

1 HOUSE BILL NO. 364

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6
7 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SANITATION IN SUBDIVISIONS ACT
8 APPLICATION REVIEW PROCESS; ALLOWING AN INDEPENDENT REVIEWER TO CONDUCT
9 SUBDIVISION REVIEWS UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING TRIGGERS FOR
10 INDEPENDENT REVIEWS; DETERMINING TRIGGERS FOR INDEPENDENT REVIEWS; REQUIRING
11 REPORTING TO THE ENVIRONMENTAL QUALITY COUNCIL; REQUIRING THE DEPARTMENT OF
12 ENVIRONMENTAL QUALITY TO DEVELOP A CURRICULUM AND EXAMINATION TO CERTIFY
13 APPLICANTS INDEPENDENT REVIEWERS; ALLOWING A CERTIFIED APPLICANT TO REVIEW
14 SUBDIVISION APPLICATIONS AND ASSUME LEGAL RESPONSIBILITY FOR THE REVIEW; REMOVING
15 LIMITS ON EXTENSIONS OR ALTERATIONS OF EXISTING PUBLIC WATER AND SEWER SYSTEMS FOR
16 LOCAL GOVERNMENT REVIEW; REMOVING THE REQUIREMENT FOR LOCAL REVIEW AGENTS TO
17 REVIEW FOR ADEQUATE STORMWATER DRAINAGE; REQUIRING REFUNDS OF SUBDIVISION FEES
18 FOR DEADLINE EXTENSIONS REQUESTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY;
19 REVISING ESTABLISHING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY;
20 PROVIDING DEFINITIONS; AMENDING SECTIONS 75-6-121, 76-4-102, 76-4-104, 76-4-105, 76-4-114, 76-4-
21 115, ~~AND 76-4-116, 76-4-121, AND 76-4-127~~ MCA; AND PROVIDING AN APPLICABILITY DATE ~~AND A~~
22 TERMINATION DATE."

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25
26 **SECTION 1. SECTION 75-6-121, MCA, IS AMENDED TO READ:**

27 **"75-6-121. Delegation of review of small public water and sewer construction.** (1) If a local
28 government requests a delegation and the appropriate division of the local government has established

1 satisfactory review programs, the department ~~may~~shall delegate to the division of local government the review
2 of:

3 (a) small public water and sewer systems; and

4 (b) extensions or alterations of existing public water and sewer systems ~~that involve 50 or fewer~~
5 ~~connections.~~

6 (2) The department ~~may~~shall adopt rules regarding the delegation of review authority to divisions
7 of local government.

8 (3) A division of local government conducting a review under this section:

9 (A) must receive 90% of the review fee, and the department must receive the remaining 10% of
10 the review fee; AND

11 (B) SHALL COMPLETE DOCUMENTS NECESSARY TO COMPLETE THE REVIEW AND TO COMPLY WITH:

12 (I) THE MONTANA ENVIRONMENTAL POLICY ACT PROVIDED FOR IN TITLE 75, CHAPTER 1, PARTS 1
13 THROUGH 3;

14 (II) REAL PROPERTY TAKINGS REQUIREMENTS IN ACCORDANCE WITH TITLE 70; AND

15 (III) DETERMINATIONS OF NONDEGRADATION AND NONSIGNIFICANCE AS REQUIRED IN TITLE 75, CHAPTER
16 5."

17
18 **Section 2.** Section 76-4-102, MCA, is amended to read:

19 **"76-4-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
20 following definitions apply:

21 (1) "Adequate county water and/or sewer district facilities" means facilities provided by a county
22 water and/or sewer district incorporated under Title 7, chapter 13, that operate in compliance with Title 75,
23 chapters 5 and 6.

24 (2) "Adequate municipal facilities" means municipally, publicly, or privately owned facilities that
25 supply water, treat sewage, or dispose of solid waste for all or most properties within the boundaries of a
26 municipality and that are operating in compliance with Title 75, chapters 5 and 6.

27 (3) "Board" means the board of environmental review.

28 (4) "Certifying authority" means a municipality or a county water and/or sewer district that meets

1 the eligibility requirements established by the department under 76-4-104(6).

2 (5) "Department" means the department of environmental quality.

3 (6) "Extension of a public sewage system" means a sewerline that connects two or more sewer
4 service lines to a sewer main.

5 (7) "Extension of a public water supply system" means a waterline that connects two or more water
6 service lines to a water main.

7 (8) "Facilities" means public or private facilities for the supply of water or disposal of sewage or
8 solid waste and any pipes, conduits, or other stationary method by which water, sewage, or solid wastes might
9 be transported or distributed.

10 (9) "Independent reviewer" means a registered sanitarian or registered professional engineer that
11 the department has certified to conduct a review under 76-4-104.

12 ~~(9)(10)~~ "Individual water system" means any water system that serves one living unit or commercial
13 unit and that is not a public water supply system as defined in 75-6-102.

14 ~~(10)(11)~~ "Mixing zone" has the meaning provided in 75-5-103.

15 ~~(11)(12)~~ (a) "Proposed drainfield mixing zone" means a mixing zone submitted for approval under this
16 chapter after March 30, 2011.

17 (b) The term does not include drainfield mixing zones that existed or were approved under this
18 chapter prior to March 30, 2011.

19 ~~(12)(13)~~ (a) "Proposed well isolation zone" means a well isolation zone submitted for approval under
20 this chapter after October 1, 2013.

21 (b) The term does not include well isolation zones that existed or were approved under this
22 chapter prior to October 1, 2013.

23 ~~(13)(14)~~ "Public sewage system" or "public sewage disposal system" means a public sewage system
24 as defined in 75-6-102.

25 ~~(14)(15)~~ "Public water supply system" has the meaning provided in 75-6-102.

26 ~~(15)(16)~~ "Regional authority" means any regional water authority, regional wastewater authority, or
27 regional water and wastewater authority organized pursuant to the provisions of Title 75, chapter 6, part 3.

28 ~~(16)(17)~~ "Registered professional engineer" means a person licensed to practice as a professional

1 engineer under Title 37, chapter 67.

2 ~~(17)~~(18) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37,
3 chapter 40.

4 ~~(18)~~(19) "Reviewing authority" means the department or a local department or board of health certified
5 to conduct a review under 76-4-104.

6 ~~(19)~~(20) "Sanitary restriction" means a prohibition against the erection of any dwelling, shelter, or
7 building requiring facilities for the supply of water or the disposition of sewage or solid waste or the construction
8 of water supply or sewage or solid waste disposal, facilities until the department has approved plans for those
9 facilities.

10 ~~(20)~~(21) "Sewage" has the meaning provided in 75-5-103.

11 ~~(21)~~(22) "Sewer service line" means a sewerline that connects a single building or living unit to a public
12 sewage system or to an extension of a public sewage system.

13 ~~(22)~~(23) "Solid waste" has the meaning provided in 75-10-103.

14 ~~(23)~~(24) "Subdivision" means a division of land or land so divided that creates one or more parcels
15 containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the
16 parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision, any condominium,
17 townhome, or townhouse, or any parcel, regardless of size, that provides two or more permanent spaces for
18 recreational camping vehicles or mobile homes.

19 ~~(24)~~(25) "Water service line" means a waterline that connects a single building or living unit to a public
20 water supply system or to an extension of a public water supply system.

21 ~~(25)~~(26) "Well isolation zone" means the area within a 100-foot radius of a water well."
22

23 **Section 3.** Section 76-4-104, MCA, is amended to read:

24 **"76-4-104. Rules for administration and enforcement.** (1) The department shall, subject to the
25 provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for
26 administration and enforcement of this part.

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

1 disposal. The rules and standards must be related to:

- 2 (a) size of lots;
- 3 (b) contour of land;
- 4 (c) porosity of soil;
- 5 (d) ground water level;
- 6 (e) distance from lakes, streams, and wells;
- 7 (f) type and construction of private water and sewage facilities; and
- 8 (g) other factors affecting public health and the quality of water for uses relating to agriculture,
- 9 industry, recreation, and wildlife.

10 (3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of
11 subdivisions consistent with 76-4-114 by a local department or board of health, as described in Title 50, chapter
12 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional
13 engineer and if the department certifies under subsection (4) that the local department or board is competent to
14 conduct the review.

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

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

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

24 (B) ON OR BEFORE DECEMBER 31, 2023, THE DEPARTMENT SHALL DEVELOP PROCEDURES FOR
25 CERTIFICATION OF PREQUALIFIED INDEPENDENT REVIEWERS AND DEVELOP A TRAINING CURRICULUM TO ENSURE
26 COMPLIANCE WITH THIS PART.

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

28 (a) a proposed subdivision lies within more than one jurisdictional area and the respective

1 governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed
2 subdivision; or
3 (b) the local department or board of health elects not to be certified.
4 (6) The rules must further provide for:
5 (a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review
6 under this part and other documentation showing the layout or plan of development, including:
7 (i) total development area; and
8 (ii) total number of proposed units and structures requiring facilities for water supply or sewage
9 disposal;
10 (b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and
11 dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;
12 (c) evidence concerning the potability of the proposed water supply for the subdivision;
13 (d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and
14 dependability;
15 (e) standards and technical procedures applicable to storm drainage plans and related designs, in
16 order to ensure proper drainage ways, except that the rules must provide a basis for not requiring storm water
17 review under this part for parcels 5 acres and larger on which the total impervious area does not and will not
18 exceed 5%. Nothing in this section relieves any person of the duty to comply with the requirements of Title 75,
19 chapter 5, or rules adopted pursuant to Title 75, chapter 5.
20 (f) standards and technical procedures applicable to sanitary sewer plans and designs, including
21 soil testing and site design standards for on-lot sewage disposal systems when applicable;
22 (g) standards and technical procedures applicable to water systems;
23 (h) standards and technical procedures applicable to solid waste disposal;
24 (i) adequate evidence that a proposed drainfield mixing zone and a proposed well isolation zone
25 are located wholly within the boundaries of the proposed subdivision where the proposed drainfield or well is
26 located or that an easement or, for public land, other authorization has been obtained from the landowner to
27 place the proposed drainfield mixing zone or proposed well isolation zone outside the boundaries of the
28 proposed subdivision where the proposed drainfield or proposed well is located.

1 (i) A proposed drainfield mixing zone or a proposed well isolation zone for an individual water
2 system well that is a minimum of 50 feet inside the subdivision boundary may extend outside the boundaries of
3 the subdivision onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities.

4 (ii) This subsection (6)(i) does not apply to the divisions provided for in 76-3-207 except those
5 under 76-3-207(1)(b). Nothing in this section is intended to prohibit the extension, construction, or
6 reconstruction of or other improvements to a public sewage system within a well isolation zone that extends
7 onto land that is dedicated for use as a right-of-way for roads, railroads, or utilities.

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

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

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

20 (m) eligibility requirements for municipalities and county water and/or sewer districts to qualify as a
21 certifying authority under the provisions of 76-4-127.

22 (7) The requirements of subsection (6)(i) regarding proposed drainfield mixing zones and proposed
23 well isolation zones apply to all subdivisions or divisions excluded from review under 76-4-125 created after
24 October 1, 2021, except as provided in subsections (6)(i)(i) and (6)(i)(ii).

25 (8) The department shall:

26 (a) conduct a biennial review of experimental wastewater system components that have been
27 granted a waiver or deviation as provided in subsection (6)(j);

28 (b) utilize relevant analysis of wastewater system components approved in other states and data

1 from peer-reviewed third-party studies to conduct the review provided in subsection (8)(a);

2 (c) propose those experimental wastewater system components that meet the purposes and
3 provisions of this part for adoption into the rules pursuant to this section; and

4 (d) report to the local government interim committee biennially, in accordance with 5-11-210, the
5 number and type of experimental wastewater system components reviewed and the number and type of system
6 components approved and provide written findings to explain why a system component was reviewed but not
7 approved.

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

14 (10) The reviewing authority may not deny or condition a certificate of subdivision approval under
15 this part unless it provides a written statement to the applicant detailing the circumstances of the denial or
16 condition imposition. The statement must include:

- 17 (a) the reason for the denial or condition imposition;
18 (b) the evidence that justifies the denial or condition imposition; and
19 (c) information regarding the appeal process for the denial or condition imposition.

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

22 ~~(12) (a) Except as provided in subsection (12)(b) and pursuant to subsection (12)(c), the~~ THE rules
23 must provide for the review of subdivisions consistent with 76-4-114 by an independent reviewer if the
24 department certifies under subsection (4) of this section that the independent reviewer is competent to conduct
25 the review.

26 ~~(b) (i) Except as provided in subsection (12)(b)(ii), an independent reviewer may not review public~~
27 water supply systems, public sewage systems, or extensions of or connections to these systems.

28 ~~(ii) An independent reviewer may be certified by the department to review subdivisions proposed~~

1 to connect to existing municipal or county water and/or sewer district water and wastewater systems previously
2 approved by the department if no extension of the system is required.

3 ~~(c) (i) If 10% or more of the applications received during a calendar quarter remain overdue~~
4 ~~applications at the end of the quarter, the department shall assign applications to independent reviewers in a~~
5 ~~number not to exceed the number of overdue applications, unless an independent reviewer is not available.~~

6 ~~(ii) The department may assign applications to independent reviewers if fewer than 10% of the~~
7 ~~applications received by the department in a calendar quarter are overdue at the end of that quarter.~~

8 ~~(d)(c) IF 110 OR MORE NEW FILES ARE SUBMITTED TO THE DEPARTMENT FOR REVIEW IN ANY ONE MONTH,~~
9 ~~THE DEPARTMENT SHALL ASSIGN APPLICATIONS RECEIVED IN THAT MONTH TO INDEPENDENT REVIEWERS UNLESS AN~~
10 ~~INDEPENDENT REVIEWER IS NOT AVAILABLE.~~

11 ~~(d) The department shall reimburse independent reviewers at the same rate the department~~
12 ~~reimburses local departments or local boards of health certified under subsection (3).~~

13 ~~(13) (a) As used in this section, "overdue application" means an application for which the~~
14 ~~department has not provided a response within 40 days under 76-4-114(3)(c)(i)(A) and that remains~~
15 ~~outstanding at the end of a quarter.~~

16 ~~(b) The term does not include applications for which:~~

17 ~~(i) no more than one extension has been granted to the department under 76-4-114(4) ; or~~

18 ~~(ii) any number of extensions under 76-4-114(5) have been granted.~~

19 ~~(13) PRIOR TO BEING ASSIGNED AN APPLICATION FOR REVIEW, AN INDEPENDENT REVIEWER SHALL IDENTIFY~~
20 ~~ANY CONFLICT OF INTEREST RELATED TO THE PROJECT UNDER POTENTIAL REVIEW. IF THE INDEPENDENT REVIEWER~~
21 ~~IDENTIFIES A CONFLICT OF INTEREST, THE APPLICATION FOR REVIEW MUST BE ASSIGNED TO A DIFFERENT INDEPENDENT~~
22 ~~REVIEWER.~~

23 ~~(14) AN INDEPENDENT REVIEWER ACTING UNDER THE REQUIREMENTS OF THIS CHAPTER SHALL COMPLY~~
24 ~~WITH THE PROVISIONS OF TITLE 2, CHAPTER 6, FOR PUBLIC INFORMATION REQUESTS.~~

25 ~~(15) AN INDEPENDENT REVIEWER CONDUCTING REVIEWS UNDER THIS SECTION SHALL COMPLETE~~
26 ~~DOCUMENTS NECESSARY TO COMPLETE THE REVIEW AND TO COMPLY WITH:~~

27 ~~(A) THE MONTANA ENVIRONMENTAL POLICY ACT PROVIDED FOR IN TITLE 75, CHAPTER 1, PARTS 1~~
28 ~~THROUGH 3; AND~~

1 (B) REAL PROPERTY TAKINGS REQUIREMENTS IN ACCORDANCE WITH TITLE 70."

2

3 SECTION 4. SECTION 76-4-105, MCA, IS AMENDED TO READ:

4 **"76-4-105. Subdivision fees -- subdivision program funding.** (1) The department shall adopt rules
5 setting forth fees that do not exceed actual costs for reviewing plats and subdivisions, conducting inspections
6 pursuant to 76-4-107, and conducting enforcement activities pursuant to 76-4-108. The rules must provide for a
7 schedule of fees to be paid by the applicant to the department. The fees must be used for review of plats and
8 subdivisions, conducting inspections pursuant to 76-4-107, and conducting enforcement activities pursuant to
9 76-4-108. The fees must be based on the complexity of the subdivision, including but not limited to:

- 10 (a) the number of lots in the subdivision;
- 11 (b) the type of water system to serve the development;
- 12 (c) the type of sewage disposal to serve the development; and
- 13 (d) the degree of environmental research necessary to supplement the review procedure.

14 (2) (A) For EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(B), FOR extensions requested by the
15 department of the deadlines in 76-4-114, the department shall refund the applicant:

- 16 (a)(I) for the first extension, 40%-25% of the fees;
- 17 (b)(II) for the second extension, 30%-50% of the fees; and
- 18 (c)(III) for the third extension, the remaining fees paid.

19 (B) REIMBURSEMENT IS NOT REQUIRED FOR EXTENSIONS:

- 20 (I) REQUESTED BY THE APPLICANT UNDER 76-4-114(4); OR
- 21 (II) NECESSARY UNDER 76-4-114(5) TO OBTAIN THE REQUIRED INFORMATION IN 76-4-115(2).

22 (C) A REIMBURSEMENT PROVIDED FOR IN THIS SUBSECTION (2) APPLIES ONLY TO THE PORTIONS OF THE
23 APPLICATION REVIEW BEING COMPLETED BY THE DEPARTMENT.

24 ~~(2)(3)~~ The department shall adopt rules to determine the distribution of fees to the local reviewing
25 authority for reviews conducted pursuant to 76-4-104, inspections conducted pursuant to 76-4-107, and
26 enforcement activities conducted pursuant to 76-4-108.

27 ~~(3)(4)~~ The local reviewing authority may establish a fee to review applications, conduct site visits, and
28 review applicable exemptions under this chapter. The fee must be paid directly to the local reviewing authority

1 and may not exceed the local reviewing authority's actual cost that is not otherwise reimbursed by the
2 department from fees adopted pursuant to this section."

3

4 **Section 5.** Section 76-4-114, MCA, is amended to read:

5 **"76-4-114. Review of application.** Except as provided in 76-4-125, the applicant shall submit an
6 application for review of a subdivision pursuant to the following procedure:

7 (1) An applicant may request a preapplication meeting with the reviewing authority prior to
8 submitting an application. The reviewing authority shall schedule the requested meeting between the applicant
9 and the reviewing authority within 30 days of receiving the request from the applicant. The meeting may be
10 conducted in person, via telephone, or via teleconference. For informational purposes only, the reviewing agent
11 shall identify the state laws and rules that may apply to the subdivision review process.

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

16 (3) (a) After submitting an application if required under the Montana Subdivision and Platting Act,
17 the applicant shall submit an application to the reviewing authority. A subdivision application is considered to be
18 received on the date of delivery to the reviewing authority when accompanied by the review fee established
19 pursuant to 76-4-105.

20 (b) Within 15 days of the receipt of an application, the reviewing authority or independent reviewer
21 shall determine whether the application contains the elements required by 76-4-115(1) to allow for review and
22 shall notify the applicant of the ~~reviewing authority's~~ determination. If the reviewing authority or independent
23 reviewer determines that elements are missing from the application, the reviewing agent or agency shall identify
24 those elements in the notification. The applicant shall address the missing elements identified by the reviewing
25 authority or independent reviewer. A determination that an application contains the required elements for review
26 as provided in this subsection (3)(b) does not ensure that the proposed subdivision will be approved and does
27 not limit the ability of the reviewing authority or independent reviewer to request additional information during
28 the review process.

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

5 (A) make a final decision within 40 days of finding that the application contains all of the required
6 elements if the reviewing authority is the department; or

7 (B) make a recommendation for approval to the department or deny the application within 30 days
8 of finding that the application contains all of the required elements if the reviewing authority is a local
9 department, ~~or local~~ board of health, or independent reviewer. If the department receives a recommendation for
10 approval of the subdivision from a local department, ~~or local~~ board of health, or independent reviewer, the
11 department shall make a final decision on the application within 10 days of receiving the recommendation ~~of the~~
12 ~~reviewing authority~~.

13 (ii) If the department approves the application, the department shall issue a certificate of
14 subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not
15 subject to a sanitary restriction.

16 (iii) If the reviewing authority or independent reviewer denies the application, the reviewing
17 authority or independent reviewer shall identify the deficiencies that result in the denial in a notification to the
18 applicant. THE REVIEWING AUTHORITY MAY IDENTIFY OTHER APPARENT DEFICIENCIES IN ADDITIONAL INFORMATION
19 SUBMITTED AFTER THE INITIAL APPLICATION.

20 (d) (i) If the reviewing authority or independent reviewer denies an application and the applicant
21 resubmits a corrected application within 30 days after the date of the denial letter, the reviewing authority or
22 independent reviewer shall complete review of the resubmitted application within 30 days after receipt of the
23 resubmitted application.

24 (ii) If the reviewing authority or independent reviewer denies an application and the applicant
25 resubmits a corrected application after 30 days after the date of the denial letter, the reviewing authority or
26 independent reviewer shall complete review of the resubmitted application within:

27 (A) 55 days after receipt of the resubmitted application if the reviewing authority is the department;
28 or

1 (B) 45 days after receipt of the resubmitted application if the reviewing authority is a local
2 department, ~~or local~~ board of health, ~~or independent reviewer~~.

3 (iii) If the review of the resubmitted application is conducted by a local department, ~~or local~~ board
4 of health, ~~or independent reviewer~~ and the reviewing authority ~~or independent reviewer~~ makes a
5 recommendation to the department for approval of the application, the department shall make a final decision
6 on the application within 10 days after the local reviewing authority ~~or independent reviewer~~ completes its
7 review under subsection (3)(d)(i) or (3)(d)(ii).

8 (4) Except as provided in subsections (6) and (7), if the reviewing authority ~~or independent~~
9 ~~reviewer~~ needs an extension of a deadline in this section to complete its review or if an applicant requests an
10 extension of a deadline, then the reviewing authority ~~or independent reviewer~~ shall notify the applicant of the
11 extension prior to the end of the review deadline. An extension under this subsection may not exceed 30 days;
12 ~~however, the reviewing authority may issue more than one extension. THE REVIEWING AUTHORITY MAY NOT ISSUE~~
13 ~~MORE THAN ONE EXTENSION.~~

14 (5) The reviewing authority ~~or independent reviewer~~ may extend a deadline in this section until the
15 items required in 76-4-115(2) are submitted. The reviewing authority ~~or independent reviewer~~ shall notify the
16 applicant of the extension before the end of the review deadline. The reviewing authority ~~or independent~~
17 ~~reviewer~~ shall make a final decision within 30 days of receipt of the items required in 76-4-115(2).

18 (6) The department may extend a deadline under subsections (3)(c) and (3)(d) by 90 days if an
19 environmental assessment is required.

20 (7) The department may extend a deadline under subsections (3)(c) and (3)(d) by 120 days if an
21 environmental impact statement is required.

22 (8) ~~AN APPLICATION IS CONSIDERED AN OVERDUE APPLICATION IF THE DEPARTMENT HAS NOT PROVIDED A~~
23 ~~RESPONSE OR MET THE STATUTORY TIMELINES PROVIDED IN THIS SECTION.~~

24 (9) ~~IF A MUNICIPAL SYSTEM HAS BEEN DELEGATED REVIEW AUTHORITY UNDER 75-6-112, THE~~
25 ~~DEPARTMENT IS NOT REQUIRED TO REVIEW WATER OR SEWER FACILITIES THAT HAVE ALREADY BEEN APPROVED BY THE~~
26 ~~MUNICIPALITY."~~

27

28 **Section 6.** Section 76-4-115, MCA, is amended to read:

1 **"76-4-115. Contents of application -- supplemental information.** (1) The application submitted
2 under 76-4-114 must include preliminary plans and specifications for the proposed development, information
3 required under rules adopted pursuant to this chapter, and any additional information the applicant feels
4 necessary.

5 (2) In addition to the information required for the submission of the application under subsection
6 (1), before the reviewing authority or independent reviewer makes a final decision on the application, the
7 applicant shall provide:

- 8 (a) a copy of the certification from the local health department required by 76-4-104(6)(k);
9 (b) if required under Title 76, chapter 3, an approval from the local governing body under Title 76,
10 chapter 3; and
11 (c) any public comments or summaries of public comments collected as provided in 76-3-604(7)."

12
13 **Section 7.** Section 76-4-116, MCA, is amended to read:

14 **"76-4-116. Annual ~~report~~ AND QUARTERLY REPORTS.** (1) The department shall report annually to the
15 environmental quality council in accordance with 5-11-210:

16 ~~(1) _____ summarizing the review procedures adopted under Title 76, chapter 4, and recommending~~
17 ~~recommendations as to whether statutory changes should be made to the process; and~~

18 ~~(2) _____ noting the percentage and number of overdue applications for each calendar quarter and if~~
19 ~~independent reviewers were necessary under 76-4-104(12)(c)(i).~~

20 (2) THE DEPARTMENT SHALL REPORT QUARTERLY TO THE ENVIRONMENTAL QUALITY COUNCIL IN
21 ACCORDANCE WITH 5-11-210 THE NUMBER AND PERCENTAGE OF OVERDUE FILES AS PROVIDED IN 76-4-114(8).

22 (3) (A) BEFORE JULY 1, 2028, THE DEPARTMENT SHALL PROVIDE A COMPREHENSIVE REVIEW OF
23 SUBDIVISION REVIEW PROCEDURES, INCLUDING AN ANALYSIS OF THE ROLE OF INDEPENDENT REVIEWERS, DELAYS IN
24 PERMIT ISSUANCE, AND PERMIT OUTCOMES. THE DEPARTMENT SHALL CONSIDER AND COLLECT INPUT FROM
25 STAKEHOLDERS IN PREPARING THE COMPREHENSIVE REVIEW.

26 (B) THE DEPARTMENT SHALL REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL THE INFORMATION
27 PROVIDED IN THE COMPREHENSIVE REVIEW REQUIRED IN SUBSECTION (3)(A). THE ENVIRONMENTAL QUALITY COUNCIL
28 MAY PROVIDE RECOMMENDATIONS TO THE DEPARTMENT."

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SECTION 8. SECTION 76-4-121, MCA, IS AMENDED TO READ:

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

~~(1) a certificate of subdivision approval has been issued pursuant to 76-4-114 indicating that the reviewing authority has approved the subdivision application and that the subdivision is not subject to a sanitary restriction;~~

~~(2) the certifying authority has provided certification pursuant to 76-4-127 that the subdivision will be provided with adequate municipal or county water and/or sewer district facilities and or adequate storm water drainage; or~~

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

Section 8. SECTION 76-4-127, MCA, IS AMENDED TO READ:

"76-4-127. Notice of certification that adequate storm water drainage and ~~or~~ AND adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(1)(d), the certifying authority shall send notice of certification to the reviewing authority that ~~adequate storm water drainage and adequate municipal~~ identifies the ADEQUATE STORM WATER DRAINAGE AND ADEQUATE MUNICIPAL facilities ~~that~~ will be provided for the subdivision. For a subdivision subject to Title 76, chapter 3, the certifying authority shall send notice of certification to the reviewing authority prior to final plat approval.

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

(a) the name and address of the applicant;

(b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat when a preliminary plat is not necessary or, for a subdivision not subject to Title 76, chapter 3, a copy of the certificate of survey map or amended plat map or a declaration ~~and floor plan, including the layout of each unit proposed to be recorded,~~ AND FLOOR PLAN, INCLUDING THE LAYOUT OF EACH UNIT PROPOSED TO BE RECORDED under Title 70, chapter 23, part 3;

- 1 (c) the number of parcels in the subdivision;
- 2 (d) a copy of any applicable zoning ordinances in effect;
- 3 (e) how construction of ~~THE the sewage disposal, AND and water supply, solid waste, or storm water~~
4 ~~drainage systems or extensions to those systems~~ will be financed;
- 5 (f) the relative location of the subdivision to the ~~city or the county water and/or sewer district~~ CITY
6 OR THE COUNTY WATER AND/OR SEWER DISTRICT boundaries of the certifying authority;

7 (g) ~~(i)~~ certification that ADEQUATE MUNICIPAL OR COUNTY WATER AND/OR SEWER DISTRICT adequate
8 ~~municipal or county water and/or sewer district facilities~~ FOR THE SUPPLY OF WATER AND DISPOSAL OF SEWAGE AND
9 SOLID WASTE for the supply of water and disposal of sewage and solid waste will be provided, including:

10 (A) the supply of water;

11 (B) the disposal of sewage; or

12 (C) storm water drainage.

13 (ii) The notice must identify which facilities, if any, cannot be certified by the certifying authority.

14 Facilities for subdivisions subject to 76-3-507 must be provided within the time that section provides.

15 (h) if water supply, sewage disposal, ~~or solid waste,~~ or storm water drainage facilities are not
16 municipally owned, certification from the facility owners that adequate facilities will be available; ~~and~~ AND

17 ~~(i) certification that the certifying authority has or will review and approve plans to ensure adequate~~
18 ~~storm water drainage~~

19 (I) CERTIFICATION THAT THE CERTIFYING AUTHORITY HAS OR WILL REVIEW AND APPROVE PLANS TO
20 ENSURE ADEQUATE STORM WATER DRAINAGE.

21 (3) A MUNICIPALITY MAY BE AUTHORIZED TO ACT AS A REVIEWING AUTHORITY UNDER THIS SECTION AND
22 MAY SELF-APPROVE THE MUNICIPALITY'S OWN EXEMPTION~~If a certifying authority is unable to certify adequacy of~~
23 ~~one or more systems for the subdivision, the reviewing authority shall review the subdivision for adequacy and~~
24 ~~approval of the remaining services."~~

26 NEW SECTION. SECTION 10. — CERTIFICATION OF APPLICANTS TO PREQUALIFY FOR REVIEW. (1) THE
27 DEPARTMENT SHALL PROMULGATE RULES TO ALLOW FOR THE CERTIFICATION OF APPLICANTS, INCLUDING THE
28 DEVELOPMENT OF AN EDUCATIONAL CURRICULUM AND EXAMINATION TO ENABLE AN APPLICANT TO ACT AS A CERTIFIED

1 ~~REVIEWING AGENT PURSUANT TO 76-4-104(4), AND SHALL CONDUCT REVIEWS OF SUBDIVISION APPLICATIONS~~
2 ~~SUBMITTED BY CERTIFIED APPLICANTS UNDER 76-4-114.~~
3 ~~(2) TO BECOME CERTIFIED, AN APPLICANT:~~
4 ~~(A) MUST BE A REGISTERED SANITARIAN OR LICENSED PROFESSIONAL ENGINEER WITH AT LEAST 5 YEARS~~
5 ~~OF PROFESSIONAL EXPERIENCE;~~
6 ~~(B) MUST HAVE SUBMITTED AT LEAST ONE APPLICATION THAT WAS APPROVED BY THE DEPARTMENT PRIOR~~
7 ~~TO APPLYING FOR CERTIFICATION; AND~~
8 ~~(C) SHALL PARTICIPATE IN ALL PORTIONS OF THE REQUIRED CURRICULUM AND MUST SUCCESSFULLY PASS~~
9 ~~THE EXAMINATION DEVELOPED BY THE DEPARTMENT AS PROVIDED IN SUBSECTION (1).~~
10 ~~(3) A CERTIFIED APPLICANT MAY ONLY REVIEW SUBDIVISIONS IN WHICH EACH PROPOSED LOT IS TO BE~~
11 ~~SERVICED BY AN INDIVIDUAL WATER WELL AND AN INDIVIDUAL ONSITE WASTEWATER TREATMENT SYSTEM.~~
12 ~~(4) A CERTIFIED APPLICANT:~~
13 ~~(A) SHALL MEET ALL REVIEW TIMELINES REQUIRED FOR APPLICATION REVIEW UNDER 76-4-114;~~
14 ~~(B) SHALL CERTIFY THAT THE CONTENTS OF AN APPLICATION, INCLUDING ANY SUPPLEMENTAL~~
15 ~~INFORMATION AS REQUIRED IN 76-4-115, ARE COMPLETE;~~
16 ~~(C) SHALL SUBMIT COMPLETED APPLICATIONS TO THE DEPARTMENT;~~
17 ~~(D) IS NOT ENTITLED TO SUBDIVISION FEES UNDER 76-4-105; AND~~
18 ~~(E) SHALL ASSUME ALL LEGAL RESPONSIBILITY FOR THE CERTIFIED APPLICANT'S ACTIONS RELATED TO~~
19 ~~APPLICATIONS REVIEWED AND COMPLETED BY THE CERTIFIED APPLICANT.~~
20 ~~(5) COMPLETED APPLICATIONS RECEIVED BY THE DEPARTMENT FROM A CERTIFIED APPLICANT MUST BE~~
21 ~~CONSIDERED APPROVED BY THE REVIEWING AGENT AND MAY BE FILED BY THE COUNTY CLERK AND RECORDER AS~~
22 ~~ALLOWED IN 76-4-122 IF THE APPLICATION MEETS ALL OTHER CONDITIONS OF 76-4-122.~~
23 ~~(6) (A) THE DEPARTMENT SHALL REVIEW AT LEAST 10% OF ALL APPLICATIONS SUBMITTED BY CERTIFIED~~
24 ~~APPLICANTS IN A CALENDAR YEAR USING THE STANDARD REVIEW PROCESS ALLOWED IN THIS PART.~~
25 ~~(B) IF THE DEPARTMENT REVIEWS AN APPLICATION SUBMITTED BY A CERTIFIED APPLICANT PURSUANT TO~~
26 ~~SUBSECTION (6)(A) AND FINDS THAT THE CERTIFIED APPLICANT HAS VIOLATED A REQUIREMENT OF THIS PART OR A RULE~~
27 ~~ADOPTED OR AN ORDER ISSUED UNDER THIS PART, THE DEPARTMENT SHALL REVOKE THE CERTIFIED STATUS OF THE~~
28 ~~APPLICANT. AN APPLICANT WHOSE CERTIFIED STATUS HAS BEEN REVOKED AS PROVIDED IN THIS SUBSECTION (6)(B) MAY~~

1 ~~NOT APPLY FOR CERTIFICATION UNDER THIS SECTION AND MAY BE LIABLE FOR PENALTIES ALLOWED IN 76-4-109. THE~~
2 ~~DEPARTMENT OR ANY OTHER AGGRIEVED PERSON MAY SEEK ADDITIONAL REMEDIES ALLOWED IN 76-4-110 OR SEEK~~
3 ~~OTHER REDRESS UNDER ANY AVAILABLE LAW.~~

4 ~~(7) A CERTIFIED APPLICANT IS REQUIRED TO RENEW THE APPLICANT'S CERTIFICATION AT LEAST ONCE~~
5 ~~EVERY 2 YEARS.~~

6 ~~(8) NOTHING IN THIS SECTION RESTRICTS OR DENIES THE ABILITY OF THE DEPARTMENT TO ENFORCE THE~~
7 ~~PROVISIONS OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO THE ENFORCEMENT PROVISIONS PROVIDED IN 76-4-108,~~
8 ~~76-4-1001, AND 76-4-1002.~~

9 ~~(9) A CERTIFIED APPLICANT ACTING UNDER THE REQUIREMENTS OF THIS SECTION SHALL COMPLY WITH THE~~
10 ~~PROVISIONS OF TITLE 2, CHAPTER 6, FOR PUBLIC INFORMATION REQUESTS.~~

11

12 ~~NEW SECTION. SECTION 11. — IMPLEMENTATION. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL~~
13 ~~IMPLEMENT THE REQUIREMENTS OF [THIS ACT] WITHIN EXISTING RESOURCES.~~

14

15 NEW SECTION. Section 9. Saving clause. [This act] does not affect rights and duties that matured,
16 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

17

18 NEW SECTION. Section 10. Nonseverability. It is the intent of the legislature that each part of [this
19 act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other
20 parts are invalid.

21

22 ~~NEW SECTION. SECTION 14. — CODIFICATION INSTRUCTION. [SECTION 10] IS INTENDED TO BE CODIFIED AS~~
23 ~~AN INTEGRAL PART OF TITLE 76, CHAPTER 4, PART 1, AND THE PROVISIONS OF TITLE 76, CHAPTER 4, PART 1, APPLY TO~~
24 ~~[SECTION 10].~~

25

26 NEW SECTION. Section 11. Applicability. [This act] applies to applications received on or after
27 October 1, 2023 JANUARY 1, 2024.

28

1 ~~NEW SECTION. Section 9.—Termination.~~ [This act] terminates December 31, 2027.

2 - END -