

HOUSE BILL NO. 403

INTRODUCED BY G. MACLAREN

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT LOCAL OPTION CLUSTER DEVELOPMENT AND OPEN SPACE REGULATIONS MANDATE THAT OPEN SPACE IN CLUSTER DEVELOPMENTS MUST SOLELY BE PRESERVED THROUGH AN IRREVOCABLE CONSERVATION EASEMENT; AMENDING SECTION 76-3-509, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 76-3-509, MCA, is amended to read:

**"76-3-509. Local option cluster development regulations and exemptions authorized.** (1) If the governing body has adopted a growth policy that meets the requirements of 76-1-601, the governing body may adopt regulations to promote cluster development and preserve open space under this section.

(2) Regulations adopted under this section must:

- (a) establish a maximum size for each parcel in a cluster development;
- (b) subject to subsection (3)(d), establish a maximum number of parcels in a cluster development; and
- (c) establish requirements, including a minimum size for the area to be preserved, for preservation of open space as a condition of approval of a cluster development subdivision under regulations adopted pursuant to this section. Land protected as open space on a long-term basis must be identified on the final subdivision plat, and the plat must include a copy of or a recording reference to the irrevocable easement, covenant, deed restriction, or other servitude or instrument prohibiting further subdivision, division, or development of the open space lots or parcels. ~~The regulations must require that open space be preserved through an irrevocable conservation easement, granted in perpetuity, as provided for in Title 76, chapter 6, prohibiting further division of the parcel.~~

(3) Regulations adopted under this section may:

- (a) establish a shorter timeframe for review of proposed cluster developments;
- (b) establish procedures and requirements that provide an incentive for cluster development subdivisions that are consistent with the provisions of this chapter;

- 1 (c) authorize the review of a division of land that involves more than one existing parcel as one
- 2 subdivision proposal for the purposes of creating a cluster development;
- 3 (d) authorize the creation of one clustered parcel for each existing parcel that is reviewed as provided
- 4 in subsection (3)(c); and
- 5 (e) establish exemptions from the following:
- 6 (i) the requirements of an environmental assessment pursuant to 76-3-603;
- 7 (ii) review of the criteria in 76-3-608(3)(a); and
- 8 (iii) park dedication requirements pursuant to 76-3-621.
- 9 (4) Except as provided in this section, the provisions of this chapter apply to cluster development
- 10 subdivisions."

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12 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 2011.

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