

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.183.1001 form of corner)
records, 24.183.1104 uniform)
standards for certificates of survey,)
and 24.183.1107 uniform standards)
for final subdivision plats)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 27, 2012, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Professional Engineers and Professional Land Surveyors (board) no later than 5:00 p.m., on September 21, 2012, to advise us of the nature of the accommodation that you need. Please contact Ian Marquand, Board of Professional Engineers and Professional Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdpels@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.183.1001 FORM OF CORNER RECORDS - INFORMATION TO BE INCLUDED (1) The form for recordation of corners pursuant to the Corner Recordation Act of Montana (Title 70, chapter 22, part 1, MCA) has been approved by the ~~board of professional engineers and land surveyors~~ Board of Professional Engineers and Professional Land Surveyors. The approved version of the form for ~~the public land survey system~~ was adopted by the board on ~~July 1, 1981~~ February 2, 2012, and the approved version of the form for filing under the survey of record index was adopted on February 20, 2004. Blank corner record forms can be obtained from the Montana Association of Registered Land Surveyors, P.O. Box 359, Columbia Falls, Montana 59912, by contacting the association directly at (406) 892-4579, or on the internet at www.marls.com.

(2) remains the same.

(a) A a description or quotation of those portions of the original or subsequent record, which were used in evaluating the corner position;

(i) remains the same.

(ii) The original record for nongovernment surveys will usually be subdivision plats, certificates of survey, or other surveys of record.

(iii) Subsequent record can come from sources such as previously filed corner records, maps and plats, private and public records, etc. Some of the subsequent record, even though not in the public record, but known to have validity by the surveyor, may be quoted and appropriately noted. The record data help support the reestablished corner position, because they clearly show on what history the surveyor based the corner position. In some cases, however, the record may be unknown or not pertinent. A statement to that effect, if applicable, must appear on the corner record.

(b) A a description of the original or subsequent record evidence found that locates the corner position;

(i) through (iii) remain the same.

(c) A a listing of all details about the corner and its location, which will help exclusively identify the corner position, including the size and type of monument and accessory, how marked if not shown in sketch, and distinguishing topographic calls, which help locate the corner. In many cases, instructions on how to find the corner should be included;

(i) and (ii) remain the same.

(d) A a sketch of the corner to show how a found or set corner is marked or show topography or accessory monuments found or set and their relation to the corner. There is no stipulated format; the sketch could be transcribed field note entries. For corners which were first shown on subdivision plats or on recorded or filed surveys, enough information must be shown so that the corner can be identified;

(e) ~~The~~ the surveyor who performed or directed the ~~field work~~ fieldwork, which is depicted on the corner record, shall sign and affix the licensee's seal in the certification;

(i) remains the same.

(ii) The employer blank is optional, but useful, in tracking down original field note data or adjacent record if, in the future, questions arise about the corner. The name and signature of the ground party chief is also optional information on the record form.

(f) ~~For~~ for public land survey system corners, the cross index at the bottom of the page must be completed by the surveyor. Only the single township and range index where the corner is filed is to be completed.

(i) remains the same.

AUTH: 37-67-202, 70-22-107, MCA

IMP: 70-22-107, MCA

REASON: The board determined it is reasonably necessary to amend this rule to reflect the most current version of the corner recordation form as approved by the board. The Montana Association of Registered Land Surveyors initially requested that the board review this form and add more specific instructions, similar to those on the Public Land Survey System Corner Record form. The board has also amended the form to clarify the possible number of parcels and corners. Other

nonsubstantive amendments are proposed to comply with the formatting and grammar requirements of the Secretary of State.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) A certificate of survey ~~may not be filed by a county clerk and recorder unless it complies~~ must comply with the following requirements:

(a) A certificate of survey must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches, or 24 inches by 36 inches, ~~overall to include a 1 1/2 inch margin on the binding side~~ with a minimum 1/2-inch margin on all sides, or as required by the filing office.

(b) One ~~signed copy on cloth-backed material or original~~ original on 3 three mil or heavier matte stable-base polyester film or equivalent and/or one ~~signed reproducible copy~~ original on a ~~stable-base polyester film~~ 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.

(c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed ~~or referred to~~ on sheet number one sheet of the certificate of survey.

(d) A certificate of survey must show or contain ~~on its face or on separate sheets referred to on its face~~ the following information: ~~The surveyor may, at his or her discretion, provide additional information regarding the survey.~~

(i) A a title or title block, including the quarter-section, section, township, range, principal meridian, and county, and, if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not ~~bear~~ contain the title "plat," "subdivision," or any title other than "Certificate of Survey-";

(ii) ~~The~~ the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land surveyed, if other than the person(s) commissioning the survey, and the names of any adjoining ~~platted subdivisions~~ plats, and the numbers of any adjoining certificates of survey previously filed;

(iii) ~~The~~ the date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line, or retrace an existing parcel of land;

(iv) A a north arrow;

(v) A a scale bar. ~~{The scale~~ of the certificate of survey must be sufficient to legibly represent the required information and data on the certificate of survey;

(vi) ~~The~~ the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101(1)(c);

(A) If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must ~~bear~~ contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set.

(B) All monuments found during ~~a retracement~~ the survey that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).

(C) Witness and reference monuments must be clearly shown.

(vii) ~~The~~ the location of any section ~~corners~~ corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey, or that was used as a control in the survey;

(viii) ~~Witness and reference monuments and basis of bearings~~ bearing. For purposes of this rule, the term "basis of ~~bearings~~ bearing" means the land surveyor's statement as to the origin of the bearings shown ~~in~~ on the certificate of survey. ~~The~~ If the ~~basis of bearings~~ bearing(s) may refer refers to a particular line between two ~~previously~~ previously monumented points in a previously filed survey document, ~~then the two~~ previously monumented points must be shown and described on the certificate of survey; the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey shows true bearings, the basis of ~~bearings~~ bearing must describe the method by which these true bearings were determined;

(ix) ~~The~~ the bearings, distances, and curve data of all boundary lines, and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) The courses along a meander line are shown solely to provide a basis for calculating the ~~acreage~~ area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(x) ~~Data~~ data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, ~~these~~ the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All nontangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Nontangent curves must be so labeled; For nontangent curves, which must be so labeled, the certificate of survey must include the bearings of radial lines or chord length and bearing.

(xi) ~~Lengths~~ lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;

(xii) at least one record measurement reference, if available, must be shown;

~~(xii)~~ (xiii) A a narrative legal description of the ~~parcel~~ parcel(s) surveyed. The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(A) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, ~~the information required by this subsection is~~ narrative legal description may be the aliquot part or the government lot description of the parcel;

(e) Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must ~~bear~~ contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record, unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s), citing the applicable exemption in its entirety.

(f) Procedures for divisions of land exempted from ~~public~~ review as subdivisions. If one or more parcels on a certificate of survey is created by an exemption from subdivision review under 76-3-207, MCA, then, except as provided in (1)(f)(iii) and (iv), the certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY". The certificate of survey must contain the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and cite the applicable exemption in its entirety. ~~Certificates~~ The certificate of survey for divisions of land meeting the criteria set out in ~~76-3-207, MCA,~~ must meet the following requirements:

~~(i) A certificate of survey of a division of land that would otherwise be a subdivision but that is exempted from subdivision review under 76-3-207, MCA, may not be filed by the county clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and citing the applicable exemption.~~

~~(ii) (i)~~ If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed, unless it ~~bears~~ shows or contains a signed and acknowledged recitation of the covenant in its entirety.

~~(iii) (ii)~~ If a certificate of survey invokes the exemption for ~~gifts and sales~~ gift(s) or sale(s) to members of the landowner's immediate family, the certificate of survey must indicate the name of the proposed grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.

~~(iv) (iii)~~ If a certificate of survey invokes the exemption for the relocation of common boundary ~~lines~~ line(s):

(A) The certificate of survey must ~~bear~~ contain the signatures of all landowners whose ~~parcels~~ tracts of record will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of ~~or eliminate~~ a boundary line dividing or lines common to two or more ~~parcels~~ tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by a dashed or broken ~~line or~~ line(s) with a notation)

from the new boundary location or locations (shown, for example, by a solid line or line(s) with a notation);

(B) The certificate of survey must show the boundaries of the area that is being removed from one ~~parcel~~ tract of record and joined with another ~~parcel~~ tract of record. The certificate of survey ~~may, but is not required to establish,~~ but may establish, the exterior boundaries of the resulting ~~parcels~~ tracts of record. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation; Unsurveyed portions of the tracts of record must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY"; and

(C) ~~If a boundary line will be completely eliminated, the certificate must establish the boundary of the resulting parcel.~~ The certificate of survey must contain the following notation: "The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the [certificate of survey or amended plat] on which said area is described, unless said area is included with or excluded from adjoining tracts of record."

(iv) If a certificate of survey invokes the exemption for aggregation of parcels or lots:

(A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown for example by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown for example by solid line(s) with a notation); and

(B) The certificate of survey must establish the perimeter boundary of the resulting tract(s) of record.

(v) A survey document that modifies lots ~~in~~ on a ~~platted and filed subdivision plat~~ and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d), ~~or (e), or (f),~~ MCA, must be entitled "amended plat of ~~the~~ (lot, block, and name of subdivision being amended)," but for all other purposes ~~is to be regarded as a certificate~~ must comply with the requirements for form and descriptive content of certificates of survey contained in this rule. ~~The document must contain a statement signed by the property owner that approval of the local government body is not required and citing the applicable exemption.~~

(vi) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must ~~bear,~~ contain or be accompanied by; a certification by the county treasurer that all real property taxes and special assessments assessed and levied on the surveyed land have been paid.

(vii) For purposes of ~~(4)(f)~~ this rule, when the parcel of land for which an exemption from a subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the ~~parcel~~ land under the contract-for-deed.

(g) The land surveyor, at his or her discretion, may provide additional information on the certificate of survey regarding the survey.

~~(g)~~ (h) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in 76-3-201, 76-3-205, and 76-3-209, MCA, and divisions of federally owned land made by a United States U.S. government agency are not required to be surveyed, nor must a certificate of survey or subdivision plat showing these divisions be filed with the clerk and recorder. A However, a certificate of survey of one of these divisions may, however, be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and bears contains a certificate of all the surveyor performing the survey landowners citing the applicable exemption from the Act act in its entirety, or, when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient as to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY".

AUTH: 37-67-202, 76-3-403, 76-3-411, MCA

IMP: 37-67-314, 76-3-101 through 76-3-411, 76-3-403, MCA

REASON: The board determined it is reasonably necessary to amend this rule and ARM 24.183.1107 to separate the legal boundary elements and related plat content utilized by licensed professional land surveyors from the land use elements imposed during subdivision and exemption reviews by planning authorities. In 2007, the board initially considered concerns of planners, clerks and recorders, and county commissioners regarding some counties' requirement that land surveyors provide what was believed to be excessive information on the face of plats. Following extensive review and discussion, the board determined the proposed amendments are necessary to provide consistency among county governments regarding information placed on certificates of survey and subdivision plats.

The board proposed amending these two rules in late 2011, but did not amend them after receiving numerous comments and concerns. The amendments proposed now are the culmination of five months of board meetings with interested parties since that rulemaking. As well, the amendments take into consideration the concerns of the commenters in the previous rulemaking, as well as all input during the recent meetings.

Implementation and authority cites are being amended to provide the complete sources of the board's rulemaking authority and to accurately reflect all statutes implemented through these two rules.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) A final subdivision plat ~~may not be approved by the governing body or filed by the county clerk and recorder unless it complies~~ must comply with the following requirements:

(a) the plat complies with the requirements contained in (2);

(b) the plat includes a conditions of approval sheet(s) that complies with the requirements contained in (4); and

(c) the plat is accompanied by documents listed in (5).

(2) A plat must comply with the following requirements:

(a) ~~Final subdivision plats~~ A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches, ~~overall to include a 1-1/2-inch margin on the binding side~~ with a minimum 1/2-inch margin on all sides, or as required by the filing office.

(b) ~~One signed copy on cloth-backed material or original on 3 three mil or heavier matte stable-base polyester film or equivalent and/or one signed reproducible copy original on a stable-base polyester film 24# white bond paper or equivalent~~ must be submitted, or on such medium as required by the filing office.

(c) If more than one sheet must be used to adequately depict the land ~~subdivided~~ surveyed, each sheet must show the number of that sheet and the total number of sheets included. ~~All~~ Except as provided in (4)(b), all certifications must be placed ~~or referred to on one sheet~~ number one of the plat.

(d) A survey document that results in an increase in the number of lots or modifies six or more lots on a filed subdivision plat must be entitled "amended plat of (lot, block, and name of subdivision being amended)," and unless it is exempt from subdivision review by 76-3-201 or 76-3-207(1)(d), ~~or (e), or (f), MCA, may not be filed with the county clerk and recorder unless it meets~~ must meet the filing requirements for final subdivision plats specified in this rule.

~~(2) (e) A final plat submitted for approval must show or contain, on its face or on separate sheets referred to on the plat, the following information: The surveyor may, at his or her discretion, provide additional information regarding the survey.~~

~~(a) (i) A title or title block, indicating including~~ the quarter-section, section, township, range, principal meridian, county, and, if applicable, city or town, in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";

~~(b) (ii) The the name(s) of the person(s) who commissioned the survey, and the name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions plats, and the numbers of any adjoining certificates of survey previously filed;~~

~~(c) (iii) A north arrow;~~

~~(d) (iv) A scale bar. (The scale of the plat must be sufficient to legibly represent the required information and data on the plat.);~~

~~(e) (v) The the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101(1)(c);~~

~~(f) (A) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must bear contain~~ a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set.

(ii) (B) All monuments found during a ~~retracement~~ the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).

(C) Witness and reference monuments must be clearly shown.

~~(f) (vi) The~~ the location of any section ~~corners~~ corner or corners of divisions of sections that the land surveyor deems to be pertinent to the survey or was used as control in the survey;

~~(g) (vii) Witness and reference monuments and basis of bearings~~ bearing. For purposes of this rule, the term "basis of ~~bearings~~ bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. ~~The~~ If the basis of ~~bearings~~ bearing(s) refers to a particular line between two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat; the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of ~~bearings~~ bearing must describe the method by which these true bearings were determined;

~~(h) (viii) The~~ the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

~~(i) (A)~~ (A) The courses along a meander line are shown solely to provide a basis for calculating the acreage area of a parcel with that has one or more riparian boundaries as the parcel existed at the time of survey.

~~(ii) (B)~~ (B) For purposes of ~~these regulations~~ this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown and each segment must at least include distance.

~~(i) (ix) Data~~ data on all curves sufficient to enable the ~~re-establishment~~ reestablishment of the curves on the ground. For circular curves, ~~these~~ the data must at least include radius and arc length, and either the delta angle, radial bearings or chord bearing, and distance. All nontangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. ~~For non-tangent~~ Nontangent curves, ~~which~~ must be so labeled, ~~the plat must include the bearings of radial lines or chord length and bearing;~~

~~(j) (x)~~ (x) Lengths lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;

(xi) at least one record measurement reference, if available, must be shown;

~~(k) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the subdivision.~~

~~(f) (xii) All all lots and blocks in the subdivision; designated by number, the dimensions bearings, distances, and curve data of each lot and block, the area of each lot, and the total acreage area of all lots. (Excepted parcels lands must be marked labeled "Not included in this subdivision NOT INCLUDED IN THIS SUBDIVISION" or "Not included in this plat, NOT INCLUDED IN THIS PLAT" as appropriate, and the bearings and lengths of these excepted boundaries must be shown.);~~

~~(m) (xiii) All all existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision; their names and widths (if ascertainable) from public records; (if ascertainable); and the bearings, distances, and area; curve data of their adjoining boundaries the width and purpose of all road rights-of-way and all other easements that will be created by the filing of the plat; and the names of all streets, roads and highways. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;~~

~~(xiv) all rights-of-way for streets, alleys, avenues, roads, and highways that will be created by the filing of the plat; their names, widths, bearings, distances, curve data, and area;~~

~~(n) (xv) The except as provided in (2)(d)(xiii) and (xiv), the location, dimensions bearings, distances, curve data, and areas of all parks, common areas, and other grounds dedicated for public use;~~

~~(o) (xvi) The the total acreage area of the subdivision;~~

~~(p) (xvii) A a narrative legal description of the subdivision as follows: The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:~~

~~(i) (A) If the parcel being land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is narrative legal description may be the aliquot part or the government lot description of the parcel land; or~~

~~(ii) (B) If the plat depicts the division of a parcel one or lot that is more parcels shown on a previously filed certificate of survey or subdivision plat, the information required by this subsection is narrative legal description may be the number or name of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel or lot affected by the survey. parcel(s) previously surveyed;~~

~~(C) The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision;~~

~~(iii) (D) If the parcel surveyed narrative legal description does not fall within (2)(p)(i)(e)(xvii)(A) or (ii)(B), above, the information narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision; and~~

~~(iv) If the plat establishes the boundaries of a subdivision containing one or more interior parcels, the information required by this subsection is the legal description of the perimeter boundary of the subdivision.~~

~~(E) If the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning."~~

~~(q) (xviii) The the dated signature and the seal of the land surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor~~ land surveyor's signature certifies that the final plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act (76-3-101 through 76-3-625, MCA) and the regulations adopted under that Act act. The land surveyor's signature and certification do not include certification of the conditions of approval sheet(s);

~~(r) (xix) A a memorandum of any oaths administered under 76-3-405, MCA;~~

~~(s) (xx) The the dated, signed, and acknowledged consent to the subdivision of the owner of the land being to be subdivided. For purposes of this rule, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" and "owner of the land" refers to mean the seller of the land under the contract-for-deed;~~

~~(t) (xxi) Certification certification by the governing body that the final subdivision plat is approved;~~

~~(xxii) if applicable, the landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;~~

~~(xxiii) if applicable, or as required by subdivision regulations, the landowner(s)' certification statement(s) as follows:~~

~~(A) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the conditions of approval sheet or as otherwise stated.~~

~~(B) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat, and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.~~

~~(C) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-3-507, MCA, to secure the future construction of any remaining public improvements to be installed.~~

~~(xxiv) if applicable, a certificate of the governing body accepting any dedicated land, easements, or improvements;~~

~~(xxv) if applicable, the certificate of the examining land surveyor;~~

~~(u) (xxvi) Space space for the clerk and recorder's filing information; and~~

~~(xxvii) a minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in (5).~~

~~(f) The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.~~

~~(3) The following documents must appear on the face of or accompany the approved final plat when it is presented to the county clerk and recorder for filing certifications of final plat approval must appear on the plat or on the conditions of approval sheet as contained in (4), or recorded or filed as contained in (5) of these rules:~~

~~(a) If applicable, the owner's certificate of dedication of streets, parks, playground easements or other public improvements.~~

~~(b) If applicable, a certificate of the governing body expressly accepting any dedicated land, easements or improvements. An acceptance of a dedication is ineffective without this certification.~~

~~(c) A certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.~~

~~(d) Copies of any covenants or deed restrictions relating to the subdivision.~~

~~(e) If applicable, a certificate from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities.~~

~~(f) A certificate from the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.~~

~~(g) Unless otherwise provided by local subdivision regulations, copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed or file them with a government official other than the county clerk and recorder, or both.~~

~~(h) If applicable, the certificate of the examining land surveyor.~~

~~(i) If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.~~

~~(j) (a) The a certification of by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid; and~~

~~(b) if applicable, certification of the local health officer having jurisdiction.~~

~~(4) If applicable, a sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "conditions of approval of [insert name of subdivision]," with a title block, including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the subdivision is located, and shall contain:~~

~~(a) any text and/or graphic representations of requirements by the governing body for final plat approval, including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;~~

~~(b) a certification statement by the landowner that the text and/or graphics shown on the conditions of approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and~~

~~(c) a notation stating that the information shown is current as of the date of the certification required in (4)(b), and that changes to any land use restrictions or~~

encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.

(5) If applicable, the following documents, as specified by local government, shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:

(a) a title report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land;

(b) any covenants or deed restrictions relating to the subdivision;

(c) for lots less than 20 acres in size, exclusive of public roadways, a certification from the State Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4-104(2), MCA;

(d) if required by the governing body, for lots of 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA;

(e) a copy of any security requirements, pursuant to 76-3-507, MCA, securing the future construction of any remaining public improvements to be installed;

(f) unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan with the certification of a professional engineer, that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the conditions of approval sheet that states where the plans can be obtained must be filed or recorded;

(g) if a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit; and

(h) any other documents satisfying the subdivision application approval required by the governing body to be filed or recorded.

AUTH: 37-67-202, 76-3-403, 76-3-411, MCA

IMP: 37-67-314, 76-3-101 through 76-3-411, 76-3-403, MCA

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Professional Engineers and Professional Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by

facsimile to (406) 841-2305, or by e-mail to dlibsdpels@mt.gov, and must be received no later than 5:00 p.m., October 9, 2012.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's web site on the World Wide Web at www.engineer.mt.gov. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Professional Engineers and Professional Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdpels@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Ian Marquand, executive officer, has been designated to preside over and conduct this hearing.

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
DAVID ELIAS, ENGINEER SURVEYOR

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 27, 2012