

**Amendment - 1st Reading/2nd House-blue - Requested by: Christopher Pope - (S) Local Government**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

HB0211.002.002

1 HOUSE BILL NO. 211  
2 INTRODUCED BY L. BREWSTER, M. MALONE, S. KERNS, J. SCHILLINGER, C. KNUDSEN, S. VINTON, K.  
3 SEEKINS-CROWE, M. YAKAWICH, J. FITZPATRICK, J. ETCHART, J. KASSMIER, B. PHALEN  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LOCAL SUBDIVISION REVIEW  
6 PROCEDURE; REVISING THE INFORMATION A GOVERNING BODY MAY CONSIDER WHEN  
7 DETERMINING IF SUBSEQUENT HEARINGS ARE REQUIRED FOR A SUBDIVISION APPLICATION;  
8 REVISING THE REQUIREMENTS FOR A PHASED SUBDIVISION; PROVIDING TIMELINES AND AMENDED  
9 CONDITIONS OF A FINAL PLAT APPROVAL; REVISING THE EXPEDITED SUBDIVISION REVIEW  
10 PROCESS; AND AMENDING SECTIONS 76-3-615, 76-3-617, AND 76-3-623, MCA; AND PROVIDING AN  
11 APPLICABILITY DATE."

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

14  
15 **Section 1.** Section 76-3-615, MCA, is amended to read:

16 **"76-3-615. Subsequent hearings -- consideration of new information -- requirements for**  
17 **regulations.** (1) The regulations adopted pursuant to 76-3-504(1)(o) must comply with the provisions of this  
18 section.

19 (2) The governing body shall determine whether ~~public comments or documents~~ PUBLIC COMMENTS  
20 OR OTHER information presented to the governing body at a hearing held pursuant to 76-3-605 ~~constitute:~~

21 ~~(a) information or analysis of information that was presented at a hearing held pursuant to 76-3-605~~  
22 ~~that the public has had a reasonable opportunity to examine and on which the public has had a reasonable~~  
23 ~~opportunity to comment; or~~

24 ~~(b) constitutes relevant, new information regarding a subdivision application or a material~~  
25 SUBSTANTIAL change to the design of the subdivision that has never been submitted as evidence or considered  
26 by either the governing body or its agent or agency ~~at a hearing during which the subdivision application was~~  
27 considered and has a material-SUBSTANTIAL effect on the governing body's consideration of the application.

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1 (3) If the governing body determines that the ~~public comments or documents constitute information~~  
2 presented to the governing body constitutes the information described in subsection (2)(b), the governing body  
3 may:

4 (a) approve, conditionally approve, or deny the proposed subdivision without basing its decision on  
5 the new information if the governing body determines that the new information is either irrelevant or not credible  
6 or the change to the design of the subdivision does not materially-SUBSTANTIALLY impact the analysis of  
7 potentially significant adverse impacts; or

8 (b) schedule or direct its agent or agency to schedule a subsequent public hearing for  
9 consideration of only the new information that ~~may have an impact on the findings and conclusions, including a~~  
10 material-SUBSTANTIAL change to the design of the subdivision for purposes of considering its findings of fact and  
11 conclusions of law and any proposed conditions of approval in light of the new information that the governing  
12 body will rely ~~upon~~on in making its decision on the proposed subdivision.

13 (4) If a public hearing is held as provided in subsection (3)(b), the 60-working-day review period  
14 required in 76-3-604(4) is suspended and the new hearing must be noticed and held within 45 days of the  
15 governing body's determination to schedule a new hearing. After the new hearing, the 60-working-day time limit  
16 resumes at the governing body's next scheduled public meeting for which proper notice for the public hearing  
17 on the subdivision application can be provided. The governing body may not consider any information regarding  
18 the subdivision application that is presented after the hearing when making its decision to approve, conditionally  
19 approve, or deny the proposed subdivision."  
20

21 **Section 2.** Section 76-3-617, MCA, is amended to read:

22 **"76-3-617. Phased development -- application requirements -- hearing required.** (1) A subdivider  
23 applying for phased development review shall submit with the phased development application an overall  
24 phased development preliminary plat on which independent platted development phases must be presented.  
25 The phased development application must contain the information required pursuant to parts 5 and 6 of this  
26 chapter for all phases of a development and a schedule for when the subdivider plans to submit for review each  
27 phase of the development. The subdivider may change the schedule for review of each phase of the

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1 development upon approval of the governing body after a public hearing as provided in subsection (4) if the  
2 change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.

3 (2) Except as otherwise provided by this section, the phased development application must be  
4 reviewed in conformity with parts 5 and 6 of this chapter. In addition, each phase of the phased development  
5 must be reviewed as provided in subsection (4).

6 (3) The governing body may approve phased developments that extend beyond the time limits set  
7 forth in 76-3-610 but all phases of the phased development must be submitted for review and approved,  
8 conditionally approved, or denied within 20 years of the date the overall phased development preliminary plat is  
9 approved by the governing body.

10 (4) ~~Prior to the commencement of each phase~~ For any phase of the approved subdivision  
11 submitted for final plat approval more than 5-3 years after the date of preliminary approval of the subdivision,  
12 the subdivider shall provide written notice to the governing body not more than 1 year or less than 90 calendar  
13 days in advance of submitting the final plat application. The governing body shall hold a public hearing pursuant  
14 to 76-3-605(3) within 30 working days after receipt of the written notice from the subdivider to determine  
15 whether changed circumstances justify amending any conditions of approval or imposing additional conditions  
16 of approval. The governing body may amend or impose additional conditions of approval only if it determines,  
17 based on a review of the primary criteria, that the existing conditions of approval are inadequate to mitigate the  
18 potentially significant adverse impacts identified during the original review based on changed circumstances.  
19 ~~After the hearing, the governing body shall determine whether any changed primary criteria impacts or new~~  
20 ~~information exists that creates new potentially significant adverse impacts for the phase or phases.~~  
21 Notwithstanding the provisions of 76-3-610(2), the governing body shall issue supplemental written findings of  
22 fact within 20 working days of the hearing ~~and may impose necessary, additional conditions to minimize~~  
23 ~~potentially significant adverse impacts identified in the review of each phase of the development for changed~~  
24 ~~primary criteria impacts or new information.~~ Any additional conditions must be met before final plat approval for  
25 each particular remaining phase and the approval in accordance with 76-3-611 is in force for not more than 3  
26 calendar years or less than 1 calendar year within the maximum timeframe provided in subsection (3).

27 (5) The governing body may impose a reasonable periodic fee for the review under subsection (4)

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1 of the phases in the phased development."

2

3 **Section 3.** Section 76-3-623, MCA, is amended to read:

4 **"76-3-623. Expedited review for certain subdivisions.** (1) Except as provided in subsection (9), a  
5 subdivision application, regardless of the number of lots, that meets the requirements provided in subsection (3)  
6 is entitled to the expedited review process provided in this section at the applicant's request.

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

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

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

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

13 (a) is within:

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

17 (ii) ~~a county water and/or sewer district created under 7-13-2203 that provides both water and~~  
18 ~~sewer services~~ A COUNTY WATER AND/OR SEWER DISTRICT CREATED UNDER 7-13-2203 THAT PROVIDES BOTH WATER  
19 AND SEWER SERVICES OR an area outside the boundaries of an incorporated city, town, COUNTY, or consolidated  
20 city-county that is served by publicly regulated CITY, TOWN, COUNTY, OR CONSOLIDATED CITY-COUNTY water and  
21 sewer services and is subject to an adopted growth policy as provided in Title 76, chapter 1, and zoning  
22 regulations pursuant to Title 76, chapter 2, part 2, that, at a minimum, address development intensity through  
23 minimum lot sizes or densities, bulk and dimensional requirements, and use standards;

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

27 (c) includes in its proposal plans for the onsite development of or extension to public infrastructure