

# CHAPTER 12

## SUBDIVISION REVIEW

### INTRODUCTION

One essential responsibility of local government in Montana is the review of proposed subdivisions. The formation of a subdivision within an urban area often precedes or follows a change in the use of that land. A subdivision usually remains in perpetuity and continues to influence the location and intensity of land uses within and adjacent to the subdivision. Therefore, subdivisions are strongly linked to the planning process and may affect the objectives identified in the City Growth Policy.

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Montana Code Annotated (MCA) 76-1-601 requires that Growth Policies include a statement explaining how the governing bodies will:

- “define the criteria in [76-3-608\(3\)\(a\)](#) MCA;
- evaluate and make decisions regarding proposed subdivisions with respect to the criteria in [76-3-608\(3\)\(a\)](#) MCA; and
- Include a statement explaining how public hearings regarding proposed subdivisions will be conducted.”

This chapter is not regulatory but is intended to provide guidance in the subdivision review process. (See Title 76, Chapter 3 MCA, and the City of Helena Subdivision Regulations for complete statutory requirements.) Any changes to the City of Helena Subdivision Regulations will be reviewed and adopted in accordance with the City Growth Policy. If statutory requirements are modified, this Growth Policy will be amended to ensure compliance with state law.

This chapter defines the primary criteria that will be used when evaluating a subdivision application and describes how the individual criteria will be used to evaluate that application.

Although in Title 76, Chapter 3 MCA, state law provides communities the opportunity to establish an exemption for some subdivisions from the evaluation of the proposed development’s impact on the subdivision review criteria; this Growth Policy is not intended to provide sufficient detail to

utilize this exemption. Therefore, all subdivision applications reviewed by the City should include an evaluation of the subdivision’s impact on those review criteria.

## REVIEW CRITERIA FOR SUBDIVISIONS

Subdivisions are reviewed to promote public health, safety, and general welfare and to provide for orderly and efficient development that is sensitive to the impacts to the natural environment. In order to accomplish these purposes, proposed subdivisions are reviewed against specific criteria.

Title 76, Chapter 3, Section [76-3-608\(3\)](#) (a) MCA lists the following six primary subdivision review criteria:

1. impacts on agriculture
2. agricultural water user facilities
3. the natural environment
4. wildlife and wildlife habitat
5. local services
6. public health and safety

Although other criteria are also considered during the subdivision review process, the Growth Policy is mandated to clarify only these main criteria and provide guidance for the evaluation and decisions regarding proposed subdivisions with respect to these primary criteria.



## DEFINITIONS AND EVALUATION GUIDANCE

This section of the Growth Policy defines the six criteria for subdivision review and summarizes how those criteria will be evaluated and used to make decisions during the review of individual subdivision proposals.

## AGRICULTURE



Agricultural land in the Helena area

Agriculture is defined as the use of land for growing, raising, or marketing of plants or animals to produce food, feed, and fiber commodities. Examples of agricultural activities include, but are not limited to, cultivation and tillage of the soil; dairying; growing and harvesting of agricultural or horticultural commodities; and raising livestock, fur-bearing animals, or poultry. Agriculture does not include gardening for personal use, keeping house pets, kenneling, or landscaping for aesthetic purposes.

### Evaluation and Decision

This definition of agriculture will be applied during subdivision review subject to the following evaluation guidelines:

1. Property annexed to the City will generally not be used for agricultural purposes over the long term except in certain circumstances, including but not limited to:
  - a) community gardens;
  - b) areas where physical constraints, such as flood plains, make an area detrimental for the construction of buildings; or
  - c) where agricultural uses support a commercial business such as a plant nursery.
2. Agricultural lands within the City may be subdivided at urban densities, as described in the [LAND USE](#) Chapter, to promote growth near employment and services whenever possible and to encourage infill and more efficient development.
3. Subdivision in accordance with City of Helena zoning and the provision of City services will promote the preservation of agricultural lands by providing a location for development in a dense and efficient manner, thereby reducing the pressure to change agricultural lands to non-agricultural uses in the County.
4. A subdivision's impact to adjacent agricultural lands should be reviewed and the impacts mitigated.

## **AGRICULTURAL WATER USER FACILITIES**

Agricultural water user facilities are defined as facilities that provide water for irrigation and stock watering for the production of agricultural goods. They include, but are not limited to, reservoirs, ponds, ditches, pipes, and other water conveying facilities.



Helena Valley Irrigation District Canal

### **Evaluation and Decision**

This definition of agricultural water user facilities will be applied during subdivision review subject to the following evaluation guidelines:

1. Agricultural uses are not generally urban uses; thus, the transition of agricultural lands to urban uses will remove the need for most agricultural water user facilities within the City.
2. Wherever possible, the subdivision process should result in the official abandonment and removal of all agricultural water user facilities, except where a facility is still in use by identified persons for agricultural purposes only. The facility should be maintained by the remaining water users and all necessary easements for maintenance should be provided.
3. If it has been established that an agricultural water user facilities is still in use, the rights of all water right owners and users of the facility should be considered and access for maintenance or relocation of the facility should be evaluated.
4. Potential conflicts between agricultural water facility users and subdivision residents should be evaluated.

## **LOCAL SERVICES**

Local Services are defined as all services provided to the public by the City of Helena, other local governmental bodies, or public utilities, including, but not limited to, transportation systems and non-motorized facilities, law enforcement, fire protection, drainage structures, water supply, sanitary sewage disposal, solid waste collection and disposal, parks, and schools.



## **Evaluation and Decision**

This local services definition will be applied during subdivision review subject to the following evaluation guidelines:

1. Subdivision review should consider the recommendations of existing service and facility plans and compliance with other service needs assessments.
2. Subdivision review could include the impact of the development on the levels of service, proximity of services, response times, and the subdivider's responsibility in the extension of services.
3. The capacity and capability of local services is limited, and all developments should equitably participate in providing adequate services for, including replacement of consumed reserve capacity, to meet levels of service and facility design standards.
4. General design of local services within proposed subdivisions should be addressed during the preliminary plat review.
5. Lack of adequate service capacity and capability within local services is adequate grounds for denial of subdivision approval when impacts of proposed subdivisions are not mitigated.
6. Subdivision review shall include review of easements for the provision and maintenance of services.
7. Subdivision review may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security for purposes of filing a final plat.

## **THE NATURAL ENVIRONMENT**

The natural environment is defined as the physical conditions that exist within a given area, including, but not limited to, land, topography, climate, air quality, surface and ground water, wetlands and riparian areas, floodplains, minerals, flora, fauna, noise, light, and objects of historic, cultural, and aesthetic significance.

### **Evaluation and Decision**

This definition for natural environment will be applied during subdivision review subject to the following evaluation guidelines:



1. The natural environment is deeply linked with economic development as an attraction to new and expanding businesses, a tourist destination, and a basic component of Helena's character.
2. The natural environment should be preserved or the impacts mitigated, and development should respect significant natural features.
3. Cut and fills on slopes as a result of road or building construction should be minimized.
4. Automobile emissions can have a negative impact on air quality and the climate; thus, subdivisions should provide an efficient transportation system that accommodates future connectivity and non-motorized means of transportation.
5. Urban densities and residential development within the City and in close proximity to employment and services can reduce vehicle miles traveled, and promote more efficient use of land, infrastructure, and the transportation network. This can decrease air pollution and reduce development pressure on sensitive areas and the natural environment.
6. The impact to ground and surface waters, water bodies, drainages, floodplains, riparian areas, and wetlands, should be evaluated. Adequate buffers should be incorporated or appropriate mitigation should be provided, including, but not limited to, stormwater treatment and discharges and protection of wetlands.
7. Development within the City requires compliance with more stringent environmental regulations than are typically applied to County development, such as wastewater and stormwater quality standards, which help to protect the natural environment.
8. Subdivisions should be evaluated for objects of historic and aesthetic significance. If present on the property, such items should be preserved or the loss of those features should be mitigated.

## **WILDLIFE AND WILDLIFE HABITAT**



Wildlife is defined as animals that are not domesticated or tamed. Wildlife habitat is defined as an area containing the environmental conditions essential to wildlife for feeding and forage, cover, migration, breeding, rearing, nesting, or buffers from those areas. It also includes areas essential to the conservation of species protected by the Endangered Species Act or of special interest or concern to the State of Montana.

### **Evaluation and Decision**

This definition of wildlife and wildlife habitat will be applied during subdivision review subject to the following evaluation guidelines:

1. Urban density development is not intended to meet the habitat needs of larger wildlife such as deer, moose, or elk or predatory species such as bear, mountain lions, or coyotes.
2. Rural areas are more conducive to wildlife and wildlife habitat than are urban areas. Encouraging subdivisions within the City urban growth area provides housing and development opportunities within an urban setting that can reduce development pressures on surrounding rural areas, which would then reduce development pressures on rural wildlife habitat.
3. Although urban areas are not intended to preserve wildlife habitat, certain natural features, such as wildlife corridors, wetlands, stream corridors, and similar high value habitats are irreplaceable and should be preserved and buffered as much as possible. These areas may provide a variety of recreational, water quality, and safety values, such as flood control as well as wildlife and bird habitats.
4. Habitat for species protected by the Endangered Species Act or of special interest or concern to the State of Montana or the City of Helena should be preserved.

## **PUBLIC HEALTH AND SAFETY**

Public health and safety is defined as a condition of well being and security for individuals and the population as a whole within the community.

### **Evaluation and Decision**

This definition of public health and safety will be applied during subdivision review subject to the following evaluation guidelines:

1. Compliance with Federal, State and City, rules, codes, and regulations will facilitate public health and safety.
2. To be a healthy community, human resources should be enhanced through the provision of parks, recreational areas, sidewalks, pedestrian and bike paths, block lengths that encourage walkable neighborhoods and connectivity, trails, and the preservation of natural spaces.
3. Subdivisions should provide safe transportation networks, including pedestrian ways, with adequate ingress and egress and traffic calming where appropriate, and lots designed to allow adequate emergency access to the buildable area on the lot. City-approved water and wastewater facilities, adequate stormwater facilities that comply with water quality regulations and best management practices, and solid waste collection should also be provided.
4. Subdivisions should avoid or mitigate the negative impacts that relate to public health and safety, including, but not limited to, fire, earthquakes, floods, and water quality.
5. Subdivision review should include an evaluation of the impacts to emergency services including police, fire department, and ambulance response times.



Signalized intersection

## **PUBLIC HEARING PROCEDURES**

Public hearings for subdivisions will be conducted in accordance with all applicable statutory requirements and procedures required by state law and as outlined in the City of Helena City Code, Title 12, Subdivision Regulations.