

The following are the mark-ups as are proposed changes from the Planning Board

Change the following:

I-D Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the City of Miles City ~~and the City/County Planning Board.~~

Change the following:

I-F. Definitions

MAJOR SUBDIVISION: ~~A subdivision that creates six or more lots.~~ A division of land that results in a cumulative total of six or more lots having been created from the original tract of record as it existed on July 1, 1973.

MINOR SUBDIVISION: ~~A subdivision that creates five or fewer lots.~~ A division of land that results in a cumulative total of five or less lots having been created from the original tract of record as it existed on July 1, 1973.

~~OVERALL DEVELOPMENT PLAN PHASING PLAN:~~ The design plan of a subdivision showing phases and timing for a subdivision ~~design~~ proposed to be subdivided in stages.

II-A-4. Pre-application Process

B. At the time of the pre-application meeting request, the subdivider shall provide to the subdivision administrator a sketch of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions together with other required documents. The sketch may be a freehand sketch drawn directly on a print of a topographic map of the area proposed for division at a scale of 1 inch to 400 feet or larger that is adequate to show the property and to show relevant information. The sketch and materials must include the following:

Add the following:

k

2. Documentation on the current status of the site, including:
 - a. ownership information, such as a deed, option to buy or buy-sell agreement, including permission to subdivide;
 - b. For proposed minor subdivisions, a copy of each certificate of survey or subdivision plat(s) pertaining to the subject parcel since July 1, 1973;
 - cb. water rights, including location of Agricultural Water User Facilities; and

de. any special improvement districts.

Change the following:

II-A-5. Subdivision Application and Preliminary Plat Submittal

The subdivider shall submit to the governing body or to the agent or agency designated by the governing body a subdivision application addressing these topics and containing the following materials, all described in more detail in forms provided by the subdivision administrator, as applicable:

1. A conceptual grading and drainage plan;
2. Overall phasing-development plan if development is proposed to be completed in 2 or more phases including:
 - a. A time frame for each phase;
 - b. A public facilities improvement plan showing which improvements will be completed with each phase;
- ~~3. Names and addresses of all adjoining property owners;~~
3. A list of lot sizes (spreadsheet format preferred) for the purpose of Pparkland dedication calculations;
4. Water and sanitation information as outlined in MCA 76-3-622.
- ~~5. Fire risk rating analysis and fire prevention plan;~~
- ~~6.5. Noxious weed management plan and re-vegetation plan;~~

Change or add the following:

II-A-6. Review Process

For both minor and major subdivisions, the initial review process is as follows:

A. Element Review

Within five (5) working days of receipt of a subdivision application and fee, the subdivision administrator shall determine whether the application contains all of the applicable materials required by subsection II-A-5, and shall give written notice to the subdivider of the subdivision administrator's determination.

1. If the subdivision administrator determines that elements are missing from the application, the subdivision administrators shall notify the applicant may return the application and and identify those elements that are missing, in the notification. No further action shall be taken on the application by the subdivision administrator until the missing elements are application is resubmitted.
2. The subdivider may correct the deficiencies and resubmit the missing elements application.
3. If the subdivider corrects the deficiencies and resubmits submits the missing elements the application the subdivision administrator shall have five (5) working days to notify the subdivider whether the submitted resubmitted

~~application information~~ contains all the materials required by subsection A-5, above, as applicable.

4. This process shall be repeated until the subdivider submits an application containing all the materials required by subsection A-5, above, or the application is withdrawn.

5. If the missing elements are not corrected and submitted to the subdivision administrator within 60 days following the date of the deficiency letter, the administrator will terminate the application and file.

B. Sufficiency Review

Within fifteen (15) working days after the subdivision administrator notifies the subdivider that the application contains all of the required elements as provided in Subsection A, above, the subdivision administrator 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 notice to the subdivider of the subdivision administrator's determination.

~~5.6.~~ If the subdivision administrator determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the subdivision administrator 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 subdivision administrator until the identified material is ~~re~~submitted.

~~6.7.~~ The subdivider may correct the deficiencies and ~~re~~submit the identified materials application, or withdraw the application. If the subdivider corrects the deficiencies and ~~re~~submits the identified materials application the subdivision administrator shall have fifteen (15) working days to notify the subdivider whether the ~~resubmitted application~~ additional information and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.

7.8. If the deficiencies are not corrected and submitted to the subdivision administrator within 60 days following the date of the deficiency letter, the administrator will terminate the application and file.

Delete the following:

B. Review by Subdivision Administrator

2. If the subdivision administrator determines that the final plat differs from the approved or conditionally approved preliminary plat, the applicant shall be required to submit an amended application pursuant to subsection II-B-5, ~~above~~.

Change the following:

II-B-3. Restrictive Covenants, Approval, Content and Enforcement by Governing Body

- B. The governing body may require ~~that all~~ restrictive covenants. The restrictive covenants that it has required as a condition of plat approval may contain the following language: “The (name of the governing body) is a party to this restrictive covenant and may enforce its terms.”

Delete the following:

II-B-7. Final Plat Filing

After it is approved, the final plat may not be altered in any manner except as provided in subsection II-B-8, ~~above~~.

Change the following:

III. REVIEW AND APPROVAL PROCEDURES FOR MINOR SUBDIVISIONS

~~Subdivisions containing five or fewer parcels~~ If the division of land would result in a total of five or fewer lots from the original tract of record as it existed on July 1, 1973 then the division shall be reviewed as set forth in this section.

Change the following:

IV. REVIEW AND APPROVAL PROCEDURES FOR MAJOR SUBDIVISIONS

IV-A. Application

~~Subdivisions that qualify for major subdivision review are those divisions of land containing six or more lots. If the division of land would result in a total of six or more lots from the original tract of record as it existed on July 1, 1973 then the division shall be reviewed as a major subdivision under the following procedures.~~ The pre-application process and initial review process set forth in Section II, General Procedures, apply to this section.

Delete the following:

IV-A-1. Subdivision Application and Preliminary Plat Submittal

~~A. The planning board or governing body may waive the requirement for preparing any portion of the environmental assessment when the proposed subdivision is in an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA, and the proposed subdivision will be in compliance with the policy.~~

~~B. When an exemption from preparing any portion of the environmental assessment is sought, the applicant shall meet with the planning board prior to the submission of an application, explain why the exemption is appropriate, and if granted the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review and shall be filed with the final plat.~~

Change the following:

IV-A-2. Time Period for Approval, Conditional Approval, or Denial

- A. Within 60 working days or 80 working days for subdivisions containing 50 or more lots, the governing body shall approve, conditionally approve or deny the proposed subdivision according to subsection A-8, below, of these regulations, unless the subdivider and the subdivision administrator agree to an extension or suspension of the review period, or a subsequent public hearing is held pursuant to subsection A-7, below, of these regulations. The review period of 60 or 80 (for plats with 50 or more lots) working days begins the day after the subdivision administrator notifies the subdivider or the subdivider's agent in writing that the subdivision application is sufficient for review.
- B. Public Agency and Utility Review - Review and comment by public agencies or utilities may not delay the governing body's action on the subdivision application beyond the 60 or 80 (for plats with 50 or more lots)-working day review period. The governing body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the subdivision administrator or the planning board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the subdivision administrator shall notify the subdivider of the contact and the timeframe for response.

IV-A-7. Subsequent Public Hearing

- B. If a subsequent public hearing is held, the 60-working day or 80 working days, as applicable, -review period is suspended as of the date of the governing body's decision to schedule a subsequent hearing. The 60 or 80 (for plats with 50 or more lots) working day review period resumes on the date of the governing body's next scheduled public meeting for which proper notice for the public meeting on the subdivision application can be provided.

IV-A-9. Amended Applications

- A. If the subdivider changes the subdivision application or preliminary plat after the subdivision administrator makes a determination of sufficiency pursuant to Section II-A-6 but before the Planning Board hearing, the subdivider shall submit the amended application to the subdivision administrator for review.
 - 2. The 60 or 80 (for plats with 50 or more lots)-working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.
 - 3. If the subdivision administrator determines the changes are not material, the 60 or 80 (for plats with 50 or more lots)-working day review period resumes when the subdivision administrator mails notice of the decision to the subdivider.
 - 4. If the subdivision administrator determines the changes are material, the subdivision administrator shall either require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application or proceed with the 60 or 80 (for plats with 50 or more lots)-working

day review period upon certification from the subdivision administrator that the application is sufficient for review.

- B. If the subdivider changes the subdivision application or preliminary plat after the Planning Board hearing but before the governing body meeting, the subdivider shall submit the amended application or preliminary plat to the subdivision administrator for review.
2. The 60 or 80 (for plats with 50 or more lots)-working day review period is suspended while the subdivision administrator considers whether the changes to the subdivision application or preliminary plat are material.
 3. If the subdivision administrator determines the changes are not material, the 60 or 80 (for plats with 50 or more lots)-working day review period resumes when the subdivision administrator mails notice of the decision to the subdivider
 5. If a new Planning Board hearing is held pursuant to subsection (B), above, the 60 or 80 (for plats with 50 or more lots)-working day review period is suspended for the time period between notice of the subdivision administrator's determination and 10 working days after the date of the second Planning Board hearing.
- E. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the subdivision administrator may appeal the subdivision administrator's decision to the governing body by written notice within 10 working days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
1. The 60 or 80 (for plats with 50 or more lots)-working day review period is suspended until the governing body decision on the appeal is made.
 3. If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are not material, the 60 or 80 (for plats with 50 or more lots)-working day review period resumes as of the date of the decision.
 4. By appealing the decision of the subdivision administrator, the subdivider agrees to suspension of the 60 or 80 (for plats with 50 or more lots)-working day review period provided in Subsection (E)(1) above.

Change the following:

V-E-1. Relocation of Common Boundaries Involving Platted Subdivisions [76-3-207 (1)(d), (e) and (2)(a) and (f), MCA]

A. Statement of Intent

1. The MSPA allows certain revisions to subdivisions ~~platted since July 1, 1973~~, which includes relocation of common boundaries for five or fewer lots, and the aggregation of lots, ~~for five or fewer lots within a platted subdivision~~ or the relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision ~~(but a restriction or requirement on either continues to apply)~~; without subdivision review.

B. Use of exemption

Relocation of a common boundary between a single lot in a platted subdivision and adjoining land outside a platted subdivision [76-3-207(1)(e), MCA] is allowed, because no additional parcels are created. Likewise aggregation of lots is allowed. In both cases, a restriction or requirement on either parcel continues to apply. Subdivision review is not necessary because the relocation does not create any additional division of land.

Delete the following:

~~V-G. Remaining Parcels of Land~~

~~The term “remainder” is used to refer to that portion of an original tract which is not itself created for transfer, but which is left after other parcels are segregated for transfer. A “remainder” less than 160 acres in size, contiguous to a proposed subdivision, will be considered a lot in the proposed subdivision. A landowner claiming that a parcel is a “remainder” to avoid review shall present evidence that the parcel is, in fact, intended to be retained and not to be transferred.~~

~~Parcels less than 160 acres that were created as a remainder must be reviewed prior to being transferred or developed.~~

Change the following:

VI-F. Lots

Each lot must contain a satisfactory building site and conform to ~~County~~ health board regulations, applicable zoning regulations, and these regulations.

VI-H. Streets ~~and Roads~~

VI-H-1. General Design

I. ~~Road~~Street Design Standards

The design standards contained in these regulations shall apply to all safety standards, construction, reconstruction, and paving of:

- ~~4. Roadways accepted into the County Road System, and~~
- ~~45.~~

J. Street~~Roadway~~ Dedication and Easements

All ~~streets~~roadways serving a proposed subdivision or neighboring lands shall be dedicated to the public or shall have easements providing for access. ~~Dedicated roadways are not designated as county roads until the conditions immediately below are met. Easements provide for legal access while the property remains under private ownership.~~

K.. Subdivision streets~~roadways~~ constitute a public roadway easement when all of the following conditions are met:

2. The approved easement is recorded in the Office of the Clerk and Recorder and ~~files a copy of the recorded easement is filed~~ with the ~~County Road Department or~~ City Engineering Department;

~~NOTE: The County does not accept the responsibility for safety standards, construction, reconstruction, or maintenance of any roadway that is not officially accepted into the County road system.~~

~~Public roadways become County roads only when they are officially accepted by County resolution with specific roadway survey, metes and bounds description, or by reference to a plat on file with the clerk and recorder.~~

~~NOTE: Approval of a subdivision plat by the County Commission shall not be construed as acceptance of the subdivision roadways or easements into the County road system.~~

VI-H-3. Drainage Channels and Waterways

A. Bridges and culverts shall be provided and installed by the developer where drainage channels and waterways intersect any ~~road~~street right-of-way or approach. Bridges and culverts shall be appropriately sized in accordance with the drainage area. Bridges and culverts shall be designed by a registered engineer. Bridges shall be constructed to HS25 load standards and shall be the same width as the roadway. Guard rails shall also be bridge installations shall be approved by the ~~County Road~~ City Engineering Department.

Delete and add reference:

~~B. Culverts shall be a minimum of 18 inches in diameter and shall extend across the entire width of the roadway including side slope toes. Culvert material, type, gauge and depth of cover shall be included in the design. All culvert installations shall be approved by the respective governing body. See Section VI-I (D) for standards.~~

Change the following:

VI-H-5. ~~Road~~Street Names

New ~~road~~streets aligned with existing ~~road~~streets shall have the same name as the existing road. All road names must be approved by the City engineering department ~~respective governing body~~.

VI-H-6. ~~Road~~Street Signs

All traffic signs shall be installed by the developer. Traffic signs shall be of the size, shape, height, and placement in accordance with the Manual of Uniform Traffic Control Devices and Montana Law. Traffic sign plans shall be approved by the City engineering department. ~~respective governing body~~.

VI-H-7. ~~Rural~~ Addressing

All subdivisions shall conform to ~~the Custer County Rural Addressing System or~~ the City of Miles City addressing system requirements. All ~~roadstreet~~ intersection, mileage markers, and residence number signs shall be installed by the developer. The addressing plan shall be approved by ~~the County Road Department or~~ the City Engineering Department.

VI-H-11. Collector ~~RoadStreets~~ Standards within the Subdivision

- A. Right-of-way width ~~and City~~and respective construction standards shall apply.
- B. Collector ~~roadstreets~~ shall be dedicated to the public, or shall have a public easement which meets the criteria of these regulations.
- C. The subdivider shall construct collector ~~roadstreets~~ to City respective roadstreet standards.

VI-H-13. Timing Requirements for Paving ~~RoadStreets~~

B. Improvements Agreement

- 2. Estimated construction costs shall be submitted showing reputable estimates acceptable to the City Council to establish the total cost. Security in an amount equal to 125% percent of the total cost of the paving shall be included. Such security shall be in the form of a surety bond, certificate of deposit, irrevocable letter of credit, or cash.

Add the following note to the bottom of Table VI-1:

(see supplemental illustration in Appendix B)

VI-I. Drainage Facilities

D. Culverts and Bridges

- 2. Culverts shall be a minimum of 18 inches in diameter and shall extend across the entire width of the roadway including side slope toes. Culvert material, type, gauge and depth of cover shall be included in the design. All culvert installations shall be approved by the City engineering department~~respective governing body~~.

Delete the following sections:

~~VI-R. Special Standards for Subdivisions Proposed in High Fire Hazard Areas~~

~~High fire hazard areas include heads of draws, excessive slopes, dense fuel growth or other hazardous components. Areas not under the protection of a fire district or a fire service area are considered High Fire Hazard Areas. For subdivisions proposed in areas subject to high wildfire hazard as determined by the Commission, the local fire protection authority, U.S. Forest Service or the Forestry Division of the Montana Department of Natural Resources and Conservation, the following standards apply (also see the Uniform Fire Code and the Fire Protection Guidelines~~

For Wildland Residential Interface Development, Montana Departments of Natural Resources and Conservation/Justice):

- ~~D. At least two entrance/exit roads must be provided to assure more than one escape route for residents and access routes for fire fighting vehicles.~~
- ~~E. Road rights-of-way must be maintained free of slash, trees, tall grass/weeds and other fire fuels.~~
- ~~F. Roads, bridges, culverts, and auto gates must be designed to allow access by fire equipment.~~
- ~~C. Building sites must be prohibited on slopes greater than 25 percent and at the apex of "fire chimneys" (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).~~
- ~~D. Densities in areas of steep slopes or dense forest growth must be reduced through minimum lot standards as in Table VI-R-1 below:~~

Table VI-R-1

% Slope	Minimum Lot Size (Acres)	
	Open Grass	Forest & Brush
0-10	1	2
10-20	2	3
20-25	3	4
over 25	5	not permitted

- ~~E. Open space, park land and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.~~
- ~~F. A water supply of sufficient volume for effective fire control must be provided in accordance with standards set by the appropriate local fire protection authority. In the absence of such standards, a water supply of sufficient volume for effective fire control must at a minimum provide as follows:
 - ~~1. A central water system with a minimum flow of 1,000 gallons per minute; or~~
 - ~~1. Where no central water system exists, cisterns, reservoirs or fill ponds with dry hydrants must be provided at appropriate locations:
 - ~~a. For single family dwellings: minimum capacity of 3,500 gallons per dwelling;~~
 - ~~b. For 5 or more dwellings per unit: minimum capacity of 700 gallons per dwelling;~~
 - ~~c. Water storage facilities must be all-season and accessible by fire equipment. On level ground, fire engines must be able to get within 10 feet of the water source; turn-arounds in all-weather roads must be provided for continuous forward movement of fire engines at all draft sites; and~~~~~~

~~d. Dry hydrants must be a minimum of six inch diameter with appropriate attachment fixtures for fire engines, portable pumps, and other pumping apparatus. Enclosed cisterns must be properly vented.~~

~~G. Water sources that are dependent on electric power for pumping must have an alternative backup source of power.~~

~~H. Domestic water wells must have a minimum capacity of 10 gallons per minute when used in a fire suppression plan. Water hydrants must be located near each structure.~~

~~I. Defensible space shall be provided around structures and fire protection facilities. (See Fire Protection Guidelines for Wildland Residential Interface Development.)~~

~~VI-S. Restrictive Covenants~~

~~Restrictive covenants may be required in a subdivision to ensure that the subdivision remains attractive to all lot owners and that the subdivision does not become a burden to surrounding property owners. Enforcement of restrictive covenants is the responsibility of the homeowners association, but may also include the governing body, if specifically provided as a condition of approval. Violation of restrictive covenants is considered a violation of the Montana Subdivision and Platting Act under which the subdivision was approved. Restrictive covenants must include an enforcement/penalty clause.~~

~~A. For rural residential subdivisions, restrictive covenants should include prohibitions against:~~

- ~~1. At large dogs or other animals that are not compatible with livestock or wild game animals;~~
- ~~2. Noxious weeds; and~~
- ~~3. Infringement on established water rights.~~

~~B. For rural residential subdivisions that are 40 acres and smaller, restrictive covenants may include prohibitions against:~~

- ~~1. Junk vehicles;~~
- ~~2. Domestic farm or pleasure animals;~~
- ~~3. Exotic animals;~~
- ~~4. Housing without permanent foundations, unless the subdivision is specifically for mobile homes;~~
- ~~5. Activities that produce sights, sounds, and odors that may be offensive to neighbors;~~
- ~~6. Activities that may harm the natural environment, including ground cover, trees, soils, and water;~~
- ~~7. Further reductions in lot sizes; and~~
- ~~8. Overhead utilities.~~

~~C. Restrictive covenants may be used to encourage a desired atmosphere. Such covenants may include:~~

1. ~~Landscaping requirements;~~
2. ~~Lot maintenance standards;~~
3. ~~Screening of unsightly storage areas; and~~
4. ~~Design and construction standards for the primary structure and any supplementary structures.~~

~~VI-T. Noxious Weeds~~

~~A weed control plan should be developed and implemented for every new subdivision in cooperation with the Custer County Weed Control Board. A noxious weed control plan may be required by the governing body.~~

~~VI-U. Fences~~

~~Residential subdivision shall provide exterior boundary fencing to adequately exclude domestic and exotic livestock from the subdivision. The covenants of the subdivision shall provide for the maintenance and replacement of the fences.~~

Add or change the following:

VI-V. Landscaping Standards for Commercial Development

- G. All approved landscaping shall be completed within 90 days after the substantial completion of the buildings being constructed on the lot. If weather conditions do not permit the completion of the approved landscaping, then such landscaping shall be completed as soon thereafter as weather conditions permit. In the case of a delay due to weather, a performance bond or other surety acceptable to the Council shall be submitted in the amount estimated for reasonable completion of the approved landscaping and released upon completion.
- H. All areas to be landscaped in accordance with the provisions of this section shall, after completion, be maintained in an attractivea-sightly and well-kept condition by the owner or occupant of the site.

Change the following:

VII-B-3. Subdivisions for Lease or Rent, Generally

Land subdivision created by rent or lease are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but are subject to review and will be reviewed under the procedures described in Section IV, Major Subdivisions for six (6) or more spaces, or Section III, Minor Subdivisions for five (5) or fewer, as may be appropriate, except that the subdivider shall submit a final plan drawn to scale of the revised preliminary plan with any conditions of the preliminary plan approval., following the Final Plat procedure in Section II.

VII-C-3. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a final plan to the subdivision administrator of the revised preliminary plan with any conditions of the preliminary plan approval complying with the requirements of Final Plats in Sec. 21-14. The final plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the office of the City clerk, Clerk and recorder, Planning or other designated office.

Add the following:

X-B. Amendment of Regulations

X-B-1. These regulations may be amended by the City Council by their own motion or upon recommendation of the Planning Board to the City Council.

X-B-2. Prior to amending these regulations the governing bodies shall conduct a public hearing and public notice shall be given of the intent to amend these regulations and of the public hearing by publication of the time and place of the hearing in a newspaper of general circulation in the county not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing.