

HOUSE BILL NO. 182

INTRODUCED BY F. MANDEVILLE

ABILL FOR ANACT ENTITLED: "ANACT PROHIBITING A LOCAL GOVERNING BODY FROM CONSIDERING THE PROPOSED USE OF THE LOTS WITHIN A PROPOSED SUBDIVISION IF ZONING HAS NOT BEEN ADOPTED; AND AMENDING SECTION 76-3-604, 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) A subdivision application is considered to be received on the date of delivery to the reviewing agent or agency and when accompanied by the review fee submitted as provided in 76-3-602.

(b) Within 5 working days of receipt of a subdivision application, 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. 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 15 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

1 additional information during the review process.

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

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

4 and

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

6 (4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an
7 application contains sufficient information as provided in subsection (2), the governing body shall approve,
8 conditionally approve, or deny the proposed subdivision within 60 working days or 80 working days if the
9 proposed subdivision contains 50 or more lots, based on its determination of whether the application conforms
10 to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

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

13 (b) a subsequent public hearing is scheduled and held as provided in 76-3-615.

14 (5) (a) If the governing body fails to comply with the time limits under subsection (4), the governing body
15 shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to
16 exceed the total amount of the subdivision review fee collected by the governing body for the subdivision
17 application, until the governing body denies, approves, or conditionally approves the subdivision.

18 (b) The provisions of subsection (5)(a) do not apply if the review period is extended or suspended
19 pursuant to subsection (4).

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

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

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

28 (i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more
29 parcels containing less than 20 acres; and

30 (ii) local health department or board of health for proposed subdivisions that will create one or more

1 parcels containing 20 acres or more and less than 160 acres.

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

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

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

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

15 (10) In areas where the governing body has not adopted zoning regulations pursuant to Title 76, chapter
16 2, the governing body may not consider the proposed use of the lots within a proposed subdivision in its review
17 and approval, conditional approval, or denial of the proposed subdivision."

18 - END -