



# **SUBDIVISION REGULATIONS**

**Adopted June 2007, Updated through October 2020**

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## **CHAPTER 1 - GENERAL PROVISIONS**

### **1-100 Title**

These Regulations shall be referred to as the Morgan County Subdivision Regulations or these Regulations.

### **1-105 Authority and Jurisdiction**

Morgan County is authorized by Colorado law to control the subdivision of all the unincorporated land within the County by virtue of C.R.S. §30-28-102, *et seq.*, as amended, and these regulations are hereby declared to be in conformance with the provisions of those statutes. It is unlawful to subdivide by “deeding” property in Morgan County without first complying with these Regulations.

### **1-110 Purpose**

These Regulations are designed and enacted to:

- (A) Promote and protect the health, safety, and general welfare of the people of Morgan County.
- (B) Provide for orderly, efficient, integrated development in accordance with County policies and the Comprehensive Plan.
- (C) Establish minimum uniform standards for subdivision design, including planning and engineering criteria, environmental factors and performance guarantees.
- (D) Establish a general procedure for processing subdivision applications.
- (E) Safeguard both interests of the public and the applicant; improve land records and boundary monumentation.
- (F) Give reasonable assurance that an adequate and safe water supply, sanitation facilities, access, fire protection and other necessary public services are available for development.
- (G) Preserve natural vegetation and cover and promote the natural beauty of the land.
- (H) Prevent and control erosion, sedimentation and other pollution of surface and subsurface water and prevent the pollution and contamination of soils.
- (I) Prevent flood damage to persons and properties and minimize expenditure for flood relief and flood control projects.

- (J) Restrict building on flood lands, shore lands, areas covered by poor soils, or in areas poorly suited for building or construction.
- (K) Prevent loss and injury from landslides, mud flows and other geologic hazards.
- (L) Provide adequate space for future development of schools and parks to serve the population.

### **1-115 Administration over Platting**

All plans of improvements for public use and all plans, plats, and replats of land laid out in subdivision or building lots and the roads, alleys, or other portions of the same, intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be submitted to the Planning Commission and the County Commissioners for review and subsequent approval conditional approval, or disapproval. It shall not be lawful to record any such plan or plat in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the County Commissioners.

### **1-120 Interpretation and Effect of Approval<sup>1</sup>**

In the interpretation and application of these Regulations, the following criteria shall govern:

- (A) The responsibility of the applicant shall be to show full compliance with the purpose of these Regulations.
- (B) Whenever provisions of these Regulations contain any restrictions covering any of the same subject matter as do any other provisions of these Regulations or any other applicable law, ordinance, resolution, rule or regulation of any kind, whichever provisions are more restrictive or impose higher standards or requirements shall govern.
- (C) These Subdivision Regulations are not intended to abrogate or annul any valid subdivision plats, easements, covenants, building permits, legally established lots, established, approved and/or issued before the effective date of these Subdivision Regulations. An approval issued under these Subdivision Regulations does not guarantee compliance with any applicable easement, covenant, or other private agreement. Property owners are responsible for complying with any applicable easement, covenant, or other private agreement.<sup>2</sup>

### **1-125 Severability Clause**

If any section or article of these Regulations is found to be unconstitutional or illegal by the court, the said section or article will cease to be effective until an amendment is drafted and adopted; the unconstitutionality of any section or article, however, shall have no bearing on the effectiveness of the rest of these Regulations.

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<sup>1</sup> 2019 BCC 19

<sup>2</sup> 2019 BCC 19

### **1-130 Deviations from Subdivision Regulations<sup>3</sup>**

- (A) General. The Board, upon a specific request, may hear the request for a deviation from the standards and decide to accept or reject the request, or accept the request with modifications. As provided for in this Section, except for minor subdivisions for which a request shall only be considered by the Board, the Planning Commission shall consider the request for a deviation and make recommendations to the Board. The Board shall not approve any deviation unless, based upon the evidence presented to it in each specific case, that:
- (1) Extraordinary non-economical hardships or practical difficulties may result from strict compliance with these Subdivision Regulations and the purposes of these Subdivision Regulations may be served to a greater extent by an alternative proposal.
  - (2) Such deviation shall not have the effect of nullifying the intent and purpose of these Subdivision Regulations.
  - (3) The granting of the deviation will not be detrimental to the public safety, health or welfare or injurious to other property that is located adjacent to the subdivision.
  - (4) The conditions upon which the request for a deviation is based are unique to the property for which the deviation is sought and are not applicable generally to other property.
  - (5) The deviation sought will be in harmony with the Morgan County Zoning Regulations, Comprehensive Plan, Building Code and Official Map.
- (B) Conditions. In approving any deviation, the Board may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements of these Subdivision Regulations. Each petition for a deviation from these Subdivision Regulations shall be considered separately and on its merits.
- (C) Procedures. A petition for any such deviation shall be submitted in writing by the subdivider at the time when the preliminary plan is filed for the consideration of the Planning Commission. If there is no preliminary plan, the petition shall be made at the time of the final plat is submitted for consideration by the Board. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. As applicable, the Planning Commission and the Board shall hold a public hearing on the request. Notice of any public hearing shall be given at least 14 days prior to the hearing by publication and mail to landowners within 1320 feet of the boundary of the proposed subdivision.

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<sup>3</sup> 2019 BCC 19



### **1-135 Pre-existing Non-Conforming Parcels**

These regulations shall not apply to the addition of area to parcels which were created prior to April 1, 1973 which do not meet the minimum lot size requirements for the zone in which the parcel lies unless such addition of area would reduce another parcel below the minimum lot size for that zone.

The burden of demonstrating the date of creation of the parcel shall be on the landowner and/or applicant.

### **1-140 General Responsibilities**

- (A) Subdivider: The subdivider shall prepare plans, plats and related documents in accordance with these regulations and shall submit said plans, plats and related documents to the Planning Department.
- (B) County Departments: The Planning Department and County Attorney's Office shall review plans, plats and related documents for proper compliance hereunder and shall submit their comments, recommendations, and findings to the Planning Commission and the Board of County Commissioners through the Planning Department.
- (C) Planning Staff: The Staff of the Planning Department shall advise the Planning Commission and the Board of County Commissioners as to the desirability of plans and plats. The Staff shall insure that the regulations contained herein are implemented in the development process.
- (D) Planning Commission: It shall be the responsibility of the Planning Commission to evaluate proposed land developments and recommend approval, conditional approval, or denial of plans and plats to the Board of County Commissioners. All official actions made pursuant to these Regulations shall be at scheduled public hearings, as required.
- (E) Board of County Commissioners: The Board of County Commissioners shall have the authority for final approval, conditional approval, or denial on all plans and plats.

### **1-145 Enforcements<sup>4</sup>**

- (A) It shall be the duty of the County Commissioners, or their duly appointed representatives, to enforce the provisions of these Subdivision Regulations. No Final Plat of a Subdivision shall be approved by the County Commissioners unless it conforms to the provisions of these Subdivision Regulations and the Morgan County Zoning Regulations.<sup>5</sup>
- (B) Any subdivider, or agent of a subdivider, who transfers legal or equitable title or sells any subdivided land before final plat for such subdivided land has been approved by the Board

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<sup>4</sup> 2019 BCC 19

<sup>5</sup> 2019 BCC 19

of County Commissioners and recorded or filed in the office of the County Clerk and Recorder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars for each parcel of or interest in subdivided land which is sold, or any such greater penalty as is provided for in the Colorado Revised Statutes. All fines collected under this paragraph shall be credited to the general fund of the county. No person shall be prosecuted, tried, or punished under this paragraph unless the indictment, information, complaint, or action for the same is instituted prior to the expiration of eighteen months after the recordation or filing in the office of the County Clerk and Recorder of the instrument transferring or selling such subdivided land. The Board of County Commissioners may, for enforcement of the subdivision regulations, withhold building permits until there is compliance. No plat for subdivided land shall be approved by the Board of County Commissioners unless at the time of the approval of platting the subdivider provides the certification of the County Treasurer's office that all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid.

- (C) The Board of County Commissioners has the power to bring an action to enjoin any subdivider from selling subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners or to enjoin the use of such improperly subdivided property.
- (D) No person may submit an application for subdivision approval to the County unless the subdivision plan or plat ensures, pursuant to C.R.S. § 43-2-147, that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the state highway access code.<sup>6</sup>
- (E) No permits of any kind shall be issued by the County Planning Staff, nor any other administrative office of the County, for the construction of any building or other improvements upon any land to which these Regulations apply unless and until the requirements thereof have been met.
- (F) No changes, erasures, modifications, or revisions shall be made on the Final Plat after the approval by the County Commissioners without replatting except scrivener's errors.

### **1-150 Amendments to the Subdivision Regulations**

- (A) The procedures, standards, and criteria contained in these Regulations, when deemed necessary, may from time to time be revised, altered or amended. All proposed changes are to be made available to the public for review prior to any hearing.
- (B) The Planning Commission shall hold a public hearing prior to recommending the adoption of any amendments or changes. The time and place of such public hearing shall be advertised by the Commission at least fifteen (15) days prior to the hearing in a newspaper of general circulation within the County. After considering the testimony at the public

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<sup>6</sup> 2019 BCC 19

hearing, comments from governmental agencies, and interested parties, the Planning Commission shall recommend approval, conditional approval or disapproval of the proposed changes or amendments to the County Commissioners.

- (C) The County Commissioners shall hold a public hearing prior to taking action upon such recommendation. At least fourteen (14) days' notice of the time and place of such hearing shall be given by at least one publication in a newspaper of general circulation in the County. Before adopting any such subdivision regulations, the County Commissioners may revise, alter, or amend any such subdivision regulations developed, proposed, or recommended by the County Planning Commission. After due consideration, the County Commissioners shall approve, conditionally approve, or disapprove the proposed changes or amendments and such decision shall be binding on all parties affected by this regulation.
- (D) Upon adoption by the County Commissioners, a certified copy of such regulation shall be filed with the County Clerk and Recorder. All revisions or additions to the subdivision regulations are to be integrated with the original regulations and made available to the public.

### **1-155 Application Fees**

Fees for various review procedures of these regulations are determined by the Board of County Commissioners and are contained in a separate schedule available from the Planning Department. County policy requires that the cost of reviews and the recording of documents are to be paid by the applicant. No plats will be recorded until all fees are paid.

### **1-160 Reapplication**

No application shall be accepted if the same or substantially similar application has been denied or rejected by the Board of County Commissioners with the previous one (1) year.

### **1-165 Severability<sup>7</sup>**

The provisions of these Subdivision Regulations are declared to be severable; if any section, paragraph, sentence or clause of these Regulations is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause of these Subdivision Regulations.

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<sup>7</sup> 2019 BCC 27

## **CHAPTER 2 – LANGUAGE CONSTRUCTION<sup>8, 9</sup>**

### **2-100 General Rules**

The following six statements are rules regarding the construction of language in these Regulations:

- (A) The particular has precedence over the general statements.
- (B) In case of any difference of meaning or implication between the text of these amended Regulations and captions for each section, the text shall control.
- (C) The word “shall” is always mandatory and not directory. The word “may” is permissive.
- (D) Words used in present tense include the future, unless the context clearly indicates the contrary.
- (E) Words used in the singular shall include the plural, unless the context clearly indicates the contrary.
- (F) Any definition used in the applicable Colorado Statutes may be used in these Regulations and if the statutory definitions conflict, then the statutory definitions shall govern.

### **2-105 Definitions<sup>10</sup>**

#### **Abutting Property Owner**

Those owners of real property whose boundaries are contiguous with the subject property or separated only by a public roadway, railway, canal, multi-purpose trail, open space or green belt area or other narrow public right-of-way.

#### **Combination Agreement<sup>11</sup>**

A voluntary acknowledgement by property owner filed for recording with the Clerk and Recorder whereby a property line is removed between two or more contiguous lots or parcels for the purpose of designating the exterior boundaries of the resulting parcels. The execution and filing of a combination agreement eliminates the lot or parcel line between two or more parcels for the purpose of meeting the requirements of these Regulations.

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<sup>8</sup> 2019 BCC 27

<sup>9</sup> 2019 BCC 19

<sup>10</sup> 2019 BCC 27

<sup>11</sup> 2017 BCC 24

## **Dedication**

An appropriation of land to some public use, made by the owner and by which the owner reserves to himself no other right than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. Dedication shall not be evidence of acceptance of improvements or land for maintenance, repair or other control by the County.

## **Drainage Easement**

A grant to the County of the right to control development of a drainage right-of-way or an area subject to periodic flooding.

## **Drainage Plan**

A plan that accounts for the increased run-off from a particular site as a result of development that is in excess of the historical flow of water off the site. A drainage plan must show how the excess run-off water will be directed and contained on the site so as not to cause harm to adjacent properties.

## **Dwelling**

Any building or portion thereof which is used as the private residence or sleeping place of one or more human beings, but not including hotels, motels, tourist courts, hospitals, lodging houses with central kitchen, or similar uses.

## **Dwelling Unit**

One or more rooms connected together, constituting a separate, independent housekeeping establishment for permanent occupancy by not more than one (1) family or four (4) unrelated persons for living purposes and having not more than one (1) kitchen plus sleeping areas. All dwelling units shall contain at least four hundred (400) square feet of floor area measured on the outside walls.

## **Easement**

A right to use or control the property of another for a designated purpose, such as a drainage, utility or service, landscaping, generally established by deed or recorded plat to permit a specific use or control of the land by the public, a corporation, or person.

## **Exemption from Platting**

A release from the requirements of platting by resolution of the Board of County Commissioners in accordance with the terms set forth in these Regulations.

## **Floodplain**

That land inundated according to a specified return frequency by a run-off of the same return frequency. Where not otherwise specified, the return frequency is taken to be 100 years.

## **Flood Hazard Boundary**

The relatively flat or lowland area adjoining a river, stream watercourse, lake or other body of standing water which has been or may be covered temporarily by flood water. For administrative purposes the flood hazard area may be defined as the area that would be inundated by the “Standard Project Flood” (Corps of Engineers) shown as a shaded area on the Flood Hazard Boundary Maps (FIRM – Flood Insurance Rate Maps) for Morgan County (FEMA – Federal Emergency Management Administration.)

## **Improvements, Public**

The physical improvements to property made by a subdivider and/or developer to provide needed public facilities or services, or to protect public health, safety and welfare. These include, but are not limited to: roads, streets, gutters, sidewalks, water, sewer, gas and electric lines, parks, detention and settling ponds, infiltration galleries, sand traps, grassed waterways, revegetation landscaping, erosion control and other measures whether temporary or permanent, taken or required to control drainage, prevent erosion and/or protect water quality. These are facilities for which the County may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which County responsibility is established. All such improvements shall be secured by agreement between the subdivider or developer and the county.

## **Legal Lot<sup>12</sup>**

A lot, parcel or tract of land created by a legal conveyance of said lot, parcel or tract prior to May 5, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to May 5, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by approval of the County Commissioners in conformance with the subdivision regulations in effect at the time of approval; or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain.

## **Lot**

The unit into which land is divided on a subdivision plat or deed, with the intention of offering such unit for sale, lease, or separate use, either as an undeveloped or developed site, regardless of how it is conveyed; lot shall also mean parcel, plot, site or any similar term.

- (A) **Corner.** A parcel abutting two or more streets at their intersection or upon two parts of the same streets and where, in either case, the interior angle formed by the intersection of street lines does not exceed one hundred thirty-five degrees (135°).

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<sup>12</sup> 2019 BCC 27

- (B) **Depth.** The minimum distance from a front lot line or right-of-way to the rear lot line of a parcel.
- (C) **Double Frontage.** A parcel which runs through a block from one dedicated public right-of-way to another dedicated public right-of-way which has two non-intersecting sides abutting on two or more dedicated public rights-of-way.
- (D) **Interior.** A parcel other than a corner lot with one frontage on a dedicated public right-of-way, other than an alley.
- (E) **Width.** The minimum distance between two side lot lines.

### **Manufactured Home**

A single-family dwelling unit which is partially or entirely manufactured in a factory. It is installed on a permanent and engineered foundation and has brick, wood, or cosmetically equivalent exterior siding and a pitched roof. It is certified pursuant to the National Manufactured Housing Construction and Safety Standard Act of 1974, 42 U.S.C. Sec. 5401, et seq., as amended C.R.S. 30-28-115(3). The term “manufactured home” does not include “recreation vehicle.”

### **Mobile Home**

A detached, transportable, one-family dwelling unit, intended for year-round occupancy that is at least eight (8) feet in width and thirty-two (32) feet in length. At a minimum it must contain sleeping accommodations, flush toilet, a tub or shower bath, kitchen facilities with plumbing and electrical connections intended for attachment to outside systems. A mobile home differs from a manufactured home and a recreational vehicle (RV) unit by definition.

### **Mobile Home Lot or Space**

A plot of ground within a mobile home subdivision or park designed for the accommodation of one mobile home and its permitted accessory buildings and uses.

### **Mobile Home Park**

A parcel of land under single or unified ownership or control within which spaces are rented for occupancy by mobile homes.

### **Mobile Home Subdivision**

An area of land subdivided for occupancy by mobile homes exclusively, and containing lots in divided or separate ownership.

## **Open Space**

A parcel of land, and area of water or a combination of land or water within a development site designed and intended primarily for the use or enjoyment of residents, occupants, and owners of the development site and/or the general public for uses including, but not limited to: open landscaped areas, recreation areas and facilities, gardens, parks, walkways, paths and trails, and areas of native vegetation left substantially in their natural state or supplemented by additional plant material. The term shall not include space devoted to buildings, rights-of-way for streets, roads and other motorized vehicle ways and parking, and storage and loading areas. Private open space as part of an individual lot may not be included in the open space requirement calculations.

- (A) **Common Open Space.** Open space designed and intended primarily for the common use of the lawful owners, residents and occupants of a development project, but not necessarily including the general public, which is owned and maintained by an organization established for such purpose or by other adequate arrangements.
- (B) **Private Open Space.** Open Space designed and intended for the exclusive use of the owner or a portion of the property included in a development project and which is appurtenant to such property and maintained by the owners thereof. The land and structure are jointly deeded to the owner in this classification.
- (C) **Public Open Space.** An open area developed, designed and dedicated to the public for use by the owners of a development and the general public.

## **Permanent Foundation**

A foundation which meets the requirements of either the specifications of the U.S. Department of Housing and Urban Development (HUD) publication HUD 7584 dated September, 1996 or other standards adopted and recognized by Morgan County by action of the Board of County Commissioners.

## **Permanent Monument**

Any structure of masonry and/or metal permanently place on or in the ground, including those expressly placed for surveying reference.

## **Plat (Final)<sup>13</sup>**

A map or maps together with supporting documentation of certain described land prepared in accordance with these regulations as an instrument which shall be filed with the County Clerk and Recorder for providing a permanent and accurate record of the legal description, dedications, exact size, shape, and location of lots, blocks, streets, easements, and parcels of land within a subdivision. The plat, when recorded by the County Clerk and Recorder, becomes the legal instrument whereby the location and boundaries of separate parcels of land within a subdivision

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<sup>13</sup> 2019 BCC 19



are identified. As used herein, the term “plat” does not include sketch or preliminary subdivision plans.

### **Potential Natural Hazard Area**

An area where the soil, vegetation, rock, water, snow, terrain or climatic conditions or any combination thereof may constitute a geologic problem or may endanger life, limb, or property, or adversely affect the safety, stability, or use of the property, public or private. Potential natural hazard areas may include, but are not limited to: flood plains, drainage problems, high fire hazard areas, expansive soils and rocks, landslides, soil and rock permeability for waste disposal systems; also included within the meaning is consideration that these conditions might occur as a result of removing the natural vegetation from an area.

### **Recreational Vehicle (RV)**

A wheeled vehicle intended to provide temporary living or sleeping accommodations. It is either self-propelled, hauled or towed by a non-commercial vehicle. Included are units commonly referred to as travel trailers, camper-trailers, trailer-coaches, motor homes and pickup campers. It is not a mobile home.

### **Referral Agencies<sup>14</sup>**

Agencies where subdivision preliminary plans may be sent for formal technical comments. These agencies include, but are not limited to:

- (A) County Attorney
- (B) When applicable, to the county, district, regional or state department of health, for its review of the on-lot sewage disposal reports, for review of the adequacy of existing or proposed sewage treatment works to handle the estimated effluent, and for a report on the water quality of the proposed water supply to serve the subdivision. The department of health to which the plan is referred may require the subdivider to submit additional engineering or geological reports or data and to conduct a study of the economic feasibility of a sewage treatment works prior to making its recommendations. No plan shall receive the approval of the Board of County Commissioners unless the department of health to which the plan is referred has made a favorable recommendation regarding the proposed method of sewage disposal.
- (C) Colorado Division of Wildlife (CDW). Referrals to the CDW are to be made under the policy guidelines set forth in the Morgan County Comprehensive Plan and the stipulation herein set forth. All preliminary subdivision plans and wildlife reports will be referred to the CDW for Comment.
- (D) Relevant public utility companies.

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<sup>14</sup> 2019 BCC 19

- (E) The appropriate fire protection agency.
- (F) The local soil conservation district board within the county for explicit review and recommendations regarding soil suitability, floodwater problems, and watershed protection. Such referral shall be made even though all or part of a proposed subdivision is not located within the boundaries of a conservation district.
- (G) The appropriate school district.
- (H) Municipalities and counties located within two (2) miles of the area to be subdivided, or to entities who conduct reviews by agreement with the county. This distance shall be determined by measuring from boundary to boundary at the location where the boundaries are closest.
- (I) To the State Engineer for an opinion regarding material injury likely to occur to decreed water rights by virtue of diversion of water necessary or proposed to be used to supply to meet requirement of the proposed subdivision. If the State Engineer finds such injury or finds inadequacy, he shall express such finding in an opinion in writing to the Board of County Commissioners, stating the reason for his findings, including, but not limited to, the amount of additional or exchange water that may be required to prevent such injury. In the event the subdivision is approved notwithstanding the State Engineer's opinion, the subdivider shall furnish to all potential purchasers a copy of the State Engineer's opinion prior to the sale or a synopsis of the opinion; except that the subdivider need not supply the potential purchaser with a copy of such opinion or synopsis if, in the opinion of the Board of County Commissioners, the subdivider has corrected the injury or inadequacy set forth in the State Engineer's findings.

The provisions of this part shall not modify the duties or enlarge the authority of the State Engineer or the division engineers nor divest the water courts of jurisdiction over actions concerning water right determinations and administration; neither shall any opinion of the State Engineer submitted under this section nor any finding by a Board of County Commissioners concerning subdivision water supply matters create any presumption concerning injury or non-injury to water rights; and neither the State Engineer's opinion nor the finding of the Board of County Commissioners may be used as evidence in any administrative proceeding concerning water right determinations or administration.

A municipality or quasi-municipality, upon receiving the preliminary plan designating said municipality or quasi-municipality as the source of water for a proposed subdivision, shall file, with the Board of County Commissioners and the State Engineer, a statement documenting the amount of water which can be supplied by said municipality or quasi-municipality to proposed subdivision without causing injury to existing water rights. The State Engineer shall file, with the Board of County Commissioners, written comments on the report. If, in the judgment of the State Engineer, the report is insufficient to issue an opinion, the State Engineer shall notify the Board of County Commissioners to this effect, indicating the deficiencies.

- (J) State Geological Survey.
- (K) Special service districts, associations, or companies, Colorado Department of Highways, Colorado Water Pollution Control Commission, or other agencies that may be deemed necessary by the Staff.
- (L) Others as deemed necessary by the Staff.

The Staff may require, if it deems necessary, additional copies of submittal material.

### **Roads, Streets and Alleys**

The term “road” means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

- (A) **Freeways, Expressways and Major Arterials** are those roads which are used primarily for fast or heavy traffic which may have limited access and are used for regional through traffic.
- (B) **Collectors** are those roads which carry traffic from local access roads to the system of major arterials and highways and move traffic to parks, schools, and shopping centers serving residential neighborhoods. Collectors provide sub-regional continuity and are designed as main interior or boundary streets with stop signs on side streets and traffic signals at arterials.
- (C) **Local Access Roads** are those roads which are used primarily for access to the abutting properties.
- (D) **Frontage Roads** are those which are parallel to and adjacent, but not necessarily abutting, freeways, expressways or major arterials and which provide access to abutting properties and protection from through traffic. Frontage roads are classified as collectors and shall not be considered part of the cross-section or right-of-way of major arterial streets and expressways.
- (E) **Cul-de-sac.** A local street with only one outlet having an appropriate terminal for the safe and convenient reversal of traffic movement including emergency vehicles and school buses
- (F) **Rural (Section Line, Paved or Gravel).** Section line roads function in a similar capacity to arterials, although they may not have the same levels of traffic. Paved and gravel rural roads can function in a similar manner as collectors or local streets in rural areas.
- (G) **Alleys.** Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a road.

- (H) **Recognized Public Road.** For subdivision access purposes, such road shall be any roads, streets, or public highways recognized by the public agency having jurisdiction. A county road may be considered a recognized public road.
- (I) **Private Roads** are those roads located on public or private land, maintained by a private entity and generally restricted to private use. These roads may include driveways and rural access roads or easements.

### **Subdivision or Subdivided Land**<sup>15</sup>

Any parcel of land in Morgan County, which is intended to be divided into two (2) or more lots or units, tracts, sites, parcels, separate interests, interests in common or other divisions, to be used for industrial, commercial, or residential uses including condominiums, townhouses, or other separate ownership of multiple-dwelling units, unless such land or buildings when previously subdivided was accompanied by a filing which complied with the provisions of this section with substantially the same development density or which is divided into two (2) or more parcels, separate interest or interests in common, unless otherwise exempted under these Subdivision Regulations.<sup>16</sup>

- (A) Which creates parcels of land, such that the land area of each of the parcels comprises thirty-five (35) or more acres, and when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest; division of land into such interests requires a subdivision exemption permit;
- (B) Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the Board of County Commissioners is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this section prior to entry of the court order; and, if the board does not file an appropriate pleading within twenty (20) days after receipt of such notice by the court, then such action may proceed before the court;
- (C) Which is created by a lien, mortgage, deed of trust or any other security instrument;
- (D) Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in any investment entity;
- (E) Which creates cemetery lots;
- (F) Which creates an interest or interests in oil, gas, minerals, or water which are now hereafter served from the surface ownership of real property;
- (G) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenants in common and any such interest shall be deemed for the purposes of this section as only one interest;

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<sup>15</sup> 2017 BCC 48

<sup>16</sup> 2019 BCC 19

- (H) Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five (35) acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five (35) acres in land area, such land area divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph; or
- (I) Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide (pursuant to this article and any applicable regulations) the land which the purchaser is to acquire pursuant to the contract.

### **Subdivision Improvements Agreement**

One or more security arrangements which the County shall accept to secure the actual cost of construction of such public improvements, as are required by county subdivision regulations, within the subdivision. The "subdivision improvements agreement" may include any one or a combination of the types of security or collateral listed in this Section 3-105 (c), and the subdivider may substitute security in order to release portions of the subdivision for sale. The types of collateral which may be used as security under the "subdivision improvements agreements" are as follows: Performance or property bonds; private or public escrow agreements; irrevocable letters of credit; deposits of certified funds; or other similar survey agreements. Security required under the "subdivision improvements agreement" shall equal in value, plus ten percent (10%) of the cost of improvements to be completed. The amount of security may be incrementally reduced as subdivision improvements are completed.

### **Subdivision, Minor**

Any subdivision containing four (4) or less lots or dwelling units and which is not a Subdivision Exemption or governed by Chapter 10 of these Regulations.<sup>17, 18</sup>

### **Subdivision, Major**<sup>19</sup>

Any subdivision which is not a Minor Subdivision or an exemption under these Subdivision Regulations.<sup>20</sup>

### **Townhouse**

A type of ownership which consists of a fee simple interest in an individually deeded lot and dwelling, plus a membership right in a homeowners' association which shall own in fee simple the common areas subject to all rights and duties as provided in the declaration of the homeowners' association.

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<sup>17</sup> 2019 BCC 27

<sup>18</sup> 2019 BCC 19

<sup>19</sup> 2019 BCC 27

<sup>20</sup> 2019 BCC 19

- (A) Dwelling as used herein means a single-family dwelling constructed on an individually deeded lot, or as part of a series of two (2) or more dwellings, each of which is either attached to the adjacent dwelling or dwellings by part walls or is located immediately adjacent thereto with no visible separation between walls or roof.
- (B) Common areas will be defined in each declaration and will include such items as the following: any open spaces, greenbelts, yards, parking areas, or storage spaces located on the property owned and controlled by the homeowners through the homeowners' association, but which are not part of individual townhouse lots, and all community and commercial facilities or other parts of the property necessary or convenient to the existence, maintenance, or safety of all townhouses.
- (C) Declaration refers to an instrument which defines the character, duration, rights, obligations and limitations of townhouse ownership.

## **CHAPTER 3 - POLICY ON IMPROVEMENTS**

### **3-100 General**

- (A) All on- and off-site public improvements shall be designed and constructed according to applicable standards approved by the County and other regulatory authorities having jurisdiction on the premises, or if there be none, then as approved by the County Commissioners. The developer is responsible for financing and constructing all improvements required, internal or external, to the proposed subdivision in accordance with applicable criteria, unless suitable evidence is submitted that other public or quasi-public agencies have the responsibility for the construction and the cost of improvements.
- (B) In cases where off-site improvements are necessitated by the proposed development, and where no other property owner (s) receive (s) a special benefit thereby, the applicant may be required at his sole expense and as a condition of approval, to provide and install such improvements.
- (C) Where it is determined that properties outside the subdivision will also be benefited by off-site improvements, either a pro rata share of the costs of the improvements will be paid by the applicant or a cost recapture agreement will be prepared so that the applicant can be repaid for the cost of the improvement which benefits other properties. These prorate share formulas and cost recapture agreements are to be prepared on a case-by-case basis among the applicant, county staff and special utility district staff as applicable prior to review and approval by the Board of County Commissioners.

### **3-105 Guarantee of Performance<sup>21</sup>**

No Final Plat of a subdivision shall be signed and recorded until the subdivider has submitted, and the County Commissioners have approved, one or a combination of the following:

- (A) A subdivision improvements agreement binding the subdivider to construct any required improvements shown in the approved Final Plat documents together with collateral which is sufficient, in the judgment of the County Commissioners, to make the reasonable provision for the completion of said improvements in accordance with design and time specifications; <sup>22</sup>
- (B) Other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required improvements shown in the approved Final Plat documents which, in the judgment of the County Commissioners, will make reasonable provisions for completion of said improvements.

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<sup>21</sup> 2019 BCC 19

<sup>22</sup> 2019 BCC 19

### **3-110 Inspections and Acceptance**

The subdivider or the agent of such subdivider shall apply to the County, the Health Department and/or other applicable agencies for necessary permits after approval of the plat and before commencing any construction.

#### **(A) Inspections**

- (1) The subdivider or the agent of such subdivider shall notify the County at least twenty-four (24) hours in advance of the required in-progress inspections. The required in-progress inspections to be made by the County will be listed on the permits obtained. Quality control inspections and construction supervision are to be performed by an engineer selected by the County, with inspection costs billed to the developer.
- (2) Where inspections are required to be made by agencies other than the County, notification of required inspections shall be made to the County Commissioners, and to the agency's representative at least twenty-four (24) hours in advance and in accordance with agency's policies. Prior to the County's acceptance, utility companies and/or municipalities will be required to inspect and approve installations which will become their respective responsibility.

#### **(B) Acceptance**

The Board of County Commissioners may formally accept for maintenance all public improvements completed by the developer at the sole discretion of the Board of County Commissioners. The developer shall also warrant the improvements for a period of twenty-four (24) months from the date of acceptance.



## CHAPTER 4 – SUBDIVISION DESIGN STANDARDS

When designing a subdivision, particular attention shall be given to the existing zoning category in which the proposal is located. The allowed use, density, lot area, lot width, setbacks, open space requirements, and maximum building heights are listed for each particular zoning category in the Morgan County Zoning Regulations, except as provided in an approved Planned Development plan. Improvements are to be made by the subdivider at the subdivider's expense.<sup>23</sup>

### 4-100 General Considerations<sup>24</sup>

- (A) Subdivisions shall be designed in such a manner as to avoid placing an undue burden on the street system, storm drainage system or other public facilities, utilities and services on or adjacent to the tract.
- (B) Subdivisions shall be designed in such a manner as to be coordinated with adjoining subdivisions with respect to alignment of streets, utility and drainage easement rights-of-way and reservation of open spaces.
- (C) New subdivisions shall provide safe, convenient travel routes to and from and within the subdivision. Each lot shall provide a desirable setting for construction so that natural features of the land may be preserved, views protected, privacy permitted and screening from traffic ways made possible. Area needs for flood channels, open spaces, parks, schools, fire stations, water and sewage treatment facilities and similar community facilities must be provided depending on the location and/or density of each development.<sup>25</sup>
- (D) Self-Imposed Restrictions: If the owner places restrictions or covenants on any of the land contained in the subdivision greater than those required by the Zoning Regulations or these Subdivision Regulations, such restrictions or covenants or reference thereto shall be required to be indicated on the subdivision plat. The County will require that restrictive covenants be recorded in the office of the Morgan County Clerk and Recorder.<sup>26</sup>
- (E) Plats Straddling Municipal Boundaries: Subdivision proposals straddling county and municipal jurisdictions are discouraged. The county will encourage all such subdividers to negotiate annexation into the municipalities where contiguity exists or where it can be obtained.
- (F) The proposed name of the Subdivision shall not duplicate or too closely approximate phonetically the name of any other Subdivision in Morgan County.

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<sup>23</sup> 2019 BCC 19

<sup>24</sup> 2019 BCC 19

<sup>25</sup> 2020 BCC 07

<sup>26</sup> 2019 BCC 19

- (G) Subdivisions shall be designed to integrate building and housing codes and other applicable regulations of the County.
- (H) Special Site Considerations
  - (1) Steep, unstable or swampy land, and land subject to inadequate drainage and geological hazards shall be identified and unless acceptable provisions are made for eliminating or controlling problems which may endanger health, life or property, such sites shall not be platted for occupancy.
  - (2) The Planning Commission and/or the Board of County Commissioners may require the applicant to furnish additional appropriate technical data and other information necessary to determine the extent to which a proposed division of land is subject to flooding, located in a natural drainage channel, or subject to geological, fire, or other natural hazards. Technical data and other information requested by the Commission or Board will be prepared and certified by a professional qualified in the appropriate field of expertise. If it is determined that a proposed division of land or a portion thereof lies within a natural hazard area, the Commission and/or Board may set forth certain conditions, stipulations, standards and prohibitions which must be observed if a subdivision of land is to be permitted. When the Commission requires review and comment by outside agencies, such as the Fire District, any fees levied by those agencies for the review will be paid by the applicant either directly to the agency or by remitting an extra fee to the County to cover the cost.

#### **4-105 Blocks**

- (A) The lengths, widths, and shapes of all blocks shall be determined with due regard to:
  - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;
  - (2) Zoning requirements as to lot sizes and dimensions except where lot sizes must be increased to meet water supply and sewage treatment requirements;
  - (3) Needs for convenient and emergency access, circulation, and traffic safety; and
  - (4) Limitations and opportunities of topography for siting of structures and drainage.
- (B) Block lengths shall not exceed sixteen hundred (1600) feet, nor be less than four hundred (400) feet.
- (C) Pedestrian access shall be required to provide access links to neighborhood schools, playgrounds, shopping centers, and other community facilities where such facilities exist within reasonable walking distance of the subdivision.

#### **4-110 Lots**

- (A) The lot size, width, depth, shape, and orientation shall be appropriate for the location of the Subdivision and use contemplated, and for future resubdividing where appropriate.<sup>27</sup>
- (B) Lot dimensions shall conform to the minimum requirements of the Zoning Resolution or as determined in a final Planned Development plan.<sup>28</sup>
- (C) Depth and width of properties shall be adequate to provide for the necessary private service and parking facilities required by the type of use and development contemplated.
- (D) Corner lots for all uses shall have extra width to permit appropriate building setback from and orientation to both roads.
- (E) The subdividing of the land shall be such as to provide each lot with access to a public street, although the lots are not required to front the public street. Residential lots are to be fronted on local class streets, if possible. Frontages on higher order street are discouraged.<sup>29</sup>
- (F) Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from expressways and major arterials or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet in width, and across which there shall be no vehicular right of access, may be required along the property line of lots abutting such a traffic artery or other disadvantageous use.
- (G) Side lot lines shall be substantially at right angles or radial to road center lines.

#### **4-115 Public Sites and Open Spaces**

- (A) The Planning Commission, upon consideration of County circulation and community facility plans and the particular type of development proposed in the subdivision, shall require the dedication or reservation of areas or sites of a character, extent and location suitable for public use for roadways, schools, parks, flood channels, historic sites, scenic areas, and other necessary public purposes according to Section 5-120 of these Regulations.
- (B) All open spaces and linear parks are to be linked, where practical, to similar facilities external to the subdivision. All dedicated open spaces shall be a minimum of ten (10) feet wide.
- (C) Park sizes shall be adequate to serve, at a minimum, subdivision populations. Neighborhood or pocket parks may be designed to serve smaller populations.

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<sup>27</sup> 2019 BCC 19

<sup>28</sup> 2019 BCC 19

<sup>29</sup> 2019 BCC 19

- (D) Regulations regarding public use sites and open space dedications are found in Section 5-120.

#### **4-120 Road Standards**

Road systems are to be laid out, designed, and constructed as specified by the County and any road construction standards it has adopted at the time of development.

#### **4-125 Road Names**

Road naming shall conform to standards of Morgan County. No road names shall be used which will duplicate or may be confused with the names of existing city streets in the immediate vicinity or other County roads other than to connect directly to existing city or county streets and roads. Road names shall be subject to the approval of the County Commissioners.

#### **4-130 Parking**

Parking requirements for different types of uses, parking lot layout design standards and other requirements are found in the Morgan County Zoning Regulations.

#### **4-135 Storm Drainage**

- (A) Any land subject to flooding or located in a natural drainage channel shall not be platted for occupancy until adequate provisions to eliminate or control hazards are made and approved by the Commission and Board.
  - (1) Land within an existing 100-year flood plain or land which is subject to inundation shall not be platted for occupancy unless the flooding condition is alleviated according to plans that comply with the County's Floodplain Regulations and are approved by the Floodplain Administrator or adequately addressed on the final plat.<sup>30</sup>
  - (2) All plats will show planned drainage ways for accommodating historic flows plus any increased run-off on the property resulting from development.
- (B) Historical flow patterns and runoff amounts are to be maintained in such a manner that would reasonably preserve the natural character of the area and prevent property damage of the type generally attributed to runoff rate and velocity increases, diversions, concentrations, and/or unplanned WP of storm run-off.
- (C) The run-off rate from a 100-year frequency storm before and after anticipated development of the drainage basin involved shall be used in determining the provisions that must be made to satisfy paragraph 4-135 (B) above. Where the historical amounts of run-off cannot be maintained by detention storage or other devices, suitable channelization with erosion

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<sup>30</sup> 2019 BCC 19

protection and/or WP storm sewer leading to a suitable discharge point must be provided. Otherwise, any drainage plan submitted for the subdivision shall result in a theoretical zero increase over historical levels in run-off volumes and velocities as a result of the development.

- (D) Detention storage shall be provided by a method acceptable to the County and shall be designed on the basis of the following criteria:
  - (1) The peak run-off rate at the subdivision boundary after development shall be no greater than before development for both the 100-year and 2-year storms.
  - (2) The outflow shall be sized so as not to have an adverse effect on the 100-year flows at the downstream confluence of the receiving stream or waterway.
  - (3) An outflow spillway is provided for flows in excess of the 100-year run-off.
- (E) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement for maintenance purposes and for the purpose of excluding improvements of the type that would interfere with run-off. The minimum requirements for such easements shall be based on a 100-year frequency flood but shall not be less than twenty (20) feet in width. All such easements are provided a storm water easement for maintenance purposes and for the purpose of excluding improvements of the type that would interfere with run-off. The minimum requirements for such easements shall be based on a 100-year frequency flood but shall not be less than twenty (20) feet in width. All such easements are to be maintained by the subdivision homeowners association unless the easements are approved to be part of the public dedications.
- (F) When a subdivision is traversed by water supply ditches or canals, the engineering requirements of the ditch owner and other requirements as may be specified by the County shall be met for proposed alignment, grade or cross section changes, improvements, crossing structures, storm water structures, or any other proposed construction that affects the ditch owner's rights. Any facility which carries more than one hundred (100) cubic feet per second, which is in excess of one (1) foot in depth, or with flow in excess of one (1) foot per second shall be either adequately protected to inhibit access by children or shall be modified to be made relatively safe. A certificate of clearance from the appropriate official of the ditch company to the effect that all work required by the County as a condition of plat approval has been satisfactorily performed may be required prior to acceptance of any public improvements or the issuing of building permits within the subdivision.
- (G) In addition to permanent provisions, temporary erosion and sediment control measures are also required during construction operations. Construction schedules are to be programmed to permit installation of required permanent sediment and erosion control structures as soon as possible. Inlets for drainage structures are to be protected from sedimentation. Data available through the local Soil Conservation Service District shall be used as a supplemental guideline for soil and water conservation practices. A revegetation

plan shall be provided by the subdivider. Finished slopes are to be protected with a vegetative cover, riprap, or by other suitable means. The performance guarantee shall include provisions for enforcement of both the permanent and temporary erosion and sediment control facilities

#### **4-140 Geology and Soils**

All improvements shall be planned and constructed recognizing the constraints imposed by surface drainage, subsurface water, bedrock, and erosive, unstable, or swelling soil conditions and other geologic conditions. Proposed cut-and-fill slopes for roads, building excavation, and other earth work must be based upon evaluations made by qualified soils engineer, civil engineer, or engineering geologist. Potential slide areas or other hazardous areas must be either identified and avoided or suitably stabilized. Areas subject to accelerated erosion must be identified and suitably protected. Consideration shall be given to those conditions that will be caused by completion of the subdivision as well as pre-existing conditions.

#### **4-145 Utilities**

- (A) In general, utility systems shall be arranged and located in such manner as to avoid cross connections, minimize trenching, and adequately separate incompatible systems.
- (B) Telephone, electric, gas, and other similar utility lines and services shall be placed underground except where undue hardship or non-conformance with the overriding intent of these Regulations can be convincingly demonstrated. Transformers, switching boxes, terminal boxes, metering, roadway lighting, signal devices, gas regulators, compressor stations, or other similar facilities necessarily appurtenant to underground facilities may be placed above ground. Utility lines may be placed either within public road rights-of-way within the subdivision in accordance with County requirements or within easements or rights-of-way provided for the particular facilities in accordance with the approved utility service plan.
- (C) The subdivider shall be responsible for all construction or installation charges including those required by the agency service utilities, except those installed at the expense of the utility company involved. Utilities are subject to all other applicable County, State and Federal regulations.
- (D) Unless wells are proposed in accordance with Section 5-100 (C) of these regulations, a public water system shall be required in all subdivisions. Water lines shall be designed to connect each lot with mains not less than eight inches (8") in diameter. Subdividers are to consult with the appropriate water district for complete water system specifications. Water supply systems located in flood plain areas shall be designed and located so as to minimize or eliminate infiltration and avoid their impairment during or subsequent to flooding.
- (E) Fire hydrants shall be required in all subdivisions with central water systems and spaced not more than five hundred (500) feet apart and provided with adequate water pressure for firefighting purposes or as per requirements of the applicable fire district.

- (F) Public sewage collection, treatment and disposal facilities shall be required in all subdivisions except large lot single-family residential subdivisions that meet the lot size requirements of the Morgan County Zoning Regulations and the applicable Health Department Regulations. Subdividers and others interested in land development should investigate sewage disposal aspects prior to land acquisition. All sewer lines shall be installed before any lots are sold; provided, however, this provision may be modified pursuant to the terms of a Subdivision Improvement Agreement as hereinafter provided for. Subdividers are to consult with the appropriate sanitation district for complete sewer system specifications.
- (G) If a location for the placement and storage of trash on the site is required, all trash storage areas are to be completely screened from public view and readily accessible for pick-up.

#### **4-150 Easements and Monuments**

- (A) New Easements shall be planned so as to be free from conflicting legal encumbrances, to avoid unnecessary removal of trees or excessive excavations, and to be reasonably free from physical obstructions. Easements which coincide with common rear lot lines shall be at least sixteen feet (16') wide, eight feet (8') of which shall be on each side of the common rear lot lines. Where an easement abuts a rear lot which is not the rear lot line of another lot, or which is on the perimeter of the subdivision, the easement width shall be ten feet (10') or more. Side lot easements, where necessary, shall be at least five feet (5') in width. Where easements are combined with a water course, drainage way, channel, or stream, a usable utility easement of at least ten feet (10') in width outside that required for water shall be provided if the use would be in conflict with drainage requirements. The use or uses for each easement shall be designated on the plat to avoid undesirable use conflicts. Multiple use of a given easement is encouraged to minimize easements.

The developer is encouraged, in lieu of mechanically providing easements on each and every lot line, to propose a layout based upon a plan for providing the necessary utilities in order to reduce the number and complexity of easements. Such a proposal is subject to approval by the utility agencies involved and by the County. Easements are to be retained or, if nonexistent, provided for all existing utilities that are to remain.

- (B) Permanent plat boundary monuments shall be surveyed as per requirements of C.R.S. Sections 38-51-100 through 108, as amended, and set at locations approved by the County. Generally, such monuments shall be set at the surface of the ground not more than fourteen hundred (1400) feet apart along any straight boundary line, at all angle points, points of change in direction or change in radius of any curved boundary, and at public land corners. In addition, road centerlines shall be monumented at all intersections and dead-ends with suitable markers set in concrete and encased in a lidded metal box at least 0.3 feet below the finished road surface. Road monuments are subject to approval by the County. A minimum of three monument ties are to be on file with the County prior to acceptance of the roads. Affixed securely to the top of each monument shall be the Colorado Registration number of the responsible land surveyor. State plane coordinates are encouraged to be

furnished to the County for all subdivision boundary monuments that are within a reasonable distance of a first or second order monument for which such coordinates are available or can readily be determined by computation. All lot corners shall be marked by a one-half inch ( $\frac{1}{2}$ " ) or larger steel pin or where sidewalks are present, a cross on the sidewalk marking the lot corner.



## **CHAPTER 5 – COMMUNITY FACILITIES AND SERVICES, CONSIDERATIONS, PUBLIC DEDICATIONS<sup>31</sup>**

### **5-100 Water Service**

- (A) When the applicant proposes to use public or quasi-public water, he must submit evidence to the effect that he and the service agency are mutually bound to the proposal and proof of the capability to serve the development. In the event that a water supply system of a private nature is proposed, the applicant will be required to submit formal plans to the County which will be reviewed by the Staff and the Health Department.<sup>32</sup>
- (B) If a central water supply system is proposed, other than through a public or quasi-public agency, evidence must be submitted regarding the ability of the system to meet the minimum requirements herein, those of the State of Colorado and those of the applicable Health Department Regulations, its legal, physical and financial future, and that an adequate means to repair and maintain the water system is available.
- (C) If wells are proposed, either individual or to serve a central system, the applicant must submit proof of legal and physical long-term feasibility. The State Engineer shall make a determination as to whether there appears to be unappropriated water available for use or whether water rights owned by the applicant appear to be adequate for the proposed use.
- (D) If, in the opinion of the County, construction or extension of an existing or proposed water system may service the proposed area within a reasonable time, the County may require the subdivider to make adequate provisions for the installation of water mains and house connections or escrow funds for same in addition to the installation of a domestic well. This requirement will generally apply to any proposed subdivision within one thousand (1,000) feet of a water system.<sup>33</sup>
- (E) The developer is responsible for providing financing and construction of the entire water distribution system internal to the proposed subdivision and external connection mains where appropriate in accordance with applicable criteria except where a district or municipality has accepted the responsibility.
- (F) Applicants for building permits shall be required to submit site plans substantially in conformance with the representations made by the developer as to the feasible drainage, water treatment and building sites described in the Final Plat documents.

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<sup>31</sup> 2014 BCC 26

<sup>32</sup> 2019 BCC 19

<sup>33</sup> 2019 BCC 19

## 5-105 Sanitation

- (A) When an applicant proposed to use public or quasi-public sewer service, the applicant must submit evidence to the effect that he and the service agency are mutually bound to the proposal and supply proof of capability to serve the development.

In the event that a disposal system of a private nature is proposed, the applicant will be required to submit formal plans to the County which will be reviewed by the Staff and the appropriate Health Department. Recommendations will then be made to the Planning Commission.

- (B) If septic systems are proposed, the applicant must submit proof of physical feasibility. The applicant must contact the appropriate Health Department to determine specific problems in the general vicinity which might affect the proposed septic systems.

The applicant must submit engineering data to prove that each and every site in the proposed development is capable of accommodating a septic system or approved alternative engineered system in accordance with Health Department requirements.

- (C) If, in the opinion of the Planning Commission, construction or extension of an existing or proposed sanitary sewer system may service the proposed area within a reasonable time, the County may require the subdivider to make adequate provisions for the installation of sanitary sewer mains and house connections or escrow funds for same in addition to the installations of temporary individual on-site sanitary disposals systems.

Every effort should be made to secure public sewer extension. Where connections to an existing public sewer are not physically or economically feasible and when a considerable number of residences are to be served, the construction of a central collection system and treatment plant is advised. If septic tank absorption systems are used initially, provision should be made for hook-ups to a future central collection and treatment system. Where the proposed subdivision is within the service area of an incorporated city or town, individual septic systems generally will not be permitted and any central treatment plant and collection system installed must be in accordance with appropriate municipal standards.

- (D) The developer is responsible for providing financing and construction of the entire sewage collection system internal to the proposed subdivision and external connection mains where appropriate in accordance with applicable criteria except where a district or municipality has accepted the responsibility for same.
- (E) Applicants for building permits shall be required to submit site plans substantially in conformance with the representations made by the developer as to the feasible drainage, sewage treatment and building sites described in the final plat document.

### **5-110 Transportation and Circulation**

- (A) The applicant shall provide for an adequate internal traffic circulation for the development.
- (B) An evaluation of possible road congestion or unsafe conditions with respect to the use of roads existing or proposed shall be required. The County may require that this study be conducted by a professional traffic engineer where large subdivisions are concerned, such study shall be paid for by the developer.
- (C) The circulation and transportation system may be required to be designed to accommodate pedestrians and bicycles, preferably separated from vehicular traffic. Pathways identified in the Comprehensive Plan are to be included in the Subdivision Plans and dedicated to appropriate maintenance entities.
- (D) At a minimum, local, arterial and collector roads in the subdivision are to be designed and constructed for dedication to the County as public roads. Whether such roads will be accepted by the County as public roads shall be in the County's sole discretion.<sup>34</sup>
- (E) Should any streets, roads, alleys and parking areas, as well as any other improvements previously platted on any subdivision as private improvements and deemed not constructed and maintained to County standards by the County Engineer, then at such time as any developer or property owner's association which is responsible for these improvements desires to have them dedicated to the County and accepted for public maintenance, then it is their (developer, property owners) responsibility to assess themselves and improve said improvements to County standards prior to dedication and acceptance by the County for public maintenance.

### **5-115 Recreation and Open Spaces**

- (A) The effect of the proposal on recreational facilities and open spaces in and available to the immediate area shall be determined.
- (B) The relationship of open space utility easements, trails, bike and pedestrian ways in the proposal to similar or contiguous spaces or corridors in the surrounding area shall be detailed.
- (C) All subdivisions shall be landscaped a minimum of five percent (5%) of the public or private open space area of the subdivision site, particularly on the subdivision boundary entrance, road rights-of-way and other open spaces.
  - (1) The landscaped area may be comprised of a combination of natural and/or man-made conditions and be allowed for uses other than subdivision enhancements, such as on-site detention of storm water run-off, areas left to their natural state (maximum of two and one-half (2.5%) percent) or other open spaces. This amount

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of landscaped area may be included in any open space requirement as required by the Morgan County Zoning Regulations.

- (2) The approved landscape plan shall list the types of planting materials to be used and a schedule of seeding and planting.
- (3) The means of irrigation, if required, shall be indicated. Required landscaping shall be maintained in the manner and degree necessary to keep plants healthy and presentable, including pruning, mowing, weeding, fertilizing, watering, and replacement of plants when necessary. Low water usage and low maintenance native and adaptive plant species should be utilized.
- (4) Native vegetation and planting materials existing on the site should be preserved or utilized wherever practical.

### **5-120 Public Dedications Policy<sup>35</sup>**

#### **(A) General**

The County, upon consideration of the particular type of development proposed in the subdivision, may require the dedication or reservation of areas or sites of a character, extent and location suitable for public use for roadways, schools, parks, flood channels, historic sites, scenic areas, and other necessary public purposes. All dedications and reservations for parks and open spaces must meet the requirements of these Regulations for these uses.

#### **(B) Roads and Streets**

All roads and road right-of-way and improvements in the subdivision classified as a collector, arterial, major roadway other than local or residential streets must be dedicated and accepted by the County for public use. Roads not accepted by the County for public use will remain private roads. Property maintenance or owners association are encouraged for maintenance of private roads.

#### **(C) Utility Easements, Pedestrian and Bicycle Ways**

Dedication of all utility and drainage easements and pedestrian and bicycle ways to the County, a special district or property maintenance association may be required.

#### **(D) Dedications and Reservations for Subdivision Occupants**

Dedications or reservations of areas for the use of owners or lots or units within a subdivision may be acceptable for parks, scenic and open areas, flood plains and drainage ways. In the event of a reservation or dedication of any areas or streets for the use of the owners of lots within the subdivision, the subdivider shall provide for the creation of an

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owners' association with powers of assessment for maintenance, improvements and upkeep of such areas and streets.

(E) Public Dedications to Morgan County

Reference shall be made to the Morgan County Comprehensive Plan to determine general locations for various public facilities. Dedications of such sites and land areas shall be made at the time of final platting in one or any combination of the following ways:

- (1) By dedicating to Morgan County, Colorado, in fee simple on the final plat;
- (2) By granting the land areas in fee simple on general Warranty Deeds to Morgan County.
- (3) By payment of fees in lieu of land dedications.

(F) Commercial and Industrial (or other non-residential) Subdivision

In the case of non-residential subdivisions (less than ten percent (10%) residential use) an exaction of three percent (3%) and/or equivalent fees for public facilities may be required by the Commission and Board at the time of subdivision. The allocation of land and/or fees for public facilities will be made at the discretion of the Board of County Commissioners upon recommendation of the Planning Commission. For mixed use subdivisions, exactions for residential and non-residential uses will be based on the proportion of the land associated with residential use.

(G) Residential Subdivisions

The subdivider shall provide sites and land areas for public facilities to serve the proposed subdivision and the future residents thereof.

- (1) For property which has not been subject to a previous subdivision plat, the County may require the dedication, reservation, or conveyance of land areas or sites suitable for public purposes such as open space and/or parks, scenic areas and greenbelts of six percent (6%) or the total area of the subdivision. Such dedication may only be applied to subdivisions of 25 lots or greater.<sup>36</sup>
- (2) In the case of a subdivision of land into multiple dwelling units on land which has not been previously approved as a subdivision or on land where no previous public facilities dedications were made or fees-in-lieu paid, the subdivider shall dedicate six percent for open space and/or parks.<sup>37</sup>
- (3) With the approval of the Board, the subdivider may be required, in lieu of Sections 5-120 (G)(1) and 5-120 (G)(2) above, to pay fees in lieu of the equivalent land areas

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which would have been dedicated to public facilities. Fees are to be calculated in the following manner:<sup>38</sup>

- (a) Fees shall be calculated based on the fair market value of the unimproved land immediately prior to the platting, but with the zoning district classification existing at the time of platting that is consistent with the plat application's intended use.
  - (b) All fees-in-lieu of dedications are to be paid prior to the approval of the Final Plat.
  - (c) For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Commission and/or Board realizing that by virtue of developing one phase, the value of the undeveloped adjacent phase will increase. The subdivider has the option of paying the fees for all phases upon the due date of fees for the first phase.
  - (d) All fees-in-lieu of dedications are to be paid prior to the approval of the Final Plat.
  - (e) For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Commission and/or Board realizing that by virtue of developing one phase, the value of the undeveloped adjacent phase will increase. The subdivider has the option of paying the fees for all phases upon the due date of fees for the first phase.
- (4) Payments made under the requirements of this section shall be made payable to Morgan County.<sup>39</sup>
- (a) Such funds shall be deposited with the County Treasurer to a special interest bearing account. Each deposit shall be credited to the name of the subdivision for which the payment was made. The status of these accounts shall be reported annually to the Board of County Commissioners.
  - (b) Funds may be withdrawn from the special escrow account by the Board for the following purposes:
    - (i) Purchase of land for public facilities and purposes.
    - (ii) Preparation of design drawings for improvements to existing public parks or recreation facilities with the County.

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- (iii) Purchase of materials, including but not limited to, trees, shrubs, benches, and equipment to be used in public parks or recreation facilities as approved by the Board.
- (iv) Physical improvements made to existing public parks or recreational facilities as approved by the Board.
- (v) Construction of public parks or recreational facilities.

(H) School Site Dedications<sup>40</sup>

- (1) All new residential and mixed-use (containing residential uses) subdivisions shall provide for school sites or fees-in-lieu in accordance with these Regulations. Commercial, industrial, subdivision exemptions, subdivisions under Chapter 10 of these Regulations and other non-residential subdivisions shall be exempt from the school site dedication requirements.
- (2) Land dedication sites must be presented on the preliminary plat for major subdivisions and on the final plat for minor subdivisions. All land to be dedicated as required by this section and these Regulations, shall be designated as outlots and these outlots shall not be building lots. Land areas that shall not be acceptable in determining the fulfillment of the requirements for the provision of land areas for public school sites shall include the following:
  - (a) Natural drainage ways, streams, gullies, and rivers including all lands within the 100 year flood plain, unless the school district specifically accepts a certain portion for a reasonable use.
  - (b) Rights-of-way and/or easements for irrigation ditches and aqueducts.
  - (c) Steep, rugged, and hazardous geological land areas, and such other areas as are not conducive for use as school sites.
- (3) All lands dedicated for schools shall be conveyed to the County or applicable school district, as directed by the Board, by warranty deed and clearly identified on the face of the plat document as an outlot, and not as a buildable lot. The conveyance of land shall be required at the same time as the final plat for the subdivision. Land conveyed to the County for public school sites may be subsequently transferred and conveyed to the appropriate school district.
- (4) The Board shall not require a dedication of land for school purposes in the absence of an impact statement showing justification for and necessity of a dedication of land by the appropriate school district, at the time of referral of the preliminary plat

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application for a major subdivision and the final plat for minor subdivisions. The statement shall include, but not be limited to the following factors:

- (a) Estimate of the anticipated growth in the new development area.
  - (b) Cost of the facility required to serve the new development.
  - (c) Determination of the area that will benefit from construction of the new facility. If existing developed areas will benefit significantly through improved services or direct access to improved facilities, the total benefits should be allocated between new and existing areas.
  - (d) Estimate of the portion of the costs of new facilities attributable to the need to serve new development divided by the estimated number of new residents or the amount of anticipated new development to arrive at a preliminary "per resident, " "per housing unit", or "per square foot" charge.
  - (e) If any current taxes or mandatory charges levied on the new development are being used to pay for the same type of facility for which the dedication or fee is being required, adjustment of the preliminary charge to "credit" the new development with the money already being contributed to similar facilities in the County demonstrate a direct benefit to the residents of the proposed subdivision.
- (5) The amount of school land to be dedicated for a subdivision shall be determined in accordance with the following procedures:

- (a) Acreage per student (APS) shall be based upon the following:

	<b>Capacity</b>	<b>Recommend Acreage</b>
<b>Elementary School</b>	485	15 acres
<b>Middle School</b>	615	26 acres
<b>High School</b>	820	38 acres
Total	1,950	79.5 acres
<b>Average Summary</b>		
<b>Acres per student</b>		.04077

- (b) The amount of land to be dedicated shall be based upon the student population generated per dwelling type (G) at each education level. Generation rates shall be supplied by the school district seeking a dedication



and the County may request additional information from the school district to support the generation rates.

- (c) The amount of land to be dedicated shall further be based upon the maximum number of dwelling units ("DU") that could potentially be constructed on the new subdivision as it will be zoned and platted. Existing dwellings shall be excluded from the calculation of the school land dedication requirements unless the lot allows for greater density of residential development.
- (d) From the foregoing, the number of acres required per subdivision shall be calculated as follows:

$$(G*APS)*DU = \text{Acres Required}$$

- (6) A fee-in-lieu of land dedication shall be required when determined by the Board to be more appropriate in satisfying the needs of the school district and proposed subdivision. Considerations for such determination shall include without limitation the size of the subdivision, the expansion capacity of existing school sites, and the quality or appropriateness of available dedication sites. Any fee-in-lieu of land dedication shall be paid directly to the appropriate school district with notice of such payment provided to the County. Full payment of any fee-in-lieu of dedication shall be required prior to the recording of the final plat for the subdivision. The Board can require a cash payment-in-lieu of dedicating land, or a cash payment in combination with a land dedication,
- (7) The amount of the fee-in-lieu of dedication shall be based on the unimproved fair market value of the land. Payment shall not exceed the fair market value of the land that would have been dedicated to the County or other school district. If a combination of land dedication and payment is applied, the combination of both land dedication and payment shall not exceed the fair market value of the total required dedication of sites and land areas.

## **CHAPTER 6 - MAJOR SUBDIVISIONS<sup>41</sup>**

### **6-100 Purpose**

The purpose of the major subdivision process to address the division of land which is not a minor subdivision but which may have a greater impact on existing infrastructure and neighboring properties and to ensure such impacts are mitigated through the major subdivision process.

### **6-110 Overview of Major Subdivision Process**

A major subdivision consists of two steps: (1) preliminary plan and (2) the final plat. The purpose of the preliminary plan is to evaluate the proposed subdivision, including design, ability to obtain water/sanitation; source of required services; vehicular and pedestrian circulation; relationship to surrounding land use; conformance with the Comprehensive Plan, the Zoning Regulations and these Subdivision Regulations; and review of preliminary level engineering studies, plans, and reports. The purpose of the final plat is to review of all final engineering plans, subdivision improvement agreements, and other legal requirements.

Both the preliminary plan and the final plat involve the submittal of an application, an application fee, required plans and reports, referrals of the proposal to other agencies, staff analysis and public hearings/meetings. Approval at any step in the process does not ensure approval at the next step. The preliminary plan shall be reviewed by the Planning Commission and by the Board at public hearings. The final plat shall be reviewed by the Board.

The applicant is responsible for understanding the requirements and procedures contained in these Subdivision Regulations and the Comprehensive Plan and is responsible for attending all hearings or meetings at which the application is considered. Failure to attend the hearings or meetings may result in the application being tabled and a new hearing or meeting date scheduled. The applicant is responsible for submitting the information requested by staff and for the review of the application.

The applicant shall be responsible for payment of reasonable review fees established by a referral agency, or outside consultant engaged by the County to review the application.

### **6-120 Preliminary Plan**

#### **(A) Pre-Application Conference**

- (1) Prior to actual submission of the preliminary plan, each applicant shall attend a pre-application conference with the County Planning Department. The general concept of the major subdivision and the applicable design standards are to be considered at this conference. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed major

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subdivision to inform and assist the applicant prior to the preparation of the major subdivision application.

- (2) Based upon the Planning Department's review of proposed subdivision and due to the nature, size and location of the proposed subdivision, the Planning Administrator may waive the submission requirements in Sec. 6-120(B)(7)(d) and (f).

(B) Submission Requirements

The following are required to be submitted as the preliminary plan:

- (1) Completed land use application provided by the County.
- (2) Application fee.
- (3) A project narrative which, at a minimum, provides the following information:
  - (a) The total land area to be subdivided.
  - (b) Current zoning of property; current use of property; use of surrounding properties.
  - (c) The total number of lots and proposed use by lot.
  - (d) The residential density and/or estimated nonresidential floor area.
  - (e) The total number of proposed off-street parking spaces, excluding those associated with single-family development.
  - (f) The total land area to be preserved as open space, parks and other public facilities.
  - (g) Roads (including proposed surface type).
  - (h) Existing and proposed utility and easements; irrigation facilities.
  - (i) Flood or drainage impacts and mitigation.
  - (j) Land dedications for schools, if applicable.
  - (k) Provision of water and sewer services.
  - (l) Provision of fire protection.
  - (m) Phasing of the proposed subdivision, if any.

- (n) Proposed zoning change, if applicable.
  - (o) Any information necessary to address the standards and requirements of Chapters 4 and 5 of these Subdivision Regulations.
- (4) Proof of ownership that includes an updated or current title information binder or insurance policy issued no more than thirty days prior to the date of application.
  - (5) If applicable, a notarized letter of authorization from the landowner permitting a designated representative to process the application.
  - (6) Plat drawing in conformity with Sec. 6-130 of these Subdivision Regulations.
  - (7) Development Reports:
    - (a) Preliminary Drainage Plan and Report. A report prepared by a professional engineer that gauges increased storm water and water quality impacts associated with new development. Include a hydrologic analysis for peak flow rates of storm water entering, passing through, and leaving the site for the minor and major storm events. The report shall address the design standards for drainage in Chapter 4 of these Subdivision Regulations. If approved by the Planning Department, a simplified drainage narrative may be submitted as an alternative to the drainage plan and report.
    - (b) Preliminary Soils Report. Evidence establishing soil suitability in the form of a report prepared by a registered professional engineer or professional geologist. The report shall minimally include: a description of site soil types, locations, and characteristics with supporting soil maps, soil logs and other information needed to determine soil suitability for proposed development; depth to water table and an engineer's recommendation of how to handle the subsurface drainage (i.e.: sump pumps, trench drains, etc.); constraints on development based on the findings; and analysis and evaluation of such information with recommendations regarding structural constraints, and a determination of the adequacy of the structural characteristics of the soil as they relate to the proposed development. The report shall address the design standards regarding geology and soils in the Chapter 4 of these Subdivision Regulations.
    - (c) Preliminary Utility Plan.
      - (i) Evidence of the physical and legal capability to provide adequate water and sanitation in conformity with Chapter 5 of these Subdivision Regulations, including the Water Supply Information Summary. Evidence of adequate water may include, at the request of the County, evidence of ownership or right of acquisition of or use of existing and proposed water rights; historic use and estimate yield

of claim water rights, amenability of exiting rights to a change in use, and evidence concerning the potability of the proposed water supply for the subdivision. The plan should include estimates concerning the total number of gallons per day of water system requirements where a distribution system is proposed and the estimated total number of gallons of sewage to be treated where a central sewage treatment facility is proposed. The plan shall include any estimated costs for the water and sanitation systems and proposed method of financing of such facilities.

- (ii) Plans for all other utility distribution systems within in the subdivision demonstrating reliable and adequate service. This requirement may be satisfied by a letter of agreement between the subdivider and utility serving the site.
- (d) Preliminary Traffic Impact Study. A report prepared by a professional engineer to analyze the short and long term impacts of vehicular traffic associated with new development and identification of any improvements necessary to mitigate the impacts. The study should describe the circulation of traffic within the subdivision and access to the subdivision from the County's road system. The study shall include estimated costs of construction of streets and related facilities and the proposed method for financing such streets and facilities.
- (e) Revegetation and Erosion Control Plan. This plan is required if the undeveloped property is presently cultivated or does not have an adequate ground cover. Prepared by a qualified professional, the plan should address erosion control both during any development and after the completion of such development. The plan should also outline the type of revegetation and any irrigation that will be established on the property.
- (f) Wildlife Impact Mitigation Plan. A wildlife impact mitigation plan may be required to address the impacts of development. Applications will be referred to Colorado Parks and Wildlife for review as soon as possible. The subdivider will work with the County and CPW to determine the impacts on wildlife as a result of the subdivision. Based upon the recommendations from CPW, subdivision which impact high-value wildlife habitats or other critical wildlife areas, a wildlife impact mitigation plan will be required. For subdivisions which do not impact these areas, the County may waive the requirement of the plan.

### **6-130 Preliminary Plan Drawing**

The preliminary plan drawing, required under Sec. 6-120(B)(6), shall contain the following information if applicable:

- (A) Project Name, Scale and North Arrows. The name cannot be a duplicate and cannot be

changed after approval of the preliminary plat. The name of the subdivision should include the words "Preliminary Plan". Scales must be both numerical and with a bar graph.

- (B) Owner Information. Name, Address and Phone Number of owner or owners.
- (C) Drawing. The preliminary plan should be at a size of 24" x 36" and at a scale of 1" = 100", 1" = 200" or other scale approved by the Planning Administrator. The preliminary plan shall meet the following requirements:
  - (1) Each sheet shall include the name of the proposed subdivision.
  - (2) A vicinity map that depicts the area to be subdivided and the area that surrounds the proposed subdivision within a minimum one-mile radius.
  - (3) Legal description of the subdivision.
  - (4) The boundary of the proposed subdivision shall be depicted in a heavy line. Note areas not included in the subdivision.
  - (5) Acreage of total development and acreage of developable land.
  - (6) All easements, including existing and proposed, public and private one and adjacent to the proposed subdivision, their use, principal dimensions (including width), the owners or holders of the easement along with the recorded book and page number and the name of the entity responsible for construction and maintenance.
  - (7) Delineation of all 100-year floodplains, all existing and proposed watercourses, retention and detention areas, wetlands and riparian areas, aquifer recharge areas, streams, lakes, inlets, storm sewers and culverts on and within 100' of the affected property.
  - (8) Location of all proposed lots, tracts, and when appropriate, existing buildings, proposed building envelopes or no-build zones, providing accurate dimensions for each. Lots should be numbered consecutively, tracts shall be lettered alphabetically.
  - (9) Location of any public facility or areas proposed for dedication to a public entity.
  - (10) Location of all lands to be dedicated or reserved in deeds or easements for the use of landowners, residents, or the general public. Include notes to indicate the purpose, disposition and maintenance responsibility for all such tracts and easements.
  - (11) The total square footage for all defined lots, open spaces and public facility areas.
  - (12) The zoning classification and ownership of adjacent land. The zoning classification(s) within the entire subdivision and the proposed zoning, if

applicable.

- (13) Location and dimension of all street rights-of-way and include name in compliance with these Subdivision Regulations. Indicate the classification of road, as defined in these Subdivision Regulations, and the maintenance responsibility, road percentage grades, centerline radii and other pertinent roadway information such as distance between intersections.
- (14) Location of any potential geological hazards and/or significant wildlife habitat areas.
- (15) Location of proposed buffers, landscape, and fencing.

#### **6-140 Review of Preliminary Plan**

- (A) After the preapplication conference required by Sec. 6-120(A), the applicant shall submit the required submittal information to the Planning Department. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed.
- (B) As part of its initial review, staff will identify the number of copies of the submittal information required for distribution to referral agencies and identify which referral agencies are regulatory and which are advisory.
- (C) If the referral agencies elect to comment, they shall comment within 21 calendar days of the date the referral packets were mailed or electronically distributed. After the 21 calendar days, any referral agency responses received will be accepted for informational purposes only and provided to the applicant, Planning Commission, and Board. All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall address the comments of all regulatory referral agencies received within the 21-day referral period by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is encouraged to meet with referral agencies and staff to address any concerns. The applicant is required to pay those fees assessed by regulatory referral agencies. Failure of a referral agency to respond shall be deemed an approval of the preliminary plan.
- (D) Following receipt of the applicant's written response to comments, including the submittal of any revised exhibits and plans, the Planning staff will provide additional comments to the applicant as necessary.
- (E) Staff will schedule a public hearing before the Planning Commission and notify the applicant in writing of the hearing date and time. At least 14 days prior to the hearing, Staff shall send notice of the hearing to landowners within 1320 feet of the boundary of the proposed subdivision and publish notice in newspaper of general circulation. Applicants

are required to send notice, by certified mail, return receipt requested the notice to mineral estate owners in accordance with C.R.S. § 24-65.5-103, thirty days prior to the hearing. Applicants must file with the Planning Department a certification of notice to mineral estate owners on a form provided by the County. Failure to file certification may result in a continuation of the hearing.

- (F) Staff will provide a staff report to the Planning Commission. The Planning Commission shall evaluate the preliminary plan, staff report, referral comments, applicant responses, public comment and testimony, and, based upon the criteria in Sec. 6-150 of these Subdivision Regulations, make a recommendation to the Board to approve, approve with conditions, continue, table for further study, or deny the preliminary plan. The Planning Commission's decision shall be based on the evidence presented; compliance with adopted County standards, regulations, and policies; and other guidelines.
- (G) Following the recommendation by the Planning Commission, staff shall schedule a public hearing before the Board and notify the applicant in writing of the hearing date and time. At least 14 days prior to the hearing, Staff shall send notice of the hearing to landowners within 1320 feet of the boundary of the proposed subdivision and publish notice in newspaper of general circulation.
- (H) The Board shall evaluate the preliminary plan, staff report, referral agency comments, applicant responses, Planning Commission recommendations, public comment and testimony, and, based upon the criteria in 6-150 of these Subdivision Regulations, shall either approve, approve with conditions, table for further study, remand to the Planning Commission, or deny the preliminary plan. The Board's action shall be based on the evidence presented; compliance with adopted County standards, regulations, and policies; and other guidelines.
- (I) The preliminary plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. Requests for extensions may be granted by the Board. An extension request shall include a narrative stating the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes in the County's Comprehensive Plan, the Zoning Regulations or these Subdivision Regulations that have occurred since approval of the plan as these changes affect the plan and the anticipated time schedule for completing the platting process.

#### **6-150 Criteria for Preliminary Plan**

- (A) In considering a preliminary plan, the Planning Commission and Board must apply the following review criteria and find that each criterion has been met or determined to be inapplicable:
  - (1) The proposed subdivision is compatible with existing and allowed land uses in the surrounding area;



- (2) The proposed subdivision conforms with the goals, objects and policies of the Comprehensive Plan;
  - (3) The proposed subdivision addresses the design standards of these Subdivision Regulations;
  - (4) The proposed subdivision provides for a public wastewater collection and treatment system and, if other methods of wastewater collection and treatment are proposed, such systems comply with State and local laws and regulations;
  - (5) The proposed subdivision identifies all areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions and the proposed uses of these areas are compatible with such conditions;
  - (6) The applicant has established that definite provision has been made for water supply that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;
  - (7) The recommendations of referral agencies have been considered; and
  - (8) Approval of the proposed subdivision will not result in a substantial adverse impact on other property in the vicinity of the proposed subdivision.
- (B) If applicable, the Planning Commission and Board shall also review the wildlife mitigation plan and consider the amount of vegetation/habitat removal or alteration within the development site; the amount of habitat of similar type and quality within the development site that remains contiguous; the existing and proposed amount of lot coverage; the existence of contiguous habitat of similar type and quality on adjoining land; and mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; restrictions on vegetation removal; and enhancement or restoration of equivalent habitat on or adjacent to the site. Particular attention shall be given to areas critical to the survival of a wildlife species.

#### **6-160 Final Plat**

(A) Pre-Application Conference

Prior to actual submission of the final plat, each applicant shall attend a pre-application conference with the County Planning Department. Resolution of any outstanding issues from the approval of the preliminary plan are to be considered at this conference.

(B) Submission Requirements

- (1) Completed land use application provided by the County.
- (2) Application fee.
- (3) Narrative of how the application meets all of the criteria in these Subdivision Regulations.
- (4) Plan exhibit in conformity with Sec. 6-170 of these Subdivision Regulations.
- (5) Final Declaration of Covenants, if applicable.
- (6) Final Development Reports:
  - (a) Final plans and drainage report based upon the approved preliminary concepts are to be submitted as follows:
    - (1) Detailed, engineered and stamped plans for the storm drainage system including construction details and alignment of storm sewers, catch basins, manholes, ditches, channels, slope protection, dams, energy dissipaters, and detention ponds.
    - (2) Flow line profiles and natural ground elevations at minimum on hundred (100) foot stations and at all significant breaks in grade for all proposed conduits, channels, and other structures.
    - (3) Cross sections for each facility showing high water elevations and adjacent features that may be affected thereby.
    - (4) Construction details of curb, gutter, cross pans, inlets, driveway aprons, walks, and culverts.
    - (5) Written approvals may be required by the County from agencies or parties that will be affected by the drainage proposal.
  - (b) Final Utility Plans. Sewage collection, water supply and distribution systems and other utility layouts are to be prepared and stamped by a professional engineer, plus profiles and specifications based upon the approved preliminary concepts, with written approvals thereof by the agency providing the services and the Northeast Colorado Health Department, as required.
  - (c) Final Traffic Impact Study, if applicable.
  - (d) Final Revegetation and Erosion Control Plan.

- (e) Final Wildlife Impact Mitigation Plan, if applicable.
- (7) Final Copy of Restrictive Covenants, if applicable.
- (8) Executed Subdivision Improvement Agreement, if applicable.

**6-170 Final Plat Drawing**

- (A) The plat shall conform to all requirements of C.R.S. § 38-51-106. A workmanlike execution of the plat shall be made in every detail. A poorly drawn or illegible plat is sufficient cause for its rejection.
- (B) The first submittal of the final plat shall be a blueline copy in the following size: twenty-four (24) inches by thirty-six (36) inches. The final submittal of the final plat shall be delineated in drawing ink on mylar, or other acceptable material, in the following size: twenty-four (24) inches by thirty-six (36) inches. No portion of the final plat shall have “stick on” type material. A photo mylar with original signatures is acceptable.
- (C) Primary boundary survey control points with monument descriptions; all parcel lines dimensioned with lengths; curve data including chord lengths and bearing; basis of bearings and relation to true meridian; and similar data.
- (D) Tract boundary lines, road right-of-way lines, easements, and other sites with accurate bearings and dimensions including chord lengths and bearings, central angles, and radii of all curves. All dimensions necessary to establish the boundaries in the field.
- (E) Name and width of each right-of-way. Right-of-way width are to be shown at each leg of an intersection.
- (F) Location, dimensions, and purposes of all easements. Easement widths are to be shown on the plat. Existing easements are to be referred by recorded reception number or book and page numbers.
- (G) Location of all lands to be dedicated or reserved in deeds or easements for the use of landowners, residents, or the general public with notes indicating the purpose, disposition and maintenance responsibility for all such tracts and easements.
- (H) Number or letter to identify each lot, tract, block and any public facility or dedication areas and common open space areas in the subdivision. All land must be accounted for and labeled. Note the total square footage or all defined lots, open spaces and public facility areas.
- (I) A 2½ x 3” vertical box in the lower right-hand corner shall be provided for use by the County Clerk and Recorder.

(J) The following certificates and notices, which may be modified to suit special circumstances as approved by the County. Where private roads or other conditions warrant, the “certification”, “dedication”, and “notice” statements must be modified accordingly and are subject to approval by the County.

(1) Dedication Certificate: Depending on the dedication of streets, road and tracts of land to be utilized for public use, the following dedications certificates should be placed on the final plat in the following order:

(a) General Dedication.

(I, We), the undersigned, being the owner(s) (and holder(s) of deed of trust, if applicable) of that part of the (described quarter-section, section, township, range), Morgan County, Colorado, being more particularly described as follows, to wit: Beginning at (complete legal description); containing (to nearest one-hundredth) acres more or less; have (has) caused the same to be surveyed and subdivided into lots, tracts, blocks, streets/road, and easements to be known as the plat of (Subdivision name),

(b) Public Streets/Roads (Add to General Dedication, if applicable):

and do hereby dedicate and convey to Morgan County, in fee simple, free of encumbrances and liens, tracts (if applicable), and all streets/roads, together with all appurtenances thereto for public use.

(c) Private Street/Road Dedication (Add to General Dedication, if applicable):

and do hereby grant and convey to Morgan County an easement over any and all private streets/roads and rights-of-way for the purpose of passage of service vehicles and pages of all vehicles and pedestrians during an emergency situation. It is expressly understood that the acceptance of the dedication of this easement is not to be construction as an acceptance by the County of said private streets/roads and rights-of-way for any other purpose including maintenance purposes.

(d) Utility easements (Add to General Dedication, if applicable)

The utility easements shown hereon are hereby dedicated for public utilities and cable communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance and replacement of utility lines and related facilities.

(2) Surveyor’s Certificate

I, (surveyor's name), a duly registered land surveyor in the State of Colorado, do hereby certify that this plat of (subdivision name) truly and correctly represents the results of a survey made by me or under my direct supervision.

(surveyor's signature)  
(date)

(Surveyor's seal shall appear with this certificate)

(3) Subdivision Improvement Agreement (if applicable):

This plat is subject to a subdivision improvement agreement recorded at reception number \_\_\_\_\_ in the records of the Morgan County Clerk and Recorder. No building permits will be issued by the County until preliminary acceptance of the public improvements required under the subdivision improvement agreement.

(4) Acknowledgments required for all plats:

(a) Owner

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Owner

State of Colorado )  
 ) ss.  
County of Morgan )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Acknowledgment should be adjusted to reflect any corporate or business ownership of the property.

(b) Lien Holder

The undersigned lien holder holds a valid (mortgage or deed of trust) upon the property located within the (subdivision name) which was dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, filed for record on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and recorded at Reception No. \_\_\_ or \_\_\_ in Book \_\_\_\_\_, Page \_\_\_\_\_, records of the Morgan

County Clerk and Recorder.

The undersigned joins in and consents to the dedication herein of the above subdivision. Further, the undersigned lien holder releases its lien upon such dedicated property and in the event of default in satisfaction of the lien, waives any foreclosure rights to the dedicated property.

Dated this \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Lien holder

State of \_\_\_\_\_)

) ss.

County of \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_.

Witness my hand and official seal.  
My commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(5) Commissioners' Certificate

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Board of County Commissioners, Morgan County, Colorado. This approval does not guarantee that the size, soil conditions, or flooding conditions of any lot shown hereon are such that a building permit, well permit, or sewage disposal permit will be issued. This approval is with the understanding that all expenses involving required improvements for all utility services, paving, grading, landscaping, curbs, gutters, sidewalks, road lighting, road signs, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the subdivider and not the County of Morgan. Additional language if applicable: All dedications to the County are hereby accepted. This approval does not constitute acceptance of responsibility by the County for construction, repair, or maintenance of any streets, highways, alleys, bridges, rights-of-way or other improvements designated on this plat.

Attest:

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Clerk to the Board

(SEAL)

(6) Clerk and Recorder's Certificate

I hereby certify that this instrument was filed in my office at \_\_\_\_\_ o'clock. P.M, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, and is duly recorded in Plat File\_\_\_\_\_.

\_\_\_\_\_  
Clerk and Recorder

(7) Planning Department Certificate (if subject to approval by Planning Department):

Certificate of Approval by the Planning and Zoning Department

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the Planning Administrator of Morgan County, Colorado. This approval does not guarantee that the size, soil conditions, or flooding conditions of any lot shown hereon are such that a building permit, well permit, or sewage disposal permit will be issued. This approval is with the understanding that all expenses involving required improvements for all utility services, paving, grading, landscaping, curbs, gutters, sidewalks, road lighting, road signs, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the subdivider and not the County.

(signature) \_\_\_\_\_

Attest:

\_\_\_\_\_  
Clerk to the Board

(SEAL)

- (K) All required boundary monuments shall be placed in the field before the Final Plat is recorded. Recording of the plat shall be delayed until monumentation is completed and certification of same, monument descriptions, and ties are received from the surveyor.

**6-180 Review of Final Plat**

- (A) The final plat shall be in substantial compliance with the approved preliminary plan, as determined by the Planning Administrator. If not, the applicant shall submit an amended preliminary plan for review and approval by the Planning Commission and the Board. No final plat will be accepted if no preliminary plan has been approved. The final plat shall be

submitted within 3 years of approval of the preliminary plan, or as may be extended by the Board. The Board may extend the submission for the final plat, upon a review of the following criteria:

- (1) Conditions in the area surrounding the property have not changed significantly since the original approval;
  - (2) The approved preliminary plat is consistent with any amendments to the Zoning Regulations or these Subdivision Regulations, adopted since the original approval; and
  - (3) The applicant demonstrates that the extension is necessary because there have been factors beyond his or her control that prevented the submittal of the final plat for this project.
- (B) Prior to submittal of a final plat application, the applicant shall contact the County's Planning Department and schedule a pre-application meeting to include staff from various County departments and, as deemed necessary, other referral agency representatives to discuss the proposal and provide information on the submittal process. The applicant shall provide basic information on the final plat in advance of the meeting. Staff shall prepare and distribute the written meeting summary to the applicant to include initial comments on the proposal and other relevant information, and place a copy in the project file.
- (C) If the referral agencies elect to comment, they shall comment within 21 calendar days of the date the referral packets were mailed or electronically distributed. After the 21 calendar days, if no extension is granted, any referral agency responses received will be accepted for informational purposes only and provided to the applicant and the Board. All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall address the comments of all regulatory referral agencies received within the 21-day referral period by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is encouraged to meet with referral agencies and staff to address any concerns. The applicant is required to pay those fees assessed by regulatory referral agencies. Failure of a referral agency to respond shall be deemed an approval of the preliminary plan.
- (D) Approval of the final plat shall be administrative by the Board of County Commissioners. Staff will notify the applicant in writing of the meeting date and time and prepare a staff report for the Board. The subdivision improvements agreement shall be reviewed by staff and the County Attorney prior to the hearing on the final plat. The Board shall approve, approve with conditions, continue, table for further study, or deny the final plat.

#### **6-190 Final Plat Criteria**

To approve a subdivision, the Board must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:



- (A) The final plat is consistent with the preliminary plan;
- (B) The proposed subdivision provides for a public wastewater collection and treatment system and, if other methods of wastewater collection and treatment are proposed, such systems comply with State and local laws and regulations;
- (C) The proposed subdivision identifies all areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions and the proposed uses of these areas are compatible with such conditions; and
- (D) The applicant has established that definite provision has been made for water supply that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed.

**CHAPTER 7 <sup>42</sup> (RESERVED)**

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<sup>42</sup> 2019 BCC 19

## **CHAPTER 8 - MINOR SUBDIVISION REGULATIONS** <sup>43, 44, 45, 46</sup>

### **8-100 Purpose**

These Regulations are designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Morgan County, Colorado. These Regulations provide a means of dividing land on a small scale where a full compliance with all Subdivision Regulations would cause undue hardship and the impact of the small-scale subdivision is minimal.

### **8-105 Applicability**<sup>47</sup>

To minimize the procedural requirements and review time for subdivisions involving development of four (4) or less lots or four (4) units or less per lot or parcel which have a relatively minimal impact on neighboring properties.

### **8-120 Sales of Subdivision Parts**

Whenever any subdivision of land is proposed, before any owner transfers or sells, agrees to sell or negotiates to sell any part thereof, and before any permit for erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such subdivision in accordance with the following procedure. Approval, signing and recording of a Final Plat and accompanying improvements agreement allows sales of the subdivision parts to proceed.

### **8-125 Interpretation**

The provisions of these Regulations shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, morals, convenience, prosperity and welfare, and shall therefore be regarded as remedial, and shall be liberally construed to further their underlying purposes.

These Regulations are not intended to abrogate or annul any permits issued before the effective date of these Regulations or any applicable amendment thereto, or any easement, covenant or other private agreement. Nor shall these Regulations be affected by any easement, covenant, subdivision restriction, private agreement or other matters to which Morgan County was not a party nor approving authority.

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<sup>43</sup> 2011 BCC 12

<sup>44</sup> 2008 BCC 26

<sup>45</sup> 2019 BCC 27

<sup>46</sup> 2019 BCC 19

<sup>47</sup> 2019 BCC 27

### **8-130 Design Standards**

Each new division of land in Morgan County will, to some extent, affect the character and environmental appeal of the land, the cost of services and maintenance to the purchasers and the County government, and the interests of investors in the land and surrounding areas. New developments shall provide safe, convenient travel routes to, from and within the development.

Each lot or unit must provide a desirable setting for construction so that natural features of the land may be preserved, views protected, privacy permitted and screening from traffic ways made possible. Provision must be made to meet area needs for flood and fire protection, sewage disposal and water.

The Planning Commission and the Board of County Commissioners will consider the cumulative impact of the divisions of land in the area that have occurred in the past as well as anticipated divisions of land (either pursuant to these Minor Subdivision Regulations or to the full compliance with these Subdivision Regulations) on County services or on any of the Design Standards described below, and shall make such additional design requirements that such impacts necessitate.

Although Section 1-130 of these Regulations provides for deviations under certain circumstances, the following design standards shall be followed:

### **8-135 Special Site Considerations**

- (A) Steep, unstable or swampy land, and land subject to inadequate drainage and geological hazards shall be identified and unless acceptable provisions are made for eliminating or controlling problems which may endanger health, life or property, such sites shall not be platted for residential occupancy.

The Planning Commission and/or County Commissioners may require the applicant to furnish appropriate technical data and other information necessary to determine the extent to which a proposed division of land is subject to flooding, located in a natural drainage channel or subject to geological, fire or other natural hazards. Technical data and other information requested by the Commission will be prepared and certified by a professional qualified in the appropriate field of expertise. If it is determined that a proposed division of land or a portion thereof lies within a natural hazard area, the Planning Commission and/or County Commissioners may set forth certain conditions, stipulations, standards and prohibitions which must be observed if a division of land is to be permitted. When the Commission requires review and comment by outside agencies, such as the Fire District, any fees levied by those agencies for the review will be paid by the applicant either directly to the agency or by remitting an extra fee to the County to cover the cost.

- (B) Any land subject to flooding or located in a natural drainage channel shall not be platted for occupancy until adequate provisions to eliminate or control hazards are made and approved by the Commission and Board.

- (1) Land within an existing 100-year flood plain or land which is subject to inundation shall not be platted for occupancy unless the applicant meets the criteria for a Floodplain Development Permit pursuant to the Morgan County Zoning Regulations. The Commission may require engineered drawings to locate flood plains and plans to alleviate the flooding condition.
  - (2) All plats will show planned drainage ways for accommodating historic flows plus any increased run-off on the property resulting from development.
- (C) Provisions shall be made to preserve natural features of the site which would enhance the residential lots such as unusual rock formations, lakes, rivers, streams and trees.
- (D) Where a residential division of land borders a railroad or highway right-of-way, the Commission may require a buffer strip of such an extent and type as may be practical, or other adequate protection against the hazards and undesirable effects of the railroad or highway.

#### **8-140 Lots**

- (A) As a minimum requirement, lot dimensions shall conform to applicable zoning or other land use requirements.
- (B) Each new lot shall have access for ingress and egress to a public street right-of-way. Only under very special circumstances will the County consider minor subdivisions having access through easements or private roads.

#### **8-145 Dedications (See Chapter 5)**

#### **8-150 Utilities (See Chapter 4)**

#### **8-155 Soils**

The Staff shall require a soils test and report for review if, in its opinion, problem soils exist on the site. (See Chapter 4)

#### **8-160 Improvements Required**

In each proposed land division, the applicant and the Planning Commission shall agree on the type, location and extent of necessary public improvements depending on the characteristics of the proposed development and its relationship to the surrounding area. Improvements shall be made by the applicant at his expense according to standard specifications prepared by a qualified professional engineer and approved by the Planning Commission.

- (A) Permanent survey monuments shall be set as required by Colorado Revised Statutes. In addition, one-half inch (1/2") steel pins (or larger) shall be set at all lot corners. Affixed

securely to the top of each such monument shall be the Colorado registration number of and land surveyor responsible for the establishment of said monument.

- (B) Roads meeting County standards shall be required.
- (C) Improvements not specifically mentioned in these Regulations, but found appropriate and necessary due to unusual conditions found on the site, shall be constructed at the applicant's expense within such time and in conformance with such specifications as deemed necessary and appropriate by the Planning Commission and Board of County Commissioners and as stipulated in any Subdivision Improvements Agreement.
- (D) If a location for the placement and storage of trash on the site is required, all trash storage areas are to be completely screened from public view and readily accessible for pick-up.
- (E) All graded and disturbed areas are to be reseeded and/or revegetated with native or drought resistant plant species. All parking areas and stalls are to be defined with cribbing or similar material and surfaced with Class C gravel to a depth of two inches (2") as a minimum.
- (F) No Plat shall be signed by the Board of County Commissioners until the improvements required by these Minor Subdivision Regulations have been constructed and approved by the appropriate county officials having jurisdiction over such improvements, or until assurance in the form of an acceptable Subdivision Improvements Agreement is approved by the Board of County Commissioners that the required improvements will be completed.

### **8-165 Compliance with Regulations**

No application for a minor subdivision under these regulations shall be accepted or submitted to the Planning Commission if the property is not in compliance with all provisions of the Morgan County Zoning Regulations or these regulations. If the condition which violates the Morgan County Zoning Regulations or these regulations does not occur on the applied for property but does occur on the same, contiguous parcel, or if there is a current enforcement on property owned by the applicant anywhere in the County an application for minor subdivision will not be accepted until the condition is corrected and all property is in compliance with the provisions of the Morgan County Zoning Regulations or these regulations.

### **8-170 Procedure**

The applicant, who shall be the fee title owner of the affected property, shall discuss the planned minor subdivision with the Staff and then submit, at least twenty (20) days prior to a regularly scheduled meeting to the County Planning Commission or duly authorized staff, the required fees, a Plat and the appropriate number of copies of and all information to enable the Planning Commission to determine compliance with these Regulations and together with three (3) copies of the following documentation:

- (A) A title insurance commitment or policy including a schedule of exceptions to title, or an attorney’s title opinion addressed to the County, dated or endorsed to a date no more than six (6) months prior to the date of application, showing that the applicant is the fee title owner of all subject property. If such property is encumbered, it shall be required that such lien holder join in the dedication. If the Board of County Commissioners grants approval to such Plat, it may be a condition to such approval that said title insurance commitment, policy or attorney’s title opinion be updated to no more than five (5) days prior to the date of such final approval by the Board of County Commissioners. It is the responsibility of the applicant to keep title policies current.
- (B) Documented proof of availability of dependable sewer and potable water sufficient to serve the minor subdivision.
- (C) Documented proof of legal access if the subject property does not have direct contiguous access to a public road or street.
- (D) Any other special reports required by Staff or the Planning Commission.
- (E) Any proposed Subdivision Improvements Agreement.

**8-175 Covenants<sup>48</sup>**

Applicants shall submit a final version of a declaration of covenants, if applicable, for minor subdivisions.

**8-185 Plat Information<sup>49</sup>**

The applicant shall submit a plat drawing that conforms with Sec. 6-170 of these Subdivision Regulations, with a title block with the words “Minor Subdivision Plat” in bold lettering and a line for the Morgan County case number underneath. A vicinity map that depicts the area to be subdivided and the area that surrounds the proposed subdivision within a minimum one-mile radius.

**8-190 Referral Review**

Upon receipt of the application materials, the Staff shall review the materials and forward copies of the materials to appropriate referral agencies as determined by Staff for comment. One copy of all legal documents, plat, title commitments, executed declaration originals, etc., shall be forwarded no later than seven (7) days prior to the Planning Commission meeting to the County Attorney for review and certification of completeness and correctness. Said certification shall be in the form of a letter or form containing any comments from the County Attorney to the Planning Commission to be received prior to the meeting date on which the Planning Commission will formally review the application.

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<sup>48</sup> 2019 BCC 19

<sup>49</sup> 2019 BCC 19

### **8-195 Approval Criteria**

In reviewing an application for a minor subdivision the Planning Commission and the Board of County Commissioners shall apply the following criteria:

- (A) Whether the application documents are complete and present a clear picture of how the subdivision is to be laid out including all infrastructure, easements, and access.
- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan.
- (C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.

### **8-197 Review by the Planning Administrator<sup>50</sup>**

Review of a Minor Subdivision shall follow the same basic procedures of Section 8-200 and 8-210 with the following exception. The Morgan County Planning Administrator may approve a Minor Subdivision if the criteria of Sections 8-130 through 8-195 are met. The Planning Administrator shall notify all members of the Morgan County Planning Commission of each Minor Subdivision which will be administratively approved. The Planning Administrator may refer the application to the Morgan County Planning Commission and the Board of County Commissioners if an objection is received from a Landowner located within ¼ mile of the proposed Minor Subdivision or any referral agency. Approval of a Minor Subdivision by the Morgan County Planning Commission and the Morgan County Board of Commissioners may be required at the discretion of the Planning Administrator.

### **8-200 Planning Commission Review**

On the designated Planning Commission meeting date, the Planning Commission will review the Minor Subdivision Application and either approve, approve with conditions, deny (reason for denial will be in writing), return the application to the applicant for reasons of incompleteness or hold the application for a maximum of thirty (30) days or until the next regularly scheduled meeting of the Planning Commission for further review by them or other agencies so designated by the Planning Commission. The Staff will mail a copy of the application materials to those agencies so designated for the review and comment with a cover letter stipulating the review period deadline. Comments from outside review agencies must be received by the Planning Commission prior to or at the next regularly scheduled meeting.

### **8-205 Planning Commission Changes**

Should changes be required on the plat before approval, the Planning Commission may return the plat to the applicant. The Planning Commission in its deliberations will determine whether the plat can proceed to the Board of County Commissioners with or without another formal review.

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<sup>50</sup> 2013 BCC 09



### **8-210 Board of County Commissioners Review**

Following approval of the minor subdivision plat by the Planning Commission, the Staff shall retain the plat, assuming there are no corrections, together with all supplemental documents for transfer to the Board of County Commissioners at its next regular meeting. The subdivider shall make a presentation to the Board of County Commissioners explaining the plat and the documents. The Board of County Commissioners shall check the plat, especially with regard to proper signatures, required improvements and acceptance of the area dedicated for public use, and shall approve or disapprove the plat. At such meeting, any required guarantees of completion of the roads and improvements shall be provided by the subdivider. If, at this point of review, the title commitment is more than sixty (60) days old, an updated commitment must be produced by the applicant and checked by the County Attorney at the meeting.

### **8-220 Recording of Plat**

Following the approval of the plat by the Board and the completion of any required improvements, the Staff shall hold the original unrecorded plat and other legal documents until completion thereof. The plat shall not be signed until all of the requirements are complete, including execution of an approved Subdivision Improvements Agreement. Upon completion, the plat and appropriate legal documents shall be recorded by a representative of the County in the Office of the Clerk and Recorder of Morgan County. Recording fees are to be paid by the subdivider and a remittance made to the County at the time of Board approval of the Plat. Plats left with the Staff in excess of thirty (30) days will be considered null and void unless the applicant applies either for an extension of time or appears before the Board of County Commissioners with the improvements agreement at the next regular meeting of the Board of County Commissioners after the thirty (30) day grace period.

## **CHAPTER 9 – SUBDIVISION EXEMPTIONS REGULATIONS**

### **9-100 Purpose**

Subdivision exemptions provide for divisions of land on a small scale under circumstances in which the need to comply with Morgan County Subdivision Regulations would cause undue hardships and the impact of the proposed division does not bring the division within the purpose and intent of the Morgan County Subdivision Regulations. The abbreviated procedure set forth in these Exemption Regulations permits an applicant to process a proposed land division with a minimum of time and expense, while encouraging the proper arrangement of access roads in relation to existing or planned roads; providing for adequate light and air; avoiding congested population; providing for proper traffic circulation; insuring adequate provisions for water, sewage and recreation; and regulating such other matters as the Planning Commission and Board of County Commissioners may deem necessary in order to protect the best interests of the public. This procedure requires an exemption plat to be prepared.<sup>51</sup>

### **9-105 Authority**

Pursuant to §30-28-101(10)(d), C.R.S., the Board of County Commissioners of Morgan County has the authority to exempt from the definition of “subdivision” or “subdivided land” any division of land that the Board determines is not consistent with the purpose of the Subdivision Regulations.<sup>52</sup>

### **9-110 Jurisdiction**

- (A) Except as herein provided, no exemptions from County Subdivision Regulations shall be granted. These Exemption Regulations shall apply within the unincorporated areas of Morgan County, Colorado when the division of land meets the criteria in this Chapter. These Exemption Regulations shall not apply to the following activities:<sup>53</sup>
- (1) Division of a parcel of land contained within a platted subdivision which creates additional lots.
  - (2) Except as provided for herein, division of a parcel of land which has been created or divided pursuant to these Exemption Regulations.
- (B) Permitted Exemptions:<sup>54</sup>

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<sup>51</sup> 2017 BCC 48

<sup>52</sup> 2017 BCC 48

<sup>53</sup> 2017 BCC 48

<sup>54</sup> 2017 BCC 48

- (1) The acquisition of access from one parcel of property through another when the property is not within a recorded subdivision or planned development approved under the applicable subdivision regulations.<sup>55</sup>
- (2) Division of a parcel of property which:
  - (a) does not result in more than two lots; and
  - (b) at least one lot which is created is 35 acres or more in size and the other lot is under 35 acres in size.<sup>56</sup>

### **9-115 Creation of Subdivision Exemption Plats to Correct Legal Descriptions**

As described in an amendment to C.R.S. Article 28 of Title 30, entitled “Part 3 – Establishment of Subdivision Exemption Plats for the Purpose of Correcting Legal Descriptions,” owners of certain irregular parcels of parcels platted prior to June 1, 1972 of less than thirty-five (35) acres may petition the County for establishment of a land division study area and subsequent preparations of a subdivision exemption plat as provided for in said Part 3 (C.R.S. § 30-28-301 to 30-28-313, inclusive).

### **9-120 Policy**

Except as allowed Section 9-190, only one subdivision exemption shall be granted for each discrete tract of land under common ownership. Notwithstanding the amendment procedure in Section 9-190, no more than four (4) exemptions may be approved in any officially defined quarter section ( $\frac{1}{4}$  square mile) of land.<sup>57</sup>

### **9-125 Design Standards**

Design standards applicable to subdivision exemptions as set forth below shall be considered minimum acceptable standards. The Planning Commission and/or Board of County Commissioners may at their discretion require the subdivider to comply with additional design standards as contained in Section 4 of these Regulations should site conditions, impacts created by the proposed exemption, or other compelling circumstances necessitate such additional design requirements.

### **9-130 Roads, Driveways and Easements**

- (A) Road rights-of-way and/or driveways shall be designed to bear a logical relationship to the topography.
- (B) The Board of County Commissioners may require road rights-of-way to be aligned with planned on existing roads on adjacent lands, whether or not such adjacent lands have been

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<sup>55</sup> 2019 BCC 27

<sup>56</sup> 2019 BCC 27

<sup>57</sup> 2017 BCC 48

subdivided, and to provide direct, continuous routes to such adjacent lands where no other legal access exists. Temporary turnarounds shall be provided at the end of any road giving access to adjacent lands until connecting roads on the adjacent lands have been constructed.

- (C) Road and driveway intersections shall be as nearly at right angles as possible with no intersections designed at an angle of less than seventy-five degrees (75°). Rural driveway cuts may be no closer than one hundred thirty-five (135) feet from any intersection of a “rural gravel” or higher classification of County or state roads and highways listed in the Morgan County standards. The County may require that adjacent exemptions be served by a common access road.
- (D) Gravel driveways shall be permitted. Road drainage shall be directed to ditches, and in hilly terrain, water bars shall be installed at appropriate distances to periodically divert water out of the ditches and onto adjacent ground in order to minimize erosion and the silting of low spots and intersections.
- (E) Dead-end roads, with the exceptions of rural driveways and easements, shall be discouraged unless they are designed to connect with future roads on adjacent land.
- (F) Restriction of access may be required when an exempted tract or portion thereof adjoins an arterial road or highway.
- (G) Half roads shall be prohibited. When a proposed half road in an exempted tract is adjacent to another property, the approval of the adjacent owner shall be requested, and if obtained, the entire road shall be platted and dedicated by the owners. The responsibility for acquiring the additional right-of-way shall be with the applicant. Otherwise, full access right-of-way shall be platted and reserved by the exemption applicant.
- (H) Road and driveway rights-of-way shall conform to minimum required widths as described in Morgan County road standards. Consolidated accesses shall be a minimum of forty (40) feet in width.
- (I) All road and driveway rights-of-way shall be designed to accommodate a constructed road with a maximum grade of seven percent (7%).
- (J) All easements provided shall conform to standards as described in Section 4-150.
- (K) Access to the exempted and the original parcel along county roads shall be consolidated to the greatest extent practical. Existing accesses are to be removed after consolidation.

### **9-135 Sewer**

- (A) On-lot sewage disposal systems shall comply with the current standards adopted by the Northeast Colorado Health Department and shall be designed and located so as to minimize or eliminate infiltration, avoid their impairment, or the contamination of surrounding areas during or subsequent to flooding.
- (B) Sanitary sewer plans other than on-lot sewage disposal systems shall comply with applicable standards and technical procedures adopted by the Colorado State Board of Health and the other applicable Health Departments.

### **9-140 Water Supply**

- (A) On-lot water supply systems shall comply with current standards in effect in the Colorado State Engineers' Office and the Northeast Colorado Health Department.
- (B) Water supply systems, whether on-lot or otherwise, located in flood plain areas shall be designed and located do as to minimize or eliminate infiltration and avoid their impairment during of subsequent to flooding. (See Morgan County Flood Plain Development Regulations)

### **9-145 Natural Hazards Area**

In areas determined to have significant flood, fire, geological, or other natural hazards, the Planning Commission and the Board of County Commissioners may, in the interest of public safety, require applicants to submit for review, plans to eliminate or reduce hazards to a reasonable level. Such plans may include, but are not limited to engineering designs, fuel modification, emergency water systems, etc.

### **9-147 Exemption Procedure**

#### **9-150 Application**

Application for exemption division of land may be filed only by the owner(s) of a legal or equitable interest on the land where the division is proposed. The applicant shall file with the County a complete exemption submission as described herein. Such application shall be made on a completed form provided by the County and be accompanied by:

- (A) Fee

A non-refundable processing fee in the amount currently in effect as set by the Board of County Commissioners. Where more than one parcel of land is applied for exempt division, the processing fee will be required for each parcel.

(B) Exemption Plat Map

The applicant shall submit a plat drawing that conforms with Sec. 6-170 of these Subdivision Regulations, with a title block with the words “Subdivision Exemption Plat” in bold lettering and a line for the Morgan County case number underneath. If the exemption is to be taken from a 40 acre tract which does not conform to U.S. Land Office nomenclature, the tract shall be shown either in the same scale as the exemption or as a clear and legible inset map. A vicinity map that depicts the area to be subdivided and the area that surrounds the proposed exemption within a minimum one-mile radius.<sup>58</sup>

(C) Proposal Summary

The applicant shall prepare and submit a report, with supporting materials, which is to include the items listed below as a minimum:

- (1) A list and location drawing detailing the names of the owners of the subject property and their addresses.
- (2) A written statement disclosing the purpose of the exemption and reasons for the request. This statement shall also address the appropriate exemption criteria contained herein.
- (3) Proof of ownership in the form of a title insurance commitment or attorney’s title opinion showing that the applicant is the owner of all the land to be platted and that all roads, streets, easements and other rights-of-way and all lots, tracts or sites dedicated or to be conveyed for public use, or for common use by all lot owners are free and clear from all liens and encumbrances, except patent reservations and except liens and encumbrances which cannot be extinguished, released, or purchased by the owner. If such land is mortgaged by the owner, it shall be sufficient if the mortgagee joins in the dedication.
- (4) If the exemption is subject to 9-110(B)(4) a designation of the 40-acre tract from which the exemption is being taken.
- (5) If the property is presently cultivated or does not have an adequate ground cover of non-weed plants, a revegetation plan setting out responsibility, type of revegetation, irrigation provisions, and timetable.

(D) Deeds

Deeds reflecting the properties approved by the exemption and all necessary easements are required after the request is approved. Deeds to Morgan County for any dedicated rights-of-way adjacent to the proposed exemption will also be required after approval.

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<sup>58</sup> 2019 BCC 19

(E) Additional Application Materials

Upon the determination of the Staff, the applicant may be required to submit the following additional materials with the application.

- (1) Proposed methods for joint use of common facilities and continued maintenance of roads, driveways, water sources, waste disposal facilities, and their associated easements, deeds and maintenance agreements as necessary.
- (2) Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to insure an adequate supply of water for the type of development proposed. Such evidence shall include, but not be limited to: Evidence of ownership or right of acquisition or use of existing and proposed water rights (such as a well permit from the State Engineer); amenability of existing right to a change in use; evidence that public or private water suppliers can and will supply water to the subject property; evidence concerning the potability of the proposed water supply for the subject property and evidence of the feasibility of water augmentation where required.
- (3) Adequate evidence that sanitary waste disposal is sufficient based on criteria established by the Northeast Colorado Health Department for size and design of the system; evidence that public or private sewage disposal agencies can and will supply service to the subject property.
- (4) If the proposed parcel to be created lies within a water and/or sanitation district(s), a “will serve” letter and contract from that district must be submitted with the application if such property is not now currently receiving the benefits of such inclusion.
- (5) Covenants to protect the owners of the exempted parcel, adjacent landowners, and the neighborhood.
- (6) Dedications of property or money to reasonably mitigate any negative impact of the exemption.

**9-155 Referrals and Staff Review**

Staff shall determine if the application is in compliance with the criteria and whether the application should be referred to any other agency or department. If an application is referred, the referral agency will have fourteen (14) days to respond. Lack of response shall be deemed an approval.

Upon determination that an application is complete, staff shall send a notice of the application to landowners within ¼ mile of the proposed exemption. This notice requirement shall not apply to the exemptions listed in Secs. 9-110(B)(1), (2) and (3).

### **9-157 Review by Planning Administrator**

The Morgan County Planning Administrator may approve an exemption if the criteria of Section 9-180 are met. The Planning Administrator may refer the application to the Morgan County Planning Commission and Board of County Commissioners if an objection is received from a landowner located within ¼ mile of the proposed exemption or any referral agency. Approval of an exemption by the Morgan County Planning Commission and Morgan County Board of Commissioners may be required at the discretion of the Planning Administrator. Review of an application for a subdivision exemption by the Planning Commission and Board of Commissioners shall comply with the procedures as provided for herein.<sup>59,60</sup>

### **9-160 Planning Commission Exemption Hearing<sup>61</sup>**

An Exemption Hearing before the Planning Commission may be required at the discretion of the Planning Administrator.

### **9-165 Board of County Commissioner Exemption Hearing**

After the application has been acted upon by the Planning Commission the applicant shall submit any additional required information for the hearing before the Board of County Commissioners to the Staff as was specified at the Planning Commission meeting. When complete, the request shall be scheduled for a regular or special meeting by the Board of County Commissioners.

### **9-170 Board of County Commissioners Actions**

The Board of County Commissioners shall hold a regular or special meeting for the purpose of reviewing the proposed exemption and all amendments to the plan, referral responses, other evidence and materials, recommendations and findings of the Staff and other information.

- (A) At the time of the meeting, the Board of County Commissioners may table the request, but shall take action to approve, conditionally approve, or deny the exemption not later than sixty (60) days after the date of the meeting of the Board of County Commissioners. At the applicant's request, actions by the Board of County Commissioners may be delayed for up to ninety (90) days. All actions of the Board of County Commissioners are final.
- (B) No exemption shall be approved until such data, surveys, analyses, studies, plans and designs as may be required have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the County contained within these Regulations.
- (C) No exemption shall be approved or conditionally approved unless it complies with the applicable established Exemption Criteria found in Section 9-180.

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<sup>59</sup> 2007 BCC 31

<sup>60</sup> 2017 BCC 48

<sup>61</sup> 2007 BCC 31



- (D) Amendments to an exemption plat may be made as provided for in Sec. 9-190 of these Exemption Regulations. Under no circumstances may exemption plats be amended to create an additional number of parcels.<sup>62</sup>
- (E) Board of County Commissioner's decision of denial shall contain a listing of the reasons for such action.
- (F) Approval or conditional approval shall expire after six (6) months from the date of approval if the applicant does not complete the exemption process by filing for recording with the County Clerk and Recorder the proper deeds, site plans, forms or other matters as may be required as part of the approval or conditional approval.

### **9-175 Post Exemption Action**

The following actions shall occur after approval or conditional approval of the exemption by the Planning Administrator or the County Commissioners:<sup>63</sup>

- (A) The applicant shall obtain all signatures necessary for execution of the appropriate documents. The Staff shall be responsible for obtaining the signature of the Board of County Commissioners. All necessary documents, including deeds which shall reflect the approved exemption, shall be submitted to the Staff.
- (B) The Staff shall verify that proper signatures have been secured on the exemption documents. The Staff shall compare owners' names with those on the title report supplied in accordance with Section 9-150 (3). If there is a difference identified by the Staff, then the Staff shall not proceed with recordation of the exemption and associated documents until the Staff determines that the lien holders or mortgage holders or owners of surface or subsurface rights have been duly noticed as to the proposed exemption and shall have an opportunity to comment. Objections by these newly identified owners may result in the Staff requiring a review before the Board of County Commissioners.
- (C) Upon finding that all corrections have been made to the exemption documents, that the proper signatures have been received, that all payments have been received, that the documents are in the proper order and ready for recordation, the Staff shall authorize the documents to be filed for recording with the Clerk and Recorder. The applicant shall be responsible for all recording fees.
- (D) Amendments to an exemption plat may be made only in the case where technical errors have been found after recording has occurred. Errors include survey errors and other minor errors that do not change the basic exemption intent. Under no circumstances may exemption plats be amended to create new parcels without beginning the exemption process anew.

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<sup>62</sup> 2017 BCC 48

<sup>63</sup> 2007 BCC 31

## 9-180 Exemption Criteria<sup>64</sup>

Subdivision exemptions shall satisfy all of the following criteria for approval:

- (A) All applicable design standards in Chapter 4 of these Regulations shall be complied with.
- (B) Where the original undivided parcel(s) or lot(s) and the structures thereon are in conformance with the building and structure requirements of the zoning district in which located, any resulting parcel or lot shall also conform to these requirements.
- (C) In the case of existing nonconforming lots(s) or parcel(s) and the structures thereon, any resulting lot or parcel shall not increase the degree of nonconformity in the zoning district in which located.
- (D) The proposed water supply shall be sufficient in terms of quality, quantity, and dependability to provide an adequate supply of water for the type of development proposed.
- (E) The proposed sewage disposal system shall comply with the rules and regulations of the Health Department, and adequate provisions shall have been made for such system.
- (F) All areas of the proposal which may involve soil or topographical conditions presenting hazards or requiring special precautions shall be identified by the applicant and the proposed use of these areas shall be found to be compatible with such conditions.
- (G) Parcel(s) comprised, in all or in part, of areas within subdivided land, as defined within the Morgan County Subdivision Regulations, shall not be considered for exemption, except boundary line adjustments.
- (H) Exemptions shall not be considered on previously exempted land, except as provided for in Section 9-190 of these Exemption Regulations.
- (I) No exemption shall create any parcel containing land areas divided by a freeway, expressway, principal arterial, minor arterial, or collector road, or by lands contained within the legal boundaries of any municipality.
- (J) All exempted parcels and the original parcel from which it was created shall have clear and consolidated legal access to a public right-of-way. Where terrain or other unusual circumstances preclude a consolidated access, a deviation from these criteria may be recommended by the Planning Commission. All existing accesses to one or other parcels are to be abandoned with the agreement of a consolidated access location prior to building permit approval unless otherwise recommended by the Planning Commission and by the Board of County Commissioners in the exemption plat approval. Access locations are to be clearly marked and dimensioned on the exemption plat drawing.

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<sup>64</sup> 2017 BCC 48

- (K) The cumulative impacts of clustering exemptions together shall be considered and may constitute a basis for denial.
- (L) The applicant must demonstrate that there is a present need for such exemption.
- (M) The applicant must be able to demonstrate that any planned change in use of either parcel affected in the exemption process is a permitted use. The Staff may require the filing of building permits, special use permits, grassland cultivation permits, flood plain development permits or statements from the County or other agencies as they may deem necessary.
- (N) Exemptions shall not be granted for purposes of aggregating a new parcel(s) from adjacent 35-acre parcels or previous exemptions since this procedure avoids the subdivision intent of these Regulations.
- (O) Exemptions shall not be granted for purposes of aggregating a new parcel(s) from adjacent parcels or previous exemptions, except as provided for in Sec. 9-190 of these Exemption Regulations, since this procedure avoids the subdivision intent of these Exemption Regulations.
- (P) Subdivision exemptions may not result in the creation of more than two parcels of land.

**9-185 Combination of Contiguous Lot or Parcels<sup>65</sup>**

- (A) Purpose. The purpose of this Section is to establish standards whereby lots or parcels may be combined to create a single lot or parcel to provide for building permit issuance for new construction or habitable additions, without necessitating a replat or variance.
- (B) Applicability. The combination by contiguity may be applied to any contiguous lots or parcels of land where:
  - (1) The number of buildings located on the lots or parcels to be combined is no more than the maximum number of buildings permitted with the zoning district;
  - (2) The lots or parcels to be combined are located within the same zoning district; and
  - (3) The lots or parcels are owned in common ownership by the same person, persons or entity.
- (C) Interpretation of Contiguity.
  - (1) Common Boundary. Lots or parcels shall be regarded as contiguous when not less than one-sixth of the perimeter of either lot or parcel is shared by both lots or parcels

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<sup>65</sup> 2017 BCC 24

or if the lots or parcels share a common boundary of at least 50 feet, whichever is less.

- (2) Severance of Contiguity. The contiguity of lots or parcels shall not be considered severed by the existence, along their common boundaries, of a private road, road easement, driveway or alley; a public or private transportation or utility easement; a river, creek, stream, or other natural or artificial waterway; a geologic condition that naturally or artificially divides property; or an intersecting mining claim.

(D) Effect of Combination

The following provisions shall be applied to the combined lots or parcels as a result of a combination agreement:

- (1) The combined lots or parcels shall be considered as one lot or parcel of land for the purposes of application of this Code; and
- (2) The combined lots or parcels shall have setbacks applied only along the exterior boundaries of the combined properties.

(E) No Guarantee of Buildable Lot or Parcel

Combination of lots does not guarantee that the resulting lot or parcel will meet the zoning district standards and be considered buildable.

(F) Criteria for Approval

The Planning Administrator, in approving a combination of contiguous parcels, shall find:

- (1) The lots or parcels being combined are legal lots, except that an illegally-created lot or parcel may be combined with one or more existing legal lots if the Planning Administrator determines the resultant lot or parcel is consistent with the intent and purpose of this Code;
- (2) The combination agreement will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area; and
- (3) The combination agreement will not result in establishing a nonconformity.

(G) Completed Action

A combination of contiguous lots or parcels shall be considered completed and in effect when an approved combination agreement is filed for recording with the Clerk and Recorder.

## **9-190 Amendments to Subdivision Exemptions<sup>66</sup>**

- (A) Applicability. Owners of property which was subject to a previously approved subdivision exemption pursuant to these Exemption Regulations may apply for an amendment to a subdivision exemption provided that the amendment meets the criteria in this Section 9-190.
- (B) Process. Amendments to subdivision exemptions shall be subject to subdivision exemption application process as provided for this Chapter 9. The application fee shall be set by the Morgan County fee schedule.
- (C) Criteria for Approval. The Planning Administrator or Morgan County Board of County Commissioners, in approving an amendment to a subdivision exemption, shall find:
  - (1) The amendment will not result in any non-conforming parcels under the Morgan County Zoning Regulations and is consistent with the intent and purpose of these Regulations;
  - (2) The amendment will not adversely affect access, drainage or utility easements or rights of way serving the property or other properties in the area;
  - (3) The amendment meets all design standards and other criteria applicable to exemptions under this Chapter or, as applicable, a technical error was made to the recorded original exemption plat; and
  - (4) The amendment will not increase the number of lots approved in the original subdivision exemption.

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<sup>66</sup> 2017 BCC 48

## **CHAPTER 10 - BOUNDARY LINE ADJUSTMENTS, AMENDED PLATS, REPLATS, AND PLAT VACATIONS <sup>67</sup>**

### **10-100 Boundary Line Adjustments**

- (A) Purpose. The purpose of this Chapter is to allow the adjustment of boundary lines between contiguous legal lots that do not result in any additional lots.
- (B) Applicability. The common boundaries between contiguous legal lots can be reconfigured by a boundary line adjustment except for:
  - (1) Lots in recorded subdivisions and planned unit developments approved under the County's subdivision regulations.
  - (2) Lots in approved subdivision exemptions.
  - (3) Lots that are 35 acres or greater prior to and after the boundary line adjustment.
- (C) Pre-application conference. Prior to actual submission of the boundary line adjustment application, each applicant shall attend a pre-application conference with the County Planning Department. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed boundary line adjustment to inform and assist the applicant prior to the preparation of the application.
- (D) Submission Requirements:
  - (1) Completed land use application provided by the County and signed by all owner(s) of, or persons having an interest in the affected property.
  - (2) Application fee.
  - (3) Proof of ownership that includes an updated or current title information binder or insurance policy issued no more than 30 days prior to the date of application.
  - (4) Narrative of how the application meets all of the criteria in these Subdivision Regulations, as applicable.
  - (5) Plat exhibit in conformity with Sec. 6-170 of these Subdivision Regulations.
- (E) Review of Submission. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete

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<sup>67</sup> 2019 BCC 27

submittal will not be processed.

- (F) Review Process. The Planning Administrator may approve a boundary line adjustment if the criteria of subsection G are met.
- (G) Review Criteria. To approve a boundary line adjustment, the Planning Director must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:
  - (1) The lots subject to the boundary line adjustment are legal lots as defined in the definitions section.
  - (2) No additional lots will be created by the boundary line adjustment.
  - (3) The lots are not in a subdivision, major or minor, or planned development approved pursuant to the County's applicable subdivision regulations.
  - (4) The resultant lots will meet the required minimum lot size and lot width standards of the applicable zoning district. If either or both lots are nonconforming with respect to minimum lot size or lot width, the boundary line adjustment must not increase the nonconformity.
  - (5) Other than the nonconformities addressed in subsection (4) above, the resultant lots will meet the requirements of the applicable zone district, including those requirements in Table 1 of Appendix B of the County's Zoning Regulations.
  - (6) The boundary line adjustment will not create a nonconforming setback for any existing building.
  - (7) The boundary line adjustment is consistent with the goals and policies of the County's Comprehensive Plan.

### **10-200 Amended Plats**

- (A) Purpose. The purpose of this section is to allow boundary changes and lot consolidations for lots in recorded subdivisions and planned unit developments approved under the County's subdivision regulations that were in effect at the time of the creation of the lots. Amended plats can also be used to make changes to plat notes or conditions or vacate easements or rights-of-way. Vacation of rights-of-way shall only apply to rights-of-way within approved subdivisions or planned developments.
- (B) Applicability. A plat amendment is required for the following circumstances:
  - (1) Contiguous lots in recorded subdivisions or planned developments approved under previous subdivision regulations may be reconfigured or combined by an amended plat. However, no more than ten (10) lots may be combined or reconfigured.

- (2) Any change to a condition or note on a plat requires an amended plat, including specific restriction which appear on the face of the plat based upon a determination that the conditions leading to the restriction have been satisfied or are no longer applicable.
  - (3) The vacation of utility or drainage easements.
  - (4) The vacation of any right-of-way that results in a new lot configuration requires an amended plat.
- (C) Pre-application conference. Prior to actual submission of the amended plat application, each applicant shall attend a pre-application conference with the County Planning Department. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed amended plat to inform and assist the applicant prior to the preparation of the application.
- (D) Submission Requirements:
- (1) Completed land use application provided by the County and signed by all owner(s) of, or persons having an interest in the affected property.
  - (2) Application fee.
  - (3) Except for changes to plat note or condition, proof of ownership that includes an updated or current title information binder or insurance policy issued no more than 30 days prior to the date of application.
  - (4) Narrative of how the application meets all of the criteria in these Subdivision Regulations, as applicable.
  - (5) For lot line vacations, lot reconfigurations and vacations of rights-of-way, a plat exhibit in conformity with Sec. 6-170 of these Subdivision Regulations.
- (E) Review of Submission. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted, notice of the public hearing shall be given at least 14 days prior to the hearing by publication in a newspaper of general circulation and mail to landowners within subdivision or planned development.
- (F) Review Process. All applications for amended plats require approval by the Board of County Commissioners. If an amended plat includes a right-of-way or easement vacation, or a change to a condition or a note on a plat, the Board of County Commissioners shall



conduct a public hearing and notice shall be required as described in subsection E above. For all other amended plat applications, no public hearing is required.

(G) Review criteria.

- (1) Vacation of Interior Lot Lines. To approve a proposed elimination of interior lot lines, the Board of County Commissioners must consider the following criteria and find that each criterion has been met or determined to be inapplicable:
  - (a) No additional lots will be created by the vacation.
  - (b) The vacation is keeping with the purpose and intent of these Subdivision Regulations.
  - (c) The vacation will not create a nonconforming setback for any existing building.
  - (d) The resultant lots will meet the requirements of the applicable zone district, including those requirements in Appendix B of the County's Zoning Regulations.
  - (e) The vacation will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
  - (f) The approving resolution adequately renames or renumbers the lots in accordance with this Chapter.
  - (g) The lot line vacation is consistent with the goals and policies of the County's Comprehensive Plan.
- (2) Reconfiguration of Lots. To approve a proposed reconfiguration of lots, the Board of County Commissioners must consider the following criteria and find that each criterion has been met or determined to be inapplicable:
  - (a) No additional lots will be created by the reconfiguration.
  - (b) The reconfiguration is keeping with the purpose and intent of these Subdivision Regulations.
  - (c) The resultant lots will meet the required minimum lot size and lot width of the applicable zoning district. If any of the lots are nonconforming with respect to the minimum lot size or lot width, the reconfiguration must not increase the nonconformity.
  - (d) The reconfiguration will not create a nonconforming setback for any existing building.

- (e) Except for those nonconformities addressed subsection (c) above, the resultant lots will meet the requirements of the applicable zone district, including those requirements in Table 1 of Appendix B of the County's Zoning Regulations.
  - (f) The reconfiguration will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
  - (g) The reconfiguration is consistent with the goals and policies of the County's Comprehensive Plan.
- (3) Vacation of Utility or Drainage Easements. To approve a proposed vacation of utility or drainage easements, the Board of County Commissioners must consider the following criteria and find that each criterion has been met or determined to be inapplicable:
- (a) Vacation of the easement will not leave any lots or parcels without adequate utility or drainage easements.
  - (b) Vacation of the easement will not inhibit the provision of adequate public facilities or services to other property as required by the County's Zoning and Subdivision Regulations.
  - (c) Vacation of the easement will not adversely affect the public health, safety, and welfare.
  - (d) Vacation of the platted easement for utilities or drainage purposes has been approved by any individual or entity using the easement in question or holding rights to use the easement where a specific entity has been identified as holding the associated rights.
  - (e) The vacation is consistent with the goals and policies of the County's Comprehensive Plan.
- (4) Change to Plat Note or Condition. To approve a proposed change to a plat note or condition, the Board of County Commissioners must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:
- (a) The changes to the recorded plat are insubstantial, or the plat amendment is necessary to reflect the current circumstances or restrictions.
  - (b) The change is in keeping with the purpose and intent of the County's Zoning and Subdivision Regulations.

- (c) The approval will not adversely affect the public health, safety, and welfare.
  - (d) The change is consistent with the goals and policies of the County's Comprehensive Plan.
- (5) Vacation of Right-of-Way. To approve a proposed vacation of a right-of-way, the Board of County Commissioners must consider the following criteria and find that each criterion has been met or determined to be inapplicable:
- (a) The plat vacation complies with these Subdivision Regulations and the original conditions of approval of the recorded plat.
  - (b) No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased.
  - (c) The approval will not adversely affect the public health, safety, and welfare.
  - (d) No land is left, by reason of this vacation, without an established public right-of-way or private access easement connecting the land with an established public road.
  - (e) A dedication or intent to dedicate has been established, where necessary.
- (H) Renumbering of Lots.
- (1) Vacating Lot Lines. When vacating a common lot line between two lots, the original lot number followed by the letter "A" shall be used to number the new lots (e.g., when vacating the common lot line between lot 1 and lot 2, the newly created lot shall be renumbered lot 1A).
  - (2) Reconfiguring of Lots. When reconfiguring lots or adjusting lot lines, the original lot numbers followed by the letter "A" shall be used to number the new lots.

### **10-300 Plat Correction**

- (A) Purpose. The purpose of this section is to allow for the correction errors or omissions or to correct one or more technical errors or omissions to a recorded approved plat.
- (B) Applicability. An approved plat correction certificate or correction plat shall be required to effect any change to correct errors and omissions to a recorded approved plat.
- (C) Pre-application conference. Prior to actual submission of the plat correction application, each applicant shall attend a pre-application conference with the County Planning Department. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed plat correction to inform and assist the applicant prior to the preparation of the application.

- (D) Submission Requirements:
- (1) Completed land use application provided by the County and signed by all owner(s) of, or persons having an interest in the affected property.
  - (2) Application fee.
  - (3) Narrative of how the application meets all of the criteria in these Subdivision Regulations, as applicable.
  - (4) If necessitated by the corrections, a plat exhibit in conformity with Sec. 6-170 of these Subdivision Regulations.
- (E) Review of Submission. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed.
- (F) Review Process. The Planning Administrator may approve a plat correction if the criteria of subsection G are met.
- (G) Review Criteria. To approve a plat correction, the Planning Director must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:
- (1) The correction complies with this Code, and the original conditions of approval.
  - (2) No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased.
  - (3) The correction is in keeping with the purpose and intent of the County's Zoning and Subdivision Regulations.
  - (4) The approval will not adversely affect the public health, safety, and welfare.
  - (5) The correction certificate or plat complies with all provisions and requirements of this Code, explains the relationship between the correction plat or certificate and the approved plat.
  - (6) The plat correction is consistent with the goals and policies of the County's Comprehensive Plan.

#### **10-400 Replat**

- (A) Purpose. The purpose of this section is to allow for the removal or addition of property to

a previously approved subdivision or other major modification to a recorded plat.

- (B) **Applicability.** An approved subdivision plat shall be required to substantially alter an existing recorded subdivision plat.
- (C) **Pre-application conference.** Prior to actual submission of the replat application, each applicant shall attend a pre-application conference with the County Planning Department. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed replat to inform and assist the applicant prior to the preparation of the application.
- (D) **Submission Requirements:**
  - (1) Completed land use application provided by the County and signed by all owner(s) of, or persons having an interest in the affected property.
  - (2) Application fee.
  - (3) Proof of ownership that includes an updated or current title information binder or insurance policy issued no more than 30 days prior to the date of application, to be updated prior to plat recordation.
  - (4) Narrative of how the application meets all of the criteria in these Subdivision Regulations, as applicable.
  - (5) A plat exhibit in conformity with Sec. 6-170 of these Subdivision Regulations.
  - (6) If the property is subject to restrictive covenants, adequate proof that the covenants will be applicable to newly added property or that removed lots will not be subject to the restrictive covenants.
- (E) **Review of Submission.** Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted, notice of the public hearing shall be given at least 14 days prior to the hearing by publication in a newspaper of general circulation and mail to landowners within subdivision or planned development.
- (F) **Review Process.** All applications for a replat require approval by the Board of County Commissioners. The Board of County Commissioners shall conduct a public hearing and notice shall be required as described in subsection E above.
- (G) **Review Criteria.**

- (1) The replat complies with these standards and regulations, and the original conditions of approval.
  - (2) Nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased.
  - (3) The replat is in keeping with the purpose and intent of these Subdivision Regulations.
  - (4) Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with these Subdivision Regulations.
  - (5) The approval will not adversely affect the public health, safety, and welfare.
- (H) Renumbering of Lots.
- (1) Replatting Entire Subdivision. When replatting an entire subdivision filing, the lots shall be numbered consecutively starting with the number “1”.
  - (2) Addition of Property to Subdivision. When property will be added to a subdivision, the new lots shall be numbered consecutively starting the next number in the numerical sequence of already numbered lots.
  - (3) Removal of Property from Subdivision. When lots are removed from a subdivision, a new metes and bounds description of the lots removed shall be shown on the plat.

**10-500 Plat Vacation – No Public Infrastructure or Dedication**

- (A) Purpose. The purpose of this section is to detail the steps for vacation of a subdivision plat that has no public infrastructure or dedication.
- (B) Applicability. This process is only available to property within a previously approved subdivision plat.
- (C) Pre-application conference. Prior to actual submission of the plat vacation application, each applicant shall attend a pre-application conference with the County Planning Department. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed plat vacation to inform and assist the applicant prior to the preparation of the application.
- (D) Submission Requirements:
  - (1) Completed land use application provided by the County and signed by all owner(s) of, or persons having an interest in the affected property.

- (2) Application fee.
  - (3) Proof of ownership that includes an updated or current title information binder or insurance policy issued no more than 30 days prior to the date of application, to be updated prior to plat recordation.
  - (4) Narrative of how the application meets all of the criteria in these Subdivision Regulations, as applicable.
- (E) Review of Submission. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted, notice of the public hearing shall be given at least 14 days prior to the hearing by publication in a newspaper of general circulation and mail to landowners within subdivision or planned development.
- (F) Review Process. All applications for a plat vacation require approval by the Board of County Commissioners. The Board of County Commissioners shall conduct a public hearing and notice shall be required as described in subsection E above.
- (G) Review Criteria.
- (1) Nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased.
  - (2) The plat vacation is in keeping with the purpose and intent of these Subdivision Regulations and the County's Comprehensive Plan.
  - (3) The approval will not adversely affect the public health, safety, and welfare.
  - (4) The plat vacation is consistent with the goals and policies of the County's Comprehensive Plan.

#### **10-600 Plat Vacation – Public Infrastructure or Dedication**

- (A) Purpose. The purpose of this section is to detail the steps for vacation of a subdivision plat that has public infrastructure or dedication.
- (B) Applicability. This process is only available to property within a previously approved subdivision plat.
- (C) Pre-application conference. Prior to actual submission of the plat vacation application, each applicant shall attend a pre-application conference with the County Planning Department. After the pre-application conference, the Planning Department may furnish

the applicant with written comments regarding the proposed plat vacation to inform and assist the applicant prior to the preparation of the application.

(D) Submission Requirements:

- (1) Completed land use application provided by the County and signed by all owner(s) of, or persons having an interest in the affected property.
- (2) Application fee.
- (3) Proof of ownership that includes an updated or current title information binder or insurance policy issued no more than 30 days prior to the date of application, to be updated prior to plat recordation.
- (4) Narrative of how the application meets all of the criteria in these Subdivision Regulations, as applicable.

(E) Review of Submission. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted, notice of the public hearing shall be given at least 14 days prior to the hearing by publication in a newspaper of general circulation and mail to landowners within subdivision or planned development.

(F) Review Process. All applications for a plat vacation require approval by the Board of County Commissioners. The Board of County Commissioners shall conduct a public hearing and notice shall be required as described in subsection E above.

(G) Review Criteria.

- (1) Nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased.
- (2) The plat vacation is in keeping with the purpose and intent of these Subdivision Regulations and the County's Comprehensive Plan.
- (3) The approval will not adversely affect the public health, safety, and welfare.
- (4) The plat vacation is consistent with the goals and policies of the County's Comprehensive Plan.



**Subdivision (Annotations)**

<b>Resolution</b>	<b>Section(s)</b>
2007 BCC 31	Section 9-157
	Section 9-160
	Section 9-175
2008 BCC 26	Section 8-180 (A-E)(G)
	Section 8-185 (A)(X)
2011 BCC 12	Section 8-215
	Section 8-185 (R)
2013 BCC 09	Section 8-197 (new subsection)
2014 BCC 26	Section 5-120 (deletion)
2017 BCC 24	Section 2-105.5 (new subsection)
	Section 9-185 (new subsection)
2017 BCC 48	Section 2-245
	Section 9-100
	Section 9-105
	Section 9-110
	Section 9-110(B)
	Section 9-120
	Section 9-157
	Section 9-170(D)
	Section 9-180
	Section 9-180(H)
	Section 9-180(N)(deleted)
	Section 9-180 (O)
	Section 9-180 (new subsections (P) and (Q))
	Section 9-190 (new subsection)
2019 BCC 19	Section 1-120 (renamed)
	Section 1-120 (C)
	Section 1-130 (renamed)
	Section 1-130
	Section 1-145(A)
	Section 1-145(D) (deleted)
	Section 1-145(E)
	Section 2-215 (renamed)
Section 2-230 (deletion of (A), (I) and (N)) and deletion of final paragraph	

	Section 2-235 (deleted)
	Section 2-245
	Section 2-255
	Section 2-257 (addition)
	Section 3-105 (deletion of "Planned Development"/ Replacement of "developer" with "subdivider")
	Section 3-105 (deletion of (C))
	Section 3-105 (deletion of (D))
	Chapter 4 (initial paragraph)
	Sections 4-100(A), (B), (C), (F) and (G) (deletion of "Planned Development" and "Planned Developments")
	Section 4-100(D)
	Section 4-100(I)(deleted)
	Section 4-110(A) (deletion of "Planned Development")
	Section 4-110(B)
	Section 4-110(E)
	Section 4-135(A)(1)
	Sections 5-100(A) and (D)
	Section 5-110(D)
	Section 5-120(A) (replacement of "Planning Commission" with "County")
	Sections 5-120(G)(1) and (2)
	Chapter 6
	Chapter 7 (deleted)
	Section 8-175
	Section 8-180 (deleted)
	Section 8-185
	Section 9-150(B)
2019 BCC 27	Section 1-165 (new subsection)
	Section 2-110 (deleted)
	Section 2-162 (new subsection)
	Section 2-255
	Section 2-257
	Section 8-105
	Chapter 8 (deletion of "Applicability")
	Section 8-115 (deleted)
	Section 8-215 (deleted)
	Section 9-110(B)
	Chapter 10
2020 BCC 07	Section 4-100(C) (amended)
	Section 5-120(A), (B), (G) and (H) (amended)

