

APPENDIX A

Review of Subdivision Regulations

PONDERA COUNTY SUBDIVISION REGULATION REVIEW

All jurisdictions in Montana are required to establish regulations for review of subdivisions. Pondera County has subdivision regulations that were adopted in 2002. These are detailed and generally thorough regulations, but they do not conform to the changes in state law since 2002. The legislature has made changes with each subsequent biennial session and significant and major changes occurred in 2005.

It is suggested that the county confer with the Community Technical Assistance Program (at the Montana Department of Commerce in Helena) before initiating the subdivision update. Typically, communities that do not have existing planning staff will contract with a planning professional to update the regulations.

The following is a brief review of some of the problem areas in the existing subdivision regulations. Note that the following is reflective of state law as of March 2011.

1. Subdivision Regulation Contents. The existing regulations do not address all of the items required in state law (76-3-504). Noticeably missing are the following items:
 - a. Criteria for reviewing exemptions from subdivision review. This is important for evaluating divisions that may be recorded as written documents (e.g., warranty deeds) or surveys. Only certain types of divisions are exempted from subdivision review. The county sets the specific criteria for what qualifies a division for exemption within the parameters of state law for exemptions (Title 76, Chapter 3, Part Two, MCA).
 - b. Water rights allocations on certain subdivisions
 - c. Pre-application meetings (now required)
 - d. The required “elements” for an application

2. Requirements for a Subdivision Application. This was substantially changed in 2005 and spelled out in 76-3-604, MCA. Each application is now reviewed within five working

days to determine if it includes the required “elements.” Once all required elements are received, there is a subsequent review period to determine if the information is sufficient.

3. “Low Impact” Minor subdivisions. There may have been a reference to “Low Impact” minor subdivisions in previous versions of the Subdivision and Platting Act, but there isn’t any more. There is provision for “expedited” minor subdivisions in current state law. (76-3-609, MCA)
4. Water and Sanitation information. 76-3-622, MCA was added in 2005 and requires specific water and sanitation information to be submitted with the preliminary plat application.
5. Miscellaneous.
 - a. Jurisdiction. The current regulations state that they apply to the incorporated and unincorporated areas of the county. Conrad and Valier both have their own separate planning boards and subsequently will also need to have their own separate subdivision regulations.
 - b. Review fees. The current regulations include the fee schedule as part of the ordinance (as an appendix). The fees are not likely to cover current review costs and fees should be increased. Further, it is better to have the fee schedule SEPARATE from the subdivision regulations and related appendices because that way the fee schedule can be revised and updated without going through the amendment process each time fees need to be revised in the future.
 - c. Gravel and other resources, and potential hazards. The growth policy includes a number of maps that will be useful in analyzing potential subdivisions and other developments. For example, there is a generalized map of gravel potential. Because the county is not zoned, gravel operations could be established right next to residential areas. Clarifying that potential early on in subdivision review

can be useful. It would be a good idea to include analysis of information available from the various maps from the growth policy and the Pre-Disaster Mitigation Plan in the criteria for reviewing subdivisions.

6. Conforming to the Growth Policy. The subdivision regulations will also need to be updated to address the guidance in Part Four of the growth policy on the following items:

1. Subdivision review criteria in 76-3-608(3)(a), MCA
2. How to evaluate and make decisions regarding proposed subdivisions with respect to those criteria, and
3. How public hearings regarding proposed subdivisions will be conducted.