

## HOUSE BILL NO. 507

INTRODUCED BY F. MANDEVILLE, A. KNUDSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS CONCERNING SANITATION  
5 REVIEW FOR PROPOSED SUBDIVISIONS; CREATING A PILOT PROGRAM REVISING TIMELINES FOR  
6 SUBDIVISION SANITATION REVIEWS ~~AND ALLOWING LOCAL REVIEWING AUTHORITIES TO DETERMINE~~  
7 ~~FINAL APPROVAL OF SUBDIVISION SANITATION REQUIREMENTS ON BEHALF OF THE DEPARTMENT~~  
8 ~~OF ENVIRONMENTAL QUALITY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-1-208,~~  
9 76-3-622, 76-4-104, 76-4-121, 76-4-122, 76-4-125, AND 76-4-127, MCA; AND PROVIDING AN APPLICABILITY  
10 DATE AND A TERMINATION DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 NEW SECTION. **Section 1. Review of application.** Except as provided in 76-4-125, the applicant shall  
15 ~~attend a preapplication meeting with the reviewing authority and~~ submit an application for review of a subdivision  
16 pursuant to the following procedure:

17 (1) An applicant ~~shall~~ MAY request a preapplication meeting with the reviewing authority prior to  
18 submitting an application. The reviewing authority shall schedule the REQUESTED meeting between the applicant  
19 and the reviewing authority within 30 days of receiving the request from the applicant. The meeting may be  
20 conducted in person, via telephone, or via teleconference. For informational purposes only, the reviewing agent  
21 shall identify the state laws and rules that may apply to the subdivision review process. ~~Within 6 months of the~~  
22 ~~preapplication meeting, the applicant shall submit an application to the reviewing authority. If the applicant does~~  
23 ~~not submit an application within 6 months, the applicant shall request a new preapplication meeting.~~

24 (2) If the proposed development includes onsite sewage disposal facilities, the applicant shall notify the  
25 designated agent of the local board of health prior to presenting the subdivision application to the reviewing  
26 authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable  
27 state and local requirements.

28 (3) (a) After submitting an application IF REQUIRED under the Montana Subdivision and Platting Act ~~and~~  
29 ~~attending a preapplication meeting pursuant to subsection (1),~~ the applicant shall submit an application to the  
30 reviewing authority. A subdivision application is considered to be received on the date of delivery to the reviewing

1 authority when accompanied by the review fee established pursuant to 76-4-105.

2 (b) Within 15 days of the receipt of an application, the reviewing authority shall determine whether the  
3 application contains ~~all of the elements required by this chapter, including [section 2], and the rules adopted~~  
4 ~~pursuant to this chapter [SECTION 2(1)]~~ to allow for review and shall notify the applicant of the reviewing authority's  
5 determination. If the reviewing authority determines that elements are missing from the application, the reviewing  
6 agent or agency shall identify those elements in the notification. The applicant shall address the MISSING elements  
7 identified by the reviewing authority. A determination that an application contains the required elements for review  
8 as provided in this subsection (3)(b) does not ensure that the proposed subdivision will be approved and does  
9 not limit the ability of the reviewing authority to request additional information during the review process.

10 (c) (i) After the reviewing authority notifies the applicant that the application contains all of the required  
11 elements as provided by subsection (3)(b), the reviewing authority shall make a final decision or a  
12 recommendation on the application. Except as provided by subsection (4), the reviewing authority shall:

13 (A) make a final decision within 40 days of finding that the application contains all of the required  
14 elements if the reviewing authority is the department ~~or if the reviewing authority is a local department or board~~  
15 ~~of health to which the department has delegated final decisionmaking authority;~~ or

16 (B) make a recommendation FOR APPROVAL to the department OR DENY THE APPLICATION within 30 days  
17 of finding that the application contains all of the required elements if the reviewing authority is a local department  
18 or board of health ~~that has not been delegated final decisionmaking authority by the department~~. If the department  
19 receives a recommendation for approval of the subdivision from a local department or board of health, the  
20 department shall make a final decision on the application within 10 days of receiving the recommendation of the  
21 reviewing authority.

22 (ii) If the ~~reviewing authority~~ DEPARTMENT approves the application, the ~~reviewing authority~~ DEPARTMENT  
23 shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and  
24 that the subdivision is not subject to a sanitary restriction.

25 (iii) If the reviewing authority denies the application, the reviewing authority shall identify the deficiencies  
26 that result in the denial in a notification to the applicant.

27 (d) (i) If the reviewing authority denies an application and the applicant resubmits a corrected application  
28 within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted  
29 application within 30 days after receipt of the resubmitted application.

30 (II) IF THE REVIEWING AUTHORITY DENIES AN APPLICATION AND THE APPLICANT RESUBMITS A CORRECTED

1 APPLICATION AFTER 30 DAYS AFTER THE DATE OF THE DENIAL LETTER, THE REVIEWING AUTHORITY SHALL COMPLETE  
 2 REVIEW OF THE RESUBMITTED APPLICATION WITHIN:

3 (A) 55 DAYS AFTER RECEIPT OF THE RESUBMITTED APPLICATION IF THE REVIEWING AUTHORITY IS THE  
 4 DEPARTMENT; OR

5 (B) 45 DAYS AFTER RECEIPT OF THE RESUBMITTED APPLICATION IF THE REVIEWING AUTHORITY IS A LOCAL  
 6 DEPARTMENT OR BOARD OF HEALTH.

7 ~~(ii)(III) If the review of the resubmitted application is conducted by a local department or board of health~~  
 8 ~~but the local department or board of health has not been delegated final decisionmaking authority by the~~  
 9 ~~department~~ AND THE REVIEWING AUTHORITY MAKES A RECOMMENDATION TO THE DEPARTMENT FOR APPROVAL OF THE  
 10 APPLICATION, the department shall make a final decision on the application within 10 days after the local reviewing  
 11 authority completes its review under SUBSECTION (3)(d)(i) OR (3)(D)(II).

12 ~~(iii) The reviewing authority may only review resubmitted applications for information found to be deficient~~  
 13 ~~during the previous review of the application. The time limits provided in subsection (3)(c)(i) apply to each~~  
 14 ~~submittal of the application.~~

15 (4) If an environmental impact statement is required, the deadline to issue a final decision in (3)(c)(i) may  
 16 be increased to 120 days.

17 (5) If the reviewing authority needs an extension of a deadline in this section to complete its review, then  
 18 it shall notify the applicant prior to the end of the review deadline. ~~The extension may be granted only if the~~  
 19 ~~applicant agrees to the extension, and the applicant may limit the time period of the extension.~~ AN EXTENSION MAY  
 20 NOT EXCEED 30 DAYS; HOWEVER, THE REVIEWING AUTHORITY MAY ISSUE MORE THAN ONE EXTENSION.

21  
 22 NEW SECTION. Section 2. Contents of application -- SUPPLEMENTAL INFORMATION. (1) The application  
 23 submitted under [section 1] must include preliminary plans and specifications for the proposed development,  
 24 ~~whatever information the applicant feels necessary for its subsequent review, a copy of the certification from the~~  
 25 ~~local health department required by 76-4-104(6)(k), information required by the reviewing authority, and, if~~  
 26 ~~applicable, an approval from the local governing body under Title 76, chapter 3, and public comments or~~  
 27 ~~summaries of public comments collected as provided in 76-3-604(7)~~ INFORMATION REQUIRED UNDER RULES  
 28 ADOPTED PURSUANT TO THIS CHAPTER, AND ANY ADDITIONAL INFORMATION THE APPLICANT FEELS NECESSARY.

29 (2) IN ADDITION TO THE INFORMATION REQUIRED FOR THE SUBMISSION OF THE APPLICATION UNDER SUBSECTION  
 30 (1), BEFORE THE REVIEWING AUTHORITY MAKES A FINAL DECISION ON THE APPLICATION, THE APPLICANT SHALL PROVIDE:

1 (A) A COPY OF THE CERTIFICATION FROM THE LOCAL HEALTH DEPARTMENT REQUIRED BY 76-4-104(6)(K);

2 (B) IF REQUIRED UNDER TITLE 76, CHAPTER 3, AN APPROVAL FROM THE LOCAL GOVERNING BODY UNDER TITLE  
3 76, CHAPTER 3; AND

4 (C) ANY PUBLIC COMMENTS OR SUMMARIES OF PUBLIC COMMENTS COLLECTED AS PROVIDED IN 76-3-604(7).

5  
6 **NEW SECTION.** **Section 3. Annual report.** The department shall report annually to the environmental  
7 quality council established by 5-16-101 summarizing the review procedures adopted under Title 76, chapter 4,  
8 and recommending whether statutory changes should be made to the process.

9  
10 **Section 4.** Section 75-1-208, MCA, is amended to read:

11 **"75-1-208. Environmental review procedure.** (1) (a) Except as provided in 75-1-205(4) and subsection  
12 (1)(b) of this section, an agency shall comply with this section when completing any environmental review  
13 required under this part.

14 (b) To the extent that the requirements of this section are inconsistent with federal requirements, the  
15 requirements of this section do not apply to an environmental review that is being prepared jointly by a state  
16 agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an  
17 environmental review that must comply with the requirements of the National Environmental Policy Act.

18 (2) (a) Except as provided in subsection (2)(b), a project sponsor may, after providing a 30-day notice,  
19 appear before the environmental quality council at any regularly scheduled meeting to discuss issues regarding  
20 the agency's environmental review of the project. The environmental quality council shall ensure that the  
21 appropriate agency personnel are available to answer questions.

22 (b) If the primary concern of the agency's environmental review of a project is the quality or quantity of  
23 water, a project sponsor may, after providing a 30-day notice, appear before the water policy committee  
24 established in 5-5-231 at any regularly scheduled meeting to discuss issues regarding the agency's  
25 environmental review of the project. The water policy committee shall ensure that the appropriate agency  
26 personnel are available to answer questions.

27 (3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by the  
28 agency regarding an environmental review, the project sponsor may submit a written request to the agency  
29 director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow  
30 the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director,

1 the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the  
2 remaining issues. A written request to the appropriate board must sufficiently state the issues to allow the agency  
3 and the board to prepare for the meeting.

4 (4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental  
5 review process, an agency is subject to the time limits listed in this subsection (4) unless other time limits are  
6 provided by law. All time limits are measured from the date the agency receives a complete application. An  
7 agency has:

8 (i) 60 days to complete a public scoping process, if any;

9 (ii) 90 days to complete an environmental review unless a detailed statement pursuant to  
10 75-1-201(1)(b)(iv) or 75-1-205(4) is required; and

11 (iii) 180 days to complete a detailed statement pursuant to 75-1-201(1)(b)(iv).

12 (b) The period of time between the request for a review by a board and the completion of a review by  
13 a board under 75-1-201(9) or subsection (10) of this section may not be included for the purposes of determining  
14 compliance with the time limits established for conducting an environmental review under this subsection or the  
15 time limits established for permitting in 75-2-211, 75-2-218, 75-20-216, 75-20-231, ~~76-4-125~~ section 1, 82-4-122,  
16 82-4-231, 82-4-337, and 82-4-432.

17 (5) An agency may extend the time limits in subsection (4) by notifying the project sponsor in writing that  
18 an extension is necessary and stating the basis for the extension. The agency may extend the time limit one time,  
19 and the extension may not exceed 50% of the original time period as listed in subsection (4). After one extension,  
20 the agency may not extend the time limit unless the agency and the project sponsor mutually agree to the  
21 extension.

22 (6) If the project sponsor disagrees with the need for the extension, the project sponsor may request that  
23 the appropriate board, if any, conduct a review of the agency's decision to extend the time period. The appropriate  
24 board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

25 (7) (a) Except as provided in subsection (7)(b), if an agency has not completed the environmental review  
26 by the expiration of the original or extended time period, the agency may not withhold a permit or other authority  
27 to act unless the agency makes a written finding that there is a likelihood that permit issuance or other approval  
28 to act would result in the violation of a statutory or regulatory requirement.

29 (b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82,  
30 chapter 4, parts 1 and 2.

1 (8) Under this part, an agency may only request information from the project sponsor that is relevant to  
2 the environmental review required under this part.

3 (9) An agency shall ensure that the notification for any public scoping process associated with an  
4 environmental review conducted by the agency is presented in an objective and neutral manner and that the  
5 notification does not speculate on the potential impacts of the project.

6 (10) An agency may not require the project sponsor to provide engineering designs in greater detail than  
7 that necessary to fairly evaluate the proposed project. The project sponsor may request that the appropriate  
8 board, if any, review an agency's request regarding the level of design detail information that the agency believes  
9 is necessary to conduct the environmental review. The appropriate board may, at its discretion, submit an  
10 advisory recommendation to the agency regarding the issue.

11 (11) An agency shall, when appropriate, evaluate the cumulative impacts of a proposed project. However,  
12 related future actions may only be considered when these actions are under concurrent consideration by any  
13 agency through preimpact statement studies, separate impact statement evaluations, or permit processing  
14 procedures."  
15

16 **Section 5.** Section 76-3-622, MCA, is amended to read:

17 **"76-3-622. Water and sanitation information to accompany preliminary plat.** (1) Except as provided  
18 in subsection (2), the subdivider shall submit to the governing body or to the agent or agency designated by the  
19 governing body the information listed in this section for proposed subdivisions that will include new water supply  
20 or wastewater facilities. The information must include:

21 (a) a vicinity map or plan that shows:

22 (i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed  
23 lots, of:

24 (A) flood plains;

25 (B) surface water features;

26 (C) springs;

27 (D) irrigation ditches;

28 (E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and  
29 wastewater treatment systems;

30 (F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and

- 1 (G) the representative drainfield site used for the soil profile description as required under subsection  
2 (1)(d); and
- 3 (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and  
4 sewer facilities;
- 5 (b) a description of the proposed subdivision's water supply systems, storm water systems, solid waste  
6 disposal systems, and wastewater treatment systems, including:
- 7 (i) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or  
8 public as those systems are defined in rules published by the department of environmental quality; and
- 9 (ii) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement  
10 of whether the systems will be public utilities as defined in 69-3-101 and subject to the jurisdiction of the public  
11 service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the  
12 exemption;
- 13 (c) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows  
14 all information required for a lot layout document in rules adopted by the department of environmental quality  
15 pursuant to 76-4-104;
- 16 (d) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:
- 17 (i) a soil profile description from a representative drainfield site identified on the vicinity map, as provided  
18 in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;
- 19 (ii) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between  
20 the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and
- 21 (iii) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the  
22 natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance  
23 provided in subsection (1)(d)(ii);
- 24 (e) for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:
- 25 (i) obtained from well logs or testing of onsite or nearby wells;
- 26 (ii) obtained from information contained in published hydrogeological reports; or
- 27 (iii) as otherwise specified by rules adopted by the department of environmental quality pursuant to  
28 76-4-104;
- 29 (f) evidence of sufficient water quality in accordance with rules adopted by the department of  
30 environmental quality pursuant to 76-4-104;

1 (g) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment  
2 systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and  
3 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant  
4 changes in water quality. The preliminary analysis may be based on currently available information and must  
5 consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within  
6 and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this  
7 subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is  
8 required for an application that is reviewed under Title 76, chapter 4.

9 (2) A subdivider whose land division is excluded from review under ~~76-4-125(2)~~ 76-4-125(1) is not  
10 required to submit the information required in this section.

11 (3) A governing body may not, through adoption of regulations, require water and sanitation information  
12 in addition to the information required under this section unless the governing body complies with the procedures  
13 provided in 76-3-511."  
14

15 **Section 6.** Section 76-4-104, MCA, is amended to read:

16 **"76-4-104. Rules for administration and enforcement.** (1) The department shall, subject to the  
17 provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for  
18 administration and enforcement of this part.

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

- 22 (a) size of lots;  
23 (b) contour of land;  
24 (c) porosity of soil;  
25 (d) ground water level;  
26 (e) distance from lakes, streams, and wells;  
27 (f) type and construction of private water and sewage facilities; and  
28 (g) other factors affecting public health and the quality of water for uses relating to agriculture, industry,  
29 recreation, and wildlife.

30 (3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of subdivisions



1 consistent with [section 1] by a local department or board of health, as described in Title 50, chapter 2, part 1,  
2 if the local department or board of health employs a registered sanitarian or a registered professional engineer  
3 and if the department certifies under subsection (4) that the local department or board is competent to conduct  
4 the review.

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

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

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

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

15 (a) a proposed subdivision lies within more than one jurisdictional area and the respective governing  
16 bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or

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

18 (6) The rules must further provide for:

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

21 (i) total development area; and

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

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

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

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

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

30 (f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil

1 testing and site design standards for on-lot sewage disposal systems when applicable;

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

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

4 (i) adequate evidence that a proposed drainfield mixing zone and a proposed well isolation zone are  
 5 located wholly within the boundaries of the proposed subdivision where the drainfield or well is located or that  
 6 an easement or, for public land, other authorization has been obtained from the landowner to place the proposed  
 7 drainfield mixing zone or well isolation zone outside the boundaries of the proposed subdivision where the  
 8 drainfield or well is located. A mixing zone may extend outside the boundaries of the proposed subdivision onto  
 9 adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities. This subsection (6)(i)  
 10 does not apply to the divisions provided for in 76-3-207 except those under 76-3-207(1)(b).

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

13 (k) evidence to establish that, if a public water supply system or a public sewage system is proposed,  
 14 provision has been made for the system and, if other methods of water supply or sewage disposal are proposed,  
 15 evidence that the systems will comply with state and local laws and regulations that are in effect at the time of  
 16 submission of the preliminary or final plan or plat. Evidence that the systems will comply with local laws and  
 17 regulations must be in the form of a certification from the local health department as provided by department rule.

18 (l) evidence to demonstrate that appropriate easements, covenants, agreements, and management  
 19 entities have been established to ensure the protection of human health and state waters and to ensure the  
 20 long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities.

21 ~~(7) If the reviewing authority is a local department or board of health, it shall notify the department of its~~  
 22 ~~recommendation for approval or disapproval of the subdivision not later than 45 days from its receipt of the~~  
 23 ~~subdivision application. The department shall make a final decision on the subdivision within 10 days after~~  
 24 ~~receiving the recommendation of the local reviewing authority, but not later than 55 days after the submission of~~  
 25 ~~a complete application, as provided in 76-4-125. The department may adopt rules to authorize a local department~~  
 26 ~~or board of health to make a final decision on an application pursuant to the timelines in [section 1].~~

27 ~~(8)(7)~~ Review and certification or denial of certification that a division of land is not subject to sanitary  
 28 restrictions under this part may occur only under those rules in effect when a complete application is submitted  
 29 to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was  
 30 originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the

1 absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

2 ~~(9)~~(8) The reviewing authority may not deny or condition a certificate of subdivision approval under this  
3 part unless it provides a written statement to the applicant detailing the circumstances of the denial or condition  
4 imposition. The statement must include:

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

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

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

8 ~~(10)~~(9) The department may adopt rules that provide technical details and clarification regarding the water  
9 and sanitation information required to be submitted under 76-3-622."

10

11 **Section 7.** Section 76-4-121, MCA, is amended to read:

12 **"76-4-121. Restrictions on subdivision activities.** A person may not dispose of any lot within a  
13 subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or  
14 shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or  
15 occupy any permanent buildings in a subdivision until:

16 (1) a certificate of subdivision approval has been issued pursuant to ~~76-4-125~~ section 1 indicating that  
17 the reviewing authority has approved the subdivision application and that the subdivision is not subject to a  
18 sanitary restriction;

19 (2) the governing body has provided certification pursuant to 76-4-127 that the subdivision is within a  
20 jurisdictional area that has adopted a growth policy pursuant to chapter 1 of this title or within a first-class or  
21 second-class municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities and  
22 adequate storm water drainage; or

23 (3) the subdivision is otherwise exempt from review under 76-4-125."

24

25 **Section 8.** Section 76-4-122, MCA, is amended to read:

26 **"76-4-122. Filing or recording of noncomplying plat or certificate of survey prohibited.** (1) The  
27 county clerk and recorder may not file or record any plat or certificate of survey subject to review under this part  
28 showing a subdivision unless it complies with the provisions of this part.

29 (2) A county clerk and recorder may not accept a subdivision plat or certificate of survey subject to review  
30 under this part for filing until one of the following conditions has been met:

1 (a) the person wishing to file the plat or certificate of survey has obtained approval of the local health  
 2 officer having jurisdiction and has filed the approval with the reviewing authority and a certificate of subdivision  
 3 approval has been issued pursuant to ~~76-4-125~~ section 1 indicating that the reviewing authority has approved  
 4 the subdivision application and that the subdivision is not subject to a sanitary restriction;

5 (b) the person wishing to file the plat or certificate of survey has obtained a certificate from the governing  
 6 body pursuant to 76-4-127 that the subdivision is within an area covered by a growth policy pursuant to chapter  
 7 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and will be provided  
 8 with adequate municipal facilities and adequate storm water drainage; or

9 (c) the person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey  
 10 an acknowledged certification that the subdivision is exempt from review under this part. The certification must  
 11 quote in its entirety the wording of the applicable exemption."  
 12

13 **Section 9.** Section 76-4-125, MCA, is amended to read:

14 **"76-4-125. ~~Review of subdivision application -- land~~ Land divisions excluded from review. (1)**

15 ~~Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing~~  
 16 ~~authority. The review by the reviewing authority must be as follows:~~

17 ~~—— (a) At any time after the developer has submitted an application under the Montana Subdivision and~~  
 18 ~~Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must~~  
 19 ~~include preliminary plans and specifications for the proposed development, whatever information the developer~~  
 20 ~~feels necessary for its subsequent review, any public comments or summaries of public comments collected as~~  
 21 ~~provided in 76-3-604(7), and information required by the reviewing authority. Subdivision fees assessed by the~~  
 22 ~~reviewing authority must accompany the application. If the proposed development includes onsite sewage~~  
 23 ~~disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting~~  
 24 ~~the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to~~  
 25 ~~determine whether the site meets applicable state and local requirements.~~

26 ~~—— (b) Within 5 working days after receipt of an application that is not subject to review by a local reviewing~~  
 27 ~~authority under 76-4-104, the department shall provide a written notice for informational purposes to the applicant~~  
 28 ~~if the application does not include a copy of the certification from the local health department required by~~  
 29 ~~76-4-104(6)(k) or, if applicable, contain an approval from the local governing body under Title 76, chapter 3,~~  
 30 ~~together with any public comments or summaries of public comments collected as provided in 76-3-604(7)(a).~~

1 ~~————(c) If the reviewing authority denies an application and the applicant resubmits a corrected application~~  
 2 ~~within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted~~  
 3 ~~application within 30 days after receipt of the resubmitted application. If the review of the resubmitted application~~  
 4 ~~is conducted by a local department or board of health that is certified under 76-4-104, the department shall make~~  
 5 ~~a final decision on the application within 10 days after the local reviewing authority completes its review.~~

6 ~~————(d) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision~~  
 7 ~~on the proposed subdivision within 55 days after the submission of a complete application and payment of fees~~  
 8 ~~to the reviewing authority unless an environmental impact statement is required, at which time this deadline may~~  
 9 ~~be increased to 120 days. The reviewing authority may not request additional information for the purpose of~~  
 10 ~~extending the time allowed for a review and final decision on the proposed subdivision. If the department~~  
 11 ~~approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has~~  
 12 ~~approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.~~

13 ~~(2)(1)~~ A subdivision excluded from the provisions of chapter 3 must be submitted for review according  
 14 to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to  
 15 evade the provisions of this part, are not subject to review:

16 (a) the exclusion cited in 76-3-201;

17 (b) divisions made for the purpose of acquiring additional land to become part of an approved parcel,  
 18 provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and  
 19 that the division does not fall within a previously platted or approved subdivision;

20 (c) divisions made for purposes other than the construction of water supply or sewage and solid waste  
 21 disposal facilities as the department specifies by rule;

22 (d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1  
 23 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127,  
 24 that adequate storm water drainage and adequate municipal facilities will be provided; and

25 (e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating  
 26 a parcel from the tract for purposes of transfer if:

27 (i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997,  
 28 pursuant to local regulations or this chapter; or

29 (ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source  
 30 that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant

1 to local regulations or this chapter.

2 ~~(3)~~(2) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior  
3 to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from  
4 the remainder referenced in subsection ~~(2)(e)(ii)~~ (1)(e)(ii), the remainder include acreage or features sufficient  
5 to accommodate a replacement drainfield."  
6

7 **Section 10.** Section 76-4-127, MCA, is amended to read:

8 **"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal**  
9 **facilities will be provided.** (1) To qualify for the exemption from review set out in ~~76-4-125(2)(d)~~ 76-4-125(1)(d),  
10 the governing body, as defined in 76-3-103, shall, prior to final plat approval under the Montana Subdivision and  
11 Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for  
12 approval and that adequate storm water drainage and adequate municipal facilities will be provided for the  
13 subdivision.

14 (2) The notice of certification must include the following:

15 (a) the name and address of the applicant;

16 (b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat  
17 when a preliminary plat is not necessary;

18 (c) the number of proposed parcels in the subdivision;

19 (d) a copy of any applicable zoning ordinances in effect;

20 (e) how construction of the sewage disposal and water supply systems or extensions will be financed;

21 (f) certification that the subdivision is within an area covered by a growth policy pursuant to chapter 1  
22 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth  
23 policy, when applicable, if one has not yet been submitted to the reviewing authority;

24 (g) the relative location of the subdivision to the city or town;

25 (h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid  
26 waste are available or will be provided within the time provided in 76-3-507;

27 (i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from  
28 the facility owners that adequate facilities are available; and

29 (j) certification that the governing body has reviewed and approved plans to ensure adequate storm  
30 water drainage."

