

User's Guide for Subdivisions

City of Glendive,

Community of Richey, and

Dawson County

For Information Contact:

City/County Planning Department

207 West Bell

Glendive, MT 59330

406-345-4139

The Montana Subdivision and Platting Act

In 1973 the Montana Legislature passed the Subdivision and Platting Act, (Title 76, Chapter 3, MCA) which requires local jurisdictions to adopt and enforce local subdivision regulations. Dawson County has had subdivision regulations since that time and the regulations currently in effect were adopted December 1993 and amended in June 1995 and amended again in September 2007. These regulations describe the procedures and requirements necessary to create a subdivision. They were adopted to ensure that the subdivision is in the public interest and that the negative effects are adequately addressed through the public review process.

This guide is intended to provide a “snapshot” of the subdivision process, some of the requirements, and some things to think about when considering subdividing. This document provides important information for both the person contemplating doing a subdivision and their surrounding neighbors. To have a complete understanding, please refer to the Dawson County Subdivision Regulations (DCSR). You may obtain a copy of the Subdivision Regulations from the City/County Planning Department or online at www.dawsoncountymontana.com/planner/.

Types of Subdivisions

A **Subdivision** by definition includes all land divisions that create one or more parcels containing less than 160 acres that cannot be defined as a one-quarter aliquot lot. Also included in this definition are mobile home parks, recreational vehicle parks, leased lots, and certain condominiums. Subdivisions are divided into several categories based on the number of lots/spaces being created.

Minor subdivision – a subdivision that creates five or fewer lots.

Major subdivision – a subdivision that creates six or more lots.

Within the **Minor Subdivision** category are **First Minor** and **Subsequent Minor** subdivisions.

A **First Minor** is a subdivision from a tract of record which has not been subdivided or created by subdivision or which has not had more than five parcels created from that tract of record since July 1, 1973.

A **Subsequent Minor** is any subdivision of five or fewer parcels from a tract of record which is not a First Minor subdivision.

Exempt Divisions of Land

Some divisions of land are exempt from subdivision review unless they are deemed an attempt to evade the subdivision regulations. You must submit a preliminary Certificate of Survey or Amended Plat to the City/County Planner in order to determine if your proposal meets the exemption requirements.

Exempt land divisions include:

- gifts or sales to family members
- security for mortgage, lien, or trust indentures

- agricultural exemptions
- relocations or aggregations of common boundary lines
- court orders
- right-of-way or utilities

Exempt land divisions are reviewed by the City/County Planning Department, County Sanitarian or City Public Works Department, and the governing body.

The Subdivision Process

The type of subdivision proposed will dictate the type of review that is required, the application fees and some of the development standards. The process to create a subdivision involves a number of required steps dictated by state and local government which must be followed in a certain order.

Step 1. Preliminary Investigations

The process of creating a subdivision is neither inexpensive nor quick. From the time the developer decides the subdivision has merit and hires a surveyor, the process will take up to, and exceeding, 6 months for a minor subdivision and longer for a major subdivision, before any deeds can be filed with the Dawson County Clerk and Recorder. **Start your project early and be patient.**

The first step before even beginning the process of creating a subdivision is to go to the County Clerk & Recorder's Office and City/County Planning Department to determine if any covenants, restrictions, or Zoning Districts have been placed on the property to be subdivided.

The next step is to get a site evaluation done from the Environmental Health Department (Sanitarian), to find out the feasibility of septic systems and wells. If there is a problem in either of these two areas, continuing with the subdivision process may not be possible, or the subdivision design may have to be reconfigured to meet zoning standards, allow for existing or necessary easements, or installation of adequate sanitary services.

The success of most projects depends on this first step. Below are a number of questions that will help refine a proposal and perhaps suggest whether a project will work.

- Will the subdivision be served by a public water and waste water system or by individual systems on each of the lots?
- Are there any constraints (soil types, high groundwater, etc.), which might limit the use of septic systems?
- Is there enough groundwater to support domestic wells?
- How deep will the wells need to be?
- Will the subject property be able to support the number of septic systems and wells that may be proposed?
- Are the lot sizes consistent with covenants, if any?
- Are the lot sizes consistent with zoning regulations, if any?
- Is there legal and physical access to the property?
- Does the land pose any constraints for development (slopes, wetlands, wildlife habitat, etc.)?

- Does the land pose any opportunities for development (views, natural amenities, etc.)
- Does the location of the proposed subdivision pose any constraints or opportunities? (distance to local services, proximity to parks, etc.)
- Is the subject property within a rural fire district?
- What is the area around the proposed subdivision like (land uses, lot sizes, etc.)?
- How much will it cost to put in the needed infrastructure inside and outside of the subdivision (roads, utilities, etc.)?
- How much will it cost to go through the process and get it surveyed?
- What is the target market?
- Is there a demand for the type of lots that would be created? Will that demand be there when the project is near completion? Is there variability in the product (various lot sizes) to adapt to a potentially dynamic market?
- What amenities are people looking for?
- How quickly will the lots need to sell in order for the project to succeed (absorption rate)?

If there are no prohibitive restrictions on the property and the site evaluation is good, then a pre-application meeting with the City/County Planner is next.

Step 2. Pre-Application Meeting

Once the subdivider determines that the project seems to have merit and decides to go forward, he or she will then meet with the Planning Department to discuss the proposal *prior* to submitting application materials and application fees. A pre-application meeting will help the Planning Department to become familiar with the proposal and will help the subdivider become familiar with the County's policies, regulations, and procedures. It also gives the department an opportunity to identify issues and discuss possible ways to avoid, minimize, or mitigate negative effects.

At this meeting the subdivider should present to the City/County Planner a sketch of the existing property and the proposed subdivision layout. This does not need to be a surveyed plat, but should be scaled and drawn such that pertinent information is accurate and made clear to the Planner.

The sketch should include such information as:

- Physical location (street address or identifying landmarks)
- Approximate boundaries of existing tracts or lots
- Adjacent roadways
- Adjacent property owners
- Natural features of the land (including waterbodies and floodplains)
- Existing structures and improvements
- Existing utility lines
- Existing easements and rights of way
- Existing zones, if any
- Existing noxious weeds
- Existing water rights or irrigation districts
- Proposed public or private improvements
- Proposed utilities, easements, rights-of-way, parks, open space

The City/County Planner will identify state laws, local regulations, and growth policy provisions that may apply to the subdivision review process, including floodplain and zoning regulations. The City/County Planner will provide the subdivider with the subdivision application forms, check list, fee schedule, and any other information applicable to and necessary to complete the division proposed of land.

The property owner may choose to complete the application and gather the required materials themselves, or they may choose to designate an agent to handle the application process on their behalf.

Step 3. Submittal of a Subdivision Application

Following the pre-application conference, the applicant submits a subdivision application to the Planning Department, along with the required supporting documents outlined during the pre-application process, and the appropriate fees.

The Planning Department then has five (5) working days to review the application for completeness and shall then provide a statement to the applicant or agent as to whether the application is complete or not. If not, the application will be returned to the applicant with a notice of the missing documents. A resubmitted application will again be subject to the five (5) day completeness review period.

Within fifteen (15) working days of determining that the application is complete, the City/County Planner determines the application to be complete, the Planner will determine if the application materials are sufficient for an accurate review of the proposal. If any of the application materials are determined to not be sufficient to allow for an accurate review, the City/County Planner will notify the applicant or their agent as to what further information is necessary to begin the review. A resubmitted application will again be subject to the five (5) day completeness review period.

Once the application is complete and all submitted materials are determined to be sufficient for a full and accurate review, the subdivision review process begins.

Step 4. Public Review

Once the application is deemed sufficient, the application is subject to a public review process. The specific procedural requirements in this step depend on the type of subdivision that is being reviewed (major, minor, subsequent minor, or expedited). Major, minor, and subsequent minor subdivision proposals are reviewed by the Planning Board. Major subdivisions and subsequent minor subdivisions must go through a public hearing, but first minor subdivisions do not.

Major subdivisions are reviewed at two separate meetings -- the first is a preliminary presentation and the second is the formal public hearing. Subsequent minors are reviewed at one Planning Board meeting, but go through both the preliminary presentation and then a formal public hearing.

The City/County Planner will review the application materials and provide written findings and recommendations to the Planning Board and/or governing bodies. All proposals are reviewed using predefined criteria.

The Planning Board reviews the proposal, application materials, Planning Department findings and

recommendations, and public input (if a public hearing is required). The Planning Board will make a decision to approve, deny, or approve the proposal with conditions, and will then forward its recommendation to either the City Council or Board of County Commissioners for a final decision. Expedited minor subdivisions are reviewed by the City/County Planner who provides written findings and recommendations directly to the City Council or Board of County Commissioners for their review and decision.

Step 5. Governing Body Decision

The City Council or Board of County Commissioners will make a decision to approve, conditionally approve or deny a major, minor, or subsequent minor subdivision. Decisions are based on the Planning Board recommendations, the findings provided by the City/County Planner, the application materials, public review, and all other information collected during the review process.

An appeal process allows the applicant, applicant's agent, or an aggrieved party to contest that decision in District Court.

Step 6. Completion of Conditions

If the subdivision is approved with conditions, the governing body will list in their written decision a list of those conditions. These conditions ensure that the subdivision will meet legal requirements and protect the public interest, natural resources, and infrastructure, from adverse impacts and avoid the unnecessary expenditure of tax dollars. Depending on the subdivision, this list of conditions may be rather short or quite long. However, all conditions of approval must be met before a final plat can be filed.

Step 7. File Final Survey

When all of the conditions of an approval have been satisfied, the subdivider will submit a final survey, as prepared by a professional land surveyor, and verification that the conditions have been met. Once a final plat has been recorded with the Clerk & Recorder, deeds can be filled and thus the lots can be bought and sold.

Expedited Review

Some first minor subdivisions qualify for an expedited review, which means they receive staff review followed by a governing body decision, and do not go before the Planning Board or receive a public hearing. To be considered for the expedited review process, the following criteria must be met by the proposal:

- Must be a first division of land
- No more than one additional lot is created and the remaining land is greater than 160 acres in size;
- No land is dedicated to the public;
- Each lot has suitable access pursuant to City of County standards;
- The proposal does not pose significant issues concerning the public health, safety or welfare.
- Approval from DEQ or the County Sanitarian must already be obtained prior to subdivision

- review; and
- The proposal is consistent with all provisions of the Subdivision Regulations.

Participants in the Subdivision Process

Subdivider: Depending on the complexity and size of the project, the subdivider (applicant or agent) will need to enlist the expertise of different professionals. Just a few, or all of the following, may be part of the subdivider's team:

- Professional Land Surveyor
- Land Use Consultant
- Environmental Specialists
- Professional Engineer
- Attorney
- Real Estate Professionals
- Financial Institution

Public: Members of the general public are important parts of the decision making process for major subdivisions and subsequent minor subdivisions. A public process is necessary because subdivisions normally create impacts that are public concerns and can ultimately result in the expenditure of taxpayer dollars or degradation of natural resources or could ultimately affect the character of a community. Many issues related to traffic, wildlife, public services, irrigation water delivery, agricultural land, appropriate land use, and others are discussed in public hearings before the Planning Board, City Council, and the Board of County Commissioners before a final decision is reached.

The **City/County Planner** is authorized to implement the administrative provisions of the Subdivision Regulations. For each subdivision, the Planning Department reviews the application, visits the site, and prepares a written report to the Planning Board and/or governing bodies. The Planning Department's report documents whether the proposal meets the local subdivision regulations and analyzes the effects of the subdivision against the relevant review criteria. The Planning Department works with the subdivider to ensure compliance and also works with those interested in a particular subdivision to answer their questions.

Other City/County staff members may be involved in the review process, depending on the complexity or specific conditions of the proposal. These staff may include persons from the fire department, police department, public works, the weed board, the road department, etc.

The **Planning Board** is a 9 member volunteer body appointed by the Board of County Commissioners and City Council to review the Planning Department's reports and recommendations and then hold public meetings and provide these recommendations to the governing bodies on major and minor subdivisions.

The **Board of County Commissioners** makes the final decisions on land use issues for Dawson County. In making their decisions, the Commissioners consider the comments and recommendations of the Planning Department, the Planning Board, and comments from the general public, in reference to the effects a project has on the relevant review criteria.

The **Glendive City Council** makes the final decisions on land use issues for the City of Glendive. In making their decisions, the Commissioners consider the comments and recommendations of the Planning Department, the Planning Board, and comments from the general public, in reference to the effects a project has on the relevant review criteria.

Review Criteria

The Planning Department's review, the Planning Board's recommendation, and the governing body's decision regarding a subdivision proposal are all based on the following:

- Does the proposed subdivision meet the standards of the Dawson County Subdivision Regulations and the Montana Subdivision and Platting Act?
- Is the proposal consistent with zoning regulations and any deed covenants?
- Does the proposed subdivision provide easements for location and installment of utilities?
- Does the proposed subdivision provide legal and physical access to each parcel?
- Does the proposed subdivision have adequate water and sanitation opportunities?
- Does the proposed subdivision adversely affect the following elements:
 - a) *Agriculture* (ie: the agricultural sector, loss of agricultural ground, effects on surrounding agricultural activities);
 - b) *Agricultural Water-User Facilities* (ie: irrigation ditches, head gates, pipes);
 - c) *Local Services* (ie: public road system, police and fire protection; utilities and public schools);
 - d) *Natural Environment* (ie: groundwater; riparian/wetland areas; soil erosion; air pollution; noxious weeds; historical, cultural, archeological, or paleontological features);
 - e) *Wildlife and Wildlife Habitat* (ie: streams and rivers; riparian and wetland areas; rare, threatened, or endangered species; critical wildlife habitat; critical wildlife travel corridors);
 - f) *Public Health and Safety* (ie: disease control and prevention; emergency services; environmental health; flooding; fire or wildfire hazards; rock falls or landslides; unstable soils; steep slopes; other natural hazards; high voltage lines; high pressure gas lines; air quality hazards; vehicular traffic safety hazards; industrial activities, mining activities)

Conditions may be imposed on a subdivision to reasonably minimize potentially significant adverse impacts identified through the review process. Mitigation conditions may include changing the number or configuration of lots, realigning roads or easements, installing appropriate infrastructure, and other actions that are appropriate. Conditions may also be imposed to insure that water and sanitation requirements, access requirements, zoning requirements, and all other applicable requirements are met. Conditions of approval may also be imposed in order insure that all other relevant review criteria are met (zoning, access, etc.).

About the Subdivision Application

A complete subdivision application consists of an application questionnaire which describes the general proposal and provides contact information; a narrative describing the proposal in detail; a narrative addressing the review criteria outlined above; a location map showing the location of the subdivision; an existing conditions map showing existing buildings and roads on the subject property as well as on adjacent properties; a topographic map showing contour lines and water features; a preliminary plat showing the subject property and the proposed layout of the lots; an application fee; and a subdivision guarantee. Depending on the proposal, it may also be necessary to submit an environmental assessment, a traffic impact analysis, an irrigation master plan, grading or engineering plans, and any other relevant information determined by the City/County Planner to be necessary for understanding and reviewing the proposed subdivision.

The application packet constitutes the subdivider’s expressed preference for the development and the proposed mitigation measures to minimize any potential adverse impacts. A preliminary plat is the basis for subdivision review by the Planning Department, Planning Board, City Council, and Board of County Commissioners.

Lot Sizes

Many factors enter in to answer the question: “How big do the lots have to be?” From a sanitation standpoint the lots need to meet the minimum requirements of the Montana Department of Environmental Quality. Below is a generalized table showing the types of water sources and sewage disposal systems, and the resulting minimum lot size.

Sanitation Guidelines

<u>Type of Water Source</u>	<u>Type of Sewage Disposal</u>	<u>Minimum Lot Area</u>
Individual Well	Individual Septic	1 acre (43,560 sq. ft.)
Public Water	Individual Septic	20,000 square feet
Individual Well	Public Sewer	20,000 square feet
Public Water	Public Sewer	None specified

When a subdivision is subject to the restrictions of a voluntary zoning district, covenant, or deed restriction, lot sizes must conform to the applicable requirements if they are more restrictive than the sanitation requirements.

While the minimum lot size is often times established by regulation, the optimum lot size is a product of many factors, including environmental and economic concerns. Environmental considerations may include slope, streams, wetlands, soils, and wildlife habitat. Economic factors may include road location and length, infrastructure and utility costs, prevailing lot sizes in the area, and the real estate market.

Addressing Consequences of a Subdivision

Each and every subdivision has consequences for the parcel, adjoining properties, and the community at large. Some can be positive and some negative, some insignificant and others can be severe. When adverse impacts of a proposal have been identified during the preliminary investigations, the pre-application conference, or through the public review process, the subdivider should take steps to help identify potential ways to address them. Significant adverse affects are grounds for denial of a subdivision proposal. There are three primary ways to address impacts, which should be used in order: Avoid, Minimize, Mitigate. All three could involve significant redesigning of the original proposal.

Design and Development Standards

To help avoid adverse impacts of subdivisions on the general public and on the surrounding landowners, the County has adopted minimum design and development standards which must be met by every subdivision proposal. These are described in detail in Section VI of the Dawson County Subdivision Regulations.

Design Standards - Specific standards must be met for lot design and configuration, access, road alignment, developable lots, impact mitigation, drainage facilities, water supply systems, sewage treatment, solid waste, utilities, water course and irrigation easements, public dedications, fire protection, noxious weeds, etc.

Development Standards – When required or proposed as part of the subdivision, infrastructure improvements are generally required to be designed, installed, and paid for by the developer as a condition of subdivision approval. A professional Engineer or other qualified individual must certify in writing that the required improvements have been completed to City or County standards. Depending on the proposal, a subdivider may need to provide all or just a few of the following:

- *Roads* - New roads internal to a subdivision must be built to the governing body's standards. Existing roads leading to and/or adjacent to the proposed subdivision may need to be upgraded and improved to handle the anticipated traffic generated by the subdivision. The road standards in terms of road width and construction requirements increase as the number of lots that the road serves increases- more lots means higher standards. Other requirements for road name signs, traffic control signs, and common driveway approaches are imposed when appropriate.
- *Irrigation Facilities* - If the subject property has irrigation water rights the subdivider must either remove the water rights from the property or must design and install an irrigation delivery system to provide irrigation water to each of the lots. If the subdivision is in an irrigation district, the district will need to sign off on the irrigation plan.
- *Electricity, Gas, Telephone Service* - The subdivider must provide a utility easement to each of the lots for electricity, gas and telephone.
- *Water and Wastewater* - If the lots will not be served by an individual well and septic system, the subdivider must install a central water system and/or sewage disposal system. If an individual well and septic system are to be used, they must be designed to meet the minimum

standards of the Montana Department of Environmental Quality. Typically, the homeowner and not the subdivider, installs and pays for these systems.

- *Mail Service* - A central mailbox for all of the lots may be required if mail delivery will not be provided to each individual lot.
- *Fire Protection* - Each lot in the subdivision must be located within the boundaries of a fire district. A subdivision served by a municipal water system must include fire hydrants, the number and placement of which must be approved by the fire chief.
- *Storm Water Drainage* - Stormwater drainage must be reviewed and approved and facilities must be provided to prevent damage to the subdivision or to adjoining properties.
- *Noxious Weed Control* - The subdivider is responsible for ensuring that noxious weeds are controlled in the subdivision, especially on areas such as roadways.
- *Parks* - If the project is a major subdivision, the subdivider must either dedicate a portion of the subdivision for park purposes or contribute money to the governing body.

Development Costs

A subdivision will incur a number of costs that should be factored into the project's financial feasibility. These can include but are not limited to:

- Consultant's fees
- Surveying fees
- Engineering fees
- Infrastructure development costs
- Subdivision Guarantee

Infrastructure development costs can include, but are not limited to:

- Roads
- Bridges
- Stormwater facilities
- Water and wastewater
- Utilities (telephone and electric)
- Road signs, petitions & addresses
- Fencing
- Park requirements (for certain major subdivisions)

Variiances

As discussed earlier, design and development standards have been adopted to help ensure proper development. However, there may be instances where the standards would cause a hardship or would cause unintended results. In these instances, it may be appropriate for the County to issue a variance from that standard. Section X. of the Dawson County Subdivision Regulations lists the requirements and procedures for reviewing applications and under what conditions one may be granted.

Application Fees

In order that County taxpayers do not bear the full cost of reviewing subdivision applications, the subdivider must pay an application fee as shown below. As the number of lots increases, the cost goes up as well.

FEE SCHEDULE FOR SUBDIVISIONS	
<u>Application</u>	<u>Fee</u>
Major Subdivision Review Preliminary and Final Plat Review	\$1000 and \$50 per lot, 6 and more lots
Minor Subdivision Review (1st Minor) Preliminary and Final Plat Review	\$500
Subsequent Minors (2nd or more Minor) Preliminary and Final Plat Review	\$900
Expedited Minor Subdivision Review Preliminary and Final Plat Review	\$300
Amended Plat	\$300
Mobile Home Park, Recreational Vehicle Park, and Condominiums 1 to 5 units 6 or more units	\$500 and \$50 per unit \$1000 and \$50 per unit
Major changes to approved preliminary plat	\$300
2nd & Each Subsequent Planning Board Hearing	\$100
Subdivision Exemption (COS)	\$75
Subdivision Variance	\$200
County Filing Fees	\$5.50 per page \$0.50 per lot up to 100 lots \$0.25 per lot over 100 lots Plus \$0.50 per tract
*Other City or County departments involved in the review process may have their own fee schedule.	

For Further Information

For more information please refer to the Dawson County Subdivision Regulations online at www.dawsoncountymontana.com/planner/, contact the Planning Department at 406-345-4139, or visit the Planning Department at 207 West Bell Street in Glendive, MT.