

Exhibit Number: 10

The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.

SENATE BILL NO. 116

INTRODUCED BY R. LAIBLE

BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LOCAL GOVERNMENT REVIEW OF PROPOSED SUBDIVISIONS; CREATING DEFINITIONS OF "MINOR SUBDIVISION" AND "PUBLIC UTILITY"; REQUIRING LOCAL SUBDIVISION REGULATIONS TO LIST MATERIALS REQUIRED IN A SUBDIVISION APPLICATION; REQUIRING THE REGULATIONS TO ADDRESS MULTIPLE HEARINGS; REQUIRING THE REGULATIONS TO ESTABLISH EVASION CRITERIA AND PROVIDE FOR AN APPEALS PROCESS; REQUIRING THE REGULATIONS TO ESTABLISH A PREAPPLICATION PROCESS; ESTABLISHING A COMPLETENESS REVIEW FOR THE APPLICATION AND REVIEW FOR ~~ADEQUACY~~ SUFFICIENCY OF INFORMATION AND PROVIDING DEADLINES FOR THOSE REVIEWS; PROVIDING A PROCEDURE FOR MULTIPLE HEARINGS WHEN NEW INFORMATION IS PRESENTED TO A GOVERNING BODY; REVISING THE REVIEW PROCEDURE FOR FIRST AND SUBSEQUENT MINOR SUBDIVISIONS FROM A TRACT OF RECORD, ALLOWING FOR EXPEDITED REVIEW OF MINOR SUBDIVISIONS, AND ALLOWING A GOVERNING BODY TO ADOPT REGULATIONS SPECIFIC TO MINOR SUBDIVISIONS; REQUIRING THAT ANY DECISION BY A GOVERNING BODY ON A PROPOSED SUBDIVISION BE ACCOMPANIED BY INFORMATION ON THE APPEALS PROCESS, THE RELEVANT REGULATIONS AND STATUTES, DATA THE GOVERNING BODY USED TO MAKE ITS DECISION, AND CONDITIONS THAT APPLY IF APPROVAL IS CONDITIONAL; AMENDING SECTIONS 76-3-103, 76-3-501, 76-3-504, 76-3-601, 76-3-602, 76-3-603, 76-3-604, 76-3-605, 76-3-608, 76-3-609, 76-3-610, 76-3-620, 76-3-625, AND 76-4-127, MCA; REPEALING SECTION 76-3-505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY ~~DATE~~ DATES."

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

Section 1. Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) ~~"Irregularly shaped tract of land" means a parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.~~ "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

~~(13) "Registered land surveyor" means a person licensed in conformance with Title 37, chapter 67, to practice surveying in the state of Montana. "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23.~~

~~(14) "Registered professional engineer" means a person licensed in conformance with Title 37, chapter 67, to practice engineering in the state of Montana.~~

~~(15)~~(14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

~~(16)~~(15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

~~(17)~~(16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, 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.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection ~~(17)(b)(i)~~ (16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of

the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

Section 2. Section 76-3-501, MCA, is amended to read:

"76-3-501. Local subdivision regulations. ~~(1) Before July 1, 1974, the~~ The governing body of every county, city, and town shall adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for:

- (1) the orderly development of their jurisdictional areas; ~~for~~
- (2) the coordination of roads within subdivided land with other roads, both existing and planned; ~~for~~
- (3) the dedication of land for roadways and for public utility easements; ~~for~~
- (4) the improvement of roads; ~~for~~
- (5) the provision of adequate open spaces for travel, light, air, and recreation; ~~for~~
- (6) the provision of adequate transportation, water, and drainage;
- (7) subject to the provisions of 76-3-511, ~~for~~ the regulation of sanitary facilities; ~~for~~
- (8) the avoidance or minimization of congestion; and ~~for~~
- (9) the avoidance of ~~subdivision which~~ subdivisions that would involve unnecessary environmental degradation and ~~the avoidance of~~ danger of injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of ~~such~~ the services.

~~(2) Review and approval or disapproval of a subdivision under this chapter may occur only under those regulations in effect at the time an application for approval of a preliminary plat or for an extension under 76-3-610 is submitted to the governing body."~~

Section 3. Section 76-3-504, MCA, is amended to read:

"76-3-504. Subdivision regulations -- contents. (1) The subdivision regulations adopted under this chapter must, at a minimum:

- (a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);
- (b) except as provided in 76-3-210, 76-3-509, or 76-3-609~~(3)~~, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;
- ~~(b)(c)~~ establish procedures consistent with this chapter for the submission and review of subdivision

plats applications and amended applications;

~~(e)~~(d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

~~(d)~~(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;

~~(e)~~(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

~~(f)~~(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that, ~~at a minimum,~~ meet the regulations adopted by the department of environmental quality under 76-4-104;

(iv) the location and installation of public utilities;

~~(g)~~(h) provide procedures for the administration of the park and open-space requirements of this chapter;

~~(h)~~(i) provide for the review of preliminary plats subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection ~~(1)(e)~~ (1)(g) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the plat application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of ~~a plat an application~~ may not be a basis for rejection of the plat application by the governing body.

~~(i)~~(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of