Unofficial Draft Copy
As of: July 27, 2010 (12:12pm)

LC9004

**** Bill No. ****

Introduced By **********

By Request of the *********

A Bill for an Act entitled: "An Act requiring drainfield mixing zones be located wholly within the lot or subdivision where the drainfield is located; amending section 76-4-104, MCA; providing an immediate effective date; and providing an applicability date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-4-104, MCA, is amended to read:

"76-4-104. Rules for administration and enforcement. (1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.

(2) The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal. The rules and standards must be related to:

(a) size of lots;

(b) contour of land;

(c) porosity of soil;

(d) ground water level;

(e) distance from lakes, streams, and wells;

WATER POLICY INTERIM COMMITTEE
JULY 27, 2010
EXHIBIT 13

(f) type and construction of private water and sewage facilities; and

(g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.

(3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of subdivisions by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (4) that the local department or board is competent to conduct the review.

(b) (i) Except as provided in 75-6-121 and subsection (3)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified to review subdivisions proposed to connect to existing municipal water and wastewater systems previously approved by the department if no extension of the systems is required.

(4) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department or board of health is competent to review the subdivisions as described in subsection (3).

(5) The department shall review those subdivisions described in subsection (3) if:

(a) a proposed subdivision lies within more than one

jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or

(b) the local department or board of health elects not to be certified.

(6) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review under this part and other documentation showing the layout or plan of development, including:

(i) total development area; and

(ii) total number of proposed dwelling units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways;

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil testing and site design standards for on-lot sewage disposal systems when

applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) for a drainfield serving one lot in a subdivision, adequate evidence that the drainfield mixing zone is located wholly within the boundaries of the lot on which the drainfield is located or that an easement for the drainfield mixing zone outside the boundaries of the lot has been obtained;

(j) for a drainfield serving more than one lot in a subdivision, adequate evidence that the drainfield mixing zone is located wholly within the boundaries of the subdivision on which the drainfield is located or that an easement for the drainfield mixing zone outside the boundaries of the subdivision has been obtained;

~~(i)~~(k) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (6)(e) through ~~(6)(h)~~ (6)(j);

~~(j)~~(l) evidence to establish that, if a public water supply system or a public sewage system is proposed, provision has been made for the system and, if others methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the preliminary or final plan or plat; and

~~(k)~~(l) evidence to demonstrate that appropriate easements,

covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities.

(7) If the reviewing authority is a local department or board of health, it shall notify the department of its recommendation for approval or disapproval of the subdivision not later than 50 days from its receipt of the subdivision application. The department shall make a final decision on the subdivision within 10 days after receiving the recommendation of the local reviewing authority, but not later than 60 days after the submission of a complete application, as provided in 76-4-125.

(8) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect when a complete application is submitted to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(9) The reviewing authority may not deny or condition a certificate of subdivision approval under this part unless it provides a written statement to the applicant detailing the

circumstances of the denial or condition imposition. The statement must include:

(a) the reason for the denial or condition imposition;

(b) the evidence that justifies the denial or condition imposition; and

(c) information regarding the appeal process for the denial or condition imposition.

(10) The department may adopt rules that provide technical details and clarification regarding the water and sanitation information required to be submitted under 76-3-622."

{*Internal References to 76-4-104:*
76-3-504x *76-3-622x* *76-3-622x* *76-3-622x*
76-4-102x *76-4-105x* *76-4-108x*}

NEW SECTION. **Section 2. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. {standard} Applicability.** [This act] applies to subdivision applications received on or after [the effective date of this act].

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