

1 SENATE BILL NO. 170
2 INTRODUCED BY F. MANDEVILLE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE ADMINISTRATIVE PROCESS
5 FOR CERTAIN MINOR SUBDIVISIONS; PROVIDING CRITERIA AND EXEMPTIONS FOR CERTAIN MINOR
6 SUBDIVISIONS; GRANTING A SUBDIVISION ADMINISTRATOR DECISION-MAKING AUTHORITY;
7 PROVIDING A PROCESS FOR ~~REDRESS~~ APPEAL; PROVIDING A DEFINITION; AND AMENDING
8 SECTION 76-3-609, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 76-3-609, MCA, is amended to read:

13 **"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of**
14 **application -- governing body to adopt regulations.** (1) Except as provided in subsections (6) through (8),
15 ~~Minor~~ minor subdivisions must be reviewed as provided in this section and subject to the applicable local
16 regulations adopted pursuant to 76-3-504.

17 (2) If the tract of record proposed to be subdivided has not been subdivided or created by a
18 subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels
19 created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision
20 is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided,
21 must be reviewed as follows:

22 (a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally
23 approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by
24 the reviewing agent or agency that the application contains required elements and sufficient information for
25 review. The determination and notification to the subdivider must be made in the same manner as is provided in
26 76-3-604(1) through (3).

27 (b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of
28 the review period, not to exceed 1 year.

1 (c) Except as provided in subsection (2)(d)(ii), an application must include a summary of the
2 probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

3 (d) The following requirements do not apply to the first minor subdivision from a tract of record as
4 provided in subsection (2):

5 (i) the requirement to prepare an environmental assessment; and

6 (ii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor
7 subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address
8 the criteria in 76-3-608(3)(a).

9 (e) The governing body or its authorized agent or agency may not hold a public hearing or a
10 subsequent public hearing under 76-3-615 for a first minor subdivision from a tract of record as described in
11 subsection (2).

12 (f) The governing body may adopt regulations that establish requirements for the expedited review
13 of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed
14 under the regulations:

15 (i) except as provided in subsection (2)(d), the provisions of 76-3-608(3); and

16 (ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

17 (3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is
18 not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor
19 subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-
20 614, and 76-3-620.

21 (4) The governing body may adopt subdivision regulations that establish requirements for review of
22 subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision,
23 as provided in subsection (2) and this chapter.

24 (5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter
25 may occur only under those regulations in effect at the time that a subdivision application is determined to
26 contain sufficient information for review as provided in subsection (2).

27 (b) If regulations change during the period that the application is reviewed for required elements
28 and sufficient information, the determination of whether the application contains the required elements and

1 sufficient information must be based on the new regulations.

2 (6) First and subsequent minor subdivisions must be reviewed using the administrative process
3 provided for in subsection (7) if the proposed subdivision:

4 (a) is located in an area that is subject to and complies with zoning regulations adopted pursuant
5 to Title 76, chapter 2, part 2 or 3, THAT, AT A MINIMUM, ADDRESS DEVELOPMENT INTENSITY THROUGH DENSITIES, BULK
6 AND DIMENSIONAL REQUIREMENTS, AND USE STANDARDS;

7 (b) ~~is served by~~ HAS A WILL-SERVE LETTER FROM a municipal water and sewer service or by a
8 county water and/or sewer district created under 7-13-2203 that supplies both water and sewer services;

9 (c) has existing legal and physical access to each lot; and

10 (d) does not require a variance to any of the contents of the subdivision regulations required in 76-
11 3-504(1)(g).

12 (7) An administrative minor subdivision meeting the requirements of subsection (6) is exempt from:

13 (a) submitting the summary of probable impacts based on criteria described in 76-3-608(3) and the
14 environmental assessment required in 76-3-603;

15 (b) the review criteria described in 76-3-608(3)(a); AND

16 (c) ~~the requirements of 76-3-622, except that the administrative minor subdivision must meet the~~
17 ~~requirements of 76-3-622(1)(a)(ii), 76-3-622(1)(b)(i), and 76-3-622(1)(b)(ii) ; and~~

18 (c) the requirements of subsections (2) through (5) of this section.

19 (8) (a) For administrative minor subdivisions, the subdivision administrator appointed by the
20 governing body shall:

21 (i) assume all decision-making authority of the governing body provided in 76-3-608; and

22 (ii) approve, conditionally approve, or deny an administrative minor subdivision and issue a written
23 statement pursuant to 76-3-620 within 20 working days of a determination by the reviewing agent or agency
24 that the application contains required elements and sufficient information for review as provided in 76-3-604(1)
25 through (3); AND

26 (iii) IMMEDIATELY ON A DETERMINATION THAT THE APPLICATION MEETS THE REQUIREMENTS OF 76-3-
27 604(1) THROUGH (3), NOTIFY BY FIRST-CLASS MAIL OF THE PENDING APPLICATION;

28 (A) EACH PROPERTY OWNER OF RECORD WHOSE PROPERTY IS IMMEDIATELY ADJOINING THE LAND

1 INCLUDED IN THE PRELIMINARY PLAT; AND
2 (B) EACH PURCHASER UNDER CONTRACT FOR DEED OF PROPERTY IMMEDIATELY ADJOINING THE LAND
3 INCLUDED IN THE PRELIMINARY PLAT.
4 (b) If a party identified in 76-3-625(3) objects to a subdivision administrator's decision to approve,
5 conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the
6 subdivision administrator forward the application on to the governing body. The governing body shall assume
7 the decision-making authority provided in 76-3-608 in relation to the administrative minor subdivision in
8 question and SUSTAIN THE SUBDIVISION ADMINISTRATOR'S DECISION BASED ON THE RECORD AS A WHOLE UNLESS THE
9 DECISION WAS ARBITRARY, CAPRICIOUS, OR UNLAWFUL. THE GOVERNING BODY has 15 working days from the receipt
10 of the request to ~~make~~ REVIEW a decision to approve, conditionally approve, or deny the administrative minor
11 subdivision AND MAKE A FINAL DETERMINATION.
12 (9) As used in this section, "administrative minor subdivision" means a subdivision meeting the
13 requirements of subsection (6). All the requirements of Title 76, chapter 3, except those exempt in subsections
14 (7) and (8), apply to an administrative minor subdivision."
15 - END -