

HOUSE BILL NO. 483

INTRODUCED BY R. FITZGERALD

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SUBDIVISION AND PLATTING LAWS RELATED TO ONE-TIME SPLITS; AND AMENDING SECTIONS 76-3-103, 76-3-207, AND 76-8-101, MCA."

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

Section 1. Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter

1 to be prepared for filing for record with the county clerk and recorder and containing all elements and
2 requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

3 (7) "Governing body" means a board of county commissioners or the governing authority of a city
4 or town organized pursuant to law.

5 (8) "Immediate family" means a spouse, children by blood or adoption, and parents.

6 (9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

7 (10) "One-time split" means one division of a tract of record.

8 ~~(10)~~(11) "Phased development" means a subdivision application and preliminary plat that at the time of
9 submission consists of independently platted development phases that are scheduled for review on a schedule
10 proposed by the subdivider.

11 ~~(11)~~(12) "Planned unit development" means a land development project consisting of residential
12 clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land
13 uses built in a prearranged relationship to each other and having open space and community facilities in
14 common ownership or use.

15 ~~(12)~~(13) "Plat" means a graphical representation of a subdivision showing the division of land into lots,
16 parcels, blocks, streets, alleys, and other divisions and dedications.

17 ~~(13)~~(14) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the
18 layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a
19 governing body.

20 ~~(14)~~(15) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this
21 chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title
22 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems
23 established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

24 (16) "Remnant tract" means the resulting parcel created as part of a one-time split.

25 ~~(15)~~(17) "Subdivider" means a person who causes land to be subdivided or who proposes a
26 subdivision of land.

27 ~~(16)~~(18) "Subdivision" means a division of land or land so divided that it creates one or more parcels
28 containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States

1 government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise
2 transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its
3 size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or
4 mobile homes will be placed.

5 ~~(17)~~(19) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be
6 identified by legal description, independent of any other parcel of land, using documents on file in the records of
7 the county clerk and recorder's office.

8 (b) Each individual tract of record continues to be an individual parcel of land unless the owner of
9 the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

10 (i) an instrument of conveyance in which the aggregated parcels have been assigned a legal
11 description that describes the resulting single parcel and in which the owner expressly declares the owner's
12 intention that the tracts be merged; or

13 (ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels
14 have been expunged and depicts the boundaries of the larger aggregate parcel.

15 (c) An instrument of conveyance does not merge parcels of land under subsection ~~(17)(b)(i)~~
16 (19)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form
17 the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description
18 of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."
19

20 **Section 2.** Section 76-3-207, MCA, is amended to read:

21 **"76-3-207. Divisions or aggregations of land exempted from review but subject to survey**
22 **requirements and zoning regulations -- exceptions -- fees for examination of division.** (1) Except as
23 provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter,
24 the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot
25 created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying
26 requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to
27 applicable zoning regulations adopted under Title 76, chapter 2:

28 (a) divisions made outside of platted subdivisions for the purpose of relocating common boundary

1 lines between adjoining properties;

2 (b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each
3 county to each member of the landowner's immediate family;

4 (c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in
5 which the landowner enters into a covenant for the purposes of this chapter with the governing body that runs
6 with the land and provides that the divided land will be used exclusively for agricultural purposes, subject to the
7 provisions of 76-3-211;

8 (d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

9 (e) divisions made for the purpose of relocating a common boundary line between a single lot
10 within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the
11 original platted lot or original unplatted parcel continues to apply to those areas.

12 (f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the
13 boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are
14 established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply
15 to those areas.

16 (g) divisions made outside of a platted subdivision for the purpose of a one-time split, subject to
17 the following rules:

18 (i) Unless both parcels are accessible from a public road, easements must be created ensuring
19 access to both parcels in order to qualify for the exemption under this subsection (1)(g).

20 (ii) The remnant tract and the one-time split parcel do not qualify for further use of the exemption
21 under this subsection (1)(g).

22 (2) Notwithstanding the provisions of subsection (1), within a platted subdivision filed with the
23 county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the
24 number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the
25 governing body before an amended plat may be filed with the county clerk and recorder.

26 (3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless
27 the county treasurer has certified that all real property taxes and special assessments assessed and levied on
28 the land to be divided have been paid.

1 (b) (i) If a division of land includes centrally assessed property and the property taxes applicable to
 2 the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate
 3 the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed
 4 property shall ensure that the prorated real property taxes and special assessments are paid on the land being
 5 sold before the division of land is made.

6 (ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection
 7 (3)(b) as a partial payment of the total tax that is due.

8 (4) The governing body may examine a division or aggregation of land to determine whether or not
 9 the requirements of this chapter apply to the division or aggregation and may establish reasonable fees, not to
 10 exceed \$200, for the examination."
 11

12 **Section 3.** Section 76-8-101, MCA, is amended to read:

13 **"76-8-101. Definitions.** As used in this part, the following definitions apply:

14 (1) "Building" means a structure or a unit of a structure with a roof supported by columns or walls
 15 for the permanent or temporary housing or enclosure of persons or property or for the operation of a business.
 16 Except as provided in 76-3-103~~(46)~~(18) the term includes a recreational camping vehicle, mobile home, or cell
 17 tower. The term does not include a condominium or townhome.

18 (2) "Department" means the department of environmental quality provided for in 2-15-3501.

19 (3) "Governing body" means the legislative authority for a city, town, county, or consolidated city-
 20 county government.

21 (4) "Landowner" means an owner of a legal or equitable interest in real property. The term includes
 22 an heir, successor, or assignee of the ownership interest.

23 (5) "Local reviewing authority" means a local department or board of health that is approved to
 24 conduct reviews under Title 76, chapter 4.

25 (6) "Supermajority" means:

26 (a) an affirmative vote of at least two-thirds of the present and voting members of a city or town
 27 council;

28 (b) a unanimous affirmative vote of the present and voting county commissioners in counties with

1 three county commissioners;

2 (c) an affirmative vote of at least four-fifths of the present and voting county commissioners in
3 counties with five commissioners;

4 (d) an affirmative vote of at least two-thirds of the present and voting county commissioners in
5 counties with more than five commissioners; or

6 (e) an affirmative vote of at least two-thirds of the present and voting members of the governing
7 body of a consolidated city-county government.

8 (7) "Tract" means an individual parcel of land that can be identified by legal description,
9 independent of any other parcel of land, using documents on file in the records of the county clerk and
10 recorder's office."

11 - END -