



AN ACT GENERALLY REVISING SUBDIVISION LAWS; ALLOWING AN EXPEDITED REVIEW FOR SUBDIVISIONS THAT MEET CERTAIN REQUIREMENTS; EXEMPTING CERTAIN SUBDIVISIONS IN CITIES AND TOWNS FROM CERTAIN REVIEWS; ALLOWING A COUNTY TO ADOPT EXPEDITED REVIEW PROVISIONS; REQUIRING THE LOCAL GOVERNMENT TO HOLD A HEARING TO APPROVE OR DENY A SUBDIVISION APPLICATION FOR EXPEDITED REVIEW; CLARIFYING THE AMOUNT OF TIME WITHIN WHICH A PERSON MAY BRING ACTION TO CHALLENGE THE APPROVAL, IMPOSITION OF CONDITIONS, OR DENIAL OF A PRELIMINARY PLAT AND ACTIONS TAKEN ON A FINAL PLAT; AND AMENDING SECTION 76-3-625, MCA.

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

Section 1. Expedited review for certain subdivisions. (1) Except as provided in subsection (9), a subdivision application, regardless of the number of lots, that meets the requirements provided in subsection (3) is entitled to the expedited review process provided in this section at the applicant's request.

(2) A subdivision application that meets the requirements provided in subsection (3) is exempt from:

(a) the preparation of an environmental assessment as required in 76-3-603; and

(b) the review criteria listed in 76-3-608(3)(a).

(3) A subdivision qualifies for the expedited review process provided in this section if the proposed subdivision:

(a) is within:

(i) an incorporated city or town or consolidated city-county government and is subject to an adopted growth policy pursuant to Title 76, chapter 1, and adopted zoning regulations pursuant to Title 76, chapter 2, part 3; or

(ii) a county water and/or sewer district created under 7-13-2203 that provides both water and sewer

services and is subject to an adopted growth policy as provided in Title 76, chapter 1, and zoning regulations pursuant to Title 76, chapter 2, part 2, that, at a minimum, address development intensity through minimum lot sizes or densities, bulk and dimensional requirements, and use standards;

(b) complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 without the need for variances or other deviations to adopted standards; and

(c) includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

(4) On submission for expedited review under this section, the subdivision application must be reviewed for required elements and sufficiency of information as provided in 76-3-601(1) through (3) to determine whether the application complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 without the need for variances or other deviations to adopted standards and includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

(5) The governing body shall:

(a) hold a hearing on the subdivision application within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in subsection (3);

(b) provide notice for the hearing required in subsection (5)(a) by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing;

(c) approve the application unless public comment or other information demonstrates the application does not comply with:

(i) adopted zoning regulations, design standards, and other requirements of subdivision regulations adopted pursuant to 76-3-504 without the need for variances or other deviations to adopted standards; or

(ii) adopted ordinances or regulations for the onsite development of or extension to public infrastructure; and

(d) provide to the applicant and the public a written statement within 30 days of the decision to approve or deny a proposed subdivision for expedited review as allowed in this section that provides:

- (i) the facts and conclusions that the governing body relied on in making its decision to approve or deny the application; and
 - (ii) the conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.
- (6) The governing body may:
- (a) with the agreement of the applicant, grant one extension of the review period allowed in subsection (5)(a) not to exceed 180 calendar days;
 - (b) adopt conditions of approval only to ensure an approved subdivision application is completed in accordance with the approved application and any applicable requirements pursuant to Title 76, chapter 4; or
 - (c) delegate to its reviewing agent or agency the requirement to hold a public hearing on the subdivision application as required in this section.
- (7) A local governing body may not adopt zoning regulations pursuant to 76-2-203 or 76-2-304, subdivision regulations pursuant to 76-3-504, or other ordinances or regulations that restrict the use of the expedited subdivision review process as provided in this section.
- (8) (a) Except as modified in this section, subdivision applications meeting the requirements for an expedited review remain subject to the provisions of 76-3-608(3)(b) through (3)(d) and 76-3-608(6) through (10), 76-3-610 through 76-3-614, 76-3-621, and 76-3-625.
- (b) The provisions of this section supersede any provision of this chapter that is in conflict with any provision of this section.
- (9) A subdivision located outside of the boundaries of an incorporated city or town may not utilize the expedited review process provided in this section unless the board of county commissioners of the county where the subdivision is located has voted to allow the provisions of this section to apply to subdivisions located outside the boundaries of an incorporated city or town.

Section 2. Section 76-3-625, MCA, is amended to read:

"76-3-625. Violations -- actions against governing body. (1) A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing

body or a regulation adopted pursuant to this chapter within 180 days of the final action, decision, order, or adoption of a regulation. The governing body's decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(2) (a) A party identified in subsection (3) who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located to challenge the approval, imposition of conditions, or denial of the preliminary plat.

(b) A party identified in subsection (3) who is aggrieved by any other final decision of the governing body regarding a subdivision may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located to challenge the decision.

(c) The A petition allowed in subsections (2)(a) and (2)(b) must specify the grounds upon which the appeal is made. The governing body's decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(3) The following parties may appeal under the provisions of subsection (2):

- (a) the subdivider;
- (b) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
- (c) the county commissioners of the county where the subdivision is proposed; and
- (d) (i) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;
- (ii) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and
- (iii) a third-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

(4) For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially

and injuriously affected by the decision."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 3, part 6, and the provisions of Title 76, chapter 3, part 6, apply to [section 1].

- END -

I hereby certify that the within bill,
SB 161, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 161

INTRODUCED BY J. ESP, M. BERTOGLIO

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