

1 HOUSE BILL NO. 324

2 INTRODUCED BY N. FRITZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADDING HOUSING AFFORDABILITY TO THE PRIMARY CRITERIA
5 FOR REVIEW OF SUBDIVISIONS UNDER THE MONTANA SUBDIVISION AND PLATTING ACT, TO THE
6 CRITERIA THAT MUST BE ADDRESSED IN AN ENVIRONMENTAL ASSESSMENT FOR A SUBDIVISION,
7 TO THE CRITERIA THAT MUST BE DEFINED AND DISCUSSED IN A GROWTH POLICY, AND TO THE
8 CRITERIA THAT MAY BE EXEMPT FROM SUBDIVISION REVIEW REQUIREMENTS UNDER CERTAIN
9 CONDITIONS; AND AMENDING SECTION 76-3-608, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 76-3-608, MCA, is amended to read:

14 **"76-3-608. Criteria for local government review.** (1) The basis for the governing body's decision to
15 approve, conditionally approve, or disapprove a subdivision is whether the preliminary plat, applicable
16 environmental assessment, public hearing, planning board recommendations, or additional information
17 demonstrates that development of the subdivision meets the requirements of this chapter. A governing body may
18 not deny approval of a subdivision based solely on the subdivision's impacts on educational services.

19 (2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as
20 applicable.

21 (3) A subdivision proposal must undergo review for the following primary criteria:

22 (a) except when the governing body has established an exemption pursuant to subsection (7) of this
23 section or except as provided in 76-3-505 and 76-3-509, the effect on agriculture, agricultural water user
24 facilities, local services, the natural environment, wildlife and wildlife habitat, housing affordability, and public
25 health and safety;

26 (b) compliance with:

27 (i) the survey requirements provided for in part 4 of this chapter;

28 (ii) the local subdivision regulations provided for in part 5 of this chapter; and

29 (iii) the local subdivision review procedure provided for in this part;

30 (c) the provision of easements for the location and installation of any planned utilities; and

1 (d) the provision of legal and physical access to each parcel within the subdivision and the required
2 notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

3 (4) The governing body may require the subdivider to design the subdivision to reasonably minimize
4 potentially significant adverse impacts identified through the review required under subsection (3). The governing
5 body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

6 (5) (a) In reviewing a subdivision under subsection (3) and when requiring mitigation under subsection
7 (4), a governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized
8 that in some instances the unmitigated impacts of a proposed development may be unacceptable and will
9 preclude approval of the plat.

10 (b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider
11 and shall give due weight and consideration to the expressed preference of the subdivider.

12 (6) (a) When a minor subdivision is proposed in an area where a growth policy has been adopted
13 pursuant to chapter 1 and the proposed subdivision will comply with the growth policy, the subdivision is exempt
14 from the review criteria contained in subsection (3)(a) but is subject to applicable zoning regulations.

15 (b) In order for a growth policy to serve as the basis for the exemption provided by this subsection (6),
16 the growth policy must meet the requirements of 76-1-601.

17 (7) The governing body may exempt subdivisions that are entirely within the boundaries of designated
18 geographic areas from the review criteria in subsection (3)(a) if all of the following requirements have been met:

19 (a) the governing body has adopted a growth policy pursuant to chapter 1 that:

20 (i) addresses the criteria in subsection (3)(a);

21 (ii) evaluates the effect of subdivision on the criteria in subsection (3)(a);

22 (iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a);

23 and

24 (iv) identifies one or more geographic areas where the governing body intends to authorize an
25 exemption from review of the criteria in subsection (3)(a); and

26 (b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:

27 (i) apply to the entire area subject to the exemption; and

28 (ii) address the criteria in subsection (3)(a), as described in the growth policy."

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