Promote preservation of open space;
 - g. Promote cluster development approaches which minimize costs to local citizens;
 - h. Promote effective and efficient provision of public services;
 - i. Protect the rights of property owners.
3. The likelihood that land development problems will occur greatly increases when building sites are created without public review and are further divided without review;
4. The city council has the authority and duty to evaluate and determine from all the circumstances whether the proposed division of land is based on a purpose to evade subdivision review requirements.

The purpose of this chapter is to outline: (1) the types of allowable exemptions, (2) the exemption request and review procedures used by City of Thompson Falls for certain exemptions, and (3) the evasion criteria used by City of Thompson Falls to determine whether or not the proposed use of certain exemptions would evade the Act.

Sec. 11-VI-B. Types of exemptions.

The following is the list of the divisions of land which, under 76-3-101 et seq., MCA, and 76-4-101 et seq., MCA, are exempt from subdivision review, survey requirements, and/or sanitation review.

1. *Subdivision exemptions within platted subdivisions—Subject to survey requirements.*
 - a. For five or fewer lots, the relocation of common boundaries (commonly called boundary adjustment).
 - b. For five or fewer lots, the aggregation of lots.
 - c. The relocation of a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
 - d. Condominiums constructed on land divided in compliance with 76-3-101 et seq., MCA.
2. *Subdivision exemptions outside of platted subdivisions—Subject to survey requirements.*
 - a. The relocation of common boundaries between adjoining properties (commonly called boundary adjustment).
 - b. A single gift or sale to each member of the landowner's immediate family (commonly called family conveyance).
 - c. Land divisions made by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the city council and the property owner, that the divided land will be used exclusively for agricultural purposes (commonly called agricultural exemption). A change in the use of the land exempted for agricultural purposes to any other use requires review as a subdivision.
3. *Subdivision exemptions within and outside of platted subdivisions—Not subject to survey requirements.*

Any division of land that:

 - a. Is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, Chapter 30, MCA.

Pursuant to 76-3-201(2), MCA, before a court of record orders this type of division of land, the court shall notify the city council of pending division and allow that city council to present written comment on the division. In preparing its written response on the division, the city council shall consider:

 - (1) Provision of legal and physical access to the land in question;

- (2) Provision of utility easements, including irrigation ditch easements;
- (3) The public interest criteria outlined in 76-3-608(3)(a), MCA; and
- (4) Whether or not the division would be in substantial compliance with the growth policy.
- (5) Whether or not the division is legally described and recordable, upon consultation with the Sanders County clerk and recorder.

The city council shall also suggest to the court, that it require the landowner to have the land surveyed and then file a certificate of survey, including a legal description and cause number of the court order.

- b. Is created to provide security for construction mortgages, liens, or trust indentures (commonly called mortgage exemption) for the purpose of construction, improvements to the land being divided, or refinancing purposes.
- c. Creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property.
- d. Creates cemetery lots.
- e. Is created by the reservation of a life estate.
- f. Is created by lease or rental for farming and agricultural purposes.
- g. Is in a location over which the state does not have jurisdiction.
- h. Is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to local subdivision review.
- i. A division of state-owned land, unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- j. A division of land created by lease or rental of contiguous airport-related land owned by a city, a county, the state or a municipal or regional airport authority if it is to be used for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air-carrier-related activities.
- k. Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209, MCA. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording. [Note: City street easements and rivers may not automatically create property boundaries.]
- l. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, situated on one or more parcels of land.
- m. Deeds, contracts, leases, or other conveyances executed prior to July 1, 1974.

Sec. 11-VI-C. Exemption request and review procedures.

These procedures are pertinent to the exemptions listed in subsections 11-VI-B.1.a.—c., 11-VI-B.2.a.—c., and 11-VI-b.3.

1. *Request for exemption.* Any landowner seeking an exemption from the requirements of the Montana Subdivision and Platting Act, as set forth in 76-3-201(1)(b), MCA, and 76-3-207(1)(a), (b), (c), (d), (e), and (f), MCA, shall submit to the Sanders County clerk and recorder three sets of the following items:
 - a. As required, a certificate of survey in either draft or final form.
 - b. A completed request for exemption review available from the planner or city clerk, including the signatures of all landowners.
 - c. Supporting documents or evidence of entitlement to the claimed exemption.

In addition, pursuant to 76-3-201(4), MCA, the landowner shall pay the subdivision exemption review fee.

2. *Exemption request review by exemption review board.* The clerk and recorder shall distribute the exemption request materials to the exemption review board (see section 11-I-K for definition). The landowner requesting the exemption shall be notified by the Sanders County clerk and recorder in advance of the exemption review board meeting. In accordance with the Montana open meeting law, exemption review board meetings shall be properly noticed. The exemption review board shall meet to review the proposed exemption.

At the meeting, the exemption review board will consider whether or not the proposed exemption is exempt from the Montana Subdivision and Platting Act (76-3-101 et seq., MCA) and the Sanitation in Subdivision Act (76-4-101 et seq., MCA), as well as the criteria listed in section 11-VI-D. All members of the exemption review board must participate in the review. Each exemption review board member may have a designated alternate to serve in his or her absence.

Within 15 working days of the clerk and recorder's receipt of three complete sets of the exemption request materials and the review fee, the exemption review board shall review the exemption request.

If the board finds that the proposed exemption meets the statutes and the criteria stated herein, it shall approve, with or without conditions, the exemption request. If the board finds that the proposed exemption does not meet the statutes and the criteria stated herein, it shall deny the exemption request. The clerk and recorder shall notify the landowner or landowner's representative in writing of the board's decision within five working days of the decision.

The board shall approve or disapprove the exemption request within 20 working days of the clerk and recorder's receipt of the complete submittal.

Action on an exemption request may be deferred once if the exemption review board determines it contains inaccurate or incomplete information. In such a case, the "clock" starts over once the

clerk and recorder receives the revised material. If the board determines the request contains inaccurate or incomplete information on the revised submittal, the request will be denied and a new application with review fee will be required.

3. *City review and approval.* The city shall not approve certificates of survey for filing unless the lots or parcels created thereby have legal and physical access to public rights-of-way, and are served by water and sewer wastewater mains located in adjacent public rights of way or city held easements, and all required stormwater facilities have been provided for.
4. *Certification of exemption.* Where required, a certificate of survey pertaining to any division of land which is created according to one of the subdivision exemptions listed above may not be filed by the Sanders County clerk and recorder unless it bears the acknowledged certificate of property owners stating that the division of land in question is exempted from review as a subdivision and citing the applicable exemption [24.183.1104.(1)(f), ARM].
5. *Appeal.* A landowner whose exemption request has been denied may submit a written appeal of the decision to the city council within 20 working days of the exemption review board's decision. The appeal must be accompanied by an explanation of why the proposed exemption should be approved. The city council will notify the landowner of the meeting time, date and place when the appeal will be considered. The city council may reverse, with or without conditions, the decision of the exemption review board. The landowner will be notified in writing of the city council's decision and the reasons for the decision. A copy of the decision will be sent to each member of the exemption review board.
6. To assist in the monitoring and enforcement of the criteria listed in section 11-VI-D., the clerk and recorder shall incorporate the following abbreviations into the certificate of survey filing system for exemptions used in the City of Twin Bridges.

ME Mortgage Exemption [76-3-201(1)(b), MCA]

BA Boundary Adjustment [76-3-207(1)(a), (1)(d) and (1)(f), MCA]

FC Family Conveyance [76-3-207(1)(b), MCA]

AE Agricultural Exemption [76-3-207(1)(c), MCA]

Sec. 11-VI-D. Exemption review criteria.

1. *General criteria.* In its review of an exemption request, the exemption review board shall consider all of the surrounding circumstances. These circumstances may include, but are not limited to:

- a. The prior history of the tract in question;
- b. Whether the claimant has engaged in prior exempt transactions involving the tract;
- c. The configuration of the tracts if the proposed exempt transaction is completed; and
- d. Any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

Pattern of development. The scope of review of a pattern of development shall apply to the creation of a division of land or multiple divisions of land by use of or proposed use of an exemption(s):

- a. *Original tract less than 20 acres.* A pattern of development may occur whenever more than three parcels (i.e., two exempt parcels and a remaining parcel) have been divided from the original tract of less than 20 acres regardless of ownership by use of exemptions of the Act;
- b. *Original tract 20 acres or more.* A pattern of development may occur whenever more than four parcels under 20 acres (i.e., three exempt parcels and a remaining parcel) have been divided from the original tract of 20 acres or more, regardless of ownership, by use of exemptions of the Act.

A pattern of development may be evidenced by the use of exemption(s) contiguous to platted lots where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.

2. *Specific criteria.*

- a. *Use for family conveyance.*
 - (1) Statement of intent. The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family (see section 11-I-K for definition) without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.
 - (2) A proposed division of land as a family transfer may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
 - (a) The proposed new parcel would result in a pattern of development.
 - (b) The division is made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a "straw person."
 - (c) A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption.
 - (d) The transfer is the second or subsequent family transfer of property owned by the grantor to the same member of the immediate family.
 - (e) The name of the grantee and relationship to the grantor do not appear on the face of the proposed certificate of survey.
 - (f) The grantee is also one of the grantors.
 - (g) The grantee is a minor child and the trustee is the grantor.
 - (h) The property is a parcel created through the family conveyance exemption which was transferred within three years of the parcel's creation.
 - (i) The affidavit of intent is incomplete or missing.
 - (j) The tract proposed for division was previously created through the use of an exemption.
 - (k) The proposed use of the family conveyance exemption would create more than one remainder parcel of less than 160 acres.

- (l) The exempted parcel is being divided from a tract that was previously created through the use of an exemption, including remaining tracts of less than 160 acres.
 - (m) There must be no evidence at the time of review, indicating that the proposed new tract is intended to be sold.
 - (n) This exemption may not be used as an alternative to a proposed subdivision for which an application has been submitted.
 - (o) In accordance with 76-3-207(1)(b), MCA, the land proposed for a family conveyance exemption shall not be located within a subdivision platted since July 1, 1973.
- (3) The deed transferring the land shall accompany the COS at the time of recording.
- b. *Use for agriculture (agricultural exemption).*
- (1) *Statement of intent.* The intention of this exemption is to allow a landowner to create a parcel without local subdivision and sanitation review, where the land will be gifted, sold, or there is an agreement to buy and sell the divided land, which will be used only for the raising of crops or livestock or for the preservation of open space, and where no residential, commercial or industrial buildings will be built.
 - (2) *Permitted buildings.* Agricultural sheds, outbuildings, and wells for stock watering are permitted, provided no sanitary facilities are required. Facilities for the commercial processing of agricultural products are prohibited.
 - (3) *Required covenant.* The parties to the transaction must enter into a covenant (a sample covenant is found running with the land and revocable only by mutual consent of the city council and the landowner, that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by both the property owner and the buyer or lessee in the presence of a notary public.
 - (4) The application must be accompanied by draft deeds showing the name of the person(s) to whom the property is to be transferred and the proposed covenant to run with the land.
 - (5) A proposed division of land as an agricultural exemption may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
 - (a) Documentation of the intent to gift, sell, or an agreement to buy or sell the divided land is not included as supporting documentation with the application.
 - (b) The proposed covenant to run with the land is not included as supporting documentation with the application.
 - (c) The landowner has not demonstrated that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings have been or will be built on it.
 - (d) The parcel does not meet the criteria for an agricultural exemption under 15-7-202, MCA.
 - (6) Any change in use of the land for other than agricultural purposes subjects the division to review as a subdivision.

- (7) Revocation of the agricultural exemption shall come only as a part of the city council's approval of the division of land as a subdivision.
- c. *Relocation of common boundary (boundary adjustment).*
- (1) Statement of intent. The intended purpose of this exemption is to allow a change in the location of a boundary line between two adjoining parcels and to allow a transfer of a tract to effect that change in location without local subdivision review.
 - (2) Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and the new boundary. This shall be accomplished by representing the existing boundary with a dashed line and the new boundary with a solid line. The appropriate landowner certification must be included on the certificate of survey.
 - (3) Where the boundary adjustment will affect more than one set of landowners, a certificate of survey showing the relocation of common boundary lines must be accompanied by a quitclaim deed from the adjoining property owner(s) for the newly described parcel or parcels. All affected landowners must sign the application for exemption.
 - (4) A proposed division of land as a boundary adjustment may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
 - (a) The boundary adjustment will result in the permanent creation of an additional parcel of land.
 - (b) The submitted documentation does not support the stated reason for relocation.
 - (c) The proposed relocation of common boundary lines significantly rearranges multiple parcels with little or no resemblance to the original parcel configuration.
- b. *Division to provide security for a mortgages, liens or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.*
- (1) When this exemption is to be used, the landowner shall submit to the clerk and recorder a signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.
 - (2) Pursuant to 76-3-201(3), MCA, the land divided by this exemption maybe of any size. Further, this exemption applies if the land that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. A transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection subjects the division of land to the subdivision review requirements outlined in chapter II, except as provided in subsection b.(2)(a) below.
 - (a) If a parcel of land located within the city was divided pursuant to the 76-3?201(1)(b), MCA and one of the parcels created by the division was conveyed by the landowner to another party without a foreclosure before October 1, 2003, the remaining parcel is not subject to the requirements of Subdivision and Platting Act.

- (3) A proposed division of land as mortgage exemption may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
- (a) More than one new building site will be created.
 - (b) The financing is not for construction or improvements on the exempted parcel, or for refinancing.
 - (c) The person named in the "statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed" is anyone other than the borrower of funds for construction or refinancing.
 - (d) Title to the exempted interest would not be initially obtained by the lending institution in the event of foreclosure.
 - (e) There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract.
 - (f) It appears that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose.
 - (g) The division of land is created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.

Sec. 11-VI-E. Special requirements.

1. *County treasurer.* Division of lands under 76-3-207, MCA, may not be made unless the Sanders County treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

2. *Examining land surveyor.* Pursuant to 76-3-611(2)(a), MCA, the city council may require that certificates of survey be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. If an examining land surveyor has reviewed a certificate of survey or amended plat and found it to meet the surveying and filing requirements of the Montana Subdivision and Platting Act, the examining land surveyor shall certify the compliance in a printed or stamped certificate on the certificate of survey or plat. The certificate or plat must be signed by the examining land surveyor. Fees for the examining land surveyor will be paid by the person submitting the plat or survey.

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- APPENDIX 23 Request Form to Lift an Agricultural Exemption
- APPENDIX 24 Variance Application Form
- APPENDIX 25 Amended Plat Checklist
- APPENDIX 26 Preliminary Plat Extension
- APPENDIX 27 Exemption Review Checklist (Part 2)

APPENDIX 1 REVIEW AGENCIES AND SOURCES OF INFORMATION

Note: Those agencies designated in bold type must be contacted prior to submission of an overall development plan and/or subdivision application. The subdivider must contact review agencies at least 30 days in advance of submitting a subdivision application. Contacts should include a request for cumulative impact information.

LOCAL

- City Program Administrators
- City Public Works Director
- City Floodplain Administrator
- County Weed Coordinator
- County Sheriff
- County Office of Emergency Management
- Thompson Volunteer Fire Department
- Local ambulance service
- Local quick response unit
- Utility companies (e.g., telephone, cable, electrical power, gas)
- Thompson School District—Trustees and superintendent
- Local parks, recreation district
- Any existing property owners' association potentially affected by the project, as determined by the planner
- County Clerk and Recorder
- County Extension Agent
- Local conservation district
- Local post office
- Local chamber of commerce

STATE/FEDERAL	INFORMATION	LOCATION
Montana Bureau of Mines and Geology	Geology, ground water quality and supply, well logs, topographic maps	Butte
Montana Dept. of Environmental Quality	Surface and ground water quality, water supply, sewage treatment, solid waste, storm drainage	Helena office

STATE/FEDERAL	INFORMATION	LOCATION
Montana Dept. of Fish, Wildlife and Parks	Game and non-game species and wildlife habitat, fisheries, state-owned game ranges and fishing access sites, block management program, Crucial Area Planning System (CAPS)	Helena office, Kalispell regional office. Local game wardens are based in Sanders County. Local wildlife biologists are based in Thompson Falls.
Montana Dept. of Natural Resources and Conservation Required contact where state trust lands are located within two miles of proposed subdivision, and/or where state trust lands street would provide access to proposed development.	Water bodies, floodplains, well logs, water rights, fire hazards, state trust lands, water rights.	Helena, Plains
Montana Dept. of Revenue	Assessed valuation, property tax rates.	Helena office Thompson Falls
Montana Dept. of Transportation	Access to state highways, traffic counts, planned highway improvements, aerial photographs.	Helena office, Missoula offices, Thompson Falls
Montana State Historical Society	Historic and cultural resources, resource inventory procedures and preservation programs.	Helena
U.S. Army Corps of Engineers	Wetlands permitting.	Helena
Farm Services Agency	Aerial photographs, agricultural practices and conservation programs.	Field offices in Plains
Natural Resources Conservation Service	Soils and soil erosion, flood hazards, water and land conservation practices and programs.	Bozeman regional office, local offices in Plains
U.S. Bureau of Land Management Required contact where BLM land is located within two miles of proposed subdivision, and/or where BLM street would provide access to proposed development.	Vegetation, public lands use, mining claims, proposed land exchanges and conservation activities, topographic and other maps.	Missoula office

SUBDIVISION REGULATIONS

Appendix 1

STATE/FEDERAL	INFORMATION	LOCATION
U.S. Forest Service Required contact where USFS land is located within two miles of proposed subdivision, and/or where USFS street would provide access to proposed development.	Vegetation, soils, wildlife, public lands use, proposed conservation activities, topographic and other maps.	Missoula Plains
U.S. Geological Survey	Geology, surface and ground water supply and quality, flood-plains, topographic maps.	Helena

APPENDIX 2 MONTANA ENVIRONMENTAL PERMITS

Permit	Contacts	Description	Statute
Airport Affected Area	Sanders County Planning Office Airport Authority	Need a permit if use changes or change of use permit to	Sanders County AAA Regulations
Building Codes	Department of Labor and Industry Business Standards Division (406) 841-2056	Need permit for all construction other than residential structures with fewer than five units, ag buildings, private garages and storage, etc.	50-60-101 and 50-60-801, MCA
Floodplain	City Floodplain Administrator (406) 827-3557	Need permit for obstructions or uses in designated floodplain.	75-5-401 through 406, MCA
Heritage Sites Antiquities Permit	Montana Historical Society-State Historic Preservation Office (406) 444-2694	Need permit to excavate, remove, or restore a heritage property.	22-3-431, MCA
Highway Approach	MT Department of Transportation (406) 444-6200	Need permit for construction of driveways and other approaches intersecting highways and streets.	60-2-201, MCA
Highway Encroachment	MT Department of Transportation (406) 444-6200	Need permit for construction or maintenance of encroachments on or under highway right-of-way.	7-14-2139, MCA
Improvement Districts	City of Thompson Falls Council (406) 827-3557	Contact local government authorities for more specific information.	Various MCA statutes
City Sewer System	City Public Works Director 406-827-3557	DEQ regulates systems serving 15 connections or more, used by at least 25 persons, for 60 days or more.	75-6-101, MCA
City Water Supply	City Public Works Director 406-827-3557	DEQ regulates systems serving 15 connections or more, used by at least 25 persons, for 60 days or more.	37-42-101, 75-6-101, and 50-50-101, MCA
River Setbacks/Other Regulations	Check with the City of Thompson Falls or the Sanders County Planning Office.	Setback on all construction on the Clark Fork River. Setbacks applicable to subdivisions on other rivers and streams in the city.	City of Thompson Falls Subdivision Regulations
Stream Beds Stream Banks	Local Conservation District, DNRC	Need 310 permit for engineering operations for dams, dikes, ponds, ditches, fences, stream crossings, bank stabilization, irrigation diversions, headgates, pumphouse maintenance, etc.	75-7-101, MCA
Subdivision and Platting Act	Thompson City Planning Office (406) 827-3557	Subdivision regulations apply to all divisions of land less than 160 acres in size, condominiums, mobile home parks and RV parks.	Title 76, MCA, City of Thompson Falls Subdivision Regulations
Utility Lines	City Public Works Director 406-827-3557	Utility lines construction may be regulated by the city in certain areas.	Various MCA statutes

SUBDIVISION REGULATIONS

Appendix 2

Permit	Contacts	Description	Statute
Wetlands	U.S. Army Corps of Engineers (406) 444-1375	Permit is required for placement of dredged or mill materials in waters. Building near wetlands sites.	33 U.S.C. 401
Zoning	Thompson Zoning Committee 406-827-3557	Permit is required for building structures in particular areas.	76-2-101, 76-2-201, 76-2-301, MCA

References: Montana Index of Environmental Permits: Montana Environmental Quality Council, 2018. City of Thompson Falls Subdivision Regulations.

APPENDIX 3 UNIFORM STANDARDS FOR MONUMENTATION, CERTIFICATES OF SURVEY, AND FINAL SUBDIVISION PLATS

ARM 24.183.1101 UNIFORM STANDARDS FOR MONUMENTATION

- (1) The following standards govern the monumentation of land surveys:
- (a) The terms "monument" and "permanent monument" as used in these regulations mean any structure of masonry, metal or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
 - (b) All metal monuments must be at least one-half inch in diameter and 18 inches in length with a cap not less than one inch in diameter marked in a permanent manner with the license number of the surveyor in charge of the survey and either the name of the surveyor or the company employing the surveyor. Metal monuments marking a public land survey corner as described in 70-22-101, MCA, must be at least 24 inches long and five-eighths inch in diameter with an appropriately stamped metal cap at least two inches in diameter. A monument marking a public land survey corner may also consist of a cap as described in this rule set firmly in concrete.
 - (c) Before a subdivision plat or certificate of survey may be filed for record the surveyor shall confirm the location of as many monuments as, in the surveyor's professional judgment, are necessary to reasonably assure the perpetuation of any corner or boundary established by the survey and to enable other surveyors to reestablish those corners and boundaries and retrace the survey. The surveyor shall clearly identify on the face of the plat or certificate of survey all monuments pertinent to the survey, and the descriptions of these monuments must be sufficient to identify the monuments.
 - (d) The surveyor shall set all monuments prior to the filing of a plat or certificate of survey except those monuments that will be disturbed by the installation of improvements or that, because of severe weather conditions, may, in the surveyor's judgment, be more appropriately and accurately set after the weather has improved. In these two circumstances the surveyor may set monuments after the survey document is filed if the surveyor certifies on the survey document that the monuments will be set by a specified date. The surveyor shall set monuments, the placement of which has been deferred because of severe weather conditions, within 240 days of the date on which the survey document was filed.
 - (i) If during the later monumentation of the corners of a plat or certificate of survey that were not monumented before the plat or certificate was filed, the surveyor finds that it is necessary to set a reference monument to a corner, the surveyor shall prepare and file an amended certificate of survey or subdivision plat.
 - (ii) The failure of the surveyor to set the monuments by the date certified on the record of survey will be deemed a violation of these rules.
 - (e) The surveyor shall set monuments at the following locations:
 - (i) At each corner and angle point of all lots, blocks and parcels of land created by the survey.

- (ii) At every point of intersection of the outer boundary of a subdivision with an existing street right-of-way line of record or a street right-of-way line created by the survey.
 - (iii) At every point of curve, point of tangency, point of reversed curve, point of compounded curve and point of intersection on each street right-of-way line created by the survey.
 - (iv) At the intersection of a boundary line and a meander line. Meander line angle points need not otherwise be monumented.
- (f) If the placement of a required monument at its proper location is physically impractical, the surveyor may set a reference or witness monument. This monument has the same status as other monuments of record if its location is properly shown. If the surveyor relies upon any existing monument in conducting a survey, he or she shall confirm the location of the monument and show and describe it on the resulting certificate of survey or subdivision plat.

ARM 24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

- (1) A certificate of survey must comply with the following requirements:
- (a) A certificate of survey must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum one-half inch on all sides, or as required by the filing office.
 - (b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24-pound white bond paper or equivalent must be submitted, or on such medium as required by the filing office.
 - (c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed on sheet number one of the certificate of survey.
 - (d) A certificate of survey must show or contain the following information:
 - (i) A title or title block including the quarter-section, section, Cityship, range, principal meridian, county, and if applicable, city or city in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not contain the title "plat," "subdivision," or any title other than "Certificate of Survey";
 - (ii) The name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land surveyed, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;
 - (iii) The date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line, or retrace an existing parcel of land;
 - (iv) A north arrow;
 - (v) A scale bar. The scale of the certificate of survey must be sufficient to legibly represent the required information and data on the certificate of survey;

- (vi) The location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;
 - (A) If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).
 - (B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).
 - (C) Witness and reference monuments must be clearly shown.
- (vii) The location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as a control in the survey;
- (viii) Basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the certificate of survey. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the certificate of survey, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;
- (ix) The bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;
 - (A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
 - (B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.
 - (C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.
- (x) Data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;

- (xi) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;
- (xii) At least one record measurement reference for each line and curve, if available, must be shown;
- (xiii) A narrative legal description of the parcel(s) surveyed.
 - (A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:
 - (I) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the parcel;
 - (II) If the certificate of survey depicts the division of one or more parcels shown on a previously filed certificate of survey, the narrative legal description may be the number of the previously filed certificate of survey and the parcel number of the parcel(s) previously surveyed;
 - (III) If the certificate of survey depicts the retracement of one or more parcels shown on a previously filed certificate of survey, plat, or amended plat, the narrative legal description may be the number of the previously filed certificate of survey or the name of the previously filed plat or amended plat, and the parcel number of the parcel(s) previously surveyed;
 - (IV) If the survey creates or retraces one or more parcels, the narrative legal description may be either the metes-and-bounds description of each individual parcel created by the survey or the metes-and-bounds description of the perimeter boundary of the parcels surveyed; or
 - (V) If the narrative legal description does not fall within (1)(d)(xiii)(A)(I), (II), or (III), then the narrative legal description required by this subsection must conform with (1)(d)(xiii)(A)(IV).
 - (B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the parcel surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the certificate of survey.
 - (C) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.
- (xiv) All parcels created or retraced by the certificate of survey designated by number or letter, and the bearings, distances, curve data, and area of each parcel, except as provided in (1)(f)(iii). If a parcel created by the certificate of survey is identifiable as a one-thirty-seconds or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification;

- (xv) The location, bearings, distances, and curve data of any easement that will be created by reference to the certificate of survey;
 - (xvi) The dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the certificate of survey has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act;
 - (xvii) A memorandum of any oaths administered under 76-3-405, MCA;
 - (xviii) If applicable, the certificate of the examining land surveyor; and
 - (xix) Space for the clerk and recorder's filing information.
- (e) Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s) citing the applicable exemption in its entirety.
- (f) Procedures for divisions of land exempted from review as subdivisions. If one or more parcels on a certificate of survey is created by an exemption from subdivision review under 76-3-207, MCA, then, except as provided in (1)(f)(iii) and (iv), the certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY." The certificate of survey must contain the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and cite the applicable exemption in its entirety. The certificate of survey must meet the following requirements:
- (i) If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it shows or contains a signed and acknowledged recitation of the covenant in its entirety.
 - (ii) If a certificate of survey invokes the exemption for gift(s) or sale(s) to members of the landowner's immediate family, the certificate of survey must indicate the name of the proposed grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.
 - (iii) If a certificate of survey invokes the exemption for the relocation of common boundary line(s):
 - (A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed relocation. The certificate of survey must

- show that the exemption was used only to change the location of a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new boundary location or locations (shown, for example, by solid line(s) with a notation);
- (B) The certificate of survey must show the boundaries of the area that is being removed from one tract of record and joined with another tract of record. The certificate of survey is not required to establish, but may establish, the exterior boundaries of the resulting tracts of record. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation. Unsurveyed portions of the tracts of record must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY"; and
 - (C) The certificate of survey must contain the following notation: "The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the [certificate of survey or amended plat] on which said area is described, unless said area is included with or excluded from adjoining tracts of record."
- (iv) If a certificate of survey invokes the exemption for aggregation of parcels or lots:
 - (A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown, for example, by solid line(s) with a notation); and
 - (B) The certificate of survey must establish the perimeter boundary of the resulting tract(s) of record.
 - (v) A survey document that modifies lots on a filed plat and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must be entitled "amended plat of [lot, block, and name of subdivision being amended]," but for all other purposes must comply with the requirements for form and descriptive content of certificates of survey contained in this rule.
 - (vi) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must contain or be accompanied by a certification by the Sanders County treasurer that all real property taxes and special assessments assessed and levied on the surveyed land have been paid.
 - (vii) For purposes of this rule, when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.

- (g) The land surveyor, at his or her discretion, may provide additional information on the certificate of survey regarding the survey.
- (h) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in 76-3-201, 76-3-205, and 76-3-209, MCA, and divisions of federally owned land made by a U.S. government agency are not required to be surveyed, nor must a certificate of survey or plat showing these divisions be filed with the Sanders County clerk and recorder. However, a certificate of survey of one of these divisions may be filed with the Sanders County clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and contains a certificate of all the landowners citing the applicable exemption from the Act in its entirety, or when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY."

ARM 24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

- (1) A final subdivision plat must comply with the following requirements:
 - (a) The plat complies with the requirements contained in (2);
 - (b) The plat includes a conditions of approval sheet(s) that complies with the requirements contained in (4); and
 - (c) The plat is accompanied by documents listed in (5).
- (2) A plat must comply with the following requirements:
 - (a) A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum one-half inch on all sides, or as required by the filing office.
 - (b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24-pound white bond paper or equivalent must be submitted, or on such medium as required by the filing office.
 - (c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. Except as provided in (4)(b), all certifications must be placed on sheet number one of the plat.
 - (d) A survey document that results in an increase in the number of lots or modifies six or more lots on a filed plat must be entitled "amended plat of (lot, block, and name of subdivision being amended)," and unless it is exempt from subdivision review by 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must meet the filing requirements for final subdivision plats specified in this rule.

- (e) A plat must show or contain the following information:
- (i) A title or title block including the quarter-section, section, Cityship, range, principal meridian, county, and if applicable, city or city in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";
 - (ii) The name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;
 - (iii) A north arrow;
 - (iv) A scale bar. The scale of the plat must be sufficient to legibly represent the required information and data on the plat;
 - (v) The location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;
 - (A) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).
 - (B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).
 - (C) Witness and reference monuments must be clearly shown.
 - (vi) The location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as control in the survey;
 - (vii) Basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;
 - (viii) The bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;
 - (A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

- (B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.
 - (C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.
- (ix) Data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All nontangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;
 - (x) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;
 - (xi) At least one record measurement reference for each line and curve, if available, must be shown;
 - (xii) All lots and blocks in the subdivision designated by number, the bearings, distances, and curve data of each lot and block, the area of each lot, and the total area of all lots. (Excepted lands must be labeled "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT");
 - (xiii) All existing rights-of-way for streets, alleys, avenues, streets, and highways that adjoin or are within the boundaries of the subdivision; their names and widths from public record (if ascertainable); the bearings, distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;
 - (xiv) All rights-of-way for streets, alleys, avenues, streets, and highways that will be created by the filing of the plat; their names, widths, bearings, distances, curve data, and area;
 - (xv) Except as provided in (2)(d)(xiii) and (xiv), the location, bearings, distances, curve data, and areas of all parks, common areas, and other grounds dedicated for public use;
 - (xvi) The total area of the subdivision;
 - (xvii) A narrative legal description of the subdivision.
 - (A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:
 - (I) If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land;
 - (II) If the plat depicts the division of one or more parcels shown on a previously filed certificate of survey or plat, the narrative legal description may be the number of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel(s) previously surveyed;

- (III) The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or
 - (IV) If the narrative legal description does not fall within (2)(e)(xvii)(A)(I) or (II), the narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.
- (B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.
- (xviii) The dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act. The land surveyor's signature and certification do not include certification of the conditions of approval sheet(s);
 - (xix) A memorandum of any oaths administered under 76-3-405, MCA;
 - (xx) The dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of this rule, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed;
 - (xxi) Certification by the city council that the final plat is approved;
 - (xxii) If applicable, the landowner's certificate of dedication of streets, alleys, avenues, streets, highways, parks, playground easements, or other public improvements;
 - (xxiii) If applicable, or as required by subdivision regulations, the landowner(s)' certification statement(s) as follows:
 - (A) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the conditions of approval sheet or as otherwise stated.
 - (B) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.
 - (C) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-3-507, MCA, secure the future construction of any remaining public improvements to be installed;
 - (xxiv) If applicable, a certificate of the city council accepting any dedicated land, easements, or improvements;
 - (xxv) If applicable, the certificate of the examining land surveyor;

- (xxvi) Space for the clerk and recorder's filing information; and
 - (xxvii) A minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in (5).
- (f) The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.
- (3) The following certifications of final plat approval must appear on the plat or on the conditions of approval sheet as contained in (4), or recorded or filed as contained in (5) of these rules:
- (a) A certification by the Sanders County treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid and, if applicable, certification of the local health officer having jurisdiction.
- (4) If applicable, a sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "Conditions of Approval of [insert name of subdivision]" with a title block including the quarter-section, section, city ship, range, principal meridian, county, and, if applicable, city or city in which the subdivision is located, and shall contain:
- (a) Any text and/or graphic representations of requirements by the city council for final plat approval including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;
 - (b) A certification statement by the landowner that the text and/or graphics shown on the conditions of approval sheet(s) represent(s) requirements by the city council for final plat approval and that all conditions of subdivision application have been satisfied; and
 - (c) A notation stating that the information shown is current as of the date of the certification required in (4)(b), and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.
- (5) If applicable, the following documents as specified by local government shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the county clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the Sanders County clerk and recorder:
- (a) A title report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land if other than the subdivider, and any lien holders or claimants of record against the land;
 - (b) Any covenants or deed restrictions relating to the subdivision;
 - (c) For lots less than 20 acres in size, exclusive of public roadways, a certification from the Montana Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4104(2), MCA;

- (d) If required by the city council, for lots of 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA;
- (e) A copy of any security requirements, pursuant to 76-3-507, MCA, securing the future construction of any remaining public improvements to be installed;
- (f) Unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the city council, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the conditions of approval sheet that states where the plans can be obtained must be filed or recorded;
- (g) If a street, alley, avenue, street, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit; and
- (h) Any other documents satisfying subdivision application approval required by the city council to be filed or recorded.

APPENDIX 4 SUBDIVISION REVIEW FEE SCHEDULE

Pursuant to 76-3-201 and 602, MCA, the subdivider shall pay the following non-refundable fees:

REFER TO THE CITY OF THOMPSON FALLS FEE SCHEDULE

1. *Noxious weed management plan.* (Fee goes to the Sanders County Weed Department.)

Proposed subdivisions of:

- Five or fewer lots/spaces/units—\$75.00 plus mileage (at state rate per mile).
- Six or more lots/spaces/units—\$75.00 plus mileage (at state rate per mile) plus \$7.50 per lot.

2. *Subdivision exemption review fee.* (Fee is paid to the Sanders County clerk and recorder, then split equally among the Sanders County clerk and recorder's office, City of Thompson Falls.)

- \$150.00

3. *Subdivision recording fees.*

- As set by Sanders County clerk and recorder's office. Fees are due at the time documents are submitted for filing/recording.

APPENDIX 5 PRE-APPLICATION CHECKLIST

Subdivision/Project Name: _____

Subdivider Name: _____

Required Information	Information Provided	
	Applicant	Staff Verified
1. Narrative		
a. Describes proposed subdivision		
b. Identifies landowner (including names of the principal of an LLC or corporation), subdivider, and subdivider representative names, addresses, and telephone numbers		
c. Includes a complete legal description of the property		
d. Documents the proposed subdivisions as a first minor (if applicable)		
e. Documents any water rights		
f. Identify any special improvement districts or rural improvements districts		
2. Subdivision Assessment Form (appendix C) - signed		
3. Vicinity map showing the location of the proposed subdivision in relation to nearby landmarks		
4. Crucial Area Planning System (through Montana FWP) results		
5. Sketch plan		
a. Information on the current status of the site: 1. Existing tract and lot boundaries 2. Description of general terrain, including topography 3. Natural features on the land, including water bodies 4. Existing structures and improvements 5. Existing utility lines and facilities serving the site, including irrigation ditches and other water user facilities 6. Existing easements and rights-of-way 7. Existing zoning or development regulation standards 8. Existing conservation easements 9. Existing covenants or deed restrictions 10. Adjacent land uses		
b. Information on the <u>proposed subdivision</u> 1. Tract and lot boundaries 2. Land uses 3. Proposed phasing, if applicable 4. Public and private improvements 5. Location of utility lines and facilities 6. Easements and rights of way 7. Parkland, open space, and/or conservation easements		

Required Information	Information Provided	
	Applicant	Staff Verified
6. Fee - Payable to Sanders County Planning a. Planning Review - \$100.00 b. Public Safety Review - \$80.00 plus \$10.00/lot		
7. Notification Letter/List - Agencies, adjacent landowners,² lienholders, etc.		
<p>OFFICE USE ONLY</p> <p>Pre-application received on ___/___/___ by _____</p> <p>Materials deemed complete on ___/___/___ by _____</p> <p>Subdivider authorized to send out notifications on ___/___/___ (allow 30 days for comments)</p> <p>19 additional copies received on ___/___/___</p> <p>Scheduled for Planning Board meeting of ___/___/___</p> <p>Site Visit ___/___/___</p>		

APPENDIX 6 SUBDIVISION ASSESSMENT FORM

Each subdivision application will be reviewed for substantial compliance with the Guiding Principles, Goals and Objectives of the City of Thompson Falls Growth Policy. Each project will also be reviewed for its potential effects on the Public Interest Review Criteria. These items are listed below and discussed further in Appendices 10 and 16.

GOALS, City of Thompson Falls Growth Policy:

- *General:*
 - Provide for Orderly Development of the City of Thompson Falls Planning Area
- *Land Use:*
 - Encourage development in areas with few environmental hazards in order to minimize both the degradation of the natural environment due to urbanization and the loss of capital investment and life due to natural disasters.
 - Preserve, protect and improve potable water quantity and quality in City of Thompson Falls.
 - Maintain the quality of the city's wildlife habitat and open space.
- *Public Safety:*
 - Ensure that all fire service entities are providing adequate firefighting and emergency response services, apparatus, equipment, personnel, training and facilities.
 - Recognize the significance of the contributions made by the volunteer members of the fire entities in Thompson Falls.
 - Establish safe pedestrian and bicycle access in designated areas of the City as part of the non-motorized circulation system.
- *Utilities:*
 - Create an effective land use pattern that permits the logical and effective extension of utilities.
- *Transportation:*
 - Maintain and improve the condition and operational level of service of the existing road system.
 - Identify and protect future road corridors to serve future developments and public lands.
 - Construction of roads serving developing areas should occur when and where public facilities can be provided in an efficient manner.
 - Establish accessibility guidelines in order to provide adequate access for emergency services to residents of Thompson Falls.
 - Assist Sanders County with its efforts to maintain and enhance the capacity of the Thompson Falls Airport.

- *Housing:*
 - All residents deserve to have the opportunity to obtain safe, sanitary, and affordable housing.
- *Economic Development:*
 - Encourage the retention and expansion of existing businesses.

SEVEN PUBLIC INTEREST REVIEW CRITERIA: Agriculture, agricultural water user facilities, natural environment, wildlife, wildlife habitat, local services, public health and safety.

A proposed subdivision may have positive, neutral, and/or negative effects. Where potential negative effects are identified, the project may be required to include mitigation measures that will reduce or eliminate the negative impacts. In some cases, negative impacts cannot be mitigated and may be grounds for denial of the subdivision application.

I've read and understand that the above criteria will be used in evaluating my subdivision application.

[Print Subdivider Name Here]

[Sign and Date Here]

APPENDIX 7 SAMPLE NOTIFICATION LETTER: PRE-APPLICATION PHASE

NOTE: Letter is not sent until planning staff has reviewed and approved the packet.

[Date Mailed]

TO: Adjacent Property Owners
Lien Holders
Easement Holders
Potentially Affected Water Users
Potentially Affected Property Owner Associations
Review Agencies

FROM: **[Landowner name and contact information. Also, name and contact information for landowner's representative, if pertinent]**

RE: **[Proposed Subdivision and Legal Description of Site]**

This is to notify you that we are preparing a subdivision application for review by City of Thompson Falls. Enclosed for your information is a pre-application packet describing the proposed project.

Please contact us with any questions, comments, or suggestions you may have, within the next 30 days at the following address:

[contact name, address, phone number, email, fax, ...]

Thank you.

Enclosure

APPENDIX 8 PRELIMINARY PLAT CHECKLIST

Section A: Completed by Subdivider

Name of Proposed Subdivision: _____

Location: _____

Property Owner: _____

Legal Description: _____

Property Geocode/Parcel ID: _____

Subdivider Explanatory Comments:

20 copies submitted to Planning Office (AFTER sufficiency is met):

- Preliminary Plat or Plan
24" x 36" in size
(For one-or-two lot proposed subdivisions, 18 of the 20 copies may be 11" x 17" in size.)
- Preliminary Plat Supplements

Additional public review copies

- (Required) Placed in local library: Date _____ Library _____

Section B: Completed by Planner

PLANNER REVIEW	Date:	By:	Comment:
Received:			
Element Review:			
Element Complete:			
Sufficiency Review:			
Meets Sufficiency:			

Section C: Completed by Subdivider and Planner

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	
Documentation of Status as First Minor Subdivision					
Subdivision Application Form (Appendix 11)					
Subdivision Review Fee					
Preliminary Plat or Plan 24" X 36" in size					
Preliminary Plat Contents (Surveyor should be made aware of these requirements)					
a. Title Block.					
1. Name and location of subdivision (Name does not duplicate another subdivision).					
2. Scale					
3. North arrow.					
4. Date of preparation.					
b. Vicinity map.					
c. Approximate exterior boundaries of the platted tract and location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.					
d. All lots and blocks, designated by numbers, and the approximate dimensions and area of each lot.					
e. All roadways and right-of-way width/grades/curvature of each, with existing and proposed roadway names (New street names have been approved by City of Thompson Falls).					
f. Proposed intersection locations or other access points for any subdivision requiring access to highways, arterials, and collectors.					
g. Approximate location, boundaries, dimensions, and areas of all parks, common grounds, or other grounds dedicated for public use.					
h. Existing and proposed utilities located on or adjacent to the tract, including:					
1. Approximate location, size, and depth of sanitary and storm sewers, water mains, fire hydrants, dry hydrants, cisterns, and any other water					

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
2. Approximate location of gas, electric, and telephone lines, and street lights.					
3. Approximate location of the nearest water mains and sewer lines where none are located on or adjacent to the tract.					
4. Existing irrigation ditches and canals.					
i. Ground Elevations on the Tract. Contour intervals are provided at suggested vertical intervals of: two feet where the average slope is zero to two percent, five feet where the average slope is three to seven percent, and ten feet where the average slope is over seven percent. <i>Notes: (1) A cross section may be required to define drainage patterns. (2) United States Geological Survey data or other information may be used, if it presents an accurate and usable representation of ground features.</i>					
j. Approximate location of existing buildings, structures, and improvements.					
k. Approximate location and identity of existing and proposed public and private easements and rights-of-way, including description of their width and purpose. This includes conservation easements.					
l. Approximate location of any water bodies.					
m. Floodway survey data, when required.					
n. Construction setback from any river running through or immediately adjacent to the proposed subdivision.					
o. Proposed building envelopes.					
p. Names of adjoining platted subdivisions and numbers of adjoining COs previously recorded.					
q. Ownership of all lands adjacent to the subdivision and to the access street leading from a present public right-of-way to the boundary of the proposed subdivision.					

SUBDIVISION REGULATIONS

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner		
		Element Review		Sufficiency Review
		Missing	OK/NA	Missing OK/NA
Preliminary Plat Supplements:				
a. A vicinity sketch or sketches showing conditions on subject land and adjacent land, including:				
1. Clear indication of the proposed subdivision on an U.S. Geological Survey topographic map, aerial photograph, or location map.				
2. Approximate direction and gradient of ground slope, including any embankments or retaining walls.				
3. Current land uses.				
4. Location of buildings, streets, power lines, towers, and streets.				
5. Location of any known potential man-made or natural hazards.				
b. Any existing or proposed zoning (or other land use regulation) on the proposed subdivision tract and in the vicinity.				
c. Overall development plan or notice of plan approval by City Council.				
d. Where land will be dedicated to public use, either:				
1. A dedication certificate of a licensed title abstractor showing the written consent of the dedication by the owners of the land and any lien holders or claimants of record against the land; or				
2. Title insurance guaranteeing the dedication, in a reasonable amount (to be determined by the city council).				
e. Drafts of any covenants and restrictions to be included in deeds or contracts for sale.				
f. Draft of any owners' association covenants.				
g. Draft of any plat approval covenants.				
h. Names and addresses of adjoining landowners, and documentation that they have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.				

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner		
		Element Review		Sufficiency Review
		Missing	OK/NA	Missing OK/NA
i. Names and addresses of all lien holders, easement holders, potentially affected water users (if any, and if known), and any property owners' association potentially affected by the project as determined by the planner. Documentation that they have received at least 30 days' advanced notification of the proposed subdivision. include any comments received.				
j. Names and addresses of public agencies located within two (2) miles of the proposed subdivision (including any agencies who manage a street that would provide access to the development), and documentation that they have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.				
k. Verification that other review agencies, as required (see Appendix 1), have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.				
l. Verification that local library has received a copy of the subdivision application package.				
m. Copies of easements, proposed easements, or other documents verifying legal access to the subdivision.				
n. Calculations, documentation pertaining to parkland dedication or cash-in-lieu.				
o. Water and sanitation information, as outlined in Appendix 13 or 14. Approval from DEQ, if available.				
p. Environmental assessment (Appendix 10) 1. Select one <input type="checkbox"/> Full. <input type="checkbox"/> Partial. <input type="checkbox"/> Exemption statement from Planning Board. 2. Required special studies, such as: <input type="checkbox"/> Geological assessment <input type="checkbox"/> Hydrology study <input type="checkbox"/> Wetlands delineation <input type="checkbox"/> Floodplain survey <input type="checkbox"/> Traffic impact analysis <input type="checkbox"/> Fire protection plan <input type="checkbox"/> Cultural resources survey <input type="checkbox"/> Other (list)				

SUBDIVISION REGULATIONS

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
q. Floodplain development permit, if required (Appendix 31).					
r. Receipt for noxious weed management plan and review fee (Appendix 18).					
s. Explanation of water rights/mineral rights.					
t. Statement of how the proposed subdivision meets the seven public interest review criteria and the goals and objectives of the City of Thompson Falls growth policy (guidelines are included in Appendices 10 and 16).					
u. Overall phasing plan and phasing schedule					
v. Other public comments received.					
Special information for:					
a. Mobile home parks.					
b. Recreational vehicle parks.					
c. Condominiums or Cityhouses.					
Preliminary Plat Checklist (one copy only).					

APPENDIX 9 ENVIRONMENTAL ASSESSMENT

Pursuant to 76-3-603, MCA, the environmental assessment of a proposed subdivision of six or more lots must include the following items:

- A description of every waterbody or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision.
- A summary of the probable impacts of the proposed subdivision based on the seven public interest criteria described in 76-3-608, MCA.
- A community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; streets and maintenance; water, sewage, and solid waste facilities; and fire and police protection.
- Additional relevant and reasonable information related to these regulations.

Pursuant to 76-3-603, MCA, the environmental assessment of a proposed subdivision of five or fewer lots must include a summary of the probable impacts of the proposed subdivision based on the seven public interest criteria described in 76-3608, MCA.

Environmental assessments of all proposed subdivisions must also consider the probable impacts on the three additional criteria outlined in section 11-II-E.2.c.

Purpose: The purpose of the environmental assessment is to assist the subdivider and city council in evaluating the potential effects, positive and negative, of the proposed subdivision. If portions of the environmental assessment are prepared prior to final design of a proposed subdivision, the exercise can help the subdivider evaluate the suitability of the site for the proposed subdivision, assist the subdivider in working out a quality subdivision design, and produce a subdivision proposal which minimizes the potential for negative impacts.

Impacts should be considered at three levels:

- (1) The immediate site of the proposed subdivision;
- (2) The general vicinity or neighborhood; and
- (3) The city.

Subdividers proposing to create six or more lots must provide the information outlined in the checklist below. A completed copy of the checklist must also be provided.

Subdividers proposing a minor subdivision of five or fewer lots must provide checklist item 1 and a summary discussion of the public interest criteria listed under checklist items 2 and 3.

Information sources must be identified. Review agency contacts can help provide much of the information. See Appendix 1. Note that some of these contacts must be made prior to submitting the subdivision application package or overall development plan.

ENVIRONMENTAL ASSESSMENT CHECKLIST		
Required Information	Subdivider Checklist	Planner Checklist
1. Part II and Part III of the Montana Dept. of Environmental Quality/Local Government Joint Application Form (see Appendix 12)		
2. Discussion of seven (7) public interest criteria (questions to consider are attached): a. Effect on agriculture b. Effect on agricultural water user facilities c. Effect on the natural environment. d. Effect on wildlife e. Effect on wildlife habitat. f. Effect on local services, including the community service needs assessment described in state statutes as a "community impact report." g. Effect on public health and safety.		

DISCUSSION OF PUBLIC INTEREST CRITERIA

Note: The following questions are intended to be used as a guide for addressing the public interest criteria. The subdivider must demonstrate, through the environmental assessment, that the proposed subdivision has been designed with consideration of these criteria.

#1. Effect of proposed subdivision on agriculture

- Has the land historically been used for agriculture? How is the land currently used, and what are the proposed uses? If the land is not currently used for agriculture, does it have potential as highly productive agricultural ground?
- What percentage of this land is considered "prime or unique farmland" (according to Natural Resource Conservation Service definition), or "prime forestland" (according to U.S. Forest Service definition)?
- What percentage of this land can be described as "productive" agricultural land, taking into consideration factors such as: soil quality, topography, climate, vegetation, availability of water, existing land use patterns, technological and energy inputs required, suitability for crop-raising/livestock grazing/timber growth, and accepted agricultural practices?
- Is the proposed subdivision designed to keep a portion of the land in agricultural use? Is the proposed subdivision designed to avoid development of the most productive acreage? Is the proposed subdivision designed to avoid development of acreage that plays a vital role in an existing agricultural operation (e.g., spring pasture)?
- If the subdivision is approved, how much land will be taken out of agriculture?
- Will irrigation water rights be conveyed with the proposed lots? If so, is there a plan for the distribution of water to the lots?
- Are up slope or downslope properties currently irrigated? If so, how will the proposed subdivision affect them? How will they affect the proposed subdivision?
- What are the adjacent land uses? Is the majority of adjacent land in agricultural use? Is the majority of adjacent land subdivided into lots less than 160 acres in size?
- What measures will be taken to ensure that the proposed subdivision will not conflict with nearby agricultural operations (e.g., perimeter fencing, strategies to control wildlife populations and prevent wildlife displacement or attraction, restrictive covenants pertaining to domestic pets, etc.)?

#2. Effect of proposed subdivision on agricultural water user facilities

- Are there irrigation ditches, canal, and other water user facilities (and associated easements) on this land? If so, have affected water users been notified of the proposed subdivision, and have they expressed any concern about its effect on their facilities? Are the easements adequate to protect water user facilities and allow for routine maintenance?
- Will water rights stay with the land proposed for subdivision? If so, how will distribution of the subdivision water be managed?

#3. Effect of proposed subdivision on the natural environment

- *Surface water quality.* Does the proposed subdivision contain or lie adjacent to a water body? If so, is it designed to prevent erosion or other potential surface water quality problems?
- *Groundwater quality.* Do soil characteristics indicate the land may be vulnerable to groundwater pollution from development? If so, how is the proposed subdivision designed to minimize the potential for groundwater pollution?
- *Soil erosion potential.* Are soils on the land considered erodible, according to the City of Thompson Falls Soil Survey and on-site inspection? Is the proposed subdivision designed to avoid or minimize construction on the more erodible soils? If not, what measures are proposed to prevent erosion?
- *Surface water run-off.* Is the proposed subdivision designed to avoid or minimize drainage problems? Has a grading and drainage plan been prepared to prevent potential drainage problems?
- *Vegetative health.* Is the land located in an area where threatened and/or endangered plant species are known to exist? If so, what mitigation measures are proposed to protect the species? Is the proposed subdivision designed to protect natural vegetation and limit street length, so as to prevent the spread of noxious weeds? What is the noxious weed condition of the land? Has the subdivider begun the process of preparing a weed management plan for review and approval by the Madison County Weed Board?
- *Air quality.* Does this proposed subdivision have the potential to degrade neighborhood air quality? If so, what mitigation measures are proposed to protect air quality?
- *Riparian areas, wetlands, flood-prone areas.* Do soils, vegetation, and City of Thompson Falls flood-prone area maps indicate that the land includes any of these types of areas? If so, is the proposed subdivision designed to avoid construction (buildings and/or streets) in these areas? If not, have the necessary permits been applied for?
- *Natural topography.* Does the contour map identify areas of steep slope (25 percent or greater)? If so, is the proposed subdivision designed to avoid these steep slopes? Will construction of the subdivision reasonably maintain the natural topographic features of the land?
- *Open landscape, scenic beauty.* Is the proposed subdivision designed to conserve land by clustering homesites and maintaining significant open space? Is it designed to avoid ridgetops and visual encroachment into river corridors? Is it designed to conserve any views and vistas which are identified in an adopted land use plan?

#4 and #5. *Effect of proposed subdivision on wildlife and wildlife habitat*

- What types of wildlife are found (or likely to be found) in the habitat where this proposed subdivision is located? Consider both game species and non-game species of animals, birds, reptiles, amphibians, and fish. Consider both permanent and seasonal wildlife populations.
- Is the proposed subdivision located in big game winter range, an area of elk calving, and/or a wildlife migration corridor?
- Is the proposed subdivision located in a wildlife breeding area?
- Is the proposed subdivision located in habitat which supports threatened and/or endangered species?
- Is the proposed subdivision located in or adjacent to an area considered by wildlife specialists to be rich in wildlife resources?
- If the proposed subdivision is located in an area considered rich in wildlife resources, is the subdivision designed to minimize negative impacts on the wildlife? Was WildPlanner used to evaluate the subdivision's design for impacts on wildlife and wildlife habitat?
 - Development design measures could include clustering, reduced number of lots, buffer zones, access or use limitations, conservation easements, restrictive covenants, wildlife habitat enhancement projects, and wildlife habitat replacement areas.
 - Negative impacts could include wildlife harassment, displacement, endangerment, and either population loss or uncontrolled population increase.
- If the proposed subdivision is located adjacent to an area rich in wildlife resources, what measures are proposed to protect the adjacent habitat and wildlife population from being negatively impacted by the development? Was WildPlanner used to evaluate the subdivision's design for impacts on wildlife and wildlife habitat?
- Is the proposed subdivision likely to put the immediate area close to, at, or over the limits of being able to sustain existing wildlife populations?
- Is the proposed subdivision likely to displace wildlife in a way that will create problems for adjacent landowners?

#6. *Effect of proposed subdivision on local services*

- Will the proposed subdivision connect to existing community water and sewer systems? If so, can these existing systems handle the additional demand?
- How much additional traffic will the proposed subdivision generate? Can local streets/bridges handle the additional load on a year-round basis? If not, what capital improvements will be necessary?
- Is the proposed subdivision likely to put local services close to, at, or over their limits of service capability?

- At full build-out, what will the proposed subdivision require of local law enforcement, fire district, quick response unit, ambulance service, and school district (Estimate in terms of annual cost, increased demand, or other measure)? How does this compare with the local services demanded of the current land uses?
- At full build-out, what will the proposed subdivision generate in annual property tax revenues (using current dollars)? How does this compare with the property tax revenues being paid currently?
- If the proposed subdivision appears likely to generate insufficient property taxes to cover the local services it will require, has the applicant agreed to make any payment towards bridging the gap?
- Will this proposed subdivision add to the city's affordable housing stock ("affordable," as defined by the U.S. Dept. of Housing and Urban Development)?
- Will this proposed subdivision have adequate utility service (power, telephone, solid waste disposal)?

#7. *Effect of proposed subdivision on public health and safety*

- Is the proposed subdivision located in an area of natural hazard (e.g., flooding, earthquake zone, steep slopes/unstable soils/slides, high water table, high fire hazard or designated wildland/urban interface area, habitat for potentially dangerous wildlife such as bears and mountain lions)? If so, is the subdivision designed to eliminate or overcome the hazard?
- Is the proposed subdivision located in an area of manmade hazard (e.g., high voltage line, high pressure gas line, shooting range or public hunting grounds, airport, heavy industrial activity, heavy traffic volume, unmaintained/seasonal public street, polluted air or water supply)? Will the proposed subdivision attract potentially dangerous wildlife such as bears and mountain lions? If so, is the subdivision designed to mitigate any such hazards?
- What is the proposed subdivision's fire risk rating? What is the fire district's Insurance Service Office rating? What fire protection measures will be taken as a part of the subdivision proposal, to maintain a low risk?
- What is the estimated response time (under good weather conditions) of various emergency services (fire protection, law enforcement, ambulance service, quick response unit) to the site? In the view of the emergency service providers, are these response times adequate to provide reasonable public health and safety protection?
- Does the proposed subdivision itself include any activity or facility which could potentially endanger the public (e.g., commercial fuel storage tank, airport activity, irrigation canal, ponds)? If so, what measures will be taken to reduce, eliminate, or overcome the hazard?

PUBLIC INTEREST CRITERIA—SUMMARY EVALUATION

Note: A proposed subdivision may have both positive and negative effects on any one of these criteria.

Potential Effects of Proposed Subdivision	Positive	Neutral	Negative	Comments
Public Interest Criteria				
#1. Effect on agriculture.				
#2. Effect on agricultural water user facilities.				
#3. Effect on natural environment.				
#4 & #5. Effect on wildlife and wildlife habitat.				
#6. Effect on local services.				
#7. Effect on public health and safety.				

**APPENDIX 10 SUBDIVISION APPLICATION COVER SHEET AND FORM
(Includes Appendices 11—13)**

Name of Proposed Subdivision. _____

Date of Pre-Application Meeting(s). _____

Date of Overall Development Plan Approval by the City of Thompson Falls Council *(if applicable)*. _____

Contents of Subdivision Application Package.

- _____ *[If applicable]* Overall Development Plan Information.
- _____ Preliminary Plat (or Plan).
- _____ PART I of the Subdivision Joint Application Form (See Appendix 12).
- _____ PART II materials of the Subdivision Joint Application Form (See Appendix 12).
- _____ *[If applicable]* Environmental Assessment Materials (See PART III of Appendix 12 and Appendix 10).
- _____ Additional Supplementary Materials.
- _____ Additional Supplementary Materials if proposed subdivision is a planned unit development (PUD).
- _____ Preliminary Plat Checklist (See Appendix 9).
- _____ Subdivision review fee (See Appendix 4).
- _____ Any request for variance, along with variance review fee (See Appendix 30).

Note:

Pursuant to the City of Thompson Falls Subdivision Regulations, the City of Thompson Falls Council may revoke a subdivision approval if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate. Therefore, please complete the application package accurately and provide all information requested.

APPENDIX 11 JOINT APPLICATION

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY/
LOCAL GOVERNMENT JOINT APPLICATION FORM

PART I. GENERAL DESCRIPTION AND INFORMATION (required for all subdivisions)

1. Name of proposed development _____
2. Location: City and/or City _____
 Legal description: ____1/4 ____1/4 of Section ____ Cityship ____ Range ____
3. Is concurrent review by local city council and DEQ requested? Yes ____ No ____
4. Type of water supply system
 - _____ Individual well
 - _____ Individual cistern
 - _____ Individual surface water supply or spring
 - _____ Shared well (two connections)
 - _____ Multiple-user water supply system (three to 14 connections and fewer than 25 people)
 - _____ Service connection to multiple-user system
 - _____ Service connection to public system
 - _____ Extension of public main
 - _____ New public system (15 or more connections or serving 25 or more people)
5. Type of wastewater treatment system
 - _____ Individual wastewater treatment system
 - _____ Number of bedrooms (three bedrooms will be used if unknown)
 - _____ Shared wastewater treatment system (two connections)
 - _____ Multiple-user system (three to 14 connections and fewer than 25 people)
 - _____ Service connection to multiple-user system
 - _____ Service connection to public system
 - _____ Extension of public main
 - _____ New public system (15 or more connections or serving 25 or more people)
6. Name of solid waste (garbage) disposal site

7. Nondegradation
 - Yes ____ No ____ Is information included which substantiates that there will be no degradation of state waters or that degradation will be nonsignificant?
 - Yes ____ No ____ If not, have you enclosed an application to degrade?

8. Descriptive Data

- _____ Number of lots or rental spaces
- _____ Total acreage in lots being reviewed
- _____ Total acreage in streets or streets
- _____ Total acreage in parks, open space, and/or common facilities
- _____ Total gross acreage of subdivision
- _____ Minimum size of lots or spaces
- _____ Maximum size of lots or spaces

9. Indicate the proposed use(s) and number of lots or spaces in each.

- _____ Residential, single family
 - _____ Residential, multiple family; number of units _____
 - _____ Type of multiple family structure (e.g. duplex); number of units _____
 - _____ Planned unit development; number of units _____
 - _____ Condominium; number of units _____
 - _____ Mobile home park; number of units _____
 - _____ Recreational vehicle park; number of units _____
 - _____ Commercial or industrial
 - _____ Other (please describe)
-

10. Provide the following information regarding the development.

Current land use

Depth to ground water at the time of year when water table is nearest to the natural ground surface within the drainfield area _____

Depth to bedrock or other impervious material in the drainfield area _____

Existing zoning or other regulations _____

11. Include the following attachments, if applicable.

Yes _____ NA _____ An overall development plan indicating the intent for the development of the remainder of the tract, if a tract of land is to be subdivided in phases.

Yes _____ NA _____ Drafts of any covenants and restrictions to be included in deeds or contracts for sale.

Yes _____ NA _____ Drafts of homeowners' association bylaws and articles of incorporation, if applicable.

(Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DEQ to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DEQ can issue final approval.)

I understand that a person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the reviewing authority under the Sanitation in Subdivisions Act has issued a certificate of subdivision approval indicating that the subdivision is not subject to sanitary restriction, unless the subdivision is exempt from the Sanitation in Subdivisions Act under 76-4-125, MCA. I understand that a person may not construct or use a facility that deviates from the certificate of subdivision approval until the reviewing authority has approved the deviation.

I designate _____ as my representative for purposes of this application.

Designated representative, if any (e.g., engineer, surveyor)

Name: _____

Phone: _____

Address: _____
Company, Street or P.O. Box, City, State, Zip Code

Owner Name:

Signature of owner

Print name of owner

Address: _____
Street or P.O. Box, City, State, Zip Code

Date: _____ Phone: _____

The statement must be signed by the owner of the land proposed for subdivision or the responsible officer of the corporation offering the same for sale. If the landowner or subdivider is a limited partnership (L.P.) or limited liability corporation (L.L.C.), the names of ALL principals must be listed.

Notice: The statutory time frame for each review is 60 days. Resubmittal of denied or incomplete applications restarts the time frame. The estimated time for the DEQ to act on a complete subdivision application is ten days for subdivisions reviewed by a local department of health under contract to the DEQ. Local health departments review subdivisions within 50 days of receipt of a complete application. During non-peak times, a review may take 25 to 45 days. For peak times, the review may take 45 to 60 days.

PART II. REQUIRED INFORMATION FOR APPROVAL OF SUBDIVISIONS UNDER SANITATION IN SUBDIVISIONS LAWS (e.g., parcels less than 20 acres, trailer courts, RV parks, condominiums)

All applications must include the information required in ARM 17.36.101-805 and the appropriate circulars. In order to facilitate review, the application should be organized in the same manner as this application form and follow closely the submittal requirements in the rules and circulars.

A. *Physical conditions.* Provide the following attachments:

1. A vicinity map showing the location of the proposed subdivision in relation to the nearest city, highway(s).
2. Soils survey map and most recent interpretations of soil suitability for the proposed land uses.
3. Topographic map of the development with contour intervals meeting the preliminary plat requirements of the local subdivision regulations.
4. A copy of a preliminary plat* (a minor subdivision plat if applicable) prepared in accordance with local subdivision regulations, or a final plat, show the location of:
 - a. Any rock outcroppings.
 - b. Any areas subject to flood hazard or, if available, 100-year floodplain studies. (The local floodplain administrator or the Floodplain Management Section of the Water Resources Division of the Department of Natural Resources and Conservation may be contracted for assistance in determining flood hazard locations.)
 - c. Any natural water systems such as streams, rivers, intermittent streams, lakes or wetlands (also indicate the names and sizes of each).
 - d. Any manmade water systems such as wells, ponds, canals, ditches, aqueducts, reservoirs and irrigation systems (also indicate the names, sizes and present use of each).
 - e. Any existing or proposed utilities located within or adjacent to the subdivision, including electrical power, natural gas, telephone service, and water and sewer pipelines or facilities.

B. *Water supply.*

1. Where an individual water supply system is proposed or existing for each parcel:
 - a. For a proposed system, provide all information required in ARM 17.36.328—336. Indicate the distance to the nearest public water system.
 - b. If an existing system will be used, provide all information required in ARM 17.36.335.
 - c. Attach four copies of the lot layout showing the proposed or existing location of each water supply source (spring, well or cistern) and indicating the distance to existing or proposed wastewater treatment systems.

2. Where a multiple user water system is proposed or existing:
 - a. If an existing system will be used:
 - 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
 - 2) Indicate the system's capacity to handle additional use and its distance from the development.
 - 3) Provide evidence that permission to connect has been granted.
 - 4) Provide three copies of the following attachments:
 - a) Map or plat showing location, sizes, and depth of any existing water supply lines and facilities that may directly serve parcels within the proposed development.
 - b) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.335 and DEQ-3.
 - b. If a new system will be used:
 - 1) Indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
 - 2) Provide all information required in ARM 17.36.330—336 and DEQ-3.
3. Where a public water system is proposed or existing:
 - a. If an existing system will be used:
 - 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
 - 2) Provide evidence that the system is approved by DEQ and is in compliance with the regulations.
 - 3) Provide evidence that the managing entity has authorized the connections, the system has adequate capacity to meet the needs of the subdivision, the system is in compliance with department regulations, and the appropriate water rights exist or have been applied for the connections.
 - 4) Provide three copies of the following as attachments.
 - a) A map or plat showing the location, sizes and depth of any existing water lines and facilities that will directly serve parcels within the proposed development.
 - b) Plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328—330 and DEQ-1 or DEQ-3.
 - b. If a new system will be used:
 - 1) Indicate who will install tire system, who will bear the costs, when it will be completed and who will own it.
 - 2) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328—330 and DEQ-1 or DEQ-3.

C. *Wastewater treatment.*

1. Where individual wastewater treatment systems are proposed for each parcel:
 - a. Indicate the distance to the nearest public wastewater treatment system.
 - b. Provide all information required in ARM 17.36.320—345 and in DEQ-4.
2. For a proposed multiple user wastewater treatment system:
 - a. Where an existing system is to be used:
 - 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
 - 2) Indicate the system's capacity to handle additional use and its distance from the development.
 - 3) Provide evidence that permission to connect has been granted.
 - 4) Provide two copies of the following attachments.
 - a) A map or plat showing the location, sizes and depth of any existing sewer lines and facilities that will directly serve parcels within the proposed development.
 - b) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320—345 and DEQ-4.
 - b. Where a new system is proposed:
 - 1) Indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
 - 2) Provide all information required in ARM 17.36.320—326 and DEQ-4.
3. For a proposed public wastewater treatment system:
 - a. Where an existing system is to be used:
 - 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
 - 2) Provide evidence that the system is approved by DEQ and is in compliance with the regulations.
 - 3) Provide evidence that the managing entity has authorized the connections, the system has adequate capacity to meet the needs of the subdivision, and the system is in compliance with department regulations.
 - 4) Provide three copies of the following as attachments:
 - a) A map or plat showing the location, sizes and depth of any existing sewer lines and facilities that will directly serve parcels within the proposed development.
 - b) Plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 and DEQ-2 or DEQ-4.

- b. Where a new system is proposed:
 - 1) Indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
 - 2) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320—326 and DEQ-2 or DEQ-4 (also see ARM 17.38.101).
- D. *Solid waste.*
 - 1. Describe the proposed method of collecting and disposing of solid waste.
 - 2. Indicate the name and location of the department-licensed or appropriate out-of-state solid waste disposal site where solid waste will be disposed in accordance with ARM 17.36.309.
- E. *Drainage.*
 - 1. *Streets, streets, and unvegetated areas.*
 - a. Describe measures for disposing of storm run-off from streets, streets, parking lots, and other unvegetated areas within the subdivision or onto adjacent property.
 - b. Indicate type of street surface proposed.
 - c. Describe facilities for stream or drainage crossing (e.g., culverts, bridges).
 - d. Describe how surface run-off will be drained or channeled from parcels.
 - e. Indicate if storm run-off will enter state waters and describe any proposed treatment measures. (A DEQ storm-water discharge permit may be required.)
 - f. Describe any existing or proposed streambank or shoreline alteration, any proposed construction or modification of lakebeds or stream channels. Provide information on location, extent, type and purpose of alternation.
 - g. Provide storm drainage plans and specifications as required by ARM 17.36.310 and DEQ-8.
- F. *Other permits that may be necessary.*
 - 1. *Water use permit (water rights).* The Montana Water Law requires new water developments (after July 1, 1973) to be filed with the Department of Natural Resources and Conservation to receive a water right. For ground water developments, wells and developed springs, the amount of water to be used will determine which form to file with the department. **Form 602—Notice of Completion of Ground Water Development:** This form is to be filed when the ground water development is a well, developed spring or a ground water pit. The amount of water to be used cannot exceed 35 gallons per minute or ten-acre-feet per year. The form is to be filed within 60 days after the well or spring development is completed and the water has been put to the intended beneficial use. Do not file until the well is hooked up and being used. **Form 600—Application for Beneficial Water Use Permit:** When the ground water development is a well, developed spring or ground water pit and the intended use will be over 35 gallons per minute and ten-acre-feet

per year, a water use permit must be issued before water can be appropriated. A correct and complete application with the criteria supplement and filing fee must be filed with the department.

Forms are available at the water resources regional office at the following addresses:

Helena: Water Resources Regional Office, 1424 9th Avenue, P.O. Box 201601, Helena, MT 59620-1601, (406) 444-6999, or the regional office in your area.

Billings: Water Resources Regional Office, Airport Industrial Park, 1371 Rimtop Drive, Billings, MT 59105-1978, (406) 247-4415.

Bozeman: Water Resources Regional Office, 151 Evergreen Dr., Suite C, Bozeman, MT 59715, (406) 586-3136.

Glasgow: Water Resources Regional Office, 222 6th Street South, Glasgow, MT 59230, (406) 228-2561.

Havre: Water Resources Regional Office, 210 6th Avenue, Havre, MT 59501, (406) 265-5516.

Kalispell: Water Resources Regional Office, 109 Cooperative Way, Suite 110, Kalispell, MT 59901, (406) 752-2288.

LewisCity: Water Resources Regional Office, 613 NE Main Street, Suite E, LewisCity, MT 59457, (406) 538-7459.

Missoula: Water Resources Regional Office, City & Country Shopping Center, 1610 S. Third Street West, Suite 103, Missoula, MT 59806, (406) 721-4284.

2. For a complete listing of environmental permits required by the state, please reference the Montana Index of Environmental Permits from the Legislature Office of Environmental Quality (LEPO) at (406) 444-3742 or visit the LEPO website:

<https://leg.mt.gov/content/Publications/Environmental/2018-permit-index-final.pdf>. In addition, there may be other permits required by the federal government or local government agencies.

_____ Montana Department of Environmental Quality (DEQ), Water Quality website (<https://deq.mt.gov/water/index>)

_____ MPDES Wastewater Discharge—All discharges to surface water, including those related to construction dewatering. Contact DEQ, Water Protection Bureau (406) 444-3080.

_____ Storm Water Discharge—Construction activity greater than one-acre disturbance. Contact DEQ, Water Protection Bureau (406) 444-3080.

_____ MGWPCS Discharge—All construction and/or operation of wastewater impoundments or conveyances which may cause pollution of ground water. Also, includes land application of wastewater on a case-by-case basis. Contact DEQ, Water Protection Bureau (406) 444-3080.

- _____ 318 Authorization—Any activity in any state water that will cause unavoidable short-term violations of water quality standards. Contact DEQ, Water Protection Bureau (406) 444-3080.
- _____ 310 Permit/SPA (124)—Any activity that physically alters or modifies the bed or banks of a stream. Contact the local conservation district.
- _____ 404 Permit—Any activity resulting in the discharge or placement of dredged or fill material into waters of the U.S., including wetlands. Contact U.S. Army Corp of Engineers at (406) 441-1375.
- _____ Montana Land-Use License or Navigable Waters Easement—The construction, placement, or modification of a structure or improvement on land below the low water mark of navigable streams. Contact DNRC (406) 444-2074.
- _____ Water Right Permit—Required before constructing new or additional diversion, withdrawal, impoundment, or distribution works for appropriation of ground water or surface water. Contact DNRC (406) 444-6614.
- _____ Lakeshore Protection Act—Any project in or near a body of water within a City's jurisdictional area. Contact city government offices.
- _____ Public water supply—New construction, alteration, extension or operation of a public water supply or non-State Revolving Fund (SRF) public sewage systems requires approval from the Department of Environmental Quality. Contact DEQ, Public Water and Subdivisions Review Bureau (406) 444-4400.
- Shoreline Protection—Any work in, over, or near any stream, river, lake, or wetland on the Flathead Reservation. Contact the Shoreline Protection Office at (406) 883-2888 or (406) 675-2700 ext. 7201.
- _____ UST Permits—Activities involving any type of work related to underground storage tanks (petroleum and hazardous substances). Contact DEQ, Technical Services Bureau (406) 444-1420.
- _____ RW-20 Permit—A permit is required when work is to be done within a Montana Department of Transportation (MDT) right-of-way. Contact the local MDT district office.
- _____ Floodplain Development Permit—Anyone planning new construction within a designated 100-year floodplain. Contact DNRC, Water Operation Bureau, Floodplain Management, (406) 444-0860 or local floodplain administrator.

PART III. INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE SUBDIVISION AND PLATTING ACT

Information specified in this part must be provided in addition to that required in Parts I and II of this application form, when the preparation of an environmental assessment is required by the Montana Subdivision and Platting Act.

A. *Geology.*

1. Locate on a copy of the preliminary plat, or on a plat overlay, any known hazards affecting the development that could result in property damage or personal injury due to:
 - a. Falls, slides or slumps—soil, rock, mud, snow; or
 - b. Seismic activity.
2. Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.
3. Identify any geological conditions that might affect development, such as areas of bed-rock, unsuitable soils, or high ground water. Describe any measures proposed to minimize the problems presented by the identified conditions.

B. *Vegetation.*

1. Locate on a copy of the preliminary plat, or on a plat overlay, the location of the major vegetation types such as marsh, grassland, shrub, and forest.
2. Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, streets, and open spaces).
3. Identify areas containing noxious weed growth. Describe proposed means of weed control, especially to prevent weed growth on areas disturbed by construction.

C. *Wildlife.*

1. Identify any major species of fish and wildlife use in the area to be affected by the proposed subdivision.
2. Locate on a copy of the preliminary plat, or on a plat overlay, any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.
3. Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and streets away from shorelines or setting aside marshland as undeveloped open space).

D. *Historical features.*

1. Describe and locate on a copy of the preliminary plat, or on a plat overlay, any known or possible historic, archaeological, or cultural sites that may be affected by the proposed subdivision.
2. Describe any plans to protect such sites or properties.

E. *Streets.*

1. Describe any required construction of new public or private access streets or substantial improvements to existing public or private access streets.
2. Describe the proposed closure or modification of any existing streets.
3. If any of the individual lots is accessed directly from an arterial street or street, explain why access was not provided by means of a frontage street or a street within the subdivision.
4. Indicate who will pay the costs of installing and maintaining dedicated or private roadways.
 - a. Estimate how much daily traffic the subdivision, when fully developed, will generate on existing streets and arterials.
 - b. Discuss the capability of existing and proposed streets to safely accommodate this increased traffic.
 - c. Describe any increased maintenance problems and cost that will be caused by this increase in volume.
5. Describe any potential year-round accessibility concerns for conventional automobiles over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision.

Identify the owners of any private property over which access to the subdivision will be provided and indicate whether easements for access have been obtained from those landowners.

F. *Utilities.*

1. Identify the utility companies involved in providing electrical power, natural gas, and telephone service. Indicate whether utility lines will be placed underground.
2. Identify on the preliminary plat or overlay the locations of any needed utility easements [as required by 76-3-608(3)(c), MCA].
3. Indicate whether the preliminary plat has been submitted to affected utilities for review.
4. Estimate the completion date of each utility installation.

G. *Emergency services.*

1. Describe the emergency services available to the residents of the proposed subdivision, including number of personnel and number of vehicles or type of facilities and street distance to facilities for:
 - a. Fire protection. Indicate whether the proposed subdivision is in an urban or rural fire district. If not, describe plans to form or extend an existing fire district, or describe other fire protection procedures. Where applicable, provide information regarding subdivisions planned in areas of high fire hazards.
 - b. Police protection.
 - c. Ambulance service.

- d. Medical services.
2. Indicate whether the needs of the proposed subdivision for each of the above services will be met by present personnel and facilities.
 - a. If not, describe the additional expenses necessary to make these services adequate.
 - b. Explain who will pay for the necessary improvements.
- H. *Schools.*
 1. Describe the available educational facilities that would serve this subdivision and the street distance to each.
 2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.
- I. *Land use.*
 1. Describe land uses on lands adjacent to the subdivision.
 2. Describe any comprehensive plan or other land use regulations covering the area proposed for subdivision or adjacent land. If the subdivision is located near an incorporated city or city, describe any plans for annexation.
 3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands (e.g., grazing, logging, and recreation). Describe how the subdivision will affect access to any public lands.
 4. Describe any health or safety hazards on or near the subdivision, such as mining activity, high-pressure gas lines, dilapidated structures, high-voltage power lines or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.
 5. Describe any on-site or off-site uses creating a nuisance such as unpleasant odor, unusual noises, dust or smoke. Any such conditions should be accurately described and the origin and location of each identified.
- J. *Parks and recreation facilities.* Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

POSSIBLE SOURCES OF INFORMATION TO CONTACT WHEN COMPLETING THE FORM**Local Agencies**

County Health Department	School District
City Public Works	City Fire Department
Sheriffs Department	Conservation District
Hospital or Ambulance Service	County Extension Service
Chamber of Commerce	Planning Board Staff
Telephone, Electrical Power, Gas, and Cable Companies	City Floodplain Administrator

State Agencies

State Agencies	Information	Location
Dept. of Fish, Wildlife, and Parks (FWP)	Fisheries, vegetation and wild-life	Helena and regional offices
Dept. of Environmental Quality (DEQ)	Water quality	Helena
Dept. of Transportation or regional	Access to state highways traffic data maps, aerial photographs	Helena offices
Dept. of Natural Resources and Conservation (DNRC)	Surface and ground water, floodplains, well logs, water rights, fire hazards	Helena and regional offices
Bureau of Mines and Geology and Billings	Geology, ground water, water quality well logs, topographic maps	Butte

Federal Agencies

Federal Agencies	Information	Location
Farm Service Agency	Aerial photographs	Missoula or Plains offices
Bureau of Land Management	Vegetation, maps, topography	Missoula offices
Forest Service	Topography, surface water, soil maps, vegetation, wildlife and fire hazards, maps	Missoula regional, national forest district offices
Geological Survey	Geology, surface and ground water, water quality, floodways, topographic maps	Helena
Natural Resources Conservation Service	Soils, surface water, flood hazards, erosion	Plains offices

**APPENDIX 12 DEQ SUBDIVISION CHECKLIST
(LOTS AND TRACTS UNDER 20 ACRES)**

Subdivision: _____

City: Thompson Falls

E.Q. Number provided by DEQ: _____

Please complete the checklist with your initials or N/A.

Initial or N/A			Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	City	DEQ			
			1. Have deviation or waiver requests been submitted with appropriate fee?	17.36.601	
			2. Is check included with correct fee?	17.36.103(1)(a)	
			3. Is application included with owner's signature/address/phone/date?	17.36.102(1)&(2)	
			4. Is legible copy of preliminary plat or COS included?	17.36.103(1)(n)	
			5. Is legal description included on the preliminary plat or COS?	17.36.103(1)(n)	
			6. Are all lots described on survey being reviewed and any exclusions clearly state on preliminary plat or COS?	17.36.103(1)(n), 17.36.605	
			7. Are state letters of approval included (DNRC, groundwater discharge permit, public water, etc.)?	17.36.103	
			8. Is local health officer approval included?	17.36.102(3)&(6), 17.36.108(2)	
			9. Are planning board or city council comments included?	17.36.103(1)(o)	
			10. Is a clear copy of USGS or other topo map included to show ground slope of property?	17.36.103(1)(h), (SWTS) 17.36.310 (SW), 17.36.322 (SWTS siting)	
			11. Are four copies of lot layout included with the subdivision name on each?	17.36.103(1)(d), 17.36.104	
			12. Is all required information (e.g., scale, legend, north arrow, etc.) included on the lot layout?	17.36.103(1)(d), 17.36.104	
			13. Are locations of water and sewer mains shown?	17.36.103(1)(d), 17.36.104	
			14. Are on-site sewer systems designed in conformance with DEQ 4?	17.36.320	
			15. Is the slope given for drainfield areas?	17.36.103(1)(h), 17.36.322	

Initial or N/A			Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	City	DEQ			
			16. Are drainfields orientated along land contours to meet depth requirements?	17.36.322, DEQ 4, Chap. 8	
			17. Are drainfield replacement areas shown?	17.36.104(2), Table 1	
			18. Are minimum setback requirements met?	17.36.323	
			19. Is adequate test pit (eight-foot excavation) data provided?	17.36.103(l)(h), 17.36.325	
			20. Is SCS/NRCS soils data provided?	17.36.325(3)	
			21. Is information to verify depth to seasonal high ground water or bedrock provided?	17.36.103(1)(h), 17.36.106(2), 17.36.325(2)	
			22. If conducted, does perc test value(s) correspond to soil type?	17.36.103(1)(h)	
			23. Are wells, 100-foot well isolation zone, mixing zones, and ground water flow direction (verified by wells or other documentation) shown?	17.36.103(1)(e), 17.30.501-518	
			24. Is adequate water supply substantiated?	17.36.103(1)(f), 17.36.330	
			25. Are water quality analyses (nitrate, specific conductivity, and bac-T (for existing wells) provided, along with well log and well location?	17.36.103(1)(f), 17.36.330, 17.36.335	
			26. Is existing well over 25 feet in depth?	17.36.335, 16.36.331(1)(e)	
			27. Will surface water, spring or cistern system be disinfected and filtered?	17.36.336	
			28. Is nondegradation addressed and supporting data to determine background water quality, hydraulic conductivity and hydraulic gradient provided?	17.36.103(1)(j), 17.30.501—518, 17.30.715	
			29. Is nitrate level at end of mixing zone < 5 ppm (< 7.5 ppm, if level 2 provided), and phosphorous breakthrough > 50 years and trigger analysis for n and p addressed?	17.36.103(1)(o), 17.30.715	
			30. Are shared users agreements included for shared well, drainfields and/or easements?	17.36.103(1)(p), 17.36.326(3)	
			31. Is a copy of the local septic permit (if issued) for an existing septic system provided?	17.36.327	

SUBDIVISION REGULATIONS

Initial or N/A			Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	City	DEQ			
			32. Is a septic pumper's report stating an existing septic tank has been pumped within the last three years provided?	17.36.327	
			33. Is evidence demonstrating proper hydraulic functioning of an existing septic system provided?	17.36.327	
			34. Are wells, drainfields and/or mixing zones within 100-foot perimeter outside of subdivision boundaries shown?	17.36.103(1)(e), 17.30.501-518, 17.30.706	
			35. Is proposed subdivision within 500 feet of public water supply and/or sewer system?	17.36.328(1)	
			36. Is authorized statement to connect to existing public water and/or sewer system and statement of adequate capacity provided?	17.36.103(1)(g), 17.36.328(2)(b)	
			37. Is existing public water system approved by DEQ and PWS number provided?	17.36.328(2)(b) and (c)	
			38. Do appropriate water rights exist for the public water connection?	17.36.328(2)(b)	
			39. If needed, are easements for water and/or sewer systems/lines shown?	17.36.103(1)(n) and (o)	
			40. Are plans and specs (three copies) stamped and signed by PE?	17.36.103(1)(b) and (c)	
			41. Is letter from owner stating "as-builts" will be submitted included?	17.36.314	
			42. Are 100-year floodplain requirements met, and floodplains and drainages shown?	17.36.104, 17.36.106(2)(c), 17.36.324	
			43. Is solid waste disposal addressed?	17.36.103(1)(l), 17.36.309 (waste stored on-site)	
			44. Has storm water drainage been addressed?	17.36.103(j), 17.36.104(2), 17.36.310, DEQ 8	

Notes:

Applicant/Representative:

Name _____ Signature _____ Date ___/___/___

City Reviewer:

Name _____ Signature _____ Date __/__/__

DEQ reviewer:

Name _____ Signature _____ Date __/__/__

Revised 9/14

APPENDIX 13 REVIEWING FOR GROWTH POLICY COMPLIANCE, EVALUATION CHECKLIST (FOR OVERALL DEVELOPMENT PLANS AND PROPOSED SUBDIVISIONS)

EVALUATION CHECKLIST (for Overall Development Plans and Proposed Subdivisions)

	Project Consistency												Comments on Consistency, Proposed/Potential Mitigation Measures		
	As Proposed						With Additional Mitigation								
	0	1	2	3	4	5	N/A	0	1	2	3	4		5	N/A
<p><i>Note: Mitigation scale is 0—5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.</i></p> <p>GOALS & OBJECTIVES</p> <ul style="list-style-type: none"> Provide for orderly development of the Thompson Falls Planning Area. Maintain the Opportunity for Rural Lifestyle <p>Land Use.</p> <ul style="list-style-type: none"> Encourage development in areas with few environmental hazards in order to minimize both the degradation of the natural environment due to urbanization and the loss of capital investment and life due to natural disasters. Preserve, protect and improve potable water quantity and quality in Thompson Falls. Maintain the quality of the city's wildlife habitat and open space. <p>Public Safety.</p> <ul style="list-style-type: none"> Ensure that all fire service entities are providing adequate firefighting and emergency response services, apparatus, equipment, personnel, training and facilities. Recognize the significance of the contributions made by the volunteer members of the fire entities in Thompson Falls. Establish safe pedestrian and bicycle access in designated areas of the city as part of the non-motorized circulation system. 															

	Project Consistency											Comments on Consistency, Proposed/Potential Mitigation Measures				
	As Proposed						With Additional Mitigation									
	0	1	2	3	4	5	N/A	0	1	2	3		4	5	N/A	
<p><i>Note: Mitigation scale is 0—5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.</i></p> <p><i>Utilities.</i></p> <ul style="list-style-type: none"> • Create an effective land use pattern that permits the logical and effective extension of utilities. <p><i>Transportation.</i></p> <ul style="list-style-type: none"> • Maintain and improve the condition and operational level of service of the existing road system. • Identify and protect future road corridors to serve future developments and public lands. • Construction of roads serving developing areas should occur when and where public facilities can be provided in an efficient manner. • Establish accessibility guidelines in order to provide adequate access for emergency services to residents of Thompson Falls. • Assist Sanders County with its efforts to maintain and enhance the capacity of the Thompson Falls Airport. <p><i>Housing.</i></p> <ul style="list-style-type: none"> • All residents deserve to have the opportunity to obtain safe, sanitary, and affordable housing. <p><i>Economic Development.</i></p> <ul style="list-style-type: none"> • Encourage the retention and expansion of existing businesses. 																

Conclusions:

1. As proposed, the project **DOES/DOES NOT** substantially comply with the City of Thompson Falls Growth Policy; **OR**
2. Additional mitigation measures **ARE/ARE NOT** needed to bring the project into substantial compliance with the growth policy.

Evaluated by _____ Date _____

City Planning Board

APPENDIX 14 SAMPLE NOTIFICATION LETTER (AFTER SUBDIVISION APPLICATION IS SUBMITTED)

NOTE: After Subdivision Application is submitted and determined to be sufficient

[Date Mailed]

TO: Adjacent Property Owners
Lien Holders
Easement Holders
Potentially Affected Water Users
Potentially Affected Property Owner Associations
Review Agencies

FROM: **[Landowner name and contact information. Also, name and contact information for landowner's representative, if pertinent]**

RE: **[Proposed Subdivision and Legal Description of Site]**

This is to notify you that the proposed **[name of subdivision]** has been submitted to City of Thompson Falls and will be reviewed by the Thompson City Planning Board as follows:

- **[day and date of meeting]**
- **[approximate meeting time]**
- **[meeting location]**

The subdivision application may be reviewed at the City of Thompson Falls. A vicinity map and project summary are enclosed.

Your comments to the Planning Board about the project are welcomed, either prior to or at the meeting. If you wish to write or call in your comments, please address them to: City of Thompson, P.O. Box 99, Thompson Falls, MT 59873; phone (406) 827-3557, fax (406) 8273080. Email address: tfl3557@blackfoot.net.

Enclosures

cc: Thompson City Planning Board

APPENDIX 15 FINAL PLAT CHECKLIST

Section A: Completed by Subdivider

Name of Preliminary Plat: _____

Location: _____

Property Owner: _____

Legal Description: _____

Property Geocode/Parcel ID: _____

Date of Completion by Subdivider: _____

Subdivider Explanatory Comments: _____

Section B: Completed by Planner

	Date:	By:	Comment:
Application Received:			
Clerk and Recorder Review			
Examining Land Surveyor Review (if existing)			
Signed Mylar Copies Received:			
Submitted to City Council:			

Section C: Completed by Subdivider and Planner

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
Final Plat Application Form (Appendix 17)			
Final Plat Review Fee.			
Final Plat or Plan			
Submitted in accordance with the Montana Uniform Standards for Final Subdivision Plats			
a. Two blueline copies.			
b. Digital copy.			
c. Two signed/notarized mylar plats (AFTER preliminary review complete).			

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
<i>Face of the Final Plat (or Plan) shall include:</i>			
d. Vicinity map.			
e. Approved land uses (e.g., agricultural, residential, commercial, industrial, mixed use)			
f. When required by the conditions of subdivision approval:			
1. Water bodies.			
2. Floodplain.			
3. Construction setback from any river or stream.			
4. Building envelopes.			
5. No-build areas.			
6. Ground elevations.			
7. Other (as required by conditions of subdivision approval).			
<i>Final Plat/Plan Supplements - ORIGINAL documents required at time final plat is considered by Commissioners, copies acceptable for review:</i>			
a. Certificate of a title abstractor (title company).			
b. Covenants (plat approval covenants and/or owner association covenants) or deed restrictions relating to the subdivision.			
c. Certificate from the Montana Department of Environmental Quality approving Municipal Facilities Exemption			
d. Subdivider's certificate indicating which public improvements have been installed.			
e. Subdivision improvements agreement and financial guaranty (bond, letter of credit, escrow agreement).			
As applicable:			
f. Bylaws for any condominium association being created at the time of final plat approval.			
<i>Final Plat/Plan Supplements (copies acceptable):</i>			
g. Letter of preliminary plat approval.			
h. Written consent of any conservation easement holder.			
i. Copy of any easement or document confirming legal access to the subdivision.			
j. Articles of incorporation and bylaws for any home owners association for the subdivision (ORIGINAL bylaws required for condominium association created at time of subdivision).			

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
k. Street addressing plan approved by the City including route map showing street address ranges, driveway location distance from intersection, and specify street to serve corner lots.			
l. Copy of any pertinent water-related permits (e.g., floodplain development permit from City, stormwater discharge permit from DEQ, 404 permit from U.S. Army Corps of Engineers, and/or 310 permit from local conservation district.			
m. Copy of approval of noxious weed management plan (Appendix 18).			
n. Letter of final public safety review.			
o. Final overall phasing plan and phasing schedule.			

City Comments:

APPENDIX 16 FINAL PLAT APPLICATION FORM

Applicant Information	
Landowner(s)	
Name:	
Address:	
Telephone:	
E-mail:	
Landowner(s) Signature and Date:	
Landowner(s) Representative:	
Name:	
Address:	
Telephone:	
E-mail:	
Representative Signature and Date:	
Subdivision Information	
Name of Preliminary Plat:	
Location: (1/4) Section ____ Township ____ Range ____	
Date of Preliminary Plat Approval:	
Descriptive Data:	
_____	Total area (of final plat) in acres:
_____	Total acreage in lots/spaces/units:
_____	Total number of lots/spaces/units:
_____	Maximum size of lots:
_____	Minimum size of lots:
_____	Total acreage in parks, open space, and/or common facilities:
_____	Total acreage in separate street parcels:

Land Use(s) Indicate the number of lots or spaces in each category.
Residential, single family
Residential, multi-family: <i>Indicate types of multi-family structures and number of each, e.g., duplex, four-plex</i>
Mobile Home Park
Recreational Vehicle Park
Condominiums or Cityhouses: <i>Indicate types of structures and number of each.</i>
Commercial
Industrial
Other (please describe):

Final Plat Submittal Package	
<input type="checkbox"/>	Final Plat (or plan) enclosed.
<input type="checkbox"/>	Final Plat Supplements enclosed.
<input type="checkbox"/>	Final Plat checklist enclosed.
<input type="checkbox"/>	Final Plat review fee(s) enclosed.

Note:

Pursuant to the City of Thompson Falls Subdivision Regulations, the City of Thompson Falls Council may revoke a subdivision approval if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate. Therefore, please complete the application package accurately and provide all information requested.

**APPENDIX 17 SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT; GUARANTEES,
AND LETTER OF CREDIT**

[Sample adapted from State Model
Subdivision Regulations, 2020]

MODEL SUBDIVISION IMPROVEMENT AGREEMENT

The parties to this Subdivision Improvements Agreement ("this agreement") are _____ ("the subdivider") and City of Thompson Falls.

WHEREAS, the subdivider desires to defer construction of improvements described in Attachment B;

WHEREAS, the purpose of this agreement is to protect the City of Thompson Falls and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the subdivision, or for the benefit of lot or home buyers in the subdivision; and

WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by state law and the City of Thompson Falls subdivision regulations.

NOW THEREFORE BE IT RESOLVED, The parties hereby agree as follows:

1. Effective Date: The effective date of this agreement shall be the date that final subdivision plat approval is granted by the City of Thompson Falls.
2. Attachments: The attachments cited herein are hereby made a part of this agreement.

Subdivider's Obligations

3. Improvements: The subdivider shall construct and install, at his own expense, those subdivision improvements listed in Attachment B of this agreement. The subdivider's obligation to complete the improvements shall arise upon approval of the final subdivision plat, shall not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and shall be independent of any obligations of the City of Thompson Falls contained in this agreement.
4. Security: To secure the performance of his obligations under this agreement, the subdivider shall deposit with the City of Thompson Falls on or before the effective date, an irrevocable letter of credit (*or other financial security acceptable to the local officials*) in the amount of \$_____. The letter of credit shall be issued by ___(lending institution)___, be payable at sight to the City of Thompson Falls and bear an expiration date not sooner than four years after the effective date of this agreement. The letter of credit shall be payable to the City of Thompson Falls at any time upon presentation of: (1) a sight draft drawn on the issuing lending institution in the amount up to \$_____; (2) a signed statement or affidavit executed by an authorized City of Thompson Falls official stating that the subdivider is in default under this agreement; and (3) the original copy of the letter of credit.

5. Standards: The subdivider shall construct the required improvements according to the standards and specifications required by the City of Thompson Falls as specified in Attachment D of this agreement.
6. Warranty: The subdivider warrants that each and every improvement shall be free from defects for a period of one year from the date that the City of Thompson Falls accepts the dedication of the last improvement completed by the subdivider.
7. Commencement and Completion Periods: The subdivider shall complete all of the required improvements within one year from the effective date of this agreement.
8. Compliance with Law: The subdivider shall comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this agreement.

City of Thompson Falls Obligations

9. Inspection and Certification:
 - a. The City of Thompson Falls shall provide for inspection of the improvements as they are completed and, where found acceptable, shall certify those improvements as complying with the standards and specifications set forth in Attachment D of this agreement. The inspection and certification, shall occur within 14 days of notice by the subdivider that the improvements are complete and he desires City of Thompson Falls inspection and certification. Before requesting City of Thompson Falls certification of any improvement the subdivider shall present to the City of Thompson Falls valid lien waivers from all persons providing materials or performing work on the improvement.
 - b. Certification by the City of Thompson Falls does not constitute a waiver by the City of Thompson Falls of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.
10. Notice of Defect: The City of Thompson Falls shall provide timely notice to the subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment D, or is otherwise defective. The subdivider shall have 30 days from the date the notice is issued to remedy the defect. The City of Thompson Falls may not declare a default under this agreement during the 30-day remedy period unless the subdivider clearly indicates he does not intend to correct the defect. The subdivider shall have no right to correct the defect in, or failure of, any improvement found after the City of Thompson Falls accepts dedication of the improvements.
11. Reduction of Security: After the acceptance of any improvement, the amount that the City of Thompson Falls is entitled to draw on the letter of credit shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment B. At the request of the subdivider, the City of Thompson Falls shall execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent

of the amount. Upon the certification of all of the improvements the balance that may be drawn under the credit shall be available to the City of Thompson Falls for the one-year warranty period plus an additional 90 days.

12. Use of Proceeds: The City of Thompson Falls shall use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

Other Provisions

13. Events of Default: The following conditions, occurrences or actions shall constitute a default by the subdivider during the completion period:
 - a. Failure to complete construction of the improvements within one year of final subdivision plat approval;
 - b. Failure to remedy the defective construction of any improvement within the remedy period;
 - c. Insolvency of the subdivider or the filing of a petition for bankruptcy;
 - d. Foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.
14. Measure of Damages: The measure of damages for breach of this agreement shall be the reasonable cost of completing the improvements. For purposes of this agreement the estimated cost of the improvements as specified in Attachment B shall be prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the subdivider's liability. The City of Thompson Falls shall be entitled to complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the subdivision or whether development ever was commenced.
15. Local Government Rights Upon Default:
 - a. Upon the occurrence of any event of default, the City of Thompson Falls may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost (as shown in Attachment B) of all improvements previously certified by the City of Thompson Falls. The City of Thompson Falls shall have the right to complete improvements itself or contract with a third party for completion, or the City of Thompson Falls may assign the proceeds of the letter of credit to a subsequent subdivider who has acquired the subdivision and who shall have the same rights of completion as the City of Thompson Falls if and only if the subsequent subdivider agrees in writing to complete the unfinished improvements.

- b. In addition, the City of Thompson Falls may suspend final plat approval during which time the subdivider shall have no right to sell, transfer or otherwise convey lots or homes within the subdivision without the express approval of the City of Thompson Falls or until the improvements are completed and certified by the City of Thompson Falls.
16. Indemnification: The subdivider agrees to indemnify and hold the City of Thompson Falls harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this agreement. The subdivider is not an employee or agent of the City of Thompson Falls.
17. Amendment or Modification: The parties to this agreement may amend or modify this agreement only be written instrument executed on behalf of the City of Thompson Falls and by the subdivider.
18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this agreement, the prevailing party, whether plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each shall bear its own costs in their entirety.
19. Third Party Rights: No person or entity who is not party to this agreement shall have any right of action under this agreement, except that if the City of Thompson Falls does not exercise its rights within 60 days following an event of default, a purchaser of a lot or home in the subdivision may bring an action in mandamus to compel the City of Thompson Falls to exercise its rights.
20. Scope: The agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this agreement shall be binding on the parties.
21. Time: For the purpose of computing the commencement and completion periods, and time periods City of Thompson Falls actions, times in which war, civil disasters, acts of God or extreme weather conditions occur shall not be included if the events prevent the subdivider or the City of Thompson Falls from performing the obligations under this agreement.
22. Assigns: The benefits of this agreement to the subdivider may not be assigned without the express written approval of City of Thompson Falls. Such approval may not be withheld unreasonable, but any unapproved assignment is void. There is no prohibition on the right of the City of Thompson Falls to assign its rights under this agreement.

The City of Thompson Falls shall release the original subdivider's letter of credit if it accepts new security from any subdivider or lender who obtains the property. However, no action by the City of Thompson Falls shall constitute a release of the original subdivider from his liability under this agreement.

23. Severability: If any part, term or provision of this agreement is held by the courts to be illegal the illegality shall not affect the validity of any other part, term or provision, and the rights of the parties shall be construed as if the part, term or provision were never part of the agreement.

Dated this ____ day of _____, 20__.

City of Thompson Falls Mayor

Subdivider

ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider default on installing the improvements. A suggested irrevocable letter of credit and commentary are included as part of this appendix. The other common guaranties are also explained below.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125 percent of the engineer's estimated total cost of installing all required improvements.

1. Letter of Credit. Subject to city council approval, the subdivider shall provide the city council an irrevocable letter of credit from a bank or other reputable institution or individual certifying the following:
 - a. That the creditor guarantees funds in the amount approved by the city council.
 - b. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the city council upon presentation of a sight draft without further actions, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit state in the letter.
 - c. That this letter of credit may not be withdrawn, or reduced in amount, until released by the city council.
2. Escrow Account. The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the city council or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the city council.

Where an escrow account is to be used, the subdivider shall give the city council an agreement with the bank guaranteeing the following:

 - a. That the funds in the escrow account are to be held in trust until released by the city council and may not be used or pledged by the subdivider as security for any obligation during that period.
 - b. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the city council for completing these improvements.
3. Property Escrow. The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used, accounting for the possibility of a decline in its value during the guarantee period, shall be established by a licensed real estate appraiser at the subdivider's expense. The city council may reject the use of property

as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

When property is offered as an improvement guarantee, the subdivider shall:

- a. Make an agreement with the escrow agent instructing the agent to release the property to the city council in the case of default. The agreement shall be placed on file with the Sanders County clerk and recorder.
 - b. File with the city council an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.
 - c. Execute and file with the city council an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the city council.
4. Surety Performance Bond. The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the city council and countersigned by a Montana agent. The bond shall be payable to the City of Thompson Falls. The bond shall be in effect until the completed improvements are accepted by the city council.
5. Special Improvements District. The city council may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the city council to create a rural improvement district pursuant to 7-12-2102, MCA.

An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either 7-12-2109 or 7-12-4110, MCA. This waiver must be filed with the Sanders County clerk and recorder and will be deemed to run with the land.

**MODEL
IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. _____

Date

City of Thompson Falls

Address

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit #_____ for the account of _____ (subdivider), available by your drafts at sight up to an aggregate amount of \$_____. Should _____ (subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for _____ (name of subdivision), we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein; as are required to complete said improvements.

All drafts must be presented prior to expiration date and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

Drawn under _____ (lending institution), Letter of Credit #_____ dated _____ (date of Letter of Credit), and the amount drawn endorsed on the reverse hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this credit that these drafts shall be duly honored upon presentation to the drawee.

This Letter of Credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Lending Institution)

(Signature and Title of Official)

APPENDIX 18 SAMPLE CERTIFICATES

Certificate of Completion of Public Improvements

Certificate of Surveyor—Final Plat

Certificate of Dedication—Final Plat

Certificate of Consent to Dedication by Encumbrances

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

Certificate of Examining Land Surveyor Where Required—Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval—City

Certificate of Filing by Clerk and Recorder

Certificate of Completion of Public Improvements Agreement

(To be submitted with application for approval of final subdivision plat)

CERTIFICATE OF COMPLETION

I, (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), a registered professional engineer licensed to practice in the State of Montana, hereby certify that the following public improvements, required as a condition of approval of (Name of Subdivision), have been installed in conformance with the attached engineering specifications and plans:

(List the improvements actually installed.)

_____	_____
Signature of Subdivider	Date
_____	_____
Signature of Professional Engineer	Date
Registration No. _____	(Engineers Seal)

Address	

Certificate of Surveyor—Final Plat

STATE OF MONTANA)
) ss.
City of _____)

I, (Name of Surveyor), a professional land surveyor, do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this ____ day of _____, 20__.

_____	_____
Signature of Surveyor	(Seal)
Registration No. _____	

(Address)	

Certificate of Dedication—Final Plat

(I)(We), the undersigned property owner(s), do hereby certify that (I)(We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in City of Thompson Falls, to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above-described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this ____ day of _____, 20__.

(Acknowledged and notarized signatures of all record owners of platted property)

Consent to Dedication by Encumbrancers, If Any

(I)(We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my)(our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this ____ day of _____, 20__.

(Acknowledged and notarized signatures of all encumbrances of record)

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

I, _____, the Clerk of Sanders County, Montana, do certify that the following order was made by the (City of Thompson Falls Council) at a meeting thereof held on the ____ day of _____, 20__, and entered into the proceedings of said body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (City of Thompson Falls City Council) that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of (City of Thompson Falls), Montana this ____ day of _____, 20__.

(Seal)

(Signature of Clerk)

Certificate of Examining Land Surveyor Where Required—Final Plat

I, (Name of Examining Land Surveyor), acting as an examining land surveyor for (City of Thompson Falls), Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this ____ day of _____, 20__.

(Signature)
(Name of Surveyor)
Registration No. _____
(City or City)

Certificate of Sanders County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (name of subdivision) have been paid:

(legal description of land)

Dated this ____ day of _____, 20__.

(seal) (Signature of Sanders County Treasurer)
County Treasurer, _____ County, Montana

Certificate of Final Plat Approval—City of Thompson Falls

The city council of City of Thompson Falls, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this ____ day of _____, 20__.

(Signature of Mayor)

ATTEST:

(Signature of Clerk and Recorder)
_____, Montana

(Seal of City of Thompson Falls)

Certificate of Filing by Clerk and Recorder

STATE OF MONTANA)

) ss.

Sanders County _____)

Filed for record this ____ day of _____, 20____, _____ o'clock.

(Signature of Clerk and Recorder)

County Clerk and Recorder, _____, Sanders County, Montana

APPENDIX 19 SUMMARY OF EXEMPTIONS FROM SURVEY REQUIREMENTS, SUBDIVISION REVIEW, AND SANITATION REVIEW

Exemptions from:	Surveying Requirements		Subdivision Review		Sanitation Review*	
	Exempt	Citation Allowing the Exemption	Exempt	Citation Allowing the Exemption	Exempt	Citation Allowing the Exemption
Within Platted Subdivisions						
Aggregation of Lots for 5 or fewer lots	No	—	Yes	76-3-207(1)(f), MCA	Yes (2)	76-4-125(2)(b),(c),(d), MCA
Boundary Relocation for 5 or fewer lots	No	—	Yes	76-3-207(1)(d), MCA	Yes (2)	76-4-125(2)(b), (c), (d), MCA
Boundary Relocation With Platted & Unplatted Lane	No	—	Yes	76-3-207(1)(e), MCA	No	—
Condominiums	No	—	Yes	76-3-203, MCA	No (3)	76-4-111, MCA
Outside of Platted Subdivisions						
Boundary Relocation	No	—	Yes	76-3-207(1)(a), MCA	No	—
Family Transfer	No	—	Yes	76-3-207(1)(b), MCA	No	—
Agricultural Covenant	No	—	Yes	76-3-207(1)(c), MCA	Yes	ARM 17.36.605
Aggregation of Parcels	No	—	Yes	76-3-207(1)(f), MCA	No	—
Condominiums	No	—	No	—	No	—
Within and Outside of Platted Subdivisions						
Major Subdivision	No	—	No	—	No	—
Minor Subdivision	No	—	No	—	No	—
Eminent Domain, Condemnation, Order of Court	Yes (5)	76-3-201(a), MCA	Yes	76-3-201(a), MCA	Yes	76-4-125(2)(a), MCA
Security for Const. Mortgage, Lien, Trust Indenture	Yes(5)	76-3-201(b), MCA	Yes	76-3-201(b), MCA	Yes	76-4-125(2)(a), MCA
Oil, Gas, Water or Mining Claim	Yes (5)	76-3-201(c), MCA	Yes	76-3-201(c), MCA	Yes	76-4-125(2)(a), MCA
Cemetery Lots	Yes (5)	76-3-201(d), MCA	Yes	76-3-201(d), MCA	Yes	76-4-125(2)(a), MCA
Life Estate	Yes (5)	76-3-201(e), MCA	Yes	76-3-201(e), MCA	Yes	76-4-125(2)(a), MCA
Farming and Agricultural Lease (6)	Yes (5)	76-3-201(f), MCA	Yes	76-3-201(f), MCA	Yes	76-4-125(2)(a), MCA
Location where State does not have Jurisdiction	Yes (5)	76-3-201(g), MCA	Yes	76-3-201(g), MCA	Yes	76-4-125(2)(a), MCA
Rights-of-Way, Utility Sites (6)	Yes (5)	76-3-201(h), MCA	Yes (6)	76-3-201(h), MCA	Yes (6)	76-4-125(2)(c), MCA
Airport Land for Lease, Rental	Yes (5)	76-3-205(1), MCA	Yes	76-3-205(1), MCA	—	—
Certain State-Land Divisions	Yes	76-3-205(2), MCA	Yes	76-3-205(2), MCA	No	—
Highway Acquisition	Yes	76-3-209, MCA	Yes	76-3-209, MCA	Yes	ARM 17.36.605
Retracement Surveys	No	—	Yes	Implicit	Yes	Implicit
Correction Survey	No	—	Yes	Implicit	Yes	Implicit

Exemptions from:	Surveying Requirements		Subdivision Review		Sanitation Review*	
	Exempt	Citation Allowing the Exemption	Exempt	Citation Allowing the Exemption	Exempt	Citation Allowing the Exemption
Affidavit of Correction	Possibly	Implicit	Yes	Implicit	Yes	Implicit
<p>Notes</p> <ol style="list-style-type: none"> 1 This is a summary only, intended to show the various exemptions in a simple format. Specific provisions of this Code and state law apply in all cases. 2 Exempt only when the lots are served by public water and sewer, or the plat indicates such facilities will not be erected. 3 Exempt unless subdivision causes facilities previously approved to deviate from conditions of approval. See ARM 17.6.605. 4 Exempt only when the subdivision meets all of the requirements as outlined in 76-4-124, MCA. 5 A survey may be filed if the applicable exemption is cited on the face of the plat. 6 Subsequent change in use requires subdivision review. <p>* Sanitarian exemption shall be stated in entirety on survey.</p>						

APPENDIX 20 REQUEST FOR EXEMPTION REVIEW

Note to applicant: The purpose of this review is to enable City of Thompson Falls officials to determine whether or not the proposed use of an exemption from local subdivision review would evade the Montana Subdivision and Platting Act. You will be notified of the exemption review board's decision within 20 working days of submittal of a complete application to the Thompson City Planning Board. (A complete application consists of the review fee and three copies of the request for exemption review, certificate of survey (as required) and supporting documents.

1. Landowner *(if more than two landowners, please attach additional sheets)*

A. Name Address	E-mail: Phone
B. Name Address	E-mail: Phone

2. Surveyor

Name Address	Firm: Phone
---------------------	--------------------

3. Existing Parcel(s) *(if more than two parcels, please attach additional sheets)*

A. Location _____ Section _____, Township _____ Range _____ Other Legal Description: Geocode #25-____-____-____-____-____-____-____ (2) (4) (2) (1) (2) (2) (4) When was the parcel created <i>(example: Occasional Sale COS 999, 5/1/92)</i> ? Has a subdivision application for the parcel been withdrawn or denied? ____ Yes ____ No

B. Location

_____ Section _____, Township _____ Range _____

Other Legal Description:

Geocode #25-____-____-____-____-____-____-____
 (2) (4) (2) (1) (2) (2) (4)

When was the parcel created (*example: Occasional Sale COS 999, 5/1/92*)?

Has a subdivision application for the parcel been withdrawn or denied? ____ Yes ____ No

4. Type of Exemption and Reason or Justification

Gift or Sale to Immediate Family Member ("Family Transfer")

Recipient(s)	Relationship to Claimant	Age

- Attach copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.
- If recipients are under age 18, attach documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act, etc.

Date Landowner(s) became sole owner(s) of parcel to be divided.

Agricultural Exemption

Description of current and proposed agricultural use:

Explanation of eligibility under 15.7.202, MCA:

Relocation of Common Boundary Lines Outside or Adjoining a Platted Subdivision

Describe and provide documentation showing the need or reason for the relocation: (attach supporting documentation)

Lot Aggregation/Relocation of Common Boundary Lines within Platted Subdivision

Describe and provide documentation showing the need or reason for the relocation: (attach supporting documentation)

<input type="checkbox"/> Security for Construction ("Mortgage Exemption") Attach signed and notarized statement from lending institution confirming that the exempt parcel is necessary to secure a construction loan for buildings or other improvements on the parcel or for refinancing.
<input type="checkbox"/> Other Reason/justification:

5. Intentions for Use

Claimants' and recipients' intentions for the use of each parcel (including existing, new and remainder parcels) <i>(i.e. will the parcel(s) be used for agriculture, residences, etc.?)</i> :
--

6. Intentions for Disposition

Claimants' and recipients' long term and short term intentions for the disposition of each parcel (including existing, new and remainder parcels) <i>(i.e. after this transaction is finalized, will the parcels be retained by recipient, sold, gifted, etc.?)</i> :

7. Attachments

Certificate of Survey
Certificate of Exemption, signed and notarized
Copies of recorded deeds documenting present ownership for all affected parcels.
Copies of draft deeds for exchange of ownership, if any exchange is proposed.
Copies of draft deed restrictions or covenants, if any.
Documentation supporting the proposed exemption.
(Family Transfer) Copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.
(Family Transfer) If recipients are under age 18, documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act, etc.
(Mortgage Exemption) Statement from lending institution confirming need.
(Ag Exemption) Draft deed(s) for transferring property or copy of agreement to buy and sell.

8. Acknowledgements (initialed by all landowners)

I understand that the State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Montana Subdivision and Platting Act.

Landowner Initials: (A) _____ (B) _____

I affirm that this exemption claim is not an attempt to evade the Montana Subdivision and Platting Act.

Landowner Initials: (A)_____ (B)_____

I recognize that I may be subject to penalty if my actions are deemed to be an effort to evade subdivision review, as set forth in the Montana Code Annotated:

- 76-3-301(3). If transfers not in accordance with this chapter [i.e., Chapter 3, Local Regulation of Subdivisions] are made, the city attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of this chapter. The cost of such action shall be imposed against the party not prevailing.
- 76-3-105 Violations. Any person who violates any provision of this chapter [i.e., Chapter 3, Local Regulation of Subdivisions] or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than \$100.00 or more than \$500.00 or by imprisonment in a city jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of this chapter or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.
- 45-7-201. Perjury.
 - (1) A person commits the offense of perjury if in any official proceeding he knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made, when the statement is material.
 - (2) A person convicted of perjury shall be punished by imprisonment in the state prison for any term not to exceed ten years or shall be punished by a fine of not more than \$50,000.00, or by both such fine and imprisonment.
 - (3) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law.
 - (4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the offender presents it as being so verified shall be deemed to have been duly sworn or affirmed.
 - (5) No person shall be guilty of an offense under this section if he retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.
 - (6) Where the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the

alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.

(7) No person shall be convicted of an offense under this section where proof of falsity rests solely upon the testimony of a single person other than the defendant.

• 45-7-202. False swearing.

(1) A person commits the offense of false swearing if he knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of such a statement previously made when he does not believe the statement to be true and:

- (a) The falsification occurs in an official proceeding;
- (b) The falsification is purposely made to mislead a public servant in performing his official function; or
- (c) The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.

(2) Subsections (4) through (7) of 45-7-201 apply to this section.

(3) A person convicted of false swearing shall be fined not to exceed \$500.00 or be imprisoned in the city jail for any term not to exceed six months, or both.

Landowner Initials: (A)_____ (B)_____

9. Affidavit (required from all landowners)

_____, Landowner(s), being first duly sworn upon oath, deposes and says as follows:

I, as claimant, have read the foregoing Subdivision Exemption Claim Application and affirm that it is true and correct.

Landowner's Signature Date _____

Landowner's Signature Date _____

SUBDIVISION REGULATIONS

Appendix 20

State of _____

City of _____

Subscribed and sworn to before me on this ____ day of _____, 20__.

(seal)

Notary Public for the State of _____

Residing at _____

My commission expires _____

APPENDIX 21 EXEMPTION REVIEW BOARD CHECKLIST

Received: ___/___/___ By: _____

Application Complete: ___/___/___ By: _____

COS or Subdivision Plat Name: _____ - _____
 (owner) (type)

Type of Exemption Requested:

- € Agricultural Covenant € Boundary Adjustment € Family Transfer
- € Lot Aggregation € Mortgage € Other

1. Review fee submitted		Check # _____
2. Completed Appendix T (three copies):		
(a) Information provided for all landowners		
(b) Signatures from all landowners		
(c) Landowner representative information		
(d) Legal description of properties involved		
(e) Basis for exemption		
3. Certificate of Survey (three copies, if required)		
4. Draft Deeds (if transferring property)		
5. Supporting documentation (three copies)		
6. Scheduled Review Date		___/___/___
7. Applicant Notified of Meeting On		___/___/___
8. Meeting Was Duly Noticed		

Landowners

(1) Name: _____

(2) Name: _____

Property Legal Description

Parcel
 ID/Geocode: 25- _____ - _____ - _____ - _____
 1/4 Section: Section: Township: Range:

Subdivision Name/Certificate of Survey #: _____

Parcel/Tract # _____ Lot # _____ Block # _____

EXEMPTION REVIEW BOARD—Meeting Date: _____

Determination, based on attached review:

- € Approved or Approved with Condition(s) (see Conditions/Comments). The approval expires 180 days from the date of the exemption review board determination.
- € Submittal incomplete or inaccurate. Return to applicant for revisions. If second submittal is found incomplete or inaccurate, application will be denied and a new application and fee will be required.
- € Deny (see Condition(s)/Comments).

Conditions/Comments:

- € Taxes to be paid in full at time COS is presented for filing.
- € Deeds transferring property required at time COS is presented for filing.
- € Correct Sanitation Exemption. _____
- € RSID payoff required for (*# or specific parcels*). _____
- € Review by examining land surveyor at applicant's expense is required.
- € Corrections required: _____

- € 1. Update water rights (through Montana Dept. of Natural Resources and Conservation).
- € 2. _____
- € 3. _____

Signatures of Exemption Review Board Members:

Sanitarian	Planning
------------	----------

Clerk and Recorder	Date
--------------------	------

Applicant notified of decision by clerk and recorder on _____.

A landowner whose exemption request has been denied may submit a written appeal of the decision to the city council within 20 working days after receiving notification of the exemption review board's decision. The appeal must be accompanied by an explanation of why the proposed exemption should be approved. The city council may reverse the decision of the exemption review board.

NOTE: Approved exemptions must be submitted for filing within 180 days of the exemption review determination date.

APPENDIX 22 SAMPLE AGRICULTURAL COVENANT

The undersigned, being the SELLER(S) and PURCHASERS), respectively of the land described as follows:

(DESCRIPTION)

Hereby covenant and agree that the said lands will be used exclusively for agricultural purposes, and any change in use of said lands for other than agricultural purposes shall be only by mutual consent of the owners of said lands and the city council of the City of Thompson Falls and such other authority as may control sanitary facilities on said lands.

This covenant shall be binding on the parties signatory hereto and their successors in interest in the lands described. Dated this the ____ day of _____, ____.

SELLER(S)

PURCHASER(S)

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned notary public, personally appeared the above signors, known to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me they executed the same.

Notary Public for the State of _____
Residing at _____
My Commission expires _____

APPENDIX 23 REQUEST FORM TO LIFT AN AGRICULTURAL EXEMPTION

Part I. Landowner Information

Name _____

Address _____

Telephone _____ Date of Request _____

Signature _____

Part II. Property Information

Location/Legal Description _____

Date of Agricultural Exemption Approval _____

Exemption Filing Information (Book, Page) _____

Part III. Please describe your reason for requesting the agricultural exemption be lifted.

Note: In order to have your agricultural exemption lifted, you must go through the subdivision process and have the parcel created as a subdivided lot.

Part IV. City Council Decision

This request is hereby: _____ Approved _____ Denied

Reason: _____

Signature of Board of City Mayor

Date

APPENDIX 24 VARIANCE APPLICATION FORM

1. Project Name _____

2. Landowner Information

Name: _____

Address: _____

Telephone: _____

Signature: _____ Date _____

3. Describe the requested variance. _____

4. Describe how the requested variance meets each of the following criteria (attach additional pages as needed):

- a. The variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties.
- b. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced.
- c. The variance will not cause a substantial increase in public costs.
- d. The variance will not in any manner place the proposed subdivision in nonconformance with any adopted zoning regulations or in substantial noncompliance with the City of Thompson Falls growth policy.

5. As appropriate, discuss whether or not the variance is a part of an innovative development proposal which does not circumvent the purpose of the City of Thompson Falls Subdivision Regulations.

6. Provide names and addresses of all adjoining property owners. Provide documentation that written notification of the variance request has been provided to them, plus any existing property owners association potentially affected by the project as determined by the planner.

APPENDIX 25 AMENDED PLAT CHECKLIST

Section A: Completed by Subdivider

Amended Plat Title: _____

Location: _____

Property Owner Name & Address: _____

Engineer/Surveyor & Address: _____

Legal Description: _____

Property Geocode/Parcel ID: _____

Date of Completion by Subdivider: _____

Subdivider Explanatory Comments: _____

Section B: Completed by Planner

	Date:	By:	Comment:
Application Received:			
Exemption Review Board Review:			
Clerk and Recorder Review:			
Examining Land Surveyor Review (if existing):			
Signed Mylar Copies Received:			
Taxes Paid, County Treasurer Signature:			
Submitted to City Council:			

Section C: Completed by Subdivider and Planner

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
Amended Plat Review Fee.			
<i>Final Plat or Plan</i>			
Submitted in accordance with the Montana Uniform Standards			
a. Three blueline copies.			
b. Digital copy.			
c. Two signed/notarized mylar plats (<u>AFTER</u> preliminary review complete).			
<i>Face of the Final Plat (or Plan) shall include:</i>			
a. Vicinity map.			
b. Council signature block.			
c. Applicable sanitation exemption statements			
d. Requirements set by exemption review board as conditions of approval.			
<i>Final Plat/Plan Supplements—ORIGINAL documents:</i>			
a. Certificate of a title abstractor (title company).			
b. New covenants (plat approval covenants and/or owner association covenants) or deed restrictions relating to the subdivision.			
c. Certificate from the Montana Department of Environmental Quality (if not exempt)			
<i>As applicable:</i>			
d. Certification by city/county sanitarian that plans and specifications for sanitary facilities (sewer, water, stormwater, and solid waste) have been approved (if not exempt).			

City Comments:

APPENDIX 26 PRELIMINARY PLAT EXTENSION FORM

1. Project Information
Project Name: _____
Preliminary Plat Approval Date: _____
Date and period of previous preliminary plat extensions: _____
Proposed time extension length: _____
2. Subdivider information
Name: _____
Address: _____
Telephone: _____
Signature: _____ Date _____
3. Describe the requested extension, addressing the following points (attach additional pages as needed):
<ul style="list-style-type: none"> a. Progress made in complying with the conditions of preliminary plat approval; b. Circumstances which have affected the timing of the subdivision development; c. 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 d. Whether or not the provision of public facilities and services in the area will be disrupted by the requested extensions.
OFFICE USE ONLY
Extension Request Received on ___/___/___ by _____
Fee paid on ___/___/___
Materials deemed complete on ___/___/___ by _____
Site inspected on ___/___/___ by _____
Notice of Planner's recommendation and review by Planning Board sent to subdivider ___/___/___ by _____
Scheduled for review at city council meeting at _____ on ___/___/___

APPENDIX 27 EXEMPTION REVIEW CHECKLIST (Part 2)

General Criteria - In its review of an exemption request, the exemption review board shall consider all of the surrounding circumstances. These circumstances may include, but are not limited to: (a) the prior history of the tract in question; (b) whether the claimant has engaged in prior exempt transactions involving the tract; (c) the configuration of the tracts if the proposed exempt transaction is completed; and (d) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
1. Tract history			
2. Claimant's prior exemption history involving the tract			

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/ Condition
3. Resulting tract configuration			
4. Pattern of Development— Exemption(s) does/does not result in the equivalent of a subdivision without local subdivision review. If any of the following conditions exist, a pattern of development is presumed.	Does not	Does	
(a) Original Tract Less Than 20 Acres: more than three parcels (i.e., two exempt parcels and a remaining parcel) have/have not been divided from the original tract of less than 20 acres regardless of ownership by use of exemptions of the Act;	Have not	Have	

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
<p>(b) Original Tract 20 Acres or More: more than four parcels under 20 acres (i.e., three exempt parcels and a remaining parcel) have/have not been divided from the original tract of 20 acres or more, regardless of ownership, by use of exemptions of the Act;</p>	<p>Have not</p>	<p>Have</p>	
<p>(c) Use of exemption(s) contiguous to platted lots where common streets are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.</p>	<p>Does not meet description</p>	<p>Meets description</p>	
<p>5. Other Circumstances</p>			

Family Conveyance [76-3-207(1)(b), MCA] The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family (see Appendix A for definition) without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each city where the landowner owns property.

Family Conveyance Specific Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
FC 1. The proposed new parcel would/would not result in a pattern of development.	Would not	Would	
FC 2. The division is/is not made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a "straw person."	Is not	Is	
FC 3. A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption.	Does not meet description	Meets description	
FC 4. The transfer is/is not the second or subsequent family transfer of property owned by the grantor to the same member of the immediate family.	Is not	Is	
FC 5. The name of the grantee and relationship to the grantor do/do not appear on the face of the proposed Certificate of Survey.	Do	Do not	
FC 6. The grantee is/is not also one of the grantors.	Is not	Is	
FC 7. The grantee is/is not a minor child and the trustee is the grantor.	Is not	Is	

Family Conveyance Specific Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
FC 8. The property is/is not a parcel created through the family conveyance exemption which was transferred within three years of the parcel's creation.	Is not	Is	
FC 9. The affidavit of intent is/is not incomplete or missing.	Is not	Is	
FC 10. The tract proposed for division was/was not previously created through the use of an exemption.	Was not	Was	
FC 11. The proposed use of the family conveyance exemption would/would not create more than one remainder parcel of less than 160 acres.	Would not	Would	
FC 12. The exempted parcel is/is not being divided from a tract that was previously created through the use of an exemption, including remaining tracts of less than 160 acres.	Is not	Is	
FC 13. There is/is not evidence at the time of review indicating that the proposed new tract is intended to be sold.	Is not	Is	
FC 14. This exemption is/is not an alternative to a proposed subdivision for which an application has been submitted.	Is not	Is	

SUBDIVISION REGULATIONS

Appendix 27

Family Conveyance Specific Criteria	Acceptable	Not Acceptable	Discussion/Comment/ Condition
FC 15. The proposed exemption is/is not located within a subdivision platted since July 1, 1973 (76-3-207(1)(b), MCA).	Is not	Is	

Agricultural Exemption [76-3-207(1)(c), MCA] - The intention of this exemption is to allow a landowner to create a parcel without local subdivision and sanitation review, where the land will be gifted, sold, or there is an agreement to buy and sell the divided land, which will be used only for the raising of crops or livestock or for the preservation of open space, and where no residential, commercial or industrial buildings will be built.

Agricultural Exemption Specific Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
AE 1. Documentation of the intent to gift, sell, or an agreement to buy or sell the divided land is/is not included as supporting documentation with the application.	Is	Is not	
AE 2. The proposed covenant to run with the land is included as supporting documentation with the application.	Is	Is not	
AE 3. The landowner has/has not demonstrated that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings have been or will be built on it.	Has	Has not	
AE 4. The parcel does/does not meet the criteria for an agricultural exemption under 15-7-202, MCA.	Does	Does not	
AE 5. The appropriate sanitation exemption is/is not cited.	Is	Is not	

Boundary Adjustment or Aggregation [76-3-207(1)(a) and (d), MCA] - The intended purpose of this exemption is to allow a change in the location of a boundary line between two adjoining parcels and to allow a transfer of a tract to effect that change in location without local subdivision review.

Boundary Adjustment/Aggregation Specific Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
BA 1. Certificate of survey claiming the exemption does/dose not clearly distinguish between the existing boundary location and the new boundary and includes the appropriate landowner certification.	Does	Does not	
BA 2. Certificate of survey does/does not include the appropriate landowner certification.	Does	Does not	
BA 3. The boundary adjustment will/will not result in the permanent creation of an additional parcel of land.	Will not	Will	
BA 4. The submitted documentation does/does not support the stated reason for relocation.	Does	Does not	
BA 5. The proposed relocation of common boundary lines does/does not significantly rearrange multiple parcels with little or no resemblance to the original parcel configuration.	Does not	Does	
Where the boundary adjustment will affect more than one set of landowners:			
BA 6. All affected landowners did/did not sign the application for exemption.	Did	Did not	

Boundary Adjustment/Aggregation Specific Criteria	Acceptable	Not Acceptable	Discussion/Comment/ Condition
BA 7. A quit claim deed from the adjoining property owner(s) for the newly described parcel or parcels is/is not included.	Is	Is not	

Mortgage Exemption [76-3-201(1)(b), MCA] - Division to provide security for a mortgages, liens or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.

Mortgage Exemption Specific Criteria	Acceptable	Evasion Presumed	Discussion/Comment/Condition
ME 1. Application includes a signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.	Includes	Not included	
ME 2. More than one new building site will/will not be created.	Will not	Will	
ME 3. The financing is/is not for construction or improvements on the exempted parcel, or for refinancing.	Is	Is not	
ME 4. The person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is/is not anyone other than the borrower of funds for construction or refinancing.	Borrower	Anyone but the borrower	
ME 5. Title to the exempted interest would/would not be initially obtained by the lending institution in the event of foreclosure.	Would	Would not	

Mortgage Exemption Specific Criteria	Acceptable	Evasion Presumed	Discussion/Comment/Condition
ME 6. There is/is not a prior agreement to default or a prior agreement to purchase only a portion of the original tract.	Is not	Is	
ME 7. It does/does not appear that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose.	Does not	Does	
ME 8. The division of land is/is not created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.	Is not	Is	
ME 9. Creates no more than one parcel under 160 acres from the original tract.	Meets description	Does not meet description	

OTHER EXEMPTIONS: Other exemptions allowed under MCA 76-3-201.

Other Exemption (MCA 76-3-201)	Acceptable	Evasion Presumed	Discussion/Comment/ Condition
(a) Court Order 76-3-201, MCA CO1. Was/was not created by court order. CO2. City council was/was not notified by court (include written comment by city council).	Was created Notified	Was not created Not notified	
(c) Surface Ownership Severed—Interest in oil, gas, minerals, or water severed from surface ownership.	Applies	Does not apply	
(d) Cemetery Lots.	Applies	Does not apply	
(e) Reservation of life estate.			
(f) Lease or rental for farming and agricultural purposes.			
(g) State does not have jurisdiction.			
(h) Rights-of-way or utility sites.			Subsequent change in use to residential, commercial, or industrial use subject to subdivision review

ORDINANCE INDEX

This table lists ordinances within the Code prior to the 2018 Republication.

280	Licencing of Poker Machines 07/85 & 8/85
281	Sewer Users Ordinance 11/85 & 02/85 & 01/86
281A	Fixing Compensation for the City Council 09/88 & 10/88
282	Codification Ordinance 12/85 & 1/85
283	Sewer Ordinance
284	Ammend Vendor Ordinance 10/86 & 11/86
285	Parking Ordinance 4/87 & 5/87
286	U-turn 07/87 & 08/87
287	Repeal Juke Box Ordinance 08/87 & 09/87
288	Repeal Building Permit Ordinance 08/87 & 09/87
289	Curfew
290	City Council Salaries
291	Creating Title 9 Section 9.4 Police Procedures 11/88 & 12/88
292	Set 5 Mile Jurisdicitonal Limit for PD 11/88 & 12/88
293	Residential Zoning Regulations 11/14/88 & 11/28/88
294	Retail Sale of Alcohol Within 600' of Churches 04/89 & 05/89
295	Prohibiting Nude Dancing in Public Places 06/89 & 07/89
296	Regulating Firearm Discharge in City Limits 12/89 & 01/08/90
297	Setting Coucnil Wages at \$25.00/Month 12/10/90
298	Ammend Parking Regulations Ordinance 2/90
299	Sidewalk Regulations 4/8/91
300	Sidewalk Construction 5/13/91
301	Solicitors Licencing 1/13/92
302	Open Container Law 11/91 Repealed 6/8/92
303	Address Numbering on Buildings 11/91 & 2/92
304	Setting Compensation for City Council 8/92 & 9/92
305	Formation of Library District 8/92 & 9/92
306	(Never Passed: Cable TV Assessment)
307	Water Rationing 6/93 & 7/93
308	Installation of Meter Pits 8/94 & 9/94 SEE 10/11/93
309	Speed Limit
310	Decay Ordinance 1/95 & 2/95
311	Septic Regulations 8/95 & 9/95
312	Burning Permit Required 8/95 & 9/95
313	Placement/Setback Requirements 8/95 & 9/95
314	Setting Compensation for City Council
315	Open Container 2/96 & 3/96
316	Amend Burning Ord 312 6/96
317	Amend Dog Ord 6/97

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- 318 Amend Zoning Ordinance—Provide Variance
(Amended Jan./Feb. 2002, effective March 13, 2002)
- 319 Amend 286 U-turn Ordinance
- 320 Immunity(Indemnification)for City Council
- 321 Council Pay 9/99
- 322 Board of Adjustment 1/00
- 323 Curfew 8/00 & 10/00
- 324 Amend Ordinance 313 Establishing Setback 9/00 & 10/00
- 325 Amend Ordinance 322 Board of Adjustment 3/02
- 326 Amend Ord. 276 Keeping Chickens & Rabbits in City 3/08/10
- 331 Adoption of City Code 10/25/10
- 694 Resolution on jail time general penalty 1/9/2017

CODE COMPARATIVE TABLE

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Ordinance Number	Date	Section	Section this Code
327	6-14-2010	1—8	4-1-1—4-1-8
328	6-14-2010	1—12	3-2-1—3-2-12
330	10-11-2010	1—7	4-3-1—4-3-7
332	3-15-2011	1—4	Added 5-3A-6
333	6-13-2011	1—4	Added 5-2-5
334	8-12-2013	1—20	Added 7-8-1—7-8-20
335	4-21-2014		Rpld 9-1-3, 9-1-4
336	7-14-2014		Rpld 9-2-3, 9-2-5—9-2-9, 9-3-1—9-3-13, 9-4-1—9-4-3
2016-337	3-14-2016		8-2-2
338	1- 8-2018		Adopting Ord.
339	2-12-2018		Rpld 5-2-5
341	7-12-2018	1—7	Added 4-6-1—4-6-6
342	10-10-2018	1—7	4-6-1—4-6-6
343	1-14-2019		Added 6-5-1—6-5-6
344	6-10-2019		Added 2-2-1—2-2-9
345	7- 8-2019	2	Rpld 4-1-1—4-1-8
			Added 4-1-1—4-1-11
346	7-13-2020		Rpld 6-1-2 A.4.
			Added 6-1-2 C.1., C.2.
348	10-13-2020	1, 2	6-5-1, 6-5-2
		3.a.	6-5-3
		3.b.—3.e.	6-5-4
		3.e.	6-5-5
		4	6-5-6
349	3- 8-2021		Added Tit. 11, Chs. I—VI
350	6-30-2021	1—4	5-3A-6
353	8- 8-2022		Rpld Tit. 10, Chs. 1—3, 10-1-1, 10-2-1—10-2-5, 10-3-1—10-3-4
			Added Ch. 1, 10-1-1—10-1-20, Ch. 2, 10-2-1
356	1- 9-2023	1	Rpld Tit. 4, Ch. 1, 4-1-1—4-1-11

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Ordinance Number	Date	Section	Section this Code
		2	Added Tit. 4, Ch. 1, 4-1-1—4-1-11

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