

VIII. ADMINISTRATIVE PROVISIONS

VIII-A. Fees

A schedule of review fees to be paid by the subdivider to defray the expenses of processing subdivision applications and/or plats and any inspections necessary for subdivision review is available from the Planning Office. Subdivision applications and/or plats shall not be accepted or processed until all fees have been paid in full.

VIII-B. Variances

- a. Hardship. The Commission may grant reasonable variances from the design and improvement standards of these Regulations where it is found that strict compliances with the specific design and improvement standard would result in undue hardship and strict compliance is not essential to the public health, safety, and welfare .
- b. Procedure. The subdivider shall include with the submission of the preliminary plat a written request describing the variance(s) and the facts of hardship upon which the request is based. For major subdivisions and subsequent minor subdivisions, the Planning Board shall consider each variance at a public hearing on the preliminary plat. If a variance is made regarding a first minor subdivision, the variance(s) shall be considered by the Planning Board and by the governing body at their respective meetings to review the first minor subdivision. The Commission may hold an additional public hearing on variance requests for major and subsequent minor subdivisions if it deems necessary. The Commission is the final decision making authority for variance requests.
- c. Review Criteria. In accordance with 76-3-506, MCA, a variance to these Regulations shall be based upon specific variance criteria, and may not have the effect of nullifying the purpose of these Regulations. The Commission shall not approve variances unless it makes findings based upon the evidence presented in each specific case that:
 - i. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 - ii. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed;
 - iii. The variance will not cause a substantial increase in public costs; and
 - iv. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

- d. Variations from Floodway Not Authorized. The Commission may not, by variance, permit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency as defined in Title 76, Chapter 5, MCA.:
- e. Conditions. In granting variances, the Commission may require such conditions as will, in its judgment, secure the purposes of these Regulations.
- f. Statement of Facts. When a variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.
- g. PUD. Where the standards and requirements of these Regulations may be modified by the Commission in the case of a planned unit development, no application for a variance shall be necessary, the subdivider shall follow the procedure for a waiver. Waivers shall not endanger the public health and safety.

VIII-C. Amendments to Subdivision Regulations

- a. General. For the purpose of providing for the public health, safety, and general welfare, maintaining consistency with the MSPA and the Administrative Rules of Montana, maintaining consistency with the Growth Policy, or responding to changing conditions within the County, the Commission may amend the provisions of these Regulations.
- b. Hearing. A public hearing on the proposed amendments shall be held before the Planning Board, legal notice of which shall have been given in a newspaper of general circulation in the County not less than fifteen (15) days not more than thirty (30) days prior to the date of hearing. The Planning Board shall send a recommendation on the proposed amendments to the Commission for their consideration. The Commission may hold an additional public hearing on the proposed amendments if it deems necessary. The Commission is the final decision making authority for amendments to these Regulations.

VIII-D. Administration

- a. Violation. Any person, firm, corporation or other entity who shall violate the provisions of these Regulations shall be guilty of a misdemeanor.
- b. Penalties. Any violation of the provisions of these Regulations is an offense punishable by a fine of not less than \$100.00 nor more than \$500.00 or imprisonment in a county jail for not more than three months or by both fine and imprisonment. Each sale or transfer, or offer of sale or transfer, of each separate parcel of land in violation of any provision of these regulations shall be deemed a separate and distinct offense.

- c. Enforcement. Except as provided in 76-3-303, MCA, every final subdivision plat must be filed for record with the Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. If illegal transfers or offers of any manner are made, the County Attorney for Carbon County shall commence action to enjoin further sales or transfers or offers of sale or transfer and to compel compliance with all provisions of the MSPA and these Regulations, the cost of such action being imposed against the person or entity committing the illegal act.

VIII-E. Vacation of Recorded Plats

Any plat prepared and recorded herein provided may be vacated in whole or in part as provided by 7-5-2501, 7-5-2502, subsection (1) and (2) of 7-14-2616, 7-14-2617, subsections (1) and (2) of 7-14-4114, and 7-14-4115, MCA. Upon vacation, the Commission or the district court, as provided in 7-5-2502 MCA,, shall determine to which properties the title to the streets and alleys of such vacated portions shall revert.

The Commission 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; 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 are adjacent to the vacated portions.

When any poleline, 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 shall have an easement over the vacated land to continue the operation and maintenance of the public or private utility facility.

VIII-F. Waivers for PUDs

In planned unit developments, the Commission may grant reasonable waivers from these Regulations where it is found that these Regulations allow a waiver to be requested and granted. Waivers shall not endanger the public health and safety.

- a. Procedure. The subdivider shall include with the submission of a subdivision application a written statement describing the requested waiver and a response to each criteria and reasons upon which the request is based. The Commission shall consider each waiver if the proposed PUD meets all the criteria provided in Section VII-C.

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