

# **REAL ESTATE MANAGEMENT PLAN FIVE-YEAR REPORT**

**ACCOUNTING AND REPORTING**

**AND**

**IMPLEMENTATION AND EFFECTIVENESS OF  
THE REAL ESTATE MANAGEMENT PROGRAMATIC PLAN**

**Montana Department of Natural  
Resources and Conservation**

**Trust Lands Management Division**

**2015**

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# I. INTRODUCTION

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On July 18, 2005 the Department of Natural Resources and Conservation (Department) adopted the Real Estate Management Plan Record of Decision (ROD) which provides policy, direction, and guidance in the selection and management of real estate development on State Trust Lands. The ROD covers those activities related to the leasing, exchanging, or selling of trust lands for residential, commercial, industrial, and conservation purposes. In December 2008, the Department adopted the Real Estate Management Administrative Rules (Appendix E; ARM 36.25.901 et seq.) to implement the key components of the ROD.

The Real Estate Management Bureau of the Trust Lands Management Division is required to report the following to the State Board of Land Commissioners (Board) every five years:

- A. Implementation and Effectiveness of the Real Estate Management Plan, per ARM 36.25.914
- B. Accounting and Reporting on the compliance with Statewide and Rural Development Thresholds provided in ARM 36.25.911, as well as other specific lease, easement, sale, acquisition and development activities per ARM 36.25.913(3).

## 1. ACCOUNTING CRITERIA

As provided in ARM 36.25.913, the Department must account for the following:

- A. Commercial, industrial, and residential projects involving notification of conservation entities prior to project implementation as required by ARM 36.25.910.
- B. Commercial, industrial, and residential projects exempt from the Development Thresholds per ARM 36.25.912.
- C. Acres under commercial, industrial, or residential lease where no commercial, industrial, or residential lease existed previously;
- D. Acres under easement for commercial, industrial, or residential use;
- E. Non-isolated tracts sold and developed for a commercial, industrial, or residential use within five years of sale;
- F. Tracts acquired with existing commercial, industrial, or residential development;
- G. Tracts, or portions of tracts, encumbered or purchased with an existing conservation lease, license, easement, or other means of securing conservation uses;
- H. Non-isolated tracts sold and encumbered with a restriction on development for conservation uses within five years of sale;
- I. Acres dedicated as open space during subdivision review in excess of minimum requirement; and
- J. Acres designated as "Natural Area" per Title 77, chapter 12, part 1, MCA.

The Real Estate Management Administrative Rules (Rules) are applicable to those real estate projects, sales, and exchanges that occurred after adoption of the ROD on July 18, 2005. Per ARM 36.25.903, the Rules specify that the applicability does not include: lease lots created prior to July 18, 2005, projects that received all local government approvals necessary for the project on or before December 15, 2008, Land Use Licenses, or activities within navigable waterways.

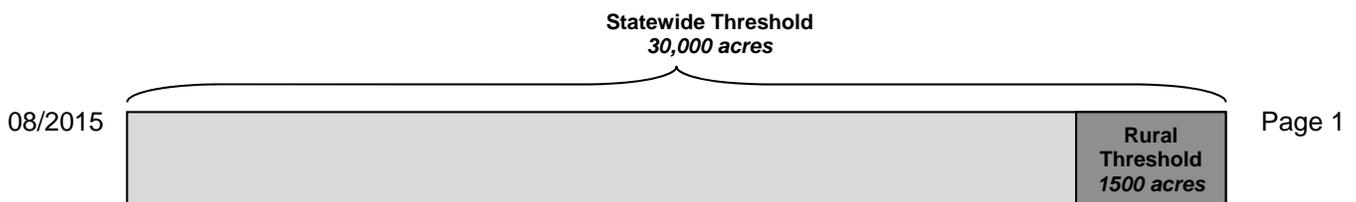
Projects and activities for which the Rules are not applicable are not included in this report.

## 2. DEVELOPMENT THRESHOLDS AND EXEMPTIONS

### Development Thresholds

Qualifying development will count toward the Development Thresholds described in ARM 36.25.911. The Development Threshold means a predefined number of state trust land acres to be developed for commercial, industrial or residential uses. The rule defines a 30,000 acre statewide Development Threshold, of which, no more than 1500 acres of qualifying development may occur in rural areas.

**Figure 1: Statewide and Rural Development Thresholds**



If, prior to July 18, 2025, the aggregate acreage of qualifying development meets or exceeds either the Statewide Threshold of 30,000 acres, or the Rural Threshold of 1,500 acres, the Department must conduct a programmatic review of the Plan per ARM 36.25.914(2).

Qualifying development is limited to:

- A. State Trust Lands sold or exchanged after July 18, 2005 and developed within five years of the closing date for a commercial or industrial use.
- B. Tracts disposed of through sale or exchange after July 18, 2005 and developed within five years for residential uses if the planned density is greater than one residential unit per 25 acres.
- C. Lands that were ready for lease after July 18, 2005, and were leased for commercial or industrial uses, or at residential densities as described above.

### **Development Threshold Exemptions**

ARM 36.25.912 provides exemptions from both the Statewide and Rural Development Thresholds.

#### **Statewide**

- A. Five Year Exemption: Sale or exchange of any tract, when it remains undeveloped during the five years following the sale closing date. Existing commercial/industrial/residential development on tracts sold/exchanged will not trigger the Development Thresholds (i.e. "grandfathered development"). Any development activity after the five year period will not count toward the Development Thresholds.
- B. Isolated Tract: Sale or exchange of an isolated tract in any county except in Beaverhead, Broadwater, Carbon, Cascade, Flathead, Gallatin, Lewis and Clark, Lake, Madison, Missoula, Park, Powell, Ravalli, Stillwater, Sweet Grass, Teton, and Yellowstone counties.
- C. Public Use: Sale, exchange, lease or easement to a public entity, for a public facility, community service, or for a private sewer or water system. Development of a tract meeting these criteria may occur within five years of sale or exchange without counting toward the Development Thresholds.
- D. Alternative Energy/Communications: Development of communications facilities, and wind, geothermal, or solar power generation facilities are exempt from the Development Thresholds.
- E. Cluster Development: Sale, exchange or lease of a tract that is developed for commercial, residential, or industrial uses on not more than 25 percent of a tract, and the remainder is deed restricted for conservation.
- F. Residential Density: Sale, exchange or lease of a tract that is developed for residential use when the density is limited to one residential unit per 25 acres through a deed restriction or other instrument that restricts density.
- G. Transfer of Development Rights: Sale, exchange or lease of a tract within a receiving area established by a local jurisdiction as part of a Transfer of Development Rights program, and developed for a commercial, industrial, or residential use utilizing development rights permanently transferred from State Trust Land in the sending area.
- H. "Conservation of Other Tracts": Sale, exchange or lease of a tract that is developed for residential uses at a density greater than one unit per 25 acres if the potential density of one or more other tracts of State Trust Land is reduced in perpetuity by an equal or greater amount, such that the combined development density of all tracts is not greater than one unit per 25 acres.

- I. Conservation: Any portion of a tract dedicated for conservation (open space, parks, etc) upon final subdivision approval in excess of minimum state or local subdivision standards will be exempt from the Development Thresholds.

**Rural**

A tract that meets one or more of the statewide exemptions provided in ARM 36.25.912(1) will be exempt from both the Statewide and Rural Development Thresholds. However, a rural tract that doesn't meet any of the Statewide Threshold Exemptions, but does meet one or more of the following criteria, it will be exempt from the Rural Development Threshold [ARM 36.25.912(2)]:

- A. County Zoning: When the tract is subject to zoning adopted by the county's governing body in compliance with Title 76, chapter 2, part 1 or part 2, MCA.
- B. Development Standards: When the tract is, or will upon development for commercial, industrial or residential uses:
  - (i) provides infill opportunities;
  - (ii) contiguous to existing development;
  - (iii) located within a sewer or water utility service area;
  - (iv) adds value to existing uses;
  - (v) demonstrates economic viability; and
  - (vi) conforms to the development standards in ARM 36.25.904.

**II. ACCOUNTING AND REPORTING**

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**1. NOTIFICATION OF CONSERVATION ENTITIES PRIOR TO PROJECT IMPLEMENTATION**

Per ARM 36.25.909(2), the Department maintains a list of conservation entities and other persons and organizations wishing to be notified when new Real Estate Projects are being proposed. Conservation entities are notified when new Real Estate Projects (see definitions) are proposed. The Department provides conservation entities 60 days in which to propose a conservation use of those lands identified for a Real Estate Project in accordance with ARM 36.25.910.

A general notification was sent to conservation entities in December 2006 for all real estate projects in existence at that time. Two additional projects were selected in May 2009 and notification was sent at that time. No new real estate projects have been proposed since then. However, the Department annually provides a list of ongoing real estate projects to the Board. This list is made available to the public through the Department's website as well as the Board's meeting archive.

As of 2015, Interested Parties may now sign up on the Department website to be included in an electronic mailing list to receive email notifications when a new project is proposed and for any updates to the annual ongoing projects list.

**2. PROJECTS EXEMPT FROM THE DEVELOPMENT THRESHOLDS.**

**Land Banking Sales**

A total of 317 exempt Land Banking Sales have been sold since July 18, 2005 with one or more applicable exemptions. See **Appendix A** for more information on these sales.

**Land Exchanges**

Five land exchanges have been completed with one or more applicable exemptions.

Exchange	County	TRS	Acres Exchanged	Isolated	Rural	Closing Date	Exemption
<b>Lyman Creek</b>	Ravalli	16N 19W 16, 10N 18W 30	240	NO	YES	4/8/2009	Exchange with Public Entity [ARM 36.25.912(1)(a)]
<b>Lolo</b>	multiple	multiple	12,137.73	NO	YES	12/22/2010	Exchange with Public Entity [ARM 36.25.912(1)(a)]

Exchange	County	TRS	Acres Exchanged	Isolated	Rural	Closing Date	Exemption
<b>Goguen</b>	Flathead	31N 22W 29	434.757	NO	YES	4/8/2009	Density Limited to 1 Unit Per 25 Acres through a Deed Restriction [ARM 36.25.912(1)(e)]
<b>CS&amp;KT Phase 1</b>	Multiple	Multiple	2,411.98	NO	YES	6/16/2010	Exchange with Public Entity [ARM 36.25.912(1)(a)]
<b>CS &amp; KT Phase 2</b>	Missoula	Multiple	2,103.82	NO	Yes	12/19/2011	Exchange with Public Entity [ARM 36.25.912(1)(a)]

### Leases

Six leases have been executed that meet one or more applicable exemption.

Lease	Lease Holder	Lease Type	County	Acres	Date Effective	Exemption
3063021	CYBERNET 1 INC	Communication Sites	Ravalli	1	3/1/2011	Communication Facility [ARM 36.25.912(1)(b)]
3090004	NEW CINGULAR WIRELESS PCS, LLC	Communication Sites	Yellowstone	0.18	5/18/2011	Communication Facility [ARM 36.25.912(1)(b)]
3071150	USFS - CONTRACTING OFFICER, REGION 1- DEPT OF AG	Communication Sites	Beaverhead	1	10/1/2012	Communication Facility [ARM 36.25.912(1)(b)]
3080004	MT DEPT OF JUSTICE - HIGHWAY PATROL	Communication Sites	Fergus	2.5	3/1/2012	Communication Facility [ARM 36.25.912(1)(b)]
3090003	GTP AQUISITION PARTNERS II, LLC	Communication Sites	Yellowstone	0.229	2/2/2011	Communication Facility [ARM 36.25.912(1)(b)]
3053063	USPS WESTERN FACILITIES SERVICE OFFICE	Governmental	Flathead	1	10/1/2008	Public Facility [ARM 36.25.912(1)(a)]

### Easements

Easements on State Trust Lands are authorized under 77-2-101, MCA. All easements for specific uses provided in statute are exempt from the development thresholds except easements for encroachments of private buildings.

The following table describes the exemptions in ARM 36.25.912 for the easement uses authorized under 77-2-101, MCA.

Statute	Applicable Threshold Exemption
<b>77-2-101, MCA. Easements for specific uses. ...the board may grant easements on state lands for the following purposes:</b>	<b>ARM 36.25.912 (1)</b> An urban tract meeting any one of the following criteria will be exempt...
<b>(a) schoolhouse sites and grounds;</b>	(a) leases, sales, exchanges, and easements to a public entity, for a public facility, community service, or for a private sewer or water system;
<b>(b) public parks;</b>	
<b>(c) community buildings;</b>	
<b>(d) cemeteries;</b>	
<b>(e) conservation purposes</b>	<i>The Real Estate Management Rules do not apply to easements for conservation purposes.</i>
<b>(f) for other public uses.</b>	(a) leases, sales, exchanges, and easements to a public entity, for a public facility, community service, or for a private sewer or water system;
<b>(2) The board may grant easements on state lands for the following purposes:</b>	
<b>(a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch, reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102;</b>	(c) acres under easement for public or private rights-of-way;
<b>(b) any private building or private sewage system that encroaches on state lands; or</b>	(a) leases, sales, exchanges, and easements to a public entity, for a public facility, community service, or for a private sewer or water system;

**3. LAND USE, DEVELOPMENT, AND DISPOSITION**

The following tables illustrate uses and projects that meet the accounting and reporting requirements of ARM 36.25.913(c) through (h). This section includes only those uses and projects which are not exempt from development thresholds, or excluded from the Rules per 36.25.903, and/or that have been developed within five years of sale or exchange where applicable.

Uses that are excluded from the Rules are described in Section I, subsection 1, of this report. Uses and projects that are exempt from development thresholds are listed in Section I, subsection 2, of this report.

**Leasing: Acres under Commercial, Industrial, or Residential Lease**

Lease	Lease Holder	Lease Type	County	Acres	Date Effective	Rural or Statewide	Status
3090002	Hydrodynamics, Inc	Hydroelectric Project	Sweet Grass	.75	1/1/2012	Statewide	Currently Undeveloped

Statewide Development Threshold Acres: **0.75**  
 Rural Development Threshold Acres: **0.00**

**Easements: New Acres under Easement for Commercial, Industrial, or Residential Use**

Two easements totaling 1.09 acres have been issued for building encroachments since July 18, 2005.

Easement #	Easement Holder	County	TRS	Legal	Acres	Date Effective
D-14385	Stanton, Dion L & Tanya Taylor	Custer	8N 47E 28	Old Tongue River Channel	0.09	6/7/2012
D-14331	Almquist, Heather	Missoula	12N 16W 26	Tract in SE4SE4	1	4/30/2012

Statewide Development Threshold Acres: **1.09**  
 Rural Development Threshold Acres: **1**

**Disposition: Tracts Sold and Developed Within Five Years of Sale**

The following tables demonstrate sales and exchanges that were sold after July 18, 2005, and developed within five years.

The Department is monitoring multiple sales and exchanges for development that have closed within the past 5 years, but have not been developed. The sales list is found in Appendix B of this report. The exchanges list is found in Appendix C of this report.

Land Banking Sales

No Land Banking Sales have been developed to-date. The 91 sales in Appendix B are being monitored for a five-year period after closing.

Statewide Development Threshold Acres: **NO EFFECT**  
 Rural Development Threshold Acres: **NO EFFECT**

Land Exchanges

No Land Exchanges have been developed to-date. Land exchange sales found in Appendix C of this report are being monitored during the five year period.

Statewide Development Threshold Acres: **NO EFFECT**  
 Rural Development Threshold Acres: **NO EFFECT**

**Disposition: Tracts Sold and Encumbered with a Development Restriction within Five Years of Sale**  
 None

**Acquisition: Tracts Acquired With Existing Commercial, Industrial, or Residential Development**

One parcel with existing commercial development was acquired as part of the Goguen land exchange and one parcel with existing commercial development was acquired as part of the 1539 11<sup>th</sup> Avenue, Helena Land Banking Acquisition. Property acquired by the state does not count toward the Development Thresholds.

Exchange / Acquisition	County	TRS	Legal	Acres	Closing Date
Goguen Land Exchange – Lupfer parcel	Flathead	31N 22W 36	Lot 1 of Lupfer Townhouses	0.043	4/17/2009
1539 11 <sup>th</sup> Ave., Helena Land Banking Acquisition	Lewis & Clark	10N 3W 29	Lot D, Blk 21 Cannon CW Addition, City of Helena	0.1	2/28/2013

Statewide Development Threshold Acres: **NO EFFECT**

Rural Development Threshold Acres: **NO EFFECT**

**Acquisition: Tracts Purchased With Existing Encumbrance for Conservation Purposes**

Acquisition	County	TRS	Acres Acquired	Isolated ?	Rural?	Closing Date	Exemption
<i>Tupper Lakes</i>	Powell	Multiple	1,716.6	NO	YES	7/28/2008	
<i>Chamberlain Creek</i>	Multiple	Multiple	14,581.12	No	Yes	7/27/2010	
<i>North Swan Phase 1</i>	Lake	Multiple	1,920	No	Yes	12/21/2010	
<i>North Swan Phase 2</i>	Lake	Multiple	14,627.55	No	Yes	12/27/2012	

**Acres Dedicated as Open Space During Subdivision Review**

Subdivision	County	TRS	Residential Acres Subdivided	Acres of Parkland Dedication	Plat Filing Date
Skyview Ridge Subdivision, 1 <sup>st</sup> Filing	Yellowstone	1N-26E-20	32.045	9.047	2/25/2014

**Acres Designated as "Natural Area" Per Title 77, Chapter 12, Part 1, MCA.**

None

**III. CONCLUSION: STATUS OF DEVELOPMENT THRESHOLDS**

As of July 16, 2015, the following acres have applied to the development thresholds:

**Statewide Development Threshold**

Threshold	Developed Acres	Percentage of Threshold
30,000 Acres	1.84	.0001%

**Rural Development Threshold**

Threshold	Developed Acres	Percentage of Threshold
1,500 Acres	1	.0007%

**IV. IMPLEMENTATION AND EFFECTIVENESS**

**OF THE REAL ESTATE MANAGEMENT PROGRAMMATIC PLAN**

Per ARM 36.25.914, the Department must issue a report upon the implementation and effectiveness of the Real Estate Management Programmatic Plan (Plan), including recommendation on the need for significant changes to the plan.

**Implementation**

The Department has implemented all parts of the Real Estate Management Programmatic Plan as specified in Administrative Rules of Montana 36.25.901 *et seq.*

The Department employs three area Planners that are specialists in ensuring that Development Standards are met when selecting and proceeding with any real estate project. In addition to Real Estate Management Bureau staff, Planners are key members in Project identification, Project review, site specific evaluations, and helping to secure appropriate entitlements on trust land.

The Project Identification Team and Project Review Committee meet annually in the spring to review new and existing projects, and to assign resources. A Project Management List is developed after the meeting and presented to the Board, distributed to interested parties, and posted on the Department website. The Department maintains a list of conservation interests and notifies parties on the list when any new real estate project is selected. Additionally, the Department has created an internet email mailing list that interested parties may sign up for at any time on the Department web site. To date, no conservation interest has applied to secure a conservation use in lieu of a real estate project.

The Development Thresholds, or limitation on acres to be developed for commercial, industrial, or residential uses, are established in rule 36.25.911 to be 30,000 acres statewide, and 1,500 acres rural. The Department maintains records of all commercial leases, sales, exchanges, acquisitions, and easements upon state trust land. The data has been reviewed against threshold criteria and to date we have stayed within the limitations and have only met 1.84 acres of the statewide development threshold (0.0001%) and 1 acre of the rural development threshold (0.0007%).

The Rules require a five year report to account for real estate management activities that meet ARM 36.25.910 and 36.25.912, in addition to other specific criteria that are otherwise not mentioned in the Rules. The Department completed the first report as required in July of 2010 and has completed the second report as required in August of 2015.

#### Adaptations and Considerations

- At the time the Plan was developed, the Department had a Statewide Planner position. The Plan specifically identifies the Statewide Planner's roll and specific job duties. The Department no longer has that position. The job duties have been shared between Bureau staff and area Planners.
- The Rules require that the Department account for acquisitions of tracts with existing commercial, industrial, or residential development; however acquisitions are not included at all in the applicability of development thresholds in 36.25.911. It is unclear if the intent of the Plan was to count these types of properties towards development thresholds. The Department has not included these types of properties in the development thresholds in this report.
- The Rules specifically require an accounting report for projects and activities that are exempt from development thresholds, but it does not require that that the Department report on the overall status of the development threshold and acres that are not exempt. The Department has elected to report on the status of the threshold.
- The Plan identifies Real Estate Projects as either "Projects" or "Activities" with both having very different criteria. It is confusing to have both an "Activity" and a "Project" be a type of Real Estate *Project*.
- The Plan specifies a multitude of forms for the Project Identification process. These forms can be cumbersome and excessive.

#### **Effectiveness**

The Real Estate Management Programmatic Plan has established helpful criteria in selecting Real Estate Projects statewide, and allocating resources toward selected projects appropriately. Due to the scope of this report, it does not detail projects and activities that resulted in new commercial leases on Trust land and subsequently increased revenue to the Trust. In addition, the timing of some of the newer projects coincided with a significant downturn in the real estate market in 2008 and these projects are only now being analyzed and moved forward as local conditions warrant such actions.

The Development Threshold has established limitations on statewide and rural development. To date, leases, easements, sales, and exchanges on State trust land have hardly scratched the surface of the thresholds. This demonstrates that real estate activity on trust land either has a minor impact on Development Thresholds, or is exempt from the Development Thresholds, or otherwise not applicable to the Development Thresholds.

Tracking the impact of real estate activity on the thresholds is a time consuming and complicated process that includes analyzing hundreds of real estate activities against a complicated list of exemptions and exclusions; in

addition, physically reviewing/monitoring privately owned tracts of land long after Department ownership has been transferred through sale or exchange, is excessive and apparently unnecessary given the observed impact on the threshold.

### **Department Review or Action**

The Department does not wish to review or modify the Real Estate Management Programmatic Plan at this time.

## **V. DEFINITIONS**

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<u>Activity</u>	A real estate activity means the following: land sales and land banking; land exchanges; issuance of easements; issuance of leases; issuance of land use licenses; marketing of state trust lands proposed for lease, license, or easement, sale, or exchange; requests for proposals; planning and design; surveying and platting; development of entitlements; extension of services and infrastructure; contracting for services; environmental review; and minor repairs, operation or maintenance of existing equipment, improvements, or facilities.
<u>Cluster Development</u>	A subdivision of a tract with building lots concentrated on a portion of the tract and the remainder conserved for open space.
<u>Commercial</u>	A land use including public parking lot, restaurant, bar, hotel, motel, office space, retail store or sales outlet, storage space, gas station, convenience store, shopping center, warehouse, hospitality enterprise, or concentrated recreational use, multifamily residential use, or other similar uses.
<u>Conservation</u>	A land use including open space, preservation of habitat, natural areas, parks, or related public purposes, secured through dedication, lease, license, easement, deed restriction, or other legal instrument consistent with 77-1-203, MCA, for multiple use management.
<u>Developed</u>	A building permit, septic permit, or a permit to connect to a public sewer system, whichever comes first, has been issued for 25 percent or more of the commercial, industrial, or residential lots of a subdivided tract. Developed also means a permit has been issued for the construction of a private sewer system.
<u>Industrial</u>	A land use that includes manufacturing, wholesaling, warehousing, utilities, heavy transportation, sanitary landfills, sewage treatment facilities, wind farms, feedlots, grain storage bins, irrigation facilities, reclamation projects, electrical substations, intermodal shipping facilities, and other uses.
<u>Isolated Tract</u>	Any state land not possessing a legal right of access by the public, as provided in 77-2-361(1), MCA.
<u>Project</u>	A real estate project means a proposal initiated by the bureau to develop state trust land for a commercial, industrial, residential, or conservation use, or a public facility where no such use existed previously, when one or more of the following are required by a local government: subdivision approval; annexation; or development or amendment of a growth policy or neighborhood plan. Real estate project also means the development of entitlements on state trust lands proposed for sale or exchange.
<u>Public Entity</u>	A federal agency, state agency, a political subdivision of the state including a county, city, town, municipal corporation, a school district or other special district, a joint agreement entity, a public authority, or any other public body of this or other state.
<u>Public Facility</u>	A building or area operated by a public entity.
<u>Residential</u>	A land use including single family dwellings, duplexes, condominiums, townhouses, cabins, associated ancillary uses, or other types of residential uses.

Rural

A tract that does not meet the criteria for an urban tract.

Transfer of  
Development  
Rights  
Program

A program adopted by a city or county that allows the separation and transfer or sale of development rights from a tract of land in a "sending area." The development rights may be used on a tract in a "receiving area," where additional development density is allowed by the local jurisdiction. "Receiving area" means land that receives additional development rights from land within a sending area. "Sending area" means land that provides additional development rights to other land within a receiving area.

Urban

A tract:

1. within the boundaries of an incorporated city or town;
2. within 4.5 miles of the boundaries of an incorporated city or town;
3. within a public sewer or water district; or
4. within one mile of the boundaries of a public sewer or water district.
5. An entire tract of state trust land is urban if any portion of the tract meets this definition.

**APPENDIX A: EXEMPT LAND BANKING SALES**

Sale	County	TRS	Acres	Isolated?	Rural?	Sale Closing Date	Exemption
1	Blaine	28N 20E 36	640	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
7	Custer	4N 46E 16	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
8	Toole	34N 1E 10	160	YES	YES	6/2/2009	Isolated Tract [ARM 36.25.912(1)(g)]
9	Toole	34N 1E 11	160	YES	YES	6/2/2009	Isolated Tract [ARM 36.25.912(1)(g)]
10	Toole	34N 1E 13	160	YES	YES	6/2/2009	Isolated Tract [ARM 36.25.912(1)(g)]
11	Toole	34N 1E 14	160	YES	YES	6/2/2009	Isolated Tract [ARM 36.25.912(1)(g)]
13	Treasure	4N 37E 16	320	YES	YES	8/28/2006	Isolated Tract [ARM 36.25.912(1)(g)]
14	Treasure	3N 35E 16	640	YES	YES	8/28/2006	Isolated Tract [ARM 36.25.912(1)(g)]
17	Toole	34N 3E 36	640	YES	YES	6/2/2009	Isolated Tract [ARM 36.25.912(1)(g)]
18	Liberty	33N 4E 7	317	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
25	Pondera	29N 6W 19	80	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
26	Pondera	29N 6W 20	80	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
32	Treasure	5N 34E 36	640	YES	YES	8/28/2006	Isolated Tract [ARM 36.25.912(1)(g)]
56	Liberty	28N 4E 11	240	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
57	Liberty	28N 4E 10	40	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
62	Custer	7N 51E 16	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
64	Custer	6N 50E 18	316	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
76	Chouteau	25N 5E 27	40	YES	YES	8/26/2006	Isolated Tract [ARM 36.25.912(1)(g)]
78	Chouteau	25N 5E 22	40	YES	YES	8/26/2006	Isolated Tract [ARM 36.25.912(1)(g)]
78	Chouteau	25N 5E 22	40	YES	YES	8/26/2006	Isolated Tract [ARM 36.25.912(1)(g)]
81	Garfield	17N 34E 4	80	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
82	Garfield	17N 34E 5	240	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
83	Garfield	17N 34E 22	40	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
84	Garfield	17N 34E 15	280	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
87	Garfield	17N 34E 16	640	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
88	Garfield	17N 34E 22	160	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
89	Garfield	17N 34E 21	160	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
90	Garfield	17N 34E 28	240	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
91	Garfield	17N 34E 21	80	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
92	Garfield	17N 33E 16	640	YES	YES	5/26/2008	Isolated Tract [ARM 36.25.912(1)(g)]
95	Chouteau	25N 5E 16	640	YES	YES	8/26/2006	Isolated Tract [ARM 36.25.912(1)(g)]
97	Chouteau	25N 5E 15	160	YES	YES	8/26/2006	Isolated Tract [ARM 36.25.912(1)(g)]
98	Chouteau	25N 5E 23	40	YES	YES	8/26/2006	Isolated Tract [ARM 36.25.912(1)(g)]
108	Garfield	20N 40E 7	626	YES	YES	12/3/2009	Isolated Tract [ARM 36.25.912(1)(g)]
109	Garfield	20N 40E 36	640	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
110	Garfield	20N 39E 36	40	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
111	Garfield	19N 40E 16	640	YES	YES	5/26/2008	Isolated Tract [ARM 36.25.912(1)(g)]
112	Garfield	19N 39E 36	640	YES	YES	12/3/2009	Isolated Tract [ARM 36.25.912(1)(g)]
113	Garfield	19N 40E 36	40	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
123	Rosebud	10N 38E 36	640	YES	YES	11/4/2009	Isolated Tract [ARM 36.25.912(1)(g)]
124	Rosebud	9N 39E 16	640	YES	YES	11/4/2009	Isolated Tract [ARM 36.25.912(1)(g)]
125	Rosebud	9N 39E 36	640	YES	YES	11/4/2009	Isolated Tract [ARM 36.25.912(1)(g)]
128	Custer	2N 46E 36	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
129	Custer	1N 46E 16	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
130	Custer	2N 47E 16	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
131	Custer	3N 47E 36	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
132	Custer	8N 45E 16	629	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
133	Garfield	15N 42E 16	640	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
140	Garfield	20N 32E 16	640	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
164	Garfield	20N 40E 13	80	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
164	Garfield	20N 40E 13	80	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
174	Garfield	18N 38E 36	640	YES	YES	5/26/2008	Isolated Tract [ARM 36.25.912(1)(g)]
176	Garfield	18N 37E 16	280	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
177	Garfield	20N 40E 2	120	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
178	Garfield	18N 37E 16	40	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
180	Garfield	21N 38E 36	640	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
181	Garfield	19N 35E 16	280	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
182	Garfield	21N 39E 36	640	YES	YES	5/26/2008	Isolated Tract [ARM 36.25.912(1)(g)]
185	Garfield	19N 35E 16	40	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
186	Garfield	20N 38E 36	640	YES	YES	5/26/2008	Isolated Tract [ARM 36.25.912(1)(g)]

187	Garfield	20N 35E 16	80	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
188	Garfield	20N 35E 16	120	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
189	Garfield	20N 35E 16	120	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
191	Hill	31N 14E 30	160	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
192	Garfield	20N 40E 16	560	YES	YES	12/3/2006	Isolated Tract [ARM 36.25.912(1)(g)]
216	Chouteau	26N 15E 35	320	YES	YES	5/18/2008	Isolated Tract [ARM 36.25.912(1)(g)]
217	Chouteau	26N 15E 36	640	YES	YES	5/18/2008	Isolated Tract [ARM 36.25.912(1)(g)]
218	Wheatland	10N 18E 36	640	YES	YES	4/24/2009	Isolated Tract [ARM 36.25.912(1)(g)]
225	Blaine	30N 19E 23	80	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
226	Blaine	30N 19E 14	80	YES	YES	12/31/2008	Isolated Tract [ARM 36.25.912(1)(g)]
240	Garfield	19N 36E 16	640	YES	YES	12/7/2009	Isolated Tract [ARM 36.25.912(1)(g)]
243	Toole	37N 2E 8	40	YES	YES	8/6/2009	Isolated Tract [ARM 36.25.912(1)(g)]
246	Toole	37N 2E 9	40	YES	YES	8/6/2009	Isolated Tract [ARM 36.25.912(1)(g)]
247	Toole	37N 1E 22	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
248	Toole	37N 2E 10	80	YES	YES	8/6/2009	Isolated Tract [ARM 36.25.912(1)(g)]
249	Toole	37N 1E 35	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
252	Toole	37N 2E 14	40	YES	YES	8/6/2009	Isolated Tract [ARM 36.25.912(1)(g)]
254	Toole	37N 2E 15	40	YES	YES	8/6/2009	Isolated Tract [ARM 36.25.912(1)(g)]
256	Toole	37N 2E 22	40	YES	YES	8/6/2009	Isolated Tract [ARM 36.25.912(1)(g)]
276	Custer	5N 45E 26	320	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
286	Custer	3N 49E 16	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
287	Custer	3N 48E 16	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
288	Custer	3N 49E 36	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
289	Custer	3N 48E 23	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
290	Custer	3N 48E 14	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
291	Custer	3N 48E 13	640	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
292	Custer	3N 48E 12	320	YES	YES	10/7/2006	Isolated Tract [ARM 36.25.912(1)(g)]
294	Toole	37N 3E 30	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
295	Toole	36N 3E 8	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
297	Toole	37N 3E 34	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
317	Meagher	10N 7E 24	160	YES	YES	4/20/2010	Isolated Tract [ARM 36.25.912(1)(g)]
318	Meagher	10N 7E 26	40	YES	YES	4/20/2010	Isolated Tract [ARM 36.25.912(1)(g)]
341	Chouteau	26N 12E 21	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
350	Wheatland	9N 17E 8	640	YES	YES	2/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
351	Wheatland	9N 17E 6	161	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
376	Powell	8N 10W 10	640	NO	YES	10/21/2007	Density Limited by a Deed Restriction to no greater than 1 Unit Per 25 Acres [ARM 36.25.912(1)(e)]
389	Blaine	29N 20E 13	40	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
390	Blaine	29N 21E 8	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
391	Blaine	30N 20E 24	80	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
392	Blaine	30N 20E 26	40	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
393	Blaine	30N 20E 33	40	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
394	Blaine	30N 20E 35	80	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
395	Blaine	31N 21E 19	80	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
399	Chouteau	20N 13E 6	102	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
400	Chouteau	20N 13E 9	80	YES	YES	12/4/2008	Isolated Tract [ARM 36.25.912(1)(g)]
401	Chouteau	20N 13E 30	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
402	Chouteau	21N 7E 32	80	YES	YES	2/13/2009	Isolated Tract [ARM 36.25.912(1)(g)]
404	Chouteau	23N 8E 12	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
405	Chouteau	23N 8E 35	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
406	Chouteau	24N 6E 11	40	YES	YES	2/10/2009	Isolated Tract [ARM 36.25.912(1)(g)]
407	Chouteau	24N 6E 10	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
408	Chouteau	24N 11E 4	45	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
416	Chouteau	26N 7E 18	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
422	Chouteau	27N 7E 14	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
426	Chouteau	27N 16E 2	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
428	Chouteau	27N 16E 24	40	YES	YES	12/27/2008	Isolated Tract [ARM 36.25.912(1)(g)]
429	Chouteau	27N 17E 21	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
430	Chouteau	27N 17E 30	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
432	Chouteau	27N 17E 33	40	YES	YES	12/28/2008	Isolated Tract [ARM 36.25.912(1)(g)]
433	Chouteau	28N 8E 3	40	YES	YES	12/4/2008	Isolated Tract [ARM 36.25.912(1)(g)]
444	Fergus	22N 19E 24	80	YES	YES	3/30/2009	Isolated Tract [ARM 36.25.912(1)(g)]

446	Fergus	22N 20E 31	80	YES	YES	3/30/2009	Isolated Tract [ARM 36.25.912(1)(g)]
449	Hill	33N 14E 22	40	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
450	Hill	34N 13E 12	40	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
454	Hill	36N 8E 35	40	YES	YES	12/23/2008	Isolated Tract [ARM 36.25.912(1)(g)]
455	Hill	36N 11E 5	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
458	Hill	37N 9E 11	40	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
465	Blaine	33N 19E 8	5	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
494	Chouteau	28N 8E 3	39	YES	YES	12/4/2008	Isolated Tract [ARM 36.25.912(1)(g)]
512	Hill	37N 9E 5	44	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
522	Toole	37N 1E 22	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
523	Toole	37N 3E 34	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
524	Toole	37N 3E 32	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
525	Toole	36N 3E 5	40	YES	YES	5/27/2009	Isolated Tract [ARM 36.25.912(1)(g)]
532	Blaine	33N 19E 8	10	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
533	Blaine	33N 19E 8	10	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
534	Blaine	33N 19E 8	10	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
535	Blaine	33N 19E 8	5	YES	YES	12/29/2008	Isolated Tract [ARM 36.25.912(1)(g)]
536	Hill	37N 9E 5	40	YES	YES	11/7/2008	Isolated Tract [ARM 36.25.912(1)(g)]
539	Carter	5.5S 58E 36	65	YES	YES	3/10/2010	Isolated Tract [ARM 36.25.912(1)(g)]
550	Rosebud	10N 44E 36	640	YES	YES	12/7/2009	Isolated Tract [ARM 36.25.912(1)(g)]
553	Rosebud	8N 43E 16	640	YES	YES	12/7/2009	Isolated Tract [ARM 36.25.912(1)(g)]
561	Rosebud	12N 32E 26	320	YES	YES	11/4/2009	Isolated Tract [ARM 36.25.912(1)(g)]
317	Meagher	10N 7E 24	160	YES	YES	4/21/2010	Isolated Tract [ARM 36.25.912(1)(g)]
318	Meagher	10N 7E 26	40	YES	YES	4/28/2010	Isolated Tract [ARM 36.25.912(1)(g)]
562	Meagher	9N 7E 16	640	YES	NO	8/6/2010	Isolated Tract [ARM 36.25.912(1)(g)]
575	Golden Valley	7N 20E 20	320	YES	NO	3/9/2011	Isolated Tract [ARM 36.25.912(1)(g)]
576	Golden Valley	7N 19E 12	160	YES	YES	3/9/2011	Isolated Tract [ARM 36.25.912(1)(g)]
581	Golden Valley	7N 20E 18	6	YES	YES	3/9/2011	Isolated Tract [ARM 36.25.912(1)(g)]
16	Fallon	8N 56E 22	320	YES	YES	4/4/2011	Isolated Tract [ARM 36.25.912(1)(g)]
179	Garfield	17N 35E 7	157	YES	YES	4/4/2011	Isolated Tract [ARM 36.25.912(1)(g)]
184	Garfield	17N 34E 12	160	YES	YES	4/4/2011	Isolated Tract [ARM 36.25.912(1)(g)]
570	Garfield	14N 35E 16	640	YES	YES	4/4/2011	Isolated Tract [ARM 36.25.912(1)(g)]
571	Garfield	14N 34E 36	640	YES	YES	4/4/2011	Isolated Tract [ARM 36.25.912(1)(g)]
583	Liberty	28N 4E 12	80	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
584	Liberty	37N 5E 19	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
588	Liberty	28N 4E 6	59.4	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
590	Liberty	34N 6E 23	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
591	Liberty	28N 5E 31	48	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
592	Liberty	28N 5E 32	160	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
595	Pondera	30N 1W 34	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
596	Pondera	28N 9W 23	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
597	Pondera	26N 2W 14	40	YES	NO	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
589	Toole	30N 3E 34	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
605	Toole	31N 2W 36	78	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
606	Toole	36N 2E 10	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
607	Toole	36N 2E 24	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
608	Toole	37N 2E 2	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
624	Toole	36N 2E 10	40	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
626	Toole	30N 3E 34	120	YES	YES	6/3/2011	Isolated Tract [ARM 36.25.912(1)(g)]
616	Dawson	15N 56E 36	640	YES	YES	2/28/2012	Isolated Tract [ARM 36.25.912(1)(g)]
609	Rosebud	10N 36E 6	311.6	YES	YES	3/12/2012	Isolated Tract [ARM 36.25.912(1)(g)]
611	Rosebud	11N 35E 36	640	YES	YES	3/12/2012	Isolated Tract [ARM 36.25.912(1)(g)]
622	Valley	35N 43E 2	3.84	NO	NO	6/26/2012	pre-existing commercial development
620	Valley	35N 43E 2	2.2	NO	NO	7/18/2012	pre-existing commercial development
621	Valley	35N 43E 2	5.48	NO	NO	7/18/2012	pre-existing commercial development
347	Daniels	37N 50E 34	40	YES	NO	11/5/2012	Isolated Tract [ARM 36.25.912(1)(g)]
687	Jefferson	2N 1W 16	320	YES	YES	7/29/2013	Isolated Tract [ARM 36.25.912(1)(g)]
683	Rosebud	12N 43E 36	640	YES	YES	8/6/2013	Isolated Tract [ARM 36.25.912(1)(g)]
691	Custer	3N 54E 16	640	YES	YES	5/7/2014	Isolated Tract [ARM 36.25.912(1)(g)]
696	Custer	1N 48E 24	160	YES	YES	5/7/2014	Isolated Tract [ARM 36.25.912(1)(g)]
20	Garfield	18N 33E 12	320	YES	YES	5/7/2014	Isolated Tract [ARM 36.25.912(1)(g)]
702	Fallon	4N 60E 28	5	YES	YES	9/15/2014	Isolated Tract [ARM 36.25.912(1)(g)]

**APPENDIX B: LAND BANKING SALES UNDER MONITORING**

Sale #	Cnty Name	TRS	Acres	Isolated	Sale Closing Date	5-Year Monitoring End Date	Status
577	Powell	7N 8W 30	316.6	NO	11/9/2010	11/8/2015	tracking
574	Golden Valley	7N 20E 18	54	NO	3/9/2011	3/7/2016	tracking
578	Golden Valley	7N 20E 18	63	NO	3/9/2011	3/7/2016	tracking
580	Golden Valley	7N 20E 18	45	NO	3/9/2011	3/7/2016	tracking
627	Yellowstone	1N 27E 36	640	YES	4/4/2011	4/2/2016	tracking
628	Yellowstone	3N 28E 16	640	YES	4/4/2011	4/2/2016	tracking
629	Yellowstone	4N 32E 36	640	YES	4/4/2011	4/2/2016	tracking
601	Teton	24N 6W 21	40	YES	6/2/2011	5/31/2016	tracking
602	Teton	24N 6W 28	40	YES	6/2/2011	5/31/2016	tracking
594	Liberty	36N 7E 2	40	NO	6/3/2011	6/1/2016	tracking
598	Teton	25N 5W 18	40	YES	6/3/2011	6/1/2016	tracking
599	Teton	26N 6W 35	40	YES	6/3/2011	6/1/2016	tracking
600	Teton	24N 6W 20	40	YES	6/3/2011	6/1/2016	tracking
603	Teton	24N 6W 29	40	YES	6/3/2011	6/1/2016	tracking
604	Teton	25N 2W 28	40	YES	6/3/2011	6/1/2016	tracking
625	Toole	36N 2E 10	40	NO	6/3/2011	6/1/2016	tracking
579	Cascade	18N 3W 36	165.31	YES	8/23/2011	8/21/2016	tracking
582	Lewis and Clark	16N 2W 36	692.62	YES	8/23/2011	8/21/2016	tracking
623	Daniels	35N 48E 16	9.36	NO	11/18/2011	11/16/2016	tracking
517	Missoula	15N 22W 22	160	YES	11/22/2011	11/20/2016	tracking
631	Deer Lodge	5N 10W 16	320	NO	6/15/2012	6/14/2017	tracking
632	Hill	35N 11E 15	200	NO	6/22/2012	6/21/2017	tracking
540	Gallatin	2S 6E 21	8.493	NO	6/29/2012	6/28/2017	tracking
679	Missoula	11N 19W 22	120	YES	8/17/2012	8/16/2017	tracking
680	Missoula	11N 19W 16	640	YES	8/17/2012	8/16/2017	tracking
638	Daniels	34N 45E 12	80	NO	11/5/2012	11/4/2017	tracking
639	Daniels	34N 45E 14	160	NO	11/5/2012	11/4/2017	tracking
640	Daniels	34N 45E 14	160	NO	11/5/2012	11/4/2017	tracking
641	Daniels	34N 46E 24	160	NO	11/5/2012	11/4/2017	tracking
646	Daniels	35N 47E 21	80	NO	11/5/2012	11/4/2017	tracking
650	Daniels	36N 43E 4	160	NO	11/5/2012	11/4/2017	tracking
674	Daniels	37N 44E 2	160	NO	11/5/2012	11/4/2017	tracking
676	Daniels	37N 50E 26	40	NO	11/5/2012	11/4/2017	tracking
647	Daniels	35N 48E 23	40	NO	11/14/2012	11/13/2017	tracking
657	Daniels	36N 44E 25	160	NO	11/14/2012	11/13/2017	tracking
658	Daniels	36N 44E 25	132.5	NO	11/14/2012	11/13/2017	tracking
659	Daniels	36N 44E 36	475	NO	11/14/2012	11/13/2017	tracking
660	Daniels	36N 44E 36	5	NO	11/14/2012	11/13/2017	tracking
661	Daniels	36N 45E 30	72.18	NO	11/14/2012	11/13/2017	tracking
663	Daniels	36N 48E 25	40	NO	11/14/2012	11/13/2017	tracking

675	Daniels	37N 46E 27	280	NO	11/19/2012	11/18/2017	tracking
643	Daniels	35N 44E 7	200	NO	11/20/2012	11/19/2017	tracking
644	Daniels	35N 44E 8	160	NO	11/20/2012	11/19/2017	tracking
664	Daniels	37N 43E 4	360	NO	11/20/2012	11/19/2017	tracking
678	Daniels	35N 44E 8	160	NO	11/20/2012	11/19/2017	tracking
685	Flathead	31N 22W 16	580	NO	12/13/2012	12/12/2017	tracking
648	Daniels	36N 43E 3	320	NO	12/20/2012	12/19/2017	tracking
649	Daniels	36N 43E 3	320.16	NO	12/20/2012	12/19/2017	tracking
651	Daniels	36N 43E 4	160	NO	12/20/2012	12/19/2017	tracking
652	Daniels	36N 43E 9	240	NO	12/20/2012	12/19/2017	tracking
653	Daniels	36N 43E 10	160	NO	12/20/2012	12/19/2017	tracking
654	Daniels	36N 43E 10	160	NO	12/20/2012	12/19/2017	tracking
655	Daniels	36N 43E 10	160	NO	12/20/2012	12/19/2017	tracking
656	Daniels	36N 43E 11	160	NO	12/20/2012	12/19/2017	tracking
665	Daniels	37N 43E 29	120	NO	12/20/2012	12/19/2017	tracking
666	Daniels	37N 43E 29	160	NO	12/20/2012	12/19/2017	tracking
667	Daniels	37N 43E 30	160	NO	12/20/2012	12/19/2017	tracking
668	Daniels	37N 43E 31	360	NO	12/20/2012	12/19/2017	tracking
669	Daniels	37N 43E 32	67.44	NO	12/20/2012	12/19/2017	tracking
670	Daniels	37N 43E 32	120	NO	12/20/2012	12/19/2017	tracking
671	Daniels	37N 43E 32	120	NO	12/20/2012	12/19/2017	tracking
672	Daniels	37N 43E 32	157.94	NO	12/20/2012	12/19/2017	tracking
673	Daniels	37N 43E 32	12.56	NO	12/20/2012	12/19/2017	tracking
365	Daniels	34N 45E 3	80.24	NO	1/30/2013	1/29/2018	tracking
366	Daniels	35N 45E 34	80	NO	1/30/2013	1/29/2018	tracking
633	Daniels	34N 44E 14	80	NO	1/30/2013	1/29/2018	tracking
634	Daniels	34N 44E 14	80	NO	1/30/2013	1/29/2018	tracking
635	Daniels	34N 45E 3	15.83	NO	1/30/2013	1/29/2018	tracking
636	Daniels	34N 45E 4	160.19	NO	1/30/2013	1/29/2018	tracking
637	Daniels	34N 45E 10	100.47	NO	1/30/2013	1/29/2018	tracking
645	Daniels	35N 45E 34	160	NO	1/30/2013	1/29/2018	tracking
677	Daniels	34N 44E 14	40	NO	1/30/2013	1/29/2018	tracking
684	Mineral	17N 26W 14	12.699	NO	2/1/2013	1/31/2018	tracking
302	Broadwater	2N 2E 4	161.63	YES	6/26/2013	6/25/2018	tracking
303	Broadwater	2N 2E 8	160	YES	6/26/2013	6/25/2018	tracking
336	Broadwater	3N 2E 16	637.84	YES	6/26/2013	6/25/2018	tracking
688	Phillips	25N 25E 16	3.66	NO	2/5/2014	2/4/2019	tracking
689	Phillips	25N 25E 16	5.9	NO	2/5/2014	2/4/2019	tracking
690	Phillips	25N 25E 16	0.5	NO	2/5/2014	2/4/2019	tracking
699	Pondera	26N 1E 10	9.66	NO	3/11/2014	3/10/2019	tracking
703	Pondera	31N 5W 15	27.85	NO	3/11/2014	3/10/2019	tracking
704	Pondera	31N 5W 10	25.3	NO	3/11/2014	3/10/2019	tracking
700	Pondera	28N 2W 16	20.005	NO	3/14/2014	3/13/2019	tracking
706	Stillwater	2S 22E 16	640	YES	6/18/2014	6/17/2019	tracking

707	Stillwater	1S 21E 36	640	YES	6/18/2014	6/17/2019	tracking
708	Stillwater	2S 21E 16	640	YES	6/18/2014	6/17/2019	tracking
692	Gallatin	1S 3E 16	7.5141	NO	9/15/2014	9/14/2019	tracking
714	Flathead	27N 19W 5	1.331	NO	12/18/2014	12/17/2019	tracking
710	Gallatin	3S 7E 6	0.83	NO	12/18/2014	12/17/2019	tracking
712	Missoula	16N 15W 14	1.337	NO	12/18/2014	12/17/2019	tracking
711	Missoula	15N 14W 20	0.83	NO	2/10/2015	2/9/2020	tracking

**APPENDIX C: LAND EXCHANGES UNDER MONITORING**

Exchange	County	TRS	Acres	Isolated	Rural	Closing Date	5-Year Monitoring End Date	Status
<b><i>CS&amp;KT Phase II</i></b>	Missoula	17N 17W 36	522.94	NO	YES	12/29/2011	12/28/2016	Tracking
<b><i>CS&amp;KT Phase II</i></b>	Missoula	16N 17W 16	640	NO	YES	12/29/2011	12/28/2016	Tracking
<b><i>CS&amp;KT Phase II</i></b>	Missoula	16N 18W 16	320	NO	YES	12/29/2011	12/28/2016	Tracking
<b><i>CS&amp;KT Phase II</i></b>	Missoula	16N 18W 36	620.88	NO	YES	12/29/2011	12/28/2016	Tracking
<b><i>Prairie Elk</i></b>	McCone	26N 46E 16	82.4	NO	YES	11/2/2011	11/1/2016	Tracking
<b><i>Peebles</i></b>	Teton	24N 7W 27	520	NO	YES	12/3/2012	12/2/2017	Tracking
<b><i>Peebles</i></b>	Teton	24N 7W 26	160	NO	YES	12/3/2012	12/2/2017	Tracking
<b><i>Peebles</i></b>	Teton	24N 7W 22	30	NO	YES	12/3/2012	12/2/2017	Tracking
<b><i>Nistler</i></b>	Wibaux	15N 59E 36	160	NO	YES	8/15/2013	8/14/2018	Tracking
<b><i>Montgomery</i></b>	Flathead	32N 23W 20	0.52	NO	YES	8/22/2014	8/21/2019	Tracking

**APPENDIX D: REAL ESTATE PROJECTS LIST**

<b>Real Estate Project</b>	<b>Description</b>	<b>Grant</b>	<b>Office</b>	<b>County</b>	<b>Acres</b>	<b>Urban/Rural</b>
<b>Alaska Road</b>	Commercial/industrial development - Marketing and development of parcel.	Common Schools	<b>CLO</b>	Gallatin	3.3	Urban
<b>Amsterdam Road</b>	Mixed use development -Annexation and rezoning of parcel.	Common Schools	<b>CLO</b>	Gallatin	450	Urban
<b>Lewis &amp; Clark Subdivision</b>	Commercial/industrial development - market and lease of lots.	Common Schools	<b>CLO</b>	Gallatin	28	Urban
<b>North Park</b>	Commercial/industrial development - Design and engineering of subdivision.	Common Schools	<b>CLO</b>	Gallatin	178	Urban
<b>Bull Pasture Subdivision</b>	Commercial/industrial development - Marketing of parcel.	Pine Hills School	<b>ELO</b>	Custer	60	Urban
<b>Spring Prairie Commercial Infill</b>	Commercial/professional development - Design, marketing and lease of lots.	Common Schools	<b>NWLO</b>	Flathead	100	Urban
<b>Stillwater Industrial</b>	Industrial development - Marketing of parcel and RFP process.	State Normal School	<b>NWLO</b>	Flathead	40	Rural
<b>Indian Springs Ranch</b>	Residential development - easement exchange to allow expansion of golf course. Future sale of residential lots on remainder of tract.	Common Schools	<b>NWLO</b>	Lincoln	40	Urban
<b>Cripple Horse Creek</b>	Site is adjacent to an existing commercial resort on Lake Kookanus. Department will be conducting survey and conceptual planning and investigation to determine feasibility of developed commercial recreation at this site.	Public Buildings	<b>NWLO</b>	Lincoln	162.5	Rural
<b>Libby Creek/Ponderosa Plantation</b>	Site has several existing residential lease areas. Department will engage in planning activities and securing entitlements for marketing the parcel for future residential development.	Common Schools	<b>NWLO</b>	Lincoln	120	Rural
<b>Libby Golf Club area lands</b>	Site is adjacent to the Libby Golf Club. Department will be investigating potential for making some of this section available for future residential development.	Common Schools	<b>NWLO</b>	Lincoln	640	Rural
<b>Libby area lands</b>	Department will be investigating potential for development of future low density residential development in these two sections.	Common Schools	<b>NWLO</b>	Lincoln	800	Rural
<b>Libby area lands</b>	Department will be investigating potential for development of future low density residential development in this section.	Common Schools	<b>NWLO</b>	Lincoln	45.9	Rural
<b>Thompson Falls area lands</b>	Site is adjacent to existing Thompson Falls Golf Course. Department will review the site for potential commercial, developed recreation, and/or commercial development.	Common Schools	<b>NWLO</b>	Sanders	46	Rural
<b>Skyview Ridge Subdivision</b>	Mixed use development - Sell residential and lease commercial development.	Common Schools	<b>SLO</b>	Yellowstone	285	Urban
<b>Reserve Street</b>	Commercial/professional development - Marketing and maintenance.	Common Schools	<b>SWLO</b>	Missoula	2.8	Urban

## APPENDIX E: ADMINISTRATIVE RULES OF MONTANA 36.25.901 et seq.

### 36.25.901 DEFINITIONS

As used in this subchapter, the following definitions apply, except where the context clearly indicates otherwise:

- (1) "Board" means the state Board of Land Commissioners.
- (2) "Bureau" means the Real Estate Management Bureau of the Trust Lands Management Division of the Department of Natural Resources and Conservation.
- (3) "Cluster development" means a subdivision of a tract with building lots concentrated on a portion of the tract and the remainder conserved for open space.
- (4) "Commercial" means the operation by any for-profit entity of any public parking lot, restaurant, bar, hotel, motel, office space, retail store or sales outlet, storage space, gas station, convenience store, shopping center, warehouse, hospitality enterprise, or concentrated recreational use, multifamily residential use, or other similar uses.
- (5) "Conservation" means a primary land use for open space, preservation of habitat, natural areas, parks, or related public purposes, secured through dedication, lease, license, easement, deed restriction, or other legal instrument consistent with [77-1-203](#), MCA, for multiple use management.
- (6) "Conservation entity" means a public entity or private organization qualified per Title 76, chapter 6, MCA, to acquire or designate interests and rights in real property to provide or preserve open space.
- (7) "Department" means the Department of Natural Resources and Conservation.
- (8) "Developed" means when a building permit, septic permit, or a permit to connect to a public sewer system, whichever comes first, has been issued for 25 percent or more of the commercial, industrial, or residential lots of a subdivided tract. Developed also means a permit has been issued for the construction of a private sewer system.
- (9) "Division" means the Trust Land Management Division of the department.
- (10) "Easement" means land use authorization as defined in [77-2-101](#), MCA.
- (11) "Entitlement" means an approval or permit obtained from a local government that provides a right to annex, zone, or subdivide a tract of land.
- (12) "Environmental review" means a written document as defined in [75-1-220\(4\)](#), MCA.
- (13) "Growth policy" means a document adopted under Title 76, chapter 1, part 6, MCA.
- (14) "Industrial" means a land use that includes manufacturing, wholesaling, warehousing, utilities, heavy transportation, sanitary landfills, sewage treatment facilities, wind farms, feedlots, grain storage bins, irrigation facilities, reclamation projects, electrical substations, intermodal shipping facilities, and other uses.
- (15) "Isolated tract or land" means any state land not possessing a legal right of access by the public, as provided in [77-2-361\(1\)](#), MCA.
- (16) "Joint venture" means a partnership between the department and another entity or entities to undertake a development project, each contributing equity and sharing in the revenues, expenses, and control of the project.
- (17) "Land classification" means categorizing land according to its principal value, as defined in [77-1-401](#), MCA.
- (18) "Lease" means a contract by which the board conveys a limited property interest in state lands for a term of years, for a specified rental, and for a use for which the land is classified.
- (19) "License" means a contract by which the department conveys a limited property interest in state lands for a specific term and fee, and for a use other than that for which the land is classified.
- (20) "MEPA" means The Montana Environmental Policy Act, Title 75, chapter 1, parts 1 through 3, MCA.
- (21) "Other (land)" means a land classification that encompasses residential, commercial, industrial, and conservation uses.
- (22) "Public entity" means a federal agency, state agency, a political subdivision of the state including a county, city, town, municipal corporation, a school district or other special district, a joint agreement entity, a public authority, or any other public body of this or other state.
- (23) "Public facility" means a building or area operated by a public entity.
- (24) "Purchase of development rights" means acquiring one or more of the fee-simple interests associated with a parcel of land, such as the commercial or residential development rights.
- (25) "Rate of return" means the ratio of income received from a project relative to the value of the asset or equity contribution, expressed as a percentage.
- (26) "Real estate activities" means the following:
  - (a) land sales and land banking;
  - (b) land exchanges;
  - (c) issuance of easements;
  - (d) issuance of leases;
  - (e) issuance of land use licenses;
  - (f) marketing of state trust lands proposed for lease, license, or easement, sale, or exchange;
  - (g) requests for proposals;
  - (h) planning and design;

- (i) surveying and platting;
- (j) development of entitlements;
- (k) extension of services and infrastructure;
- (l) contracting for services;
- (m) environmental review; and
- (n) minor repairs, operation or maintenance of existing equipment, improvements, or facilities.

(27) "Real Estate Management Plan (plan)" means the PEIS for real estate for the department and the associated Record of Decision (ROD) approved July 18, 2005.

(28) "Real estate project" means a proposal initiated by the bureau to develop state trust land for a commercial, industrial, residential, or conservation use, or a public facility where no such use existed previously, when one or more of the following are required by a local government:

- (a) subdivision approval;
- (b) annexation; or

(c) development or amendment of a growth policy or neighborhood plan. Real estate project also means the development of entitlements on state trust lands proposed for sale or exchange.

(29) "Receiving area" means land that receives additional development rights from land within a sending area. This is a component of a program providing for the transfer of development rights.

(30) "Residential" means single family dwellings, duplexes, condominiums, townhouses, cabins, associated ancillary uses, or other types of residential uses.

(31) "Rural" means a tract that does not meet the criteria for an urban tract.

(32) "Sending area" means land that provides additional development rights to other land within a receiving area. This is a component of a program providing for the transfer of development rights.

(33) "Subdivision" means a division of land defined by Title 76, MCA.

(34) "Subdivision review" means a city, town, or county governing body evaluating a subdivision proposal for compliance with the jurisdiction's subdivision regulations.

(35) "Threshold" means a predefined number of state trust land acres to be developed for commercial, industrial, or residential uses that, if met before July 18, 2025, may require a review of the programmatic plan.

(36) "Tract" means a parcel of state trust land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office or in the department's records.

(37) "Transfer of development rights" means separating some or all of the development rights from a parcel of land in a "sending area" and transferring those rights to a parcel in a "receiving area," where additional development density is allowed.

(38) "Urban" means a tract meeting one or more of the following criteria:

- (a) within the boundaries of an incorporated city or town;
- (b) within 4.5 miles of the boundaries of an incorporated city or town;
- (c) within a public sewer or water district; or
- (d) within one mile of the boundaries of a public sewer or water district. An entire tract of state trust land is urban if any portion of the tract falls within an area described in (38)(a) through (d).

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-904](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.902 ACCOUNTABLE PARTIES**

(1) The board adopts the rules in this subchapter to provide the Trust Land Management Division of the Montana Department of Natural Resources and Conservation with consistent policy, direction, and guidance when selecting and implementing real estate projects on state trust lands.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-904](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.903 GENERAL APPLICABILITY**

(1) The Real Estate Management Plan (plan) rules, ARM [36.25.901](#) through [36.25.918](#), implement the Programmatic Environmental Impact Statement (PEIS) and the associated Record of Decision (ROD) adopted July 18, 2005.

(2) The rules apply to real estate projects, sales, and exchanges administered by the bureau on state trust lands, except for the following:

- (a) real estate projects that, prior to July 18, 2005, have been subject to public scoping and environmental review processes under MEPA, section [75-1-201](#), et seq., MCA;
- (b) real estate projects that received all local government approvals necessary for the completion of the real estate project on or before December 15, 2008;
- (c) lease lots created prior to July 18, 2005;

- (d) land use licenses;
  - (e) sales and exchanges closed on or before July 18, 2005; and
  - (f) real estate activities within navigable waterways of the state.
- (3) These rules remain in effect until July 18, 2025, whereupon they shall expire.

History: [77-1-209](#), [77-1-301](#), [77-1-603](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

#### **36.25.904 GENERAL DEVELOPMENT STANDARDS**

- (1) The department will actively pursue commercial, industrial, residential, and conservation uses to increase revenue on trust lands, through one or more of the following means:
- (a) targeting those tracts most suitable for development;
  - (b) improving entitlements on tracts selected for sale or development, when appropriate; or
  - (c) prioritizing projects with the highest financial return per acre.
- (2) The department will give priority to urban real estate projects over rural real estate projects using the following criteria:
- (a) financial rate of return per acre;
  - (b) funding availability; and
  - (c) the acres remaining in the development thresholds described in ARM [36.25.911](#).
- (3) The department will comply with local and state land use regulations. The department will apply the following development standards in selecting, prioritizing, designing, and implementing real estate projects on state trust lands:
- (a) real estate projects should be contiguous to or part of existing or proposed development;
  - (b) real estate projects in urban locations must connect to existing or planned public infrastructure and be designed to public standards, including alignment to adjoining public and private streets, that are consistent with local land use regulations;
  - (c) urban real estate projects should achieve urban densities consistent with local land use regulations;
  - (d) the department will promote mixed use in urban locations through planned-unit development or other means provided by local land-use regulations;
  - (e) the department will utilize local land use planning and regulatory processes to involve the general public and beneficiaries in developing state trust lands for commercial, industrial, residential, and conservation uses;
  - (f) the department will coordinate environmental review with local regulatory review;
  - (g) the department may use or promote purchase of development rights, transfer of development rights, cluster development, joint ventures, or other measures as provided by law;
  - (h) the department will coordinate with local communities, other state and federal agencies, conservation agencies, and other interest groups to provide for notice and review as necessary; and
  - (i) the department will exclude from consideration, or employ necessary measures to avoid, minimize, or mitigate impacts potentially resulting from commercial, industrial, and residential real estate projects:
    - (i) on slopes greater than 25 percent;
    - (ii) in a designated 100-year floodplain or wetland. The department will avoid adverse impacts in the floodplain. Adverse impacts will be determined by the department through an environmental review in compliance with Title 75, chapter 1, MCA;
    - (iii) that potentially affect federally listed threatened and endangered species or designated critical habitat; and
    - (iv) in a designated wildland-urban interface or area of high wildfire hazard.
- (4) Any commercial, industrial, or residential lease expected to generate annual revenue in excess of \$50,000 may not be issued without the board's prior approval.
- (a) The board delegates its authority to the department to issue commercial or industrial leases expected to generate \$50,000 or less annually, but the board reserves the authority to subsequently review the issuance of such leases.
- (5) Development in rural areas will include commercial resorts, development for public purposes such as sewer or water, natural resource based development, and conservation opportunities. Other unique development opportunities may be considered when the intended uses:
- (a) provide infill opportunities;
  - (b) are contiguous to existing development;
  - (c) are or can be located within a sewer or water utility service area;
  - (d) add value to the existing uses;
  - (e) demonstrate economic viability and conform to applicable development standards; or
  - (f) limit development to not more than 25 percent of a tract while the remainder of the tract is designated for conservation through an easement, deed restriction, or dedication at final subdivision approval.

History: [77-1-209](#), [77-1-301](#), [77-1-603](#), MCA; [IMP](#), [77-1-605](#), [77-1-904](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.905 PROJECT EVALUATION, REVIEW, AND SELECTION PROCESS**

(1) ARM [36.25.906](#) through [36.25.910](#) describe the evaluation, review, and selection process for real estate projects on state trust lands.

(2) The department will require ARM [36.25.906](#) through [36.25.910](#) for real estate projects approved by the project identification team after December 25, 2008.

(3) The department will not require ARM [36.25.906](#) through [36.25.910](#) for an individual real estate activity that is associated with a previously approved real estate project.

History: [77-1-209](#), [77-1-301](#), [77-1-603](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.906 SITE-SPECIFIC EVALUATION**

(1) The department will conduct a site-specific evaluation to assess the suitability of a tract or portion of a tract proposed for a real estate project. The site-specific evaluation will include the following factors:

- (a) unique or sensitive biological and physical features;
- (b) topography;
- (c) influence of floodplains and/or wetlands;
- (d) hazardous geologic conditions;
- (e) known cultural or historic features through a preliminary cultural survey;
- (f) proximity to other public lands or private lands under conservation easement, as documented by information in the Montana Natural Heritage Program database or similar source;
- (g) water availability and water rights;
- (h) existing and required access;
- (i) the location and quality of infrastructure, such as roads, utilities, power, telephone, public water, or sewer availability;
- (j) any existing encumbrances;
- (k) proximity to community infrastructure and utilities;
- (l) other nearby residential, industrial, or commercial development, proposed or existing; and
- (m) wildland fire hazards and available fire protection.

(2) The department will analyze federal, state, and local land-use regulations, plans, and policies, for their relationship to the proposed real estate project. This analysis must identify existing entitlements and any entitlements that must be acquired for the proposed real estate project to achieve the highest return.

(3) The department may conduct a market analysis for a parcel proposed for commercial, industrial, residential, or conservation use. At minimum, the market analysis must identify:

- (a) the size of the current and future market;
- (b) market-growth trends, historic and future; and
- (c) expected rate of return.

History: [77-1-209](#), [77-1-301](#), [77-1-603](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.907 SITE SELECTION REPORT**

(1) Field staff will develop a site selection report for each real estate project proposal that will include these elements:

- (a) how the proposed real estate project conforms to the standards in ARM [36.25.904](#);
- (b) description of the proposed real estate project, including proposed land use, density, existing and proposed entitlements, required infrastructure improvements, local regulatory approval required, and potential rates of return from the real estate project, if implemented;
- (c) how the proposed real estate project relates to ARM [36.25.911](#) and [36.25.912](#);
- (d) results of the site-specific evaluation;
- (e) estimate of the costs and timeline for the proposed real estate project; and
- (f) how the proposed real estate project integrates with other trust land management projects or programs.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.908 PROJECT IDENTIFICATION TEAM AND PROJECT REVIEW COMMITTEE**

(1) The department will form a project identification team comprised of bureau staff and field representatives. The project identification team will meet annually, at minimum. The duties of the project identification team will include:

- (a) reviewing and selecting real estate projects proposed by field staff;
- (b) reviewing the status of previously selected real estate projects;
- (c) canceling previously selected real estate projects; and
- (d) assigning resources.

(2) The project identification team will select real estate projects based upon review of the site selection reports developed by field staff under ARM [36.25.907](#), in consideration of the following criteria:

- (a) conformance to the standards in ARM [36.25.904](#);
- (b) relationship to ARM [36.25.911](#) and [36.25.912](#);
- (c) results of the site-specific evaluation;
- (d) results of the market analysis, as described in ARM [36.25.906](#)(3);
- (e) staffing and funding needs and limitations;
- (f) project complexity;
- (g) project timeline; and
- (h) how the proposed real estate project integrates with other trust land management projects or programs.

(3) The department will form a project review committee, comprised of bureau staff and planning and land use staff from each area office. The project review committee will meet annually, at minimum. The duties of the project review committee will generally include:

- (a) reviewing the status of previously selected real estate projects;
- (b) assessing resource needs of real estate projects; and
- (c) recommending project proposals to the real estate project identification team.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

#### **36.25.909 PROJECT MANAGEMENT LIST**

(1) The department will create a project management list of the real estate projects selected by the project identification team. The list will identify new real estate projects, existing or previously approved real estate projects, and canceled real estate projects.

(2) The department will create and maintain a list of persons, conservation entities, and other organizations interested in receiving notice of new real estate projects.

(3) Within 30 days of the project identification team's selection of new real estate projects, the department will:

(a) provide the project management list to the board;

(b) provide a list of new real estate projects to interested persons who have made a request to the department to be informed of new real estate projects; and

(c) post the project management list on the department's web site.

(4) The department will notify affected lessees and licensees and local governments having jurisdiction over the area of a selected real estate project.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

#### **36.25.910 NOTIFICATION OF CONSERVATION INTEREST**

(1) After providing notice of new real estate projects pursuant to ARM [36.25.909](#), the department shall allow conservation entities 60 days in which to propose a conservation use of those lands by issuing a letter of intent to the department. By such a letter of intent, an entity may seek to secure for conservation uses any tract or portion of a tract proposed by the project identification team for a residential, industrial, or commercial use.

(2) A conservation entity submitting a letter of conservation intent during the 60 days has an additional 45 days in which to apply to the department for a lease, license, easement, or other approved legal instrument to secure conservation use, as approved by the department. The 45 days begin on the day following the last day of the 60-day period. An entity applying within the 45-day period has 12 months to secure conservation use. The department may extend the 12 month period.

(a) Issuance of a conservation lease, license, or easement shall be made pursuant to Article X, section 11 of the Montana Constitution. The department reserves the right to approve or deny a proposal for a conservation use.

(b) The department may require bonding, letter of credit, or nonrefundable deposit as part of the application for a conservation use.

(3) Any real estate project on the project management list may proceed forward if:

(a) the department receives no letter of intent within the 60-day period;

(b) a conservation entity submits a letter of intent within the 60 days but fails to apply to the department within the subsequent 45 days; or

(c) a conservation entity submits a letter of intent and application within the applicable periods but fails to secure conservation use on the subject property within 12 months, unless the department has granted an extension.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.911 NEW DEVELOPMENT THRESHOLDS**

(1) The statewide threshold is 30,000 acres. The department will conduct a review of the plan as specified in ARM [36.25.914](#)(2) if the aggregate acreage of real estate projects, sales, and exchanges meeting the criteria described in ARM [36.25.916](#)(2) exceeds the statewide threshold, or is anticipated to exceed the statewide threshold during the term of the programmatic plan.

(a) Five percent of the statewide threshold, termed the rural threshold, is allocated for rural real estate projects, sales, and exchanges. The rural threshold is 1500 acres. The department will conduct a review of the programmatic plan as specified in ARM [36.25.914](#)(2) if the aggregate acreage of real estate projects, sales, and exchanges in rural areas meeting the criteria described in ARM [36.25.916](#)(2) exceeds the rural threshold or is anticipated to exceed the rural threshold during the term of the programmatic plan.

(2) The following, unless otherwise exempted in ARM [36.25.912](#), will count toward the applicable thresholds in (1) and (1)(a):

(a) tracts leased or under easement for commercial and industrial uses;

(b) tracts leased or under easement for residential uses at a density greater than one residential unit per 25 acres;

(c) tracts disposed of through sale or exchange and developed within five years following sale for a commercial or industrial use; and

(d) tracts disposed of through sale or exchange and subdivided within five years following sale for residential use where the planned density is greater than one residential unit per 25 acres.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.912 NEW DEVELOPMENT THRESHOLD EXEMPTIONS**

(1) An urban tract meeting any one of the following criteria will be exempt from the statewide threshold in ARM [36.25.911](#)(1). A rural tract meeting any one of the following criteria will be exempt from the rural threshold in ARM [36.25.911](#)(1)(a) and the statewide threshold in ARM [36.25.911](#)(1):

(a) leases, sales, exchanges, and easements to a public entity, for a public facility, community service, public benefit, or for a private sewer or water system;

(b) acres under lease or easement for communications facilities, or for wind, geothermal, or solar power generation;

(c) acres under easement for public or private rights-of-way;

(d) a tract developed for commercial, residential, or industrial uses through lease or easement or following sale or exchange, whereby such uses are clustered on not more than 25 percent of a tract and the remainder of the tract is designated for conservation in perpetuity through an easement, deed restriction, or dedication upon final subdivision approval;

(e) a tract developed for residential lease or easement, or disposed of through sale or exchange, with restrictions limiting residential density to one residential unit per 25 acres;

(f) a tract sold or exchanged and not developed until after five years following the sale closing date;

(g) an isolated tract sold or exchanged except in Beaverhead, Broadwater, Carbon, Cascade, Flathead, Gallatin, Lewis and Clark, Lake, Madison, Missoula, Park, Powell, Ravalli, Stillwater, Sweet Grass, Teton, and Yellowstone counties;

(h) acres dedicated for conservation upon final subdivision approval review in excess of minimum state or local subdivision requirements;

(i) a tract within a receiving area established by a local jurisdiction as part of a transfer of development rights program, and developed for commercial, industrial, or residential use by means of development rights permanently transferred from land in the sending area; and

(j) a tract developed for residential use at a density greater than one unit per 25 acres when the potential density of one or more additional tracts is reduced in perpetuity by an equal or greater amount, such that the combined development density of all tracts is not greater than one unit per 25 acres. This exemption applies to lands for lease, easement, exchange, or sale, and includes lands receiving final subdivision approval within five years following sale.

(2) A rural tract that is not otherwise exempt from the rural and statewide threshold as provided in (1) will be exempt from the rural threshold but will still count toward the statewide threshold when one of the following criteria are met:

(a) the tract is developed consistent with zoning adopted by the county's governing body in compliance with Title 76, chapter 2, part 1 or part 2, MCA; or

(b) the developed use meets all of the following:

(i) provides infill opportunities;

(ii) is contiguous to existing development;

(iii) is or can be located within a sewer or water utility service area;

(iv) adds value to existing uses;

(v) demonstrates economic viability; and

(vi) conforms to the development standards in ARM [36.25.904](#).

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.913 ACCOUNTING AND REPORTING**

(1) The department will account for real estate management activities that meet ARM [36.25.910](#) and [36.25.912](#). In addition, the department will account for the following:

(a) acres under commercial, industrial, or residential lease where no commercial, industrial, or residential lease existed previously;

(b) acres under easement for commercial, industrial, or residential use;

(c) nonisolated tracts sold and developed for a commercial, industrial, or residential use within five years of sale;

(d) tracts acquired with existing commercial, industrial, or residential development;

(e) tracts, or portions of tracts, encumbered or purchased with an existing conservation lease, license, easement, or other means of securing conservation uses;

(f) nonisolated tracts sold and encumbered with a restriction on development for conservation uses within five years of sale;

(g) acres dedicated as open space during subdivision review in excess of minimum requirement; and

(h) acres designated as "Natural Area" per Title 77, chapter 12, part 1, MCA.

(2) The department may account for other land use, development, and disposition in other department documentation, such as annual reports.

(3) The department will report the results of the accounting to the board by August 2010 and every five years thereafter.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.914 MANAGEMENT OF THE REAL ESTATE MANAGEMENT PLAN**

(1) In July 2010 and every five years thereafter, the bureau will issue a report upon the implementation and effectiveness of the plan, including a recommendation on the need for significant changes to the plan.

(2) Upon review of such reports, the board or the department may consider a review of the programmatic plan for any of the following reasons:

(a) the thresholds in ARM [36.25.911](#)(1) or (1)(a) have been exceeded;

(b) new legislation is adopted that is incompatible with the selected alternative;

(c) the board provides new direction; or

(d) the Trust Land Management Division administrator judges that the original assumptions supporting the plan no longer apply.

(3) The department may implement and initiate real estate projects during a review of the programmatic plan pursuant to ARM [36.2.537](#).

(4) The department may make minor changes or additions to the plan without a review of the entire programmatic plan, as long as those changes are compatible with the overall plan, as determined by the department.

(a) Cumulative minor changes may result in the department's review of the programmatic plan.

History: [77-1-209](#), [77-1-301](#), [77-1-603](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.915 MINIMUM LEASE CALCULATION**

(1) Pursuant to [77-1-905](#)(2), MCA, the department will set the minimum annual rent for any commercial lease to obtain the full market value of that lease. Such rental shall be at a rate not less than the product of the appraised value of the land multiplied by a rate that is two percentage points a year less than the current federally-guaranteed, annual, 20-year bond rate provided by the Montana Board of Investments commercial loan rate sheet.

For the purpose of calculating the minimum annual rent, the department may round the 20-year rate to the nearest whole number.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), [77-1-912](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.916 DELEGATION OF AUTHORITY TO DEPARTMENT FOR SURVEYING, PLATTING, AND EXACTIONS**

(1) The board delegates to the department, subject to its review, its authority under [77-1-301](#), [77-2-309](#), and [77-2-310](#), MCA, to determine whether it is in the best interest of the trust beneficiaries to survey, plat, or create blocks and lots of state lands prior to sale.

(2) The board delegates to the department, consistent with the board's fiduciary duties and subject to the board's review, its authority to agree to exactions, conditions, restrictions, or fees imposed as a result of zoning, annexation, subdivision, or building permit approval processes within Title 7, 50, 67, or 76, MCA, or local land use regulations.

History: [77-1-301](#), [77-1-309](#), [77-1-310](#), MCA; [IMP](#), [77-1-301](#), [77-1-309](#), [77-1-310](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08

### **36.25.917 APPRAISAL OF LAND PRIOR TO LEASE OR EASEMENT**

(1) The value of a parcel under consideration for lease or issuance of an easement shall be determined through an appraisal or limited valuation.

(2) An appraisal must include state-owned improvements in the valuation and use comparable sales for like-properties. The department may conduct an appraisal or appraisal update; or the department may contract with a Montana-licensed certified general appraiser. The department shall review and approve an appraisal or appraisal update conducted by a contract appraiser.

(3) A limited valuation is an estimation of value through other means which may include:

- (a) the department's fee schedule;
- (b) a survey of real estate appraisers, local tax assessors, or local realtors; or
- (c) an evaluation of local rents or local market fees.

(4) An appraisal or limited valuation must be updated, or the parcel reappraised:

- (a) where issuing a lease, if the appraisal or limited valuation is older than two years; and
- (b) where issuing an easement, if the appraisal or limited valuation is older than one year. An appraisal or limited valuation may be updated or the parcel reappraised earlier than as required in (4)(a) and this subsection.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.

### **36.25.918 CATEGORICAL EXCLUSIONS**

(1) Pursuant to [77-1-121](#), MCA, and ARM [36.2.523](#)(5), the board adopts the following additional categorical exclusions for real estate management activities conducted upon state trust lands:

- (a) lease and license administration including review, inspection, amendments, assignments, renewals, and enforcement of terms and conditions;
- (b) department review and approval of lease or license modifications, improvements, removal of improvements, and new utility service connections, consistent with applicable regulations;
- (c) adjustments to the boundaries of existing leases or licenses, consistent with applicable regulations;
- (d) project planning and design;
- (e) project evaluation under ARM [36.25.906](#);
- (f) development of a site selection report under ARM [36.25.907](#);
- (g) project selection under ARM [36.25.908](#);
- (h) development of the project management list under ARM [36.25.909](#);
- (i) marketing of state trust lands proposed for lease, license, or easement;
- (j) short-term land use licenses, involving no resource extraction or developed uses, and conforming to local permitting and land use regulations;
- (k) other real estate management activities administered by the bureau on state trust lands that are not in connection to:
  - (i) a department proposal for a sale, exchange, easement, placement of improvement, lease, license, or permit;or
  - (ii) a department review of an application for authorization of a sale, exchange, easement, placement of improvement, lease, license, or permit;
  - (l) department request to amend a local growth policy or zoning regulation;

- (m) department request to amend or develop a neighborhood plan or extension of services plan;
- (n) annexation; and
- (o) land acquisition. Categorical exclusions include activities on state trust lands conducted by others under the authority of the department as well as activities conducted by the department itself.

(2) Categorical exclusions shall not apply in extraordinary circumstances where the bureau is proposing an activity:

- (a) upon sites with high erosion risk;
- (b) where critical habitat for federally listed threatened and endangered species may be affected;
- (c) where Native American religious and cultural sites may be affected;
- (d) where archaeological sites may be affected;
- (e) where historic properties and areas may be affected;
- (f) where several related categorically-excluded individual activities may cumulatively result in significant impacts to the human environment because they will either occur closely in time, or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review; or
- (g) where the activity would result in a violation of any applicable local, state, or federal laws or regulations.

History: [77-1-209](#), [77-1-301](#), MCA; [IMP](#), [75-1-201](#), [77-1-121](#), [77-1-605](#), [77-1-903](#), MCA; [NEW](#), 2008 MAR p. 2645, Eff. 12/25/08.