

SANTITATION IN SUBDIVISIONS ACT

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Subdivided land is subject to the Sanitation in Subdivisions Act governed by [Title 76, chapter 4, part 1](#). The main purposes of the Sanitations Act are to ensure water quality, adequate sewage, and solid waste disposal for subdivision residents while mitigating environmental impacts. The Department of Environmental Quality (DEQ) sets standards for water and sewage system reviews, and divided parcels of less than 20 acres, condominiums, mobile home parks, and recreational vehicle parks are subject to sanitary reviews. The DEQ may allow local governments or health boards to conduct reviews if they are certified by the DEQ.

Subdivided areas may be exempt from the Sanitations Act if they are located in first- or second-class cities with existing water, sewage, solid waste, and storm drainage systems in place that can be extended to the subdivision, but these areas must still provide adequate certification records to the DEQ. Specific certification requirements are found in [76-4-127, MCA](#). New developers not serviced by municipal water and sewer systems must follow the application process necessary under the Subdivision and Platting Act (see respective primer) and must submit sanitation information to the DEQ. If a developer's application is denied, a hearing may be requested before the Board of Environmental Review.

Legislative Services Division Materials:

[Subdivisions](#), Explanation of chapter 3 (Subdivision and Platting Act) and chapter 4, part 1 (Sanitation in Subdivisions Act) of Title 76

Other Materials:

[Department of Environmental Quality website](#)

[Montana Subdivision and Platting Act \(MSPA\)](#), “Exemptions, surveys, and other miscellaneous topics”, Montana Land Title Association, 2013

Introduced Legislation

2017

[House Bill 300](#) – Chapter Number Assigned -- AN ACT REVISING EXEMPTIONS FROM SUBDIVISION SANITATION REQUIREMENTS; EXEMPTING CERTAIN TOWNHOUSES FROM CERTAIN SANITATION REGULATIONS; AND AMENDING SECTION 76-4-111, MCA.

[House Bill 407](#) – Chapter Number Assigned -- AN ACT REVISING SANITATION IN SUBDIVISIONS RULE REQUIREMENTS TO ALLOW FOR A WELL ISOLATION ZONE FOR AN INDIVIDUAL WATER SYSTEM WELL TO EXTEND OUTSIDE OF THE BOUNDARIES OF A SUBDIVISION UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 76-4-102 AND 76-4-104, MCA.

[House Bill 445](#) – Chapter Number Assigned -- AN ACT REVISING LOCAL SUBDIVISION REVIEW LAWS; PROVIDING FOR PHASED DEVELOPMENT FOR WHICH A SUBDIVIDER MAY APPLY TO A LOCAL GOVERNING BODY; REQUIRING THAT A PHASED DEVELOPMENT APPLICATION INCLUDE INFORMATION ON ALL PROPOSED PHASES AND A SCHEDULE FOR REVIEW OF EACH PHASE; REQUIRING THAT ALL PHASES OF A PHASED DEVELOPMENT BE SUBMITTED FOR REVIEW AND ACTED ON WITHIN A CERTAIN TIME; REQUIRING A PUBLIC HEARING FOR REVIEW OF EACH PHASE AND REQUIRING A GOVERNING BODY TO CONSIDER CHANGED PRIMARY CRITERIA IMPACTS OR NEW INFORMATION WHEN REVIEWING EACH PHASE; ALLOWING A GOVERNING BODY TO IMPOSE NECESSARY, ADDITIONAL CONDITIONS ON APPROVAL OF EACH PHASE; ALLOWING A GOVERNING BODY TO CHARGE A FEE FOR REVIEW OF PHASES IN A PHASED DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-3-102, 76-3-103, AND 76-8-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill 507](#) – Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS CONCERNING SANITATION REVIEW FOR PROPOSED SUBDIVISIONS; CREATING A PILOT PROGRAM REVISING TIMELINES FOR SUBDIVISION SANITATION REVIEWS; AMENDING SECTIONS 75-1-208, 76-3-622, 76-4-104, 76-4-121, 76-4-122, 76-4-125, AND 76-4-127, MCA; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE.

[House Bill 510](#) – Chapter Number Assigned -- AN ACT CLARIFYING WHEN CERTAIN SUBDIVISIONS THAT ARE EXEMPT FROM LOCAL SUBDIVISION REVIEW MAY BE EXEMPT FROM WATER AND SANITATION REVIEW; ALLOWING FOR EXEMPTIONS IF STORM WATER AND MUNICIPAL FACILITIES INFORMATION IS PROVIDED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR ITS DESIGNEE; AMENDING SECTION 76-4-127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

2015

[House Bill 519](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO EXEMPT APPROPRIATIONS OF WATER; REVISING VOLUME LIMITS FOR EXEMPT APPROPRIATIONS OF WATER; REQUIRING CERTAIN WATER RIGHTS INFORMATION DURING

SUBDIVISION REVIEW AND FOR EXEMPT APPROPRIATIONS OF WATER; PROVIDING ENFORCEMENT MEASURES FOR VIOLATIONS OF LAWS RELATED TO EXEMPT APPROPRIATIONS OF WATER; REQUIRING WATER RIGHTS INFORMATION DURING SANITATION IN SUBDIVISION REVIEW; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADOPT RULES REQUIRING WATER RIGHTS DOCUMENTATION; REQUIRING WATER RIGHTS INFORMATION DURING REVIEW OF SUBDIVISION APPLICATION; ELIMINATING PROHIBITION OF METERING A WATER WELL; REVISING CONTROL PROVISIONS FOR A CONTROLLED GROUNDWATER AREA; AMENDING SECTIONS 76-4-104, 76-4-125, 85-2-113, 85-2-306, AND 85-2-506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

2013

[Senate Bill 293](#) – Chapter Number Assigned -- AN ACT REQUIRING A SUBDIVIDER TO SUBMIT INFORMATION REGARDING WHETHER A PROPOSED SUBDIVISION'S WATER AND WASTEWATER SYSTEMS WILL BE UNDER THE PUBLIC SERVICE COMMISSION'S JURISDICTION; AMENDING SECTION 76-3-622, MCA; AND PROVIDING AN APPLICABILITY DATE.

[Senate Bill 316](#) – Chapter Number Assigned -- AN ACT REVISING SUBDIVISION AND LOCAL BOARD OF HEALTH LAWS RELATED TO ENCROACHMENT ONTO PRIVATE PROPERTY; PROHIBITING LOCAL APPROVAL OF A PROPOSED SUBDIVISION IF A WELL ISOLATION ZONE OR OTHER FEATURES AND IMPROVEMENTS OF THE SUBDIVISION ENCROACH ONTO PRIVATE PROPERTY; REQUIRING DEPARTMENT OF ENVIRONMENTAL QUALITY SANITATION IN SUBDIVISION RULES TO PROVIDE FOR EVIDENCE THAT WELL ISOLATION ZONES ARE LOCATED WHOLLY WITHIN THE BOUNDARIES OF A PROPOSED SUBDIVISION; REQUIRING LOCAL BOARD OF HEALTH RULES TO ADDRESS WELL ISOLATION ZONES UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 50-2-116, 76-3-608, 76-4-102, AND 76-4-104, MCA

2011

[House Bill 28](#) – Chapter Number Assigned -- AN ACT REQUIRING THAT PROPOSED DRAINFIELD MIXING ZONES BE LOCATED WHOLLY WITHIN THE SUBDIVISION WHERE THE DRAINFIELD IS LOCATED OR ON AN ADJOINING RIGHT-OF-WAY; ALLOWING LOCATION OF A DRAINFIELD MIXING ZONE OUTSIDE THE SUBDIVISION IF AN EASEMENT OR OTHER AUTHORIZATION IS OBTAINED; AMENDING SECTION 76-4-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

2009

None