

Amendments to Senate Bill No. 201
1st Reading Copy

Requested by Senator Rick Laible

For the Senate Local Government Committee

Prepared by Leanne Heisel

March 13, 2007 (2:18pm)

1. Title, line 6.

Strike: "REQUIRING" through "POLICIES;"

2. Title, lines 8 and 9.

Strike: "REQUIRING" on line 8 through "AND" on line 9**Strike:** "60-2-110," on line 9

3. Title, line 10.

Strike: "76-2-101" through "76-3-301,"**Insert:** "76-3-605,"**Following:** "73-3-608,"**Strike:** "85-1-612, AND 90-6-710,"**Insert:** "AND 73-6-609,"**Following:** "MCA"**Insert:** "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 1, line 14 through page 2, line 5.

Strike: section 1 in its entirety**Renumber:** subsequent sections

5. Page 2, line 19.

Following: "incentives"**Insert:** "may"

6. Page 2, line 20.

Strike: "reductions in utility hookup fees,"

7. Page 3, line 16.

Strike: ", including" through "services"

8. Page 3, lines 18 and 19.

Strike: "threats" on line 18 through "(viii)" on line 19

9. Page 3, line 20.

Strike: "(ix)"**Insert:** "(viii)"

10. Page 3, line 22.

Strike: ", in maps and text,"

11. Page 3, line 27.

Strike: ", including" through "services"

12. Page 3, line 28 through line 30.

Strike: "public" on line 28 through "(viii)" on line 30

13. Page 4, line 1.

Strike: "(ix)"

Insert: "(vii)"

14. Page 4, line 2.

Strike: "land" through "incentives,"

15. Page 4, line 4.

Strike: "and" through "chapter"

16. Page 4, line 5.

Strike: ", in maps and text,"

17. Page 4, line 18.

Strike: "and with neighboring counties"

18. Page 5, line 21.

Strike: "schools"

Insert: "public access areas"

19. Page 6, line 2.

Strike: ", schooling, and school busing"

20. Page 6, line 4.

Following: " ; "

Strike: "and"

21. Page 6.

Following: line 6

Insert: "(G) agricultural lands and agricultural production; and"

22. Page 6, lines 12 and 13.

Strike: "that" on line 12 through "or" on line 13

Following: "adopting" on line 13

Insert: "or that have adopted"

23. Page 6, line 14.

Following: "assess"

Insert: "planning"

24. Page 6, line 15.

Following: "The"

Insert: "planning"

Following: "law"

Insert: "and may be collected as part of either subdivision applications or zoning permits"

25. Page 6, line 19 through page 10, line 13.

Strike: section 5 through section 8 in their entirety

Insert: "NEW SECTION. **Section 4. Subdivisions in public interest -- exemptions.** (1) A subdivision that is considered to be in the public interest pursuant to subsection (2) is exempt from the following requirements:

- (a) preparation of an environmental assessment;
- (b) a public hearing on the subdivision application pursuant to 76-3-605; and
- (c) review of the subdivision for the criteria listed in 76-3-608(3) (a).

(2) A subdivision that meets all of the following criteria is considered to be in the public interest:

- (a) the proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of 76-1-601(4) (c);
- (b) the proposed subdivision is entirely within an area subject to zoning adopted pursuant to 76-2-203 or 76-2-304 that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4) (c); and
- (c) the subdivision proposal includes a description of future public facilities and services, using maps and text, that are necessary to efficiently serve the projected development."

Insert: "**Section 5.** Section 76-3-605, MCA, is amended to read:

"76-3-605. Hearing on subdivision application. (1) Except as provided in 76-3-609 [and section 4] and subject to the regulations adopted pursuant to 76-3-504(1) (o) and 76-3-615, at least one public hearing on the subdivision application must be held by the governing body, its authorized agent or agency, or both and the governing body, its authorized agent or agency, or both shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment if required, to determine whether the subdivision application should be approved, conditionally approved, or denied by the governing body.

(2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the subdivision application and annexation whenever possible.

(3) Notice of the hearing must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the

land included in the preliminary plat must also be notified of the hearing by registered or certified mail not less than 15 days prior to the date of the hearing.

(4) When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or denial of the proposed subdivision. This recommendation must be submitted to the governing body in writing not later than 10 working days after the public hearing."

{Internal References to 76-3-605:

76-3-504x

76-3-601x

76-3-609x

76-3-609x

76-3-615x

76-3-615x}

Renumber: subsequent sections

26. Page 10, line 26.

Following: "~~section or~~"

Insert: "except when the governing body has established an exemption pursuant to subsection (6) of this section or"

Following: "76-3-509"

Strike: "or in"

Insert: ", [section 4], or"

Strike: "adverse impacts"

Insert: "the impact"

27. Page 11, line 7.

Following: "significant"

Insert: "significant"

28. Page 11.

Following: line 26

Insert: "(6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in subsection (3) (a) if all of the following requirements have been met:

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

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

(ii) evaluates the impact of development on the criteria in subsection (3) (a);

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

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

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

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

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

Renumber: subsequent subsection

29. Page 12, line 2 through page 13, line 22.

Strike: section 10 through section 12 in their entirety

Insert: "Section 7. Section 76-3-609, MCA, is amended to read:

"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application -- governing body to adopt regulations. (1) Minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review period, not to exceed 1 year.

(c) Except as provided in subsection (2)(d)(iii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

(d) The following requirements do not apply to the first minor subdivision from a tract of record as provided in subsection (2):

(i) the requirement to prepare an environmental assessment;

(ii) the requirement to hold a hearing on the subdivision application pursuant to 76-3-605; and

(iii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

(i) 76-3-608(3); and

(ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(3) Except as provided in [section 4] and subsection (4) of

this section, any minor subdivision that is not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and 76-3-620.

(4) The governing body may adopt subdivision regulations that establish requirements for review of subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as provided in subsection (2) and this chapter.

(5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the period that the application is reviewed for required elements and sufficient information, the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

{Internal References to 76-3-609:

76-3-504x 76-3-601*x 76-3-603x 76-3-605a
76-3-608a 76-3-620x}"

Renumber: subsequent sections

30. Page 13, line 24.

Following: "instruction."

Insert: "(1)"

Strike: "4"

Insert: "3"

31. Page 13, line 25.

Following: "section"

Strike: "4"

Insert: "3"

32. Page 13.

Following: line 25

Insert: "(2) [Section 4] is intended to be codified as an integral part of Title 76, chapter 3, part 6, and the provisions of Title 76, chapter 3, part 6, apply to [section 4]."

Insert: "NEW SECTION. Section 9. {standard} Effective date. [This act] is effective on passage and approval."

- END -