

Amendment - 2nd Reading/2nd House-tan - Requested by: Courtenay Sprunger - (H)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0174.003.001

SENATE BILL NO. 174

INTRODUCED BY F. MANDEVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE REVIEW OF BUILDINGS FOR LEASE OR RENT; REQUIRING RECREATIONAL VEHICLES AND MOBILE HOMES TO BE CONSIDERED BUILDINGS FOR LEASE OR RENT FOR THE PURPOSES OF SUBDIVISION REVIEW; REVISING PARK DEDICATION REQUIREMENTS; PROVIDING A DEFINITION; AND AMENDING SECTIONS 76-3-103, 76-3-504, 76-3-621, ~~AND~~ 76-8-101, 76-8-103, AND 76-8-107, 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

Amendment - 2nd Reading/2nd House-tan - Requested by: Courtenay Sprunger - (H)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0174.003.001

- 1 (q) establish a preapplication process that:
- 2 (i) requires a subdivider to meet with the authorized agent or agency, other than the governing
- 3 body, that is designated by the governing body to review subdivision applications prior to the subdivider
- 4 submitting the application;
- 5 (ii) requires, for informational purposes only, identification of the state laws, local regulations, and
- 6 growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;
- 7 (iii) requires a list to be made available to the subdivider of the public utilities, those agencies of
- 8 local, state, and federal government, and any other entities that may be contacted for comment on the
- 9 subdivision application and the timeframes that the public utilities, agencies, and other entities are given to
- 10 respond. If, during the review of the application, the agent or agency designated by the governing body
- 11 contacts a public utility, agency, or other entity that was not included on the list originally made available to the
- 12 subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.
- 13 (iv) requires that a preapplication meeting take place no more than 30 days from the date that the
- 14 authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and
- 15 (v) establishes a time limit after a preapplication meeting by which an application must be
- 16 submitted;
- 17 (r) require that the written decision required by 76-3-620 must be provided to the applicant within
- 18 30 working days following a decision by the governing body to approve, conditionally approve, or deny a
- 19 subdivision;
- 20 ~~(s) establish criteria for reviewing an area, regardless of its size, that provides or will provide~~
- 21 ~~multiple spaces for recreational camping vehicles or mobile homes.~~
- 22 (2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted
- 23 under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster
- 24 development."
- 25

26 **Section 3.** Section 76-3-621, MCA, is amended to read:

27 **"76-3-621. Park dedication requirement.** (1) Except as provided in 76-3-509 or subsections (2), (3),

Amendment - 2nd Reading/2nd House-tan - Requested by: Courtenay Sprunger - (H)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0174.003.001

1 and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation
2 equal to:

3 (a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

4 (b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre
5 and not larger than 1 acre;

6 (c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not
7 larger than 3 acres; and

8 (d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not
9 larger than 5 acres.

10 (2) When a subdivision is located totally within an area for which density requirements have been
11 adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the
12 governing body may establish park dedication requirements based on the community need for parks and the
13 development densities identified in the growth policy or regulations. Park dedication requirements established
14 under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per
15 dwelling unit.

16 (3) A park dedication may not be required for:

17 (a) land proposed for subdivision into parcels larger than 5 acres;

18 (b) subdivision into parcels that are all nonresidential;

19 (c) a subdivision in which parcels are not created, except when that subdivision provides
20 permanent multiple spaces for recreational camping vehicles, mobile homes, or for condominiums;

21 (d) a subdivision in which only one additional parcel is created; or

22 (e) except as provided in subsection (8), a first minor subdivision from a tract of record as
23 described in 76-3-609(2).

24 (4) If the subdivider does not choose only a cash donation, ~~The the~~ governing body, in consultation
25 with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations
26 for parks and playgrounds and, giving due weight and consideration to the expressed preference of the
27 subdivider, may determine whether the park dedication must be a land donation, ~~cash donation,~~ or a

Amendment - 2nd Reading/2nd House-tan - Requested by: Courtenay Sprunger - (H)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0174.003.001

1 combination of both a land donation and a cash donation. When a combination of land donation and cash
2 donation is required, the cash donation may not exceed the proportional amount not covered by the land
3 donation.

4 (5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall
5 use the dedicated money or land for development, acquisition, or maintenance of parks to serve the
6 subdivision.

7 (b) The governing body may use the dedicated money to acquire, develop, or maintain, within its
8 jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements
9 only if:

10 (i) the park, recreational area, open space, or conservation easement is within a reasonably close
11 proximity to the proposed subdivision; and

12 (ii) the governing body has formally adopted a park plan that establishes the needs and
13 procedures for use of the money.

14 (c) The governing body may not use more than 50% of the dedicated money for park
15 maintenance.

16 (6) The local governing body shall waive the park dedication requirement if:

17 (a) (i) the preliminary plat provides for a planned unit development or other development with land
18 permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will
19 ultimately reside in the development; and

20 (ii) the area of the land and any improvements set aside for park and recreational purposes equals
21 or exceeds the area of the dedication required under subsection (1);

22 (b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical,
23 or natural resources; agricultural interests; or aesthetic values; and

24 (ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection
25 provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication
26 required under subsection (1);

27 (c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of

Amendment - 2nd Reading/2nd House-tan - Requested by: Courtenay Sprunger - (H)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0174.003.001

subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or

(d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
(ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).

(7) The local governing body may waive the park dedication requirement if:

(a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

(b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).

(8) (a) A local governing body may, at its discretion, require a park dedication for:

(i) a subsequent minor subdivision as described in 76-3-609(3); or

(ii) a first minor subdivision from a tract of record as described in 76-3-609(2) if:

(A) the subdivision plat indicates development of condominiums or other multifamily housing;

(B) zoning regulations permit condominiums or other multifamily housing; or

(C) any of the lots are located within the boundaries of a municipality.

(b) A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.

(9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.

(10) For the purposes of this section:

(a) "cash donation" is the fair market value of the unsubdivided, unimproved land; ~~and~~

(b) "dwelling unit" means a residential structure in which a person or persons reside; and

(c) "park dedication" means a land donation provided pursuant to this section including acreage that is identified in the preliminary plat for parks, playgrounds, walking trails, open space barriers to adjoining

Amendment - 2nd Reading/2nd House-tan - Requested by: Courtenay Sprunger - (H)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0174.003.001

landowners, and stormwater detention facilities.

(11) A land donation under this section may be inside or outside of the subdivision."

Section 4. Section 76-8-101, MCA, is amended to read:

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

(1) "Building" means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. ~~Except as provided in 76-3-103 (16) the~~ The term includes a recreational camping vehicle, mobile home, or cell tower OR MULTIPLE SPACES FOR LEASE OR RENT UNDER SINGLE OWNERSHIP ON WHICH RECREATIONAL VEHICLES AS DEFINED IN 61-1-101 OR MOBILE HOMES AS DEFINED IN 15-24-201 WILL BE PLACED. The term does not include a condominium or townhome.

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

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

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

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

(6) "Supermajority" means:

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

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

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

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