

| Comments received on Advisory Group Draft - Prior to 3-10-2010 | Response/Consideration | Revision in Planning Board Draft |
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| Article 1 | | |
| Where are the requirements to complete an impact study before a subdivision is considered? | Article 4 - Procedures lays out the need to provide a community and environmental assessment. Article 5 - Submittals, describes what should be a part of the assessments. All of this is required by State Law. | No change |
| 1-040.2 What does this language mean? | Jurisdictional requirements for the City Council or its designated agents to review and provide comments on proposed county subdivision within 3 miles of the City. | Add "county" in front of subdivision and "or their authorized agents" after city council. |
| 1-130 Amendments: consider adding language including the addition of the subdivision application and exhibits. | Supplemental Administrative Materials including the application are not part of these regulations and do not fall under this amendment section. | No change |
| Article 2 | | |
| 2-020.33 Driveways: This would limit access for four plexes on one lot or to a house built on four lots. | This is an existing standard that was moved from the table under 3-2(1)(J) existing regulations. | No change |
| 2-020.60 Lot Area: Does this mean roads/alleys can count as part of a lot in order to meet min lot size standards? | County subdivision have allowed lots to extend to center of road so if they are brought into the City, that situation will occur. Private access easements may also overlap with a lot. | No change |
| 2-020.62 Low Impact Development: Provide an example of the potential benefits. Could this be made a requirement instead of a tool for development? | This definition only applies to cluster or conservation development options (3-150.4.C(3)). For examples and additional information: http://www.lowimpactdevelopment.org/publications.htm#LID BMP Fact Sheets | No change |
| 2-020.75 Parcel: How does this differ from definition of Lot? | Parcel is the parent piece of land from which the subdivision is being requested. Lots are created through the subdivision. | No change |
| 2-020.77 Add language to allow for phasing plans to be added or amended after preliminary plat approval. | The intent was not to restrict the ability to add or amend a phasing plan. | Strike the second sentence having to do with when phasing plans are approved. |
| 2-020.77 Phasing Plan: Is this really the avenue of stacking of lots? | No, phasing plans have been a common component of subdivision proposals. Stacking lots is a term used for a process related to state-allowed subdivision exemptions and Clerk and Recorder acceptance of more than one filing of subdivision exemption at a time. | No change |
| 2-020.78 Planned Unit Development: How does this work in residential districts? | PUD is a common request in residential districts. They must also comply with subdivision and zoning. | No change |
| 2-020.86 Public Health and Safety: What about consideration of fire, overcrowding, necessary egress, air pollution, crime increases and more? | Public health and safety is further described in Article 5-020.6.G having to do with criteria that must be addressed during a submittal. The description in Article 5 does not exactly match "model" regulations. | Add "fire or wildfire hazards" to the description in Article 5. |
| 2-020.95 Riparian Resource Areas: Should exclude man-made waterways (irrigation ditches). The definition should be less inclusive. | Concerns over the definition of riparian resource should be addressed as a separate project and not under the scope of this general update. During subdivision review, conditions are included to acknowledge that vegetation may be removed along man-made waterways in order to benefit the managing ditch company. This approach has been working while still acknowledging the valuable vegetative resource that may be present. | No change |
| 2-020.95 Recommend inclusion of a minimum buffer width that ensures non-vegetated riparian areas are also protected. | Concerns over the definition of riparian resource should be address as a separate project and not under the scope of this general update. However, further clarification of when riparian resource areas should be established as a separate area would be helpful. | Clarify 3-130.5 Subdivision Prohibition |
| 2-020.121.C. Occluded Wildland Urban Interface: This word does not seem to be the correct word to define the context of the text that follows. | Comes from a City Fire Department request and describes potential urban WUI situations. However, since the term is not used in the document (other than a definition) it could be deleted. | Strike the definition. |
| Add a definition for defensible space. | Defensible space is addressed as part of SAM Exhibit 6 - requiring the need to include defensible space standards in covenants when within a WUI. Since defensible space is addressed in the Exhibit it would be appropriate to include a definition along with the Exhibit or within the Subdivision Regulations. | Add the definition of defensible space that comes from DNRC guidelines. |
| Add a definition for variance | Variance is described sufficiently within Article 6. No precedent for a separate definition. | No change |

| Article 3: Subdivision Design Standards | | |
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| 3-010.1.B Why strike "uniform"? | Fire Department is shifting to "international fire code" (IFC). Approach to be silent on which code in case it changes again in future. | No change |
| 3-010.2.A(1) Why strike "of a 100 year flood event"? | Redundant with the term "floodway." | No change |
| 3-010.2.A(1) Consider adding language to direct city council to make their determination on "other land" based on a recommendation from an accredited resource. | It is common to refer to council who then refer to their agents for recommendations and technical advise. | Add "or designated agent" after city council. |
| 3-010.4 How about Lincoln School? | Lincoln School project was an exemption to subdivision. | No change |
| 3-020.1.J Why added, and isn't it in conflict with the city's requirement for subdivisions to allow for future connectivity whenever possible. | This is existing language moved from the definition of "local street" because it is more appropriately placed with the standards. Connectivity can still be accomplished without turning local streets into collectors. | No change |
| 3-020.1.K Why the new prohibition on gated communities? Couldn't you just apply it to public roads? We should keep the option of gated communities. In favor of allowing gated communities as long as the property owners own and pay to maintain the access road. | Prohibiting gated communities was explored in the Advisory Group draft in response to concerns raised during early listening sessions. Public roads would not be allowed to be gated whether there was a specific regulation or not so it was primarily for the purpose of prohibiting gates on private roads and concerns over emergency access. However, there are very few instances when private roads are permitted in the City. The majority of public comment was to eliminate the prohibition. | Strike the proposed regulation. AG consensus to remove the language. |
| 3-020.1.K(2) Why strike "all subdivisions shall meet city road standards." | Statement is made as part of 3-020.1.B | No change |
| 3-020.1.M Change to "use current AASTO standards". | Referring to 1984, is an out of date reference. | Refer to "most recent version" instead. |
| 3-020.3 Does the city have the authority to set standards for roads within the UGA that are in the county? | No, not through subdivision. These are city regulations for city subdivisions. | No change |
| 3-020.5.B After ...maximum of 50' add " <u>or a greater distance as may be approved by the city engineer or fire chief at the time of preliminary plat review, no variance required.</u> " | Checked with agencies, and not finding any support for the suggested revision. Suggestions for substantive revisions to the road standards should be addressed as a separate project and not under the scope of this general update. | No change |
| 3-020.5.C First place where expiration of waiver of right to protest shows up. Is this enough of a change to meet the legislative requirements? | The approach should be revised. The expiration of a waiver of right to protest an SID (new State Law) should only be for the standards where a waiver is required. The new state requirement results in additional information for filing the final plat and should only be located in Article 5. | Strike the reference to 20 year expiration for waivers from all places in Article 3. Retain the language in Article 5, but reword as an action for submittal directions in Article |
| 3-020.5.E Will this require a variance or interpretation by the City Engineer at time of preliminary plat review? | No variance required. | No change |
| 3-020.8.A Why would the City require a variance for providing a better design? | This is a situation where the existing language is too vague and required a broad interpretation. The preference is to be more predictable with the regulations, but still allow some flexibility. | Clarify the language and allow limited flexibility for significant physical constraints. |
| 3-020.8.A(3) The IFC requires a minimum cul-de-sac diameter of 96'. A 35' radius equates to a 70' diameter and we cannot turn around our 50' ladder truck, especially with vehicles parked at the curb. We recommend minimum curb-to-curb diameter of 86' or greater. | Concerns were raised over excessive pavement. Suggestions for substantive revisions to the road standards should be addressed as a separate project and not under the scope of this general update. | No Change. AG consensus to not change existing standard. |
| 3-020.10.L Suggest there be an additional option other than 20' width to allow for better (narrower) trail design and reduce weed problems in R-O-W. Trail and public access easements should not be required to be 20'. Some trails in my neighborhood are only 5-6' wide, they work fine and allow access that benefit the public. | A 20' wide easement is standard between the City and the County. The easement provides a consist approach and area for management of the trail. It is also helpful to have an easement wider then the actual paved surface to allow for an area on either side to maintain weeds and set fences back from a trail. A variance may be requested to go narrower than a 20' easement. | No change |
| 3-020.11.C Note: an 8% grade is appropriate as a minimum grade without the city engineer reducing the grade. Please consider adding: " <u>Snow melting devices or alternate driveway configurations may be approved by the city engineer to mitigate grades in excess of 8% at the time of preliminary plat review no variance required.</u> " | Checked with agencies, and not finding any support for the suggested revision. Suggestions for substantive revisions to the road standards should be addressed as a separate project and not under the scope of this general update. Concerns were also raised regarding the reliability of "snow-melting devices." | No change |
| 3-030.1.E Variances must be available to the applicant for double fronted lots. What is being solved by removing the double front lot option? Would like to keep language. Double fronted lots should be allowed, many exist in my neighborhood with no complaints by others. | The original language was confusing. However, the exception for topographic constraints is a viable and consistent reason to be flexible with the requirement. | Allow limited flexibility for "topography or other physical site conditions." AG consensus to not change existing language |

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| 3-030.2A.(1) What is being solved by removing the language? Regulating block shape is pointless. | By eliminating the exception the approach to the regulation would be more predictable. However, the meaning of a block is often misconstrued to mean a rectilinear arrangement. Flexibility should remain for different configurations of a block. | Consider different configurations of blocks to include rectilinear, curvilinear, or other patterns." AG consensus to clarify and remain flexible. |
| 3-040.3.A. Limited to a five year, one hour storm <u>or to pre-development conditions.</u> | Pre-development conditions alone is not descriptive enough. Incorporating this approach for new development where existing development has already occurred uphill of it does not sufficiently address storm water concerns. The requirement of this section is linked to the submittal requirement under section 5-020.11 Grading and Drainage.C and does not match this standard. City Engineering typically requires storm water discharge intensity to be limited to a <u>10-year</u> one hour storm event. | Change from 5-year one hour storm event to 10-year one hour storm event. |
| 3-060.1 Add "as applicable". Easements must be provided, <u>as applicable</u> , for utilities ... and pedestrian access. | As applicable leads to vague and inconsistent interpretations. Who decides what is applicable and when would it not be applicable? | No change |
| 3-070.1.A. Suggest " <u>public or community</u> " water systems instead of "municipal" systems. | Checked with MCCHD - they're good with the change | Change from "municipal" water system to "public or community" water system. |
| 3-070.1B. Why is this language being removed? | The standard is not used in the City, and 2,000 gallon storage areas does not meet fire code. | No change |
| 3-080.3. Needs to be explained with graphic plat design example. | In lieu of graphics, a commentary "example" is provided. | |
| 3-080.3 Commentary, first sentence, should be a requirement (according to Resolution 7402) | Error is noted. | Suggestion: 3-080.4: The area dedication or its cash equivalent shall not be required in excess of 10 du/acre." and renumber accordingly. |
| 3-080.6.C. Six months does not work, costs for a project are reviewed in advance. The parkland appraisals must be determined as the value of the land at the time of preliminary plat approval and shall be used for all phases and final plats. If the appraisal number is needed for submittal than it is very likely that additional appraisals would be necessary in order to meet this requirements. Suggest the appraisal be prepared within 6 months of the date the subdivision application is deemed complete. | This language was debated with the passing of the parkland resolution #7402. From the Parks Department perspective, final plat will provide the most accurate analysis of fair market value. The appraisal number is not needed at time of submittal. | No change. AG consensus to revise the requirement. |
| 3-080.8B. Man-made waterways should be excluded from riparian area requirements, maintenance needed to keep them running is in conflict with riparian preservation. | Staff, per State law regarding irrigation water and facilities, requires ability for ditch company to maintain the ditch in riparian management plans, while also acknowledging the value as riparian resource. | No change |
| 3-080.8D. With proper planning a retention or detention area could provide dual duty as a recreational property. It would be beneficial to allow for and encourage that scenario. | The parks standards were recently updated so further substantive revisions are not under the scope of this general update. The existing regulation is consistent with the City Master Parks Plan (page 4-3). | No change |
| 3-080.10 Request the City not change the language from "shall" to "may". | State Law requires using the term "shall." | Change to "must" which has the same meaning as "shall" according to 2-010.3.C. AG consensus to retain the existing language. |
| 3-100.7.A. Define or quantify "landscaped" as it relates to "buffer". | Suggest looking at the standards used for landscape buffer in Title 20. | Clarified to match the landscape buffer standards in Title 20. |
| 3-120.1.D The definition of "affordable housing" should be removed or changed to include "subsidized by HUD or MBOH" to make it consistent with zoning and to ensure long-term affordability. | Including a reference to subsidized will assure continuing affordability. | Add a reference to "subsidized" and provide the same definition of "subsidized" as used in Title 20. |
| 3-120.3 Does not include character of the neighborhood. | The PUD designation criteria in the subdivision regulations address—appropriately—subdivision and site design issues. The character of the neighborhood will still be addressed by the existing zoning of the property. | No change |
| 3-130.5B Should specifically state "subdivisions must designate building envelopes outside the RRA." | Approach has been to regulate where no-build/no disturbance areas should occur rather than where building can occur. However, further clarification of when riparian resource areas should be established as a separate area would be helpful. | Clarify 3-130.5 Subdivision Prohibition. |
| 3-130.5.A A portion of existing riparian resource area should be allowed to count toward park area requirements | Section 3-130.5.B states that riparian resource areas may be counted toward meeting parkland requirements. | No change. AG consensus to count as parks |

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| 3-130.6 Roads have to be allowed by performance standards to cross riparian areas. | The intent was to develop a predictable approach to considering roads. However, by requiring all instances of a proposed road crossing a riparian resource area to need a variance, means delaying a design approach until the end of the project. Consider the County approach which is to allow for a key exception - when there is no other practical route to access the subdivision. | Allow roads to cross riparian resource areas in cases where there is no other practical route to access the subdivision. AG consensus to allow roads in certain situations. |
| 3-130.7 Recommend amending this section to allow for limited and careful construction of trails within RRAs and buffer areas. Well-designed and appropriately placed trails will help minimize haphazard, illegally created access points that may cause further harm to riparian areas. Trails should be regulated and allowed in riparian resource areas | The intent was to develop a predictable approach to considering trails. Establishing trails within the riparian resource area can be a benefit to the resource as long as the improvements for the trail are done in a resource-sensitive way. | Allow trails in RRA with additional standards and review and approval by the Parks Department. AG consensus to allow trails. |
| 3-140 Viewscape should be considered. | Views and visual qualities is mentioned in 3-140.1.B(4)(5) and (6). | No change |
| 3-140 Language should reflect the importance of limiting the disturbance to the land. | 3-140.1.B(6) refers to "minimal excavating." | Additional clarification is added with 3-140.1.B(4) |
| 3-140.3 First column, "Slope of Subdivided Area (%) [1]". Suggest using "Slope of Lotted Area". | This column designates gross area and reflects existing requirements. | No change |
| 3-140.4 add: "Unless a geotechnical report is submitted to support development on slopes greater than 25%." | This is addressed with 3-010.2 which says alternative designs can be considered as long as the design is sufficient to alleviate the foregoing hazard or unreasonable burdens. | No change |
| 3-140.6 Does the city issue a "grading permit"? Make this congruent with not allowing grading (section 2-020.48). What if the property has been graded previously without a permit? Need a permit on property that has not been subdivided? | Public Works does not require grading permits for any and all grading. Grading of areas not associated with building or disturbance (driveways, etc) would not require a permit. Limitations on grading are established with other requirements in these regulations. After final plat, changes to the lots are regulated through zoning. | Delete the suggested requirement. |
| 3-140.7.C Clarify language regarding driveway "substantially following natural contours" and provide a diagram. | Driveway language is unchanged and is thought to clearly convey the intent of the provision. We will, however—as part of this update—add an illustration to aid in conveying regulatory intent. | No change |
| 3-150 Provide incentives for using the cluster and conservation development option | The incentives were debated and established through Title 20. | No change. AG consensus to consider incentives. |
| 3-150 Is this a tool available to a subdivider or could it be required? Will cluster development be required in certain areas? Implication that transfer of development density within subdivision. | This is an optional tool. It is only allowed in accordance with Title 20. Subdivisions have to comply with zoning. | No change. |
| 3-150 What is the minimum lot size allowed in cluster developments? | This option is established in Title 20 and allowed as a development option only in certain residential zoning districts. There is no minimum lot size if all zoning and subdivision requirements are met. | No change |
| 3-150.4.D(1) Suggestion for a cluster development timetable - the developer should represent the property owner's association and carry out road and open space maintenance until 60% of the properties have been sold. | A one-size-fit-all approach to this issue does not seem appropriate. Developer/builder/consumer (homebuyer) financial participation in funding maintenance activities is most typically handled on a proportional basis, or as set forth in covenants and owners' association documents. | No change |
| Article 4 | | |
| 4-010.2: Suggest including both written and oral comments from the neighborhood meeting. | Written and oral comments are already considered. | No change |
| 4-010.4 Leave the time frame of 5 days to hold an element review. | State requires 5 days for the element review. The suggested 10 days is for <u>scheduling</u> an element review meeting. Requesting the meeting can occur before the applicant has completed the element packet, thus reducing any delay. Once OPG receives the element packet, 5 days remain in place for review. | No change |
| 4-010.7 Sufficiency determination, leave at 15 days or 10 business days. | This is a correction to be consistent with the term "business" days. State law requires the 15 business day turn-around for sufficiency determination. The tables that describe steps for subdivision review procedures use the appropriate term - 15 business days. | No change |
| 4-010.12 There may not be 10 days available between the planning board and PAZ to comment. | We rarely take a project to PAZ sooner than 10 days. This requirement is consistent with State law. | No change |
| 4-010.14.A(2), 4-070.F.4(A), 5-050.4.D and 9-010.1B The subjectivity of this renders the developer unable to make important decisions about final platting, financing etc. Remove this condition or make it a function of the conditions of preliminary plat approval. What does this protect against that isn't already in place? | This new State law enables the Council to ask for installation of specific improvements rather than guaranteeing them. Which improvements that would be required to be installed, rather than guaranteed, would likely be addressed in a condition of the subdivision. | No change |

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| 4-010.14.D(2) Thirty business days is 6 weeks, the current standards is 4 weeks or 20 business days. | This is a new State Law requirement. The language is to require the documentation of council decision "within" 30 business days so the letter can still be sent sooner. | No change |
| 4-020.3 It's not clear but this may be a question about area for notification. | Required by State Law. The procedure is unchanged and not part of the scope of work. | No change |
| 4-030.1 While the legislature allows local governments to extend their timelines to this specified amount it does not require it. Suggest that they are not modified. | This extra time is needed for larger subdivisions | No change |
| 4-040.4 Clarify where in local government you go for certification. | OPG does the certification. | Change the requirement to clarify that OPG does the certification |
| 4-070.2 Phasing Plan. What about stacking of the lots in order to avoid subdivision review. | This section provides procedures for subdivision not subdivision exemptions. | No change |
| Explain the difference between stacking and phasing with copies from MCA authority on both. | Ther term "stacking" is used locally to refer to a limitation described in MCA 76-3-207(2)(a) that pertains to exemptions from subdivision review; "Phasing" is the very common practice of completing a larger subdivision (installing public improvements and building it out) in sequential sections or phases. | No change |
| 4-070.4B. Add a definition of "material change". | Proposal reflects county regulations. However, existing language under 4-010.8F describes what could be considered a "material change." | Cross reference 4-010.8.F |
| 4-070.4.F(1) Change "county surveyor" to either "county survey office" or "examining land surveyor." | This reference is out of date | Change to "county survey office" |
| Article 5 | | |
| 5-020.5 Do you have to have the access or is proof of an agreement to purchase the access acceptable? Would a letter of intent suffice? | See page 3-8, last sentence of 3-020.2.B. | Cross reference 3-020.2.B |
| 5-020.6.D Why not including maintaining neighborhood character and historic preservation under Natural Environment? | The two elements (neighborhood character and historic preservation) do not fit under the grouping on Natural Environment. | No change |
| 5-020.7 Could we extend the description of the Community Impact Report to "substantial compliance" with a growth policy, neighborhood plan and/or neighborhood infrastructure plan? Why not also consider maintaining the character of the neighborhood or historic preservation? | The report contents are as required by State Law. | |
| 5-020.11C. Ten year one hour storm should be changed to be consistent with the five year one hour storm in section 3-040.3.A. | The requirements in this section should be consistent with the requirements of 3-040. According to Engineering, the requirement of 3-040.3.A should be changed to 10-year one hour storm. | No change to this section. |
| 5-020.14A.(2) After filing the first phase what is the benefit for requiring specific deadlines for each additional phase? | A phasing plan, with deadlines or dates for filing subsequent phases, enables decision-making bodies to consider whether subdivision facilities and amenities will be phased in relative proportion to demand for such facilities and amenities. | No change |
| 5-020.14.M What is a soil scientist? Doing an analysis on an entire site that consists of a range of soil types with hillside or floodplain serves no purpose. | Since the qualification of a soil scientist may exist with many other professionals, suggest striking the reference to the "soil scientist" and rely, instead, on the technical information required in the analysis. Since agricultural soil types would not be present on slopes greater than 15%, do not require analysis for those areas. | Strike "soils scientist," add reference to "textural triangle" and exclude 15% or greater slopes as well as other conditions determined by the director. |
| 5-020.14M. The City has yet to determine a policy on ag preservation. Request the language be removed until a policy is determined on preservation of ag resources. | The city is required to evaluate a proposal based on its impacts to agriculture. The growth policy, subdivision and zoning have definitions of agriculture that include reference to NRCS soil types. There have been previous discussions about what to use for analysis and whether relying on NRCS date is specific enough. This reflects the desire to consider more specific information that may or may not change how impacts to agriculture are considered. The language is reflective of the county application. | See above |
| 5-050.3.M Change requirement to read "Utility easements located on and adjacent to the tract." | Existing text implies showing individual lines when what we really mean are easements. | Change as suggested |
| 5-050.3.T Strike Address block since the surveyors office has not be providing the informaiton anyway | | Delete reference to "address blkok." |
| 5-050.4.M also add a reference that the SID is for the subject improvements | | Add "for the subject improvements" at the end of the first sentence. |

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| Article 6 | | |
| 6-010.4 Why has comprehensive plan or master plan been deleted? | Growth Policy is the universal term and overarching document within which comprehensive plans, neighborhood plans, and issue-based plans are attached. | No change |
| 6-010.6 Request this language be excluded, it is not solving a specific problem and offers little benefit to the City or property owners. | This is consistent with the approach in the county. | No change |
| Article 8 | | |
| 8-030.2 There is a state change in language for this regulation as well. Aggregation is struck. | Aggregation is now addressed separately under 8-030.3 consistent with MCA 76-3-207(f). | Strike "aggregation" |
| 8-040.3.D. How will this affect the new Mixed Use or accessory dwelling zoning? | This section cross references 8-030 which states that the proposal is subject to applicable zoning regulations. | |
| 8-040.E.(e) How is the growth policy involved? | As described in 8-040.4.E(e) i through iv. | |
| Article 9 | | |
| 9-010 through 9-030 Clarify that most procedures in this Article are approved by City Engineering, not City Council. | The practice has been for City Engineering approval (as the authorized agent for City Council). | Where appropriate, change text from City Council to City Engineer. |