

HOUSE BILL NO. 519

INTRODUCED BY M. REINHART

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEADLINES FOR THE REVIEW OF A MAJOR OR MINOR SUBDIVISION APPLICATION; AND AMENDING SECTIONS 76-3-604, 76-3-609, AND 76-3-615, MCA."

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

Section 1. Section 76-3-604, MCA, is amended to read:

"76-3-604. Review of subdivision application -- review for required elements and sufficiency of information. (1) (a) Within ~~5~~ 10 working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2) (a) Within ~~45~~ 30 working days after the reviewing agent or agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency or the governing body to request additional information during the review process.

1 (3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

2 (a) a determination is made that the application contains the required elements and sufficient information;

3 and

4 (b) the subdivider or the subdivider's agent is notified.

5 (4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an
6 application contains sufficient information as provided in subsection (2);

7 (a) the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60
8 75 working days; based on its determination of whether the application conforms to the provisions of this chapter
9 and to the local regulations adopted pursuant to this chapter; unless:

10 ~~(a)(i)~~ (i) the subdivider and the reviewing agent or agency agree to an extension or suspension of the
11 review period, not to exceed 1 year; or

12 ~~(b)(ii)~~ (ii) a subsequent public hearing is scheduled and held as provided in 76-3-615; or

13 (b) (i) the governing body has 75 working days to review the application before the first public hearing
14 is held pursuant to 76-3-605 if the application includes an application for zoning, rezoning, annexation, or any
15 combination of these applications; and

16 (ii) the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60
17 working days after the first public hearing based on the local governing body determination of whether the
18 application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this
19 chapter; or

20 (iii) if a subsequent public hearing is held, the governing body shall act within the timelines established
21 in 76-3-615.

22 (5) If the governing body denies or conditionally approves the proposed subdivision, it shall send the
23 subdivider a letter, with the appropriate signature, that complies with the provisions of 76-3-620.

24 (6) (a) The governing body shall collect public comment submitted at a hearing or hearings regarding
25 the information presented pursuant to 76-3-622 and shall make any comments submitted or a summary of the
26 comments submitted available to the subdivider within 30 days after conditional approval or approval of the
27 subdivision application and preliminary plat.

28 (b) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the
29 comments or the summary provided by the governing body to the:

30 (i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more

1 parcels containing less than 20 acres; and

2 (ii) local health department or board of health for proposed subdivisions that will create one or more
3 parcels containing 20 acres or more and less than 160 acres.

4 (7) (a) For a proposed subdivision that will create one or more parcels containing less than 20 acres,
5 the governing body may require approval by the department of environmental quality as a condition of approval
6 of the final plat.

7 (b) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the
8 governing body may condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622,
9 that there is an adequate water source and at least one area for a septic system and a replacement drainfield
10 for each lot.

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

14 (b) If regulations change during the review periods provided in subsections (1) and (2), the determination
15 of whether the application contains the required elements and sufficient information must be based on the new
16 regulations."

17

18 **Section 2.** Section 76-3-609, MCA, is amended to read:

19 **"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application**
20 **-- governing body to adopt regulations.** (1) Minor subdivisions must be reviewed as provided in this section
21 and subject to the applicable local regulations adopted pursuant to 76-3-504.

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

27 (a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or
28 deny the first minor subdivision from a tract of record within ~~35~~ 50 working days of a determination by the
29 reviewing agent or agency that the application contains required elements and sufficient information for review.
30 The determination and notification to the subdivider must be made in the same manner as is provided in

1 76-3-604(1) through (3).

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

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

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

8 (i) the requirement to prepare an environmental assessment;

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

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

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

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

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

18 (3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is not
19 a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision
20 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
21 76-3-620.

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

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

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

