

SENATE BILL 195

Introduced by Bengtson, et al.

1/25	Introduced
1/25	Referred to Local Government
1/25	First Reading
2/07	Hearing
2/16	Committee Report--Bill Passed as Amended
2/18	2nd Reading Passed
2/19	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Natural Resources
3/14	Hearing
3/14	Tabled in Committee
4/02	Taken from Tabled
4/02	Committee Report--Bill Concurred as Amended
4/06	2nd Reading Concur as Amended Motion Failed
4/06	Reconsidered Previous Action
4/06	2nd Reading Concurred
4/06	On Motion Rules Suspended to Place on 3rd Reading this Day
4/06	3rd Reading Concurred
	Returned to Senate with Amendments
4/16	Rereferred to Rules
4/18	Hearing
4/18	Tabled in Committee
4/18	Motion Failed to Take From Committee

1 *Senate* BILL NO. *195*  
 2 INTRODUCED BY *Bentley Caughn Cole*  
 3 *Welding Ginstedt Reed Surgood*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING WATER USER  
 5 ENTITY; ALLOWING INCLUSION OF WATER USER ENTITY FACILITIES  
 6 IN LOCAL GOVERNMENT MASTER PLANS; REQUIRING SUBDIVISION PLAT  
 7 REVIEW BY AFFECTED WATER USER ENTITIES; REQUIRING  
 8 CONSIDERATION OF THE EFFECT OF SUBDIVISION DEVELOPMENT ON  
 9 WATER USER ENTITIES; AMENDING SECTIONS 76-1-103, 76-1-601,  
 10 76-3-103, 76-3-207, 76-3-601, 76-3-608, AND 76-3-609, MCA."

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

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

13 "76-1-103. Definitions. As used in this chapter, the  
14 following definitions apply:

- 15 (1) "City" includes incorporated cities and towns.
- 16 (2) "City council" means the chief legislative body of  
17 a city or incorporated town.
- 18 (3) "Governing body" or "governing bodies" means the  
19 governing body of any governmental unit represented on a  
20 planning board.
- 21 (4) "Master plan" means a comprehensive development  
22 plan or any of its parts such as a plan of land use and  
23 zoning, of thoroughfares, of sanitation, of recreation, and  
24 of other related matters.  
25

1 (5) "Mayor" means mayor of a city.

2 (6) "Person" means any individual, firm, or  
3 corporation.

4 (7) "Planning board" means a city planning board, a  
5 county planning board or a joint city-county planning board.

6 (8) "Plat" means a subdivision of land into lots,  
7 streets, and areas, marked upon the earth and represented on  
8 paper, and includes replats or amended plats.

9 (9) "Public place" means any tract owned by the state  
10 or its subdivisions.

11 (10) "Streets" includes streets, avenues, boulevards,  
12 roads, lanes, alleys, and all public ways.

13 (11) "Units of government" means any federal, state, or  
14 regional unit of government or any county, city, or town.

15 (12) "Utility" means any facility used in rendering  
16 service which the public has a right to demand.

17 (13) "Water user entity" means an entity, as described  
18 in 7-12-1151, and irrigation districts, as provided in  
19 85-7-101."

20 **Section 2.** Section 76-1-601, MCA, is amended to read:

21 "76-1-601. Master plan -- contents. The planning board  
22 shall prepare and propose a master plan for the  
23 jurisdictional area. The plan may propose ordinances or  
24 resolutions for possible adoption by the appropriate  
25 governing body. The plan may include:



1 (1) careful and comprehensive surveys and studies of  
2 existing conditions and the probable future growth of the  
3 city and its environs or of the county;

4 (2) maps, plats, charts, and descriptive material  
5 presenting basic information, locations, extent, and  
6 character of any of the following:

- 7 (a) history, population, and physical site conditions;  
8 (b) land use, including the height, area, bulk,  
9 location, and use of private and public structures and  
10 premises;  
11 (c) population densities;  
12 (d) community centers and neighborhood units;  
13 (e) blighted and slum areas;  
14 (f) streets and highways, including bridges, viaducts,  
15 subways, parkways, alleys, and other public ways and places;  
16 (g) sewers, sanitation, and drainage, including  
17 handling, treatment, and disposal of excess drainage waters,  
18 sewage, garbage, refuse, and other wastes;  
19 (h) flood control and prevention;  
20 (i) public and private utilities, including water,  
21 light, heat, communication, and other services;  
22 (j) transportation, including rail, bus, truck, air,  
23 and water transport and their terminal facilities;  
24 (k) local mass transit, including motor and trolley  
25 bus; street, elevated, or underground railways; and

1 taxicabs;

2 (l) parks and recreation, including parks, playgrounds,  
3 reservations, forests, wildlife refuges, and other public  
4 grounds, spaces, and facilities of a recreational nature;

5 (m) public buildings and institutions, including  
6 governmental administration and service buildings,  
7 hospitals, infirmaries, clinics, penal and correctional  
8 institutions, and other civic and social service buildings;

9 (n) education, including location and extent of  
10 schools, colleges, and universities;

11 (o) land utilization, including areas for manufacturing  
12 and industrial uses, concentration of wholesale business,  
13 retail business, and other commercial uses, residential  
14 uses, and areas for mixed uses;

15 (p) conservation of water, soil, agricultural, and  
16 mineral resources;

17 (q) any other factors which are a part of the physical,  
18 economic, or social situation within the city or county;

19 (r) water user entity facilities, including but not  
20 limited to canals, laterals, open drains, closed drains, and  
21 water storage facilities;

22 (3) reports, maps, charts, and recommendations setting  
23 forth plans for the development, redevelopment, improvement,  
24 extension, and revision of the subjects and physical  
25 situations of the city or county set out in subsection (2)

1 so as to substantially accomplish the object of this chapter  
2 as set out in 76-1-101 and 76-1-102;

3 (4) a long-range development program of public works'  
4 projects, based on the recommended plans of the planning  
5 board, for the purpose of eliminating unplanned, unsightly,  
6 untimely, and extravagant projects and with a view to  
7 stabilizing industry and employment and the keeping of such  
8 program up-to-date for all separate taxing units within the  
9 city or county, respectively, for the purpose of assuring  
10 efficient and economic use of public funds;

11 (5) recommendations setting forth the development,  
12 improvement, and extension of areas, if any, to be set aside  
13 for use as trailer courts and sites for mobile homes."

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

15 "76-3-103. **Definitions.** As used in this chapter, unless  
16 the context or subject matter clearly requires otherwise,  
17 the following words or phrases shall have the following  
18 meanings:

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

22 (2) "Dedication" means the deliberate appropriation of  
23 land by an owner for any general and public use, reserving  
24 to himself no rights which are incompatible with the full  
25 exercise and enjoyment of the public use to which the

1 property has been devoted.

2 (3) "Division of land" means the segregation of one or  
3 more parcels of land from a larger tract held in single or  
4 undivided ownership by transferring or contracting to  
5 transfer title to or possession of a portion of the tract or  
6 properly filing a certificate of survey or subdivision plat  
7 establishing the identity of the segregated parcels pursuant  
8 to this chapter.

9 (4) "Examining land surveyor" means a registered land  
10 surveyor duly appointed by the governing body to review  
11 surveys and plats submitted for filing.

12 (5) "Governing body" means a board of county  
13 commissioners or the governing authority of any city or town  
14 organized pursuant to law.

15 (6) "Irregularly shaped tract of land" means a parcel  
16 of land other than an aliquot part of the United States  
17 government survey section or a United States government lot,  
18 the boundaries or areas of which cannot be determined  
19 without a survey or trigonometric calculation.

20 (7) "Occasional sale" means one sale of a division of  
21 land within any 12-month period.

22 (8) "Planned unit development" means a land development  
23 project consisting of residential clusters, industrial  
24 parks, shopping centers, office building parks, or any  
25 combination thereof which comprises a planned mixture of

1 land uses built in a prearranged relationship to each other  
2 and having open space and community facilities in common  
3 ownership or use.

4 (9) "Plat" means a graphical representation of a  
5 subdivision showing the division of land into lots, parcels,  
6 blocks, streets, alleys, and other divisions and  
7 dedications.

8 (10) "Preliminary plat" means a neat and scaled drawing  
9 of a proposed subdivision showing the layout of streets,  
10 alleys, lots, blocks, and other elements of a subdivision  
11 which furnish a basis for review by a governing body.

12 (11) "Final plat" means the final drawing of the  
13 subdivision and dedication required by this chapter to be  
14 prepared for filing for record with the county clerk and  
15 recorder and containing all elements and requirements set  
16 forth in this chapter and in regulations adopted pursuant  
17 thereto.

18 (12) "Registered land surveyor" means a person licensed  
19 in conformance with Title 37, chapter 67, to practice  
20 surveying in the state of Montana.

21 (13) "Registered professional engineer" means a person  
22 licensed in conformance with Title 37, chapter 67, to  
23 practice engineering in the state of Montana.

24 (14) "Subdivider" means any person who causes land to be  
25 subdivided or who proposes a subdivision of land.

1 (15) "Subdivision" means a division of land or land so  
2 divided which creates one or more parcels containing less  
3 than 20 acres, exclusive of public roadways, in order that  
4 the title to or possession of the parcels may be sold,  
5 rented, leased, or otherwise conveyed and shall include any  
6 resubdivision and shall further include any condominium or  
7 area, regardless of its size, which provides or will provide  
8 multiple space for recreational camping vehicles or mobile  
9 homes.

10 (16) "Water user entity" means an entity, as described  
11 in 7-12-1151, and irrigation districts, as provided in  
12 85-7-101."

13 **Section 4.** Section 76-3-207, MCA, is amended to read:

14 "76-3-207. Subdivisions exempted from review but  
15 subject to survey requirements -- exceptions. (1) Except as  
16 provided in subsection (2), unless the method of disposition  
17 is adopted for the purpose of evading this chapter, the  
18 following divisions of land are not subdivisions under this  
19 chapter but are subject to the surveying requirements of  
20 76-3-401 for divisions of land not amounting to  
21 subdivisions:

22 (a) divisions made outside of platted subdivisions for  
23 the purpose of relocating common boundary lines between  
24 adjoining properties;

25 (b) divisions made outside of platted subdivisions for

1 the purpose of a gift or sale to any member of the  
2 landowner's immediate family;

3 (c) divisions made outside of platted subdivisions by  
4 sale or agreement to buy and sell where the parties to the  
5 transaction enter a covenant running with the land and  
6 revocable only by mutual consent of the governing body and  
7 the property owner that the divided land will be used  
8 exclusively for agricultural purposes;

9 (d) a single division of a parcel outside of platted  
10 subdivisions when the transaction is an occasional sale;

11 (e) for five or fewer lots within a platted  
12 subdivision, relocation of common boundaries and the  
13 aggregation of lots; and

14 (f) divisions made for the purpose of relocating a  
15 common boundary line between a single lot within a platted  
16 subdivision and adjoining land outside a platted  
17 subdivision. Any restrictions or requirements on the  
18 original platted lot or original unplatted parcel continue  
19 to apply to those areas.

20 (2) Notwithstanding the provisions of subsection (1):

21 (a) within a platted subdivision filed with the county  
22 clerk and recorder, any division of lots which results in an  
23 increase in the number of lots or which redesigns or  
24 rearranges six or more lots must be reviewed and approved by  
25 the governing body, and an amended plat must be filed with

1 the county clerk and recorder;

2 (b) any change in use of the land exempted under  
3 subsection (1)(c) for anything other than agricultural  
4 purposes subjects the division to the provisions of this  
5 chapter;

6 (c) any proposed division that lies partly or totally  
7 within the boundaries of a water user entity must be  
8 reviewed by the water user entity to ensure that the  
9 existence and location of all water user facilities are  
10 properly noted on the certificate of survey. Water user  
11 facilities include but are not limited to canals, laterals,  
12 open drains, closed drains, and water storage facilities.

13 (3) No division of land may be made under this section  
14 unless the county treasurer has certified that no real  
15 property taxes assessed and levied on the land to be divided  
16 are delinquent."

17 **Section 5.** Section 76-3-601, MCA, is amended to read:

18 **"76-3-601. Submission of preliminary plat for review.**

19 (1) Except where a plat is eligible for summary approval,  
20 the subdivider shall present to the governing body or the  
21 agent or agency designated thereby the preliminary plat of  
22 the proposed subdivision for local review. The preliminary  
23 plat shall show all pertinent features of the proposed  
24 subdivision and all proposed improvements.

25 (2) (a) When the proposed subdivision lies within the

1 boundaries of an incorporated city or town, the preliminary  
2 plat shall be submitted to and approved by the city or town  
3 governing body.

4 (b) When the proposed subdivision is situated entirely  
5 in an unincorporated area, the preliminary plat shall be  
6 submitted to and approved by the governing body of the  
7 county. However, if the proposed subdivision lies within 1  
8 mile of a third-class city or town or within 2 miles of a  
9 second-class city or within 3 miles of a first-class city,  
10 the county governing body shall submit the preliminary plat  
11 to the city or town governing body or its designated agent  
12 for review and comment.

13 (c) If the proposed subdivision lies partly within an  
14 incorporated city or town, the proposed plat thereof must be  
15 submitted to and approved by both the city or town and the  
16 county governing bodies.

17 (d) When a proposed subdivision is also proposed to be  
18 annexed to a municipality, the governing body of the  
19 municipality shall coordinate the subdivision review and  
20 annexation procedures to minimize duplication of hearings,  
21 reports, and other requirements whenever possible.

22 (e) If the proposed subdivision lies partly or totally  
23 within the boundaries of a water user entity, the proposed  
24 plat of the subdivision must be submitted for review to the  
25 water user entity to ensure that the existence and location

1 of all water user facilities are properly noted on the plat.  
2 Water user facilities include but are not limited to canals,  
3 laterals, open drains, closed drains, and water storage  
4 facilities.

5 (3) This section and 76-3-604, 76-3-605, and 76-3-608  
6 through 76-3-610 do not limit the authority of certain  
7 municipalities to regulate subdivisions beyond their  
8 corporate limits pursuant to 7-3-4444."

9 **Section 6.** Section 76-3-608, MCA, is amended to read:

10 **"76-3-608. Criteria for local government review.** (1)  
11 The basis for the governing body's decision to approve,  
12 conditionally approve, or disapprove a subdivision shall be  
13 whether the preliminary plat, environmental assessment,  
14 public hearing, planning board recommendations, and  
15 additional information demonstrate that development of the  
16 subdivision would be in the public interest. The governing  
17 body shall disapprove any subdivision which it finds not to  
18 be in the public interest.

19 (2) To determine whether the proposed subdivision would  
20 be in the public interest, the governing body shall issue  
21 written findings of fact which weigh the following criteria  
22 for public interest:

- 23 (a) the basis of the need for the subdivision;  
24 (b) expressed public opinion;  
25 (c) effects on agriculture;

- 1 (d) effects on local services;  
 2 (e) effects on taxation;  
 3 (f) effects on the natural environment;  
 4 (g) effects on wildlife and wildlife habitat; and  
 5 (h) effects on the public health and safety; and  
 6 (i) effects on water user entity facilities."

7 **Section 7.** Section 76-3-609, MCA, is amended to read:

8 "76-3-609. Review procedure for minor subdivisions.

9 Subdivisions containing five or fewer parcels where proper  
 10 access to all lots is provided and in which no land is to be  
 11 dedicated to the public for parks or playgrounds are to be  
 12 reviewed as follows:

13 (1) The governing body must approve, conditionally  
 14 approve, or disapprove the first such subdivision from a  
 15 tract of record within 35 days of the submission of an  
 16 application for approval thereof.

17 (2) The governing body shall state in writing the  
 18 conditions which must be met if the subdivision is  
 19 conditionally approved or what local regulations would not  
 20 be met by the subdivision if it disapproves the subdivision.

21 (3) The requirements for holding a public hearing and  
 22 preparing an environmental assessment shall not apply to the  
 23 first such subdivision created from a tract of record.

24 (4) Subsequent subdivisions from a tract of record  
 25 shall be reviewed under 76-3-505 and regulations adopted

1 pursuant to that section.

- 2 (5) If the proposed subdivision lies partly or totally  
 3 within the boundaries of a water user entity, the proposed  
 4 plat of the subdivision must be submitted for review to the  
 5 water user entity to ensure that the existence and location  
 6 of all water user facilities are properly noted on the plat.  
 7 Water user facilities include but are not limited to canals,  
 8 laterals, open drains, closed drains, and water storage  
 9 facilities."

-End-



APPROVED BY COMM.  
ON LOCAL GOVERNMENT

SENATE BILL NO. 195

INTRODUCED BY BENGTON, VAUGHN, ECK, PINSONEAULT, WEEDING,  
GROSFIELD, T. BECK, SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING WATER USER  
ENTITY; ALLOWING INCLUSION OF WATER USER ENTITY FACILITIES  
IN LOCAL GOVERNMENT MASTER PLANS; REQUIRING SUBDIVISION PLAT  
REVIEW BY AFFECTED WATER USER ENTITIES; REQUIRING  
CONSIDERATION OF THE EFFECT OF SUBDIVISION DEVELOPMENT ON  
WATER USER ENTITIES; AMENDING SECTIONS 76-1-103, 76-1-601,  
76-3-103, 76-3-207, 76-3-601, 76-3-608, AND 76-3-609, MCA."

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

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

"76-1-103. **Definitions.** As used in this chapter, the  
following definitions apply:

(1) "City" includes incorporated cities and towns.

(2) "City council" means the chief legislative body of  
a city or incorporated town.

(3) "Governing body" or "governing bodies" means the  
governing body of any governmental unit represented on a  
planning board.

(4) "Master plan" means a comprehensive development  
plan or any of its parts such as a plan of land use and  
zoning, of thoroughfares, of sanitation, of recreation, and

of other related matters.

(5) "Mayor" means mayor of a city.

(6) "Person" means any individual, firm, or  
corporation.

(7) "Planning board" means a city planning board, a  
county planning board or a joint city-county planning board.

(8) "Plat" means a subdivision of land into lots,  
streets, and areas, marked upon the earth and represented on  
paper, and includes replats or amended plats.

(9) "Public place" means any tract owned by the state  
or its subdivisions.

(10) "PUBLIC RECORD" MEANS ANY RECORD OR OTHER WRITTEN  
MATERIAL IN THE POSSESSION OF THE COUNTY.

~~(10)~~(11) "Streets" includes streets, avenues,  
boulevards, roads, lanes, alleys, and all public ways.

~~(11)~~(12) "Units of government" means any federal, state,  
or regional unit of government or any county, city, or town.

~~(12)~~(13) "Utility" means any facility used in rendering  
service which the public has a right to demand.

~~(13)~~(14) "Water user entity" means an entity, as  
described in 7-12-1151, and irrigation districts, as  
provided in 85-7-101."

**Section 2.** Section 76-1-601, MCA, is amended to read:

"76-1-601. **Master plan -- contents.** The planning board  
shall prepare and propose a master plan for the

**SECOND READING**  
SB 195

1 jurisdictional area. The plan may propose ordinances or  
2 resolutions for possible adoption by the appropriate  
3 governing body. The plan may include:

- 4 (1) careful and comprehensive surveys and studies of  
5 existing conditions and the probable future growth of the  
6 city and its environs or of the county;
- 7 (2) maps, plats, charts, and descriptive material  
8 presenting basic information, locations, extent, and  
9 character of any of the following:
- 10 (a) history, population, and physical site conditions;
- 11 (b) land use, including the height, area, bulk,  
12 location, and use of private and public structures and  
13 premises;
- 14 (c) population densities;
- 15 (d) community centers and neighborhood units;
- 16 (e) blighted and slum areas;
- 17 (f) streets and highways, including bridges, viaducts,  
18 subways, parkways, alleys, and other public ways and places;
- 19 (g) sewers, sanitation, and drainage, including  
20 handling, treatment, and disposal of excess drainage waters,  
21 sewage, garbage, refuse, and other wastes;
- 22 (h) flood control and prevention;
- 23 (i) public and private utilities, including water,  
24 light, heat, communication, and other services;
- 25 (j) transportation, including rail, bus, truck, air,

1 and water transport and their terminal facilities;

2 (k) local mass transit, including motor and trolley  
3 bus; street, elevated, or underground railways; and  
4 taxicabs;

5 (l) parks and recreation, including parks, playgrounds,  
6 reservations, forests, wildlife refuges, and other public  
7 grounds, spaces, and facilities of a recreational nature;

8 (m) public buildings and institutions, including  
9 governmental administration and service buildings,  
10 hospitals, infirmaries, clinics, penal and correctional  
11 institutions, and other civic and social service buildings;

12 (n) education, including location and extent of  
13 schools, colleges, and universities;

14 (o) land utilization, including areas for manufacturing  
15 and industrial uses, concentration of wholesale business,  
16 retail business, and other commercial uses, residential  
17 uses, and areas for mixed uses;

18 (p) conservation of water, soil, agricultural, and  
19 mineral resources;

20 (q) any other factors which are a part of the physical,  
21 economic, or social situation within the city or county;

22 (r) water user entity facilities, including but not  
23 limited to canals, laterals, open drains, closed drains, and  
24 water storage facilities, AND SOURCES OF WATER;

25 (3) reports, maps, charts, and recommendations setting

1 forth plans for the development, redevelopment, improvement,  
2 extension, and revision of the subjects and physical  
3 situations of the city or county set out in subsection (2)  
4 so as to substantially accomplish the object of this chapter  
5 as set out in 76-1-101 and 76-1-102;

6 (4) a long-range development program of public works'  
7 projects, based on the recommended plans of the planning  
8 board, for the purpose of eliminating unplanned, unsightly,  
9 untimely, and extravagant projects and with a view to  
10 stabilizing industry and employment and the keeping of such  
11 program up-to-date for all separate taxing units within the  
12 city or county, respectively, for the purpose of assuring  
13 efficient and economic use of public funds;

14 (5) recommendations setting forth the development,  
15 improvement, and extension of areas, if any, to be set aside  
16 for use as trailer courts and sites for mobile homes."

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

18 **"76-3-103. Definitions.** As used in this chapter, unless  
19 the context or subject matter clearly requires otherwise,  
20 the following words or phrases shall have the following  
21 meanings:

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

25 (2) "Dedication" means the deliberate appropriation of

1 land by an owner for any general and public use, reserving  
2 to himself no rights which are incompatible with the full  
3 exercise and enjoyment of the public use to which the  
4 property has been devoted.

5 (3) "Division of land" means the segregation of one or  
6 more parcels of land from a larger tract held in single or  
7 undivided ownership by transferring or contracting to  
8 transfer title to or possession of a portion of the tract or  
9 properly filing a certificate of survey or subdivision plat  
10 establishing the identity of the segregated parcels pursuant  
11 to this chapter.

12 (4) "Examining land surveyor" means a registered land  
13 surveyor duly appointed by the governing body to review  
14 surveys and plats submitted for filing.

15 (5) "Governing body" means a board of county  
16 commissioners or the governing authority of any city or town  
17 organized pursuant to law.

18 (6) "Irregularly shaped tract of land" means a parcel  
19 of land other than an aliquot part of the United States  
20 government survey section or a United States government lot,  
21 the boundaries or areas of which cannot be determined  
22 without a survey or trigonometric calculation.

23 (7) "Occasional sale" means one sale of a division of  
24 land within any 12-month period.

25 (8) "Planned unit development" means a land development

1 project consisting of residential clusters, industrial  
2 parks, shopping centers, office building parks, or any  
3 combination thereof which comprises a planned mixture of  
4 land uses built in a prearranged relationship to each other  
5 and having open space and community facilities in common  
6 ownership or use.

7 (9) "Plat" means a graphical representation of a  
8 subdivision showing the division of land into lots, parcels,  
9 blocks, streets, alleys, and other divisions and  
10 dedications.

11 (10) "Preliminary plat" means a neat and scaled drawing  
12 of a proposed subdivision showing the layout of streets,  
13 alleys, lots, blocks, and other elements of a subdivision  
14 which furnish a basis for review by a governing body.

15 (11) "Final plat" means the final drawing of the  
16 subdivision and dedication required by this chapter to be  
17 prepared for filing for record with the county clerk and  
18 recorder and containing all elements and requirements set  
19 forth in this chapter and in regulations adopted pursuant  
20 thereto.

21 (12) "Registered land surveyor" means a person licensed  
22 in conformance with Title 37, chapter 67, to practice  
23 surveying in the state of Montana.

24 (13) "Registered professional engineer" means a person  
25 licensed in conformance with Title 37, chapter 67, to

1 practice engineering in the state of Montana.

2 (14) "Subdivider" means any person who causes land to be  
3 subdivided or who proposes a subdivision of land.

4 (15) "Subdivision" means a division of land or land so  
5 divided which creates one or more parcels containing less  
6 than 20 acres, exclusive of public roadways, in order that  
7 the title to or possession of the parcels may be sold,  
8 rented, leased, or otherwise conveyed and shall include any  
9 resubdivision and shall further include any condominium or  
10 area, regardless of its size, which provides or will provide  
11 multiple space for recreational camping vehicles or mobile  
12 homes.

13 (16) "Water user entity" means an entity, as described  
14 in 7-12-1151, and irrigation districts, as provided in  
15 85-7-101."

16 **Section 4.** Section 76-3-207, MCA, is amended to read:

17 **"76-3-207. Subdivisions exempted from review but**  
18 **subject to survey requirements -- exceptions.** (1) Except as  
19 provided in subsection (2), unless the method of disposition  
20 is adopted for the purpose of evading this chapter, the  
21 following divisions of land are not subdivisions under this  
22 chapter but are subject to the surveying requirements of  
23 76-3-401 for divisions of land not amounting to  
24 subdivisions:

25 (a) divisions made outside of platted subdivisions for

1 the purpose of relocating common boundary lines between  
2 adjoining properties;

3 (b) divisions made outside of platted subdivisions for  
4 the purpose of a gift or sale to any member of the  
5 landowner's immediate family;

6 (c) divisions made outside of platted subdivisions by  
7 sale or agreement to buy and sell where the parties to the  
8 transaction enter a covenant running with the land and  
9 revocable only by mutual consent of the governing body and  
10 the property owner that the divided land will be used  
11 exclusively for agricultural purposes;

12 (d) a single division of a parcel outside of platted  
13 subdivisions when the transaction is an occasional sale;

14 (e) for five or fewer lots within a platted  
15 subdivision, relocation of common boundaries and the  
16 aggregation of lots; and

17 (f) divisions made for the purpose of relocating a  
18 common boundary line between a single lot within a platted  
19 subdivision and adjoining land outside a platted  
20 subdivision. Any restrictions or requirements on the  
21 original platted lot or original unplatted parcel continue  
22 to apply to those areas.

23 (2) Notwithstanding the provisions of subsection (1):

24 (a) within a platted subdivision filed with the county  
25 clerk and recorder, any division of lots which results in an

1 increase in the number of lots or which redesigns or  
2 rearranges six or more lots must be reviewed and approved by  
3 the governing body, and an amended plat must be filed with  
4 the county clerk and recorder;

5 (b) any change in use of the land exempted under  
6 subsection (1)(c) for anything other than agricultural  
7 purposes subjects the division to the provisions of this  
8 chapter;

9 (c) any proposed division that lies partly or totally  
10 within the boundaries of a water user entity must be  
11 reviewed by the water user entity to ensure that the  
12 existence and location of all water user facilities OF  
13 PUBLIC RECORD are properly noted on the certificate of  
14 survey. Water user facilities include but are not limited to  
15 canals, laterals, open drains, closed drains, and water  
16 storage facilities, AND SOURCES OF WATER.

17 (3) No division of land may be made under this section  
18 unless the county treasurer has certified that no real  
19 property taxes assessed and levied on the land to be divided  
20 are delinquent."

21 **Section 5.** Section 76-3-601, MCA, is amended to read:

22 **"76-3-601. Submission of preliminary plat for review.**

23 (1) Except where a plat is eligible for summary approval,  
24 the subdivider shall present to the governing body or the  
25 agent or agency designated thereby the preliminary plat of

1 the proposed subdivision for local review. The preliminary  
2 plat shall show all pertinent features of the proposed  
3 subdivision and all proposed improvements.

4 (2) (a) When the proposed subdivision lies within the  
5 boundaries of an incorporated city or town, the preliminary  
6 plat shall be submitted to and approved by the city or town  
7 governing body.

8 (b) When the proposed subdivision is situated entirely  
9 in an unincorporated area, the preliminary plat shall be  
10 submitted to and approved by the governing body of the  
11 county. However, if the proposed subdivision lies within 1  
12 mile of a third-class city or town or within 2 miles of a  
13 second-class city or within 3 miles of a first-class city,  
14 the county governing body shall submit the preliminary plat  
15 to the city or town governing body or its designated agent  
16 for review and comment.

17 (c) If the proposed subdivision lies partly within an  
18 incorporated city or town, the proposed plat thereof must be  
19 submitted to and approved by both the city or town and the  
20 county governing bodies.

21 (d) When a proposed subdivision is also proposed to be  
22 annexed to a municipality, the governing body of the  
23 municipality shall coordinate the subdivision review and  
24 annexation procedures to minimize duplication of hearings,  
25 reports, and other requirements whenever possible.

1 (e) If the proposed subdivision lies partly or totally  
2 within the boundaries of a water user entity, the proposed  
3 plat of the subdivision must be submitted for review to the  
4 water user entity WITHIN 60 DAYS OF ITS SUBMISSION TO THE  
5 GOVERNING BODY to ensure that the existence and location of  
6 all water user facilities OF PUBLIC RECORD are properly  
7 noted on the plat. Water user facilities include but are not  
8 limited to canals, laterals, open drains, closed drains, and  
9 water storage facilities, AND SOURCES OF WATER.

10 (3) This section and 76-3-604, 76-3-605, and 76-3-608  
11 through 76-3-610 do not limit the authority of certain  
12 municipalities to regulate subdivisions beyond their  
13 corporate limits pursuant to 7-3-4444."

14 **Section 6.** Section 76-3-608, MCA, is amended to read:

15 "76-3-608. Criteria for local government review. (1)  
16 The basis for the governing body's decision to approve,  
17 conditionally approve, or disapprove a subdivision shall be  
18 whether the preliminary plat, environmental assessment,  
19 public hearing, planning board recommendations, and  
20 additional information demonstrate that development of the  
21 subdivision would be in the public interest. The governing  
22 body shall disapprove any subdivision which it finds not to  
23 be in the public interest.

24 (2) To determine whether the proposed subdivision would  
25 be in the public interest, the governing body shall issue

1 written findings of fact which weigh the following criteria  
2 for public interest:

- 3 (a) the basis of the need for the subdivision;
- 4 (b) expressed public opinion;
- 5 (c) effects on agriculture;
- 6 (d) effects on local services;
- 7 (e) effects on taxation;
- 8 (f) effects on the natural environment;
- 9 (g) effects on wildlife and wildlife habitat; and
- 10 (h) effects on the public health and safety; and
- 11 (i) effects on water user entity facilities."

12 **Section 7.** Section 76-3-609, MCA, is amended to read:  
13 "76-3-609. Review procedure for minor subdivisions.  
14 Subdivisions containing five or fewer parcels where proper  
15 access to all lots is provided and in which no land is to be  
16 dedicated to the public for parks or playgrounds are to be  
17 reviewed as follows:

18 (1) The governing body must approve, conditionally  
19 approve, or disapprove the first such subdivision from a  
20 tract of record within 35 days of the submission of an  
21 application for approval thereof.

22 (2) The governing body shall state in writing the  
23 conditions which must be met if the subdivision is  
24 conditionally approved or what local regulations would not  
25 be met by the subdivision if it disapproves the subdivision.

1 (3) The requirements for holding a public hearing and  
2 preparing an environmental assessment shall not apply to the  
3 first such subdivision created from a tract of record.

4 (4) Subsequent subdivisions from a tract of record  
5 shall be reviewed under 76-3-505 and regulations adopted  
6 pursuant to that section.

7 (5) If the proposed subdivision lies partly or totally  
8 within the boundaries of a water user entity, the proposed  
9 plat of the subdivision must be submitted for review to the  
10 water user entity WITHIN 35 DAYS OF ITS SUBMISSION TO THE  
11 GOVERNING BODY to ensure that the existence and location of  
12 all water user facilities OF PUBLIC RECORD are properly  
13 noted on the plat. Water user facilities include but are not  
14 limited to canals, laterals, open drains, closed drains, and  
15 water storage facilities, AND SOURCES OF WATER."

-End-

## 1 SENATE BILL NO. 195

2 INTRODUCED BY BENGTON, VAUGHN, ECK, PINSONEAULT, WEEDING,  
3 GROSFIELD, T. BECK, SWYSGOOD  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING WATER USER  
6 ENTITY; ALLOWING INCLUSION OF WATER USER ENTITY FACILITIES  
7 IN LOCAL GOVERNMENT MASTER PLANS; REQUIRING SUBDIVISION PLAT  
8 REVIEW BY AFFECTED WATER USER ENTITIES; REQUIRING  
9 CONSIDERATION OF THE EFFECT OF SUBDIVISION DEVELOPMENT ON  
10 WATER USER ENTITIES; AMENDING SECTIONS 76-1-103, 76-1-601,  
11 76-3-103, 76-3-207, 76-3-601, 76-3-608, AND 76-3-609, MCA."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

15 "76-1-103. Definitions. As used in this chapter, the  
16 following definitions apply:

17 (1) "City" includes incorporated cities and towns.

18 (2) "City council" means the chief legislative body of  
19 a city or incorporated town.

20 (3) "Governing body" or "governing bodies" means the  
21 governing body of any governmental unit represented on a  
22 planning board.

23 (4) "Master plan" means a comprehensive development  
24 plan or any of its parts such as a plan of land use and  
25 zoning, of thoroughfares, of sanitation, of recreation, and

1 of other related matters.

2 (5) "Mayor" means mayor of a city.

3 (6) "Person" means any individual, firm, or  
4 corporation.

5 (7) "Planning board" means a city planning board, a  
6 county planning board or a joint city-county planning board.

7 (8) "Plat" means a subdivision of land into lots,  
8 streets, and areas, marked upon the earth and represented on  
9 paper, and includes replats or amended plats.

10 (9) "Public place" means any tract owned by the state  
11 or its subdivisions.

12 (10) "PUBLIC RECORD" MEANS ANY RECORD OR OTHER WRITTEN  
13 MATERIAL IN THE POSSESSION OF THE COUNTY.

14 ~~(10)~~(11) "Streets" includes streets, avenues,  
15 boulevards, roads, lanes, alleys, and all public ways.

16 ~~(11)~~(12) "Units of government" means any federal, state,  
17 or regional unit of government or any county, city, or town.

18 ~~(12)~~(13) "Utility" means any facility used in rendering  
19 service which the public has a right to demand.

20 ~~(13)~~(14) "Water user entity" means an entity, as  
21 described in 7-12-1151, and irrigation districts, as  
22 provided in 85-7-101."

23 **Section 2.** Section 76-1-601, MCA, is amended to read:

24 "76-1-601. Master plan -- contents. The planning board  
25 shall prepare and propose a master plan for the

THIRD READING

SB 195



1 jurisdictional area. The plan may propose ordinances or  
2 resolutions for possible adoption by the appropriate  
3 governing body. The plan may include:

4 (1) careful and comprehensive surveys and studies of  
5 existing conditions and the probable future growth of the  
6 city and its environs or of the county;

7 (2) maps, plats, charts, and descriptive material  
8 presenting basic information, locations, extent, and  
9 character of any of the following:

- 10 (a) history, population, and physical site conditions;  
11 (b) land use, including the height, area, bulk,  
12 location, and use of private and public structures and  
13 premises;  
14 (c) population densities;  
15 (d) community centers and neighborhood units;  
16 (e) blighted and slum areas;  
17 (f) streets and highways, including bridges, viaducts,  
18 subways, parkways, alleys, and other public ways and places;  
19 (g) sewers, sanitation, and drainage, including  
20 handling, treatment, and disposal of excess drainage waters,  
21 sewage, garbage, refuse, and other wastes;  
22 (h) flood control and prevention;  
23 (i) public and private utilities, including water,  
24 light, heat, communication, and other services;  
25 (j) transportation, including rail, bus, truck, air,

1 and water transport and their terminal facilities;

2 (k) local mass transit, including motor and trolley  
3 bus; street, elevated, or underground railways; and  
4 taxicabs;

5 (l) parks and recreation, including parks, playgrounds,  
6 reservations, forests, wildlife refuges, and other public  
7 grounds, spaces, and facilities of a recreational nature;

8 (m) public buildings and institutions, including  
9 governmental administration and service buildings,  
10 hospitals, infirmaries, clinics, penal and correctional  
11 institutions, and other civic and social service buildings;

12 (n) education, including location and extent of  
13 schools, colleges, and universities;

14 (o) land utilization, including areas for manufacturing  
15 and industrial uses, concentration of wholesale business,  
16 retail business, and other commercial uses, residential  
17 uses, and areas for mixed uses;

18 (p) conservation of water, soil, agricultural, and  
19 mineral resources;

20 (q) any other factors which are a part of the physical,  
21 economic, or social situation within the city or county;

22 (r) water user entity facilities, including but not  
23 limited to canals, laterals, open drains, closed drains, and  
24 water storage facilities, AND SOURCES OF WATER;

25 (3) reports, maps, charts, and recommendations setting

1 forth plans for the development, redevelopment, improvement,  
 2 extension, and revision of the subjects and physical  
 3 situations of the city or county set out in subsection (2)  
 4 so as to substantially accomplish the object of this chapter  
 5 as set out in 76-1-101 and 76-1-102;

6 (4) a long-range development program of public works'  
 7 projects, based on the recommended plans of the planning  
 8 board, for the purpose of eliminating unplanned, unsightly,  
 9 untimely, and extravagant projects and with a view to  
 10 stabilizing industry and employment and the keeping of such  
 11 program up-to-date for all separate taxing units within the  
 12 city or county, respectively, for the purpose of assuring  
 13 efficient and economic use of public funds;

14 (5) recommendations setting forth the development,  
 15 improvement, and extension of areas, if any, to be set aside  
 16 for use as trailer courts and sites for mobile homes."

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

18 "76-3-103. **Definitions.** As used in this chapter, unless  
 19 the context or subject matter clearly requires otherwise,  
 20 the following words or phrases shall have the following  
 21 meanings:

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

25 (2) "Dedication" means the deliberate appropriation of

1 land by an owner for any general and public use, reserving  
 2 to himself no rights which are incompatible with the full  
 3 exercise and enjoyment of the public use to which the  
 4 property has been devoted.

5 (3) "Division of land" means the segregation of one or  
 6 more parcels of land from a larger tract held in single or  
 7 undivided ownership by transferring or contracting to  
 8 transfer title to or possession of a portion of the tract or  
 9 properly filing a certificate of survey or subdivision plat  
 10 establishing the identity of the segregated parcels pursuant  
 11 to this chapter.

12 (4) "Examining land surveyor" means a registered land  
 13 surveyor duly appointed by the governing body to review  
 14 surveys and plats submitted for filing.

15 (5) "Governing body" means a board of county  
 16 commissioners or the governing authority of any city or town  
 17 organized pursuant to law.

18 (6) "Irregularly shaped tract of land" means a parcel  
 19 of land other than an aliquot part of the United States  
 20 government survey section or a United States government lot,  
 21 the boundaries or areas of which cannot be determined  
 22 without a survey or trigonometric calculation.

23 (7) "Occasional sale" means one sale of a division of  
 24 land within any 12-month period.

25 (8) "Planned unit development" means a land development

1 project consisting of residential clusters, industrial  
2 parks, shopping centers, office building parks, or any  
3 combination thereof which comprises a planned mixture of  
4 land uses built in a prearranged relationship to each other  
5 and having open space and community facilities in common  
6 ownership or use.

7 (9) "Plat" means a graphical representation of a  
8 subdivision showing the division of land into lots, parcels,  
9 blocks, streets, alleys, and other divisions and  
10 dedications.

11 (10) "Preliminary plat" means a neat and scaled drawing  
12 of a proposed subdivision showing the layout of streets,  
13 alleys, lots, blocks, and other elements of a subdivision  
14 which furnish a basis for review by a governing body.

15 (11) "Final plat" means the final drawing of the  
16 subdivision and dedication required by this chapter to be  
17 prepared for filing for record with the county clerk and  
18 recorder and containing all elements and requirements set  
19 forth in this chapter and in regulations adopted pursuant  
20 thereto.

21 (12) "Registered land surveyor" means a person licensed  
22 in conformance with Title 37, chapter 67, to practice  
23 surveying in the state of Montana.

24 (13) "Registered professional engineer" means a person  
25 licensed in conformance with Title 37, chapter 67, to

1 practice engineering in the state of Montana.

2 (14) "Subdivider" means any person who causes land to be  
3 subdivided or who proposes a subdivision of land.

4 (15) "Subdivision" means a division of land or land so  
5 divided which creates one or more parcels containing less  
6 than 20 acres, exclusive of public roadways, in order that  
7 the title to or possession of the parcels may be sold,  
8 rented, leased, or otherwise conveyed and shall include any  
9 resubdivision and shall further include any condominium or  
10 area, regardless of its size, which provides or will provide  
11 multiple space for recreational camping vehicles or mobile  
12 homes.

13 (16) "Water user entity" means an entity, as described  
14 in 7-12-1151, and irrigation districts, as provided in  
15 85-7-101."

16 **Section 4.** Section 76-3-207, MCA, is amended to read:

17 "76-3-207. Subdivisions exempted from review but  
18 subject to survey requirements -- exceptions. (1) Except as  
19 provided in subsection (2), unless the method of disposition  
20 is adopted for the purpose of evading this chapter, the  
21 following divisions of land are not subdivisions under this  
22 chapter but are subject to the surveying requirements of  
23 76-3-401 for divisions of land not amounting to  
24 subdivisions:

25 (a) divisions made outside of platted subdivisions for

1 the purpose of relocating common boundary lines between  
2 adjoining properties;

3 (b) divisions made outside of platted subdivisions for  
4 the purpose of a gift or sale to any member of the  
5 landowner's immediate family;

6 (c) divisions made outside of platted subdivisions by  
7 sale or agreement to buy and sell where the parties to the  
8 transaction enter a covenant running with the land and  
9 revocable only by mutual consent of the governing body and  
10 the property owner that the divided land will be used  
11 exclusively for agricultural purposes;

12 (d) a single division of a parcel outside of platted  
13 subdivisions when the transaction is an occasional sale;

14 (e) for five or fewer lots within a platted  
15 subdivision, relocation of common boundaries and the  
16 aggregation of lots; and

17 (f) divisions made for the purpose of relocating a  
18 common boundary line between a single lot within a platted  
19 subdivision and adjoining land outside a platted  
20 subdivision. Any restrictions or requirements on the  
21 original platted lot or original unplatted parcel continue  
22 to apply to those areas.

23 (2) Notwithstanding the provisions of subsection (1):

24 (a) within a platted subdivision filed with the county  
25 clerk and recorder, any division of lots which results in an

1 increase in the number of lots or which redesigns or  
2 rearranges six or more lots must be reviewed and approved by  
3 the governing body, and an amended plat must be filed with  
4 the county clerk and recorder;

5 (b) any change in use of the land exempted under  
6 subsection (1)(c) for anything other than agricultural  
7 purposes subjects the division to the provisions of this  
8 chapter;

9 (c) any proposed division that lies partly or totally  
10 within the boundaries of a water user entity must be  
11 reviewed by the water user entity to ensure that the  
12 existence and location of all water user facilities OF  
13 PUBLIC RECORD are properly noted on the certificate of  
14 survey. Water user facilities include but are not limited to  
15 canals, laterals, open drains, closed drains, and water  
16 storage facilities, AND SOURCES OF WATER.

17 (3) No division of land may be made under this section  
18 unless the county treasurer has certified that no real  
19 property taxes assessed and levied on the land to be divided  
20 are delinquent."

21 **Section 5.** Section 76-3-601, MCA, is amended to read:

22 **"76-3-601. Submission of preliminary plat for review.**

23 (1) Except where a plat is eligible for summary approval,  
24 the subdivider shall present to the governing body or the  
25 agent or agency designated thereby the preliminary plat of

1 the proposed subdivision for local review. The preliminary  
2 plat shall show all pertinent features of the proposed  
3 subdivision and all proposed improvements.

4 (2) (a) When the proposed subdivision lies within the  
5 boundaries of an incorporated city or town, the preliminary  
6 plat shall be submitted to and approved by the city or town  
7 governing body.

8 (b) When the proposed subdivision is situated entirely  
9 in an unincorporated area, the preliminary plat shall be  
10 submitted to and approved by the governing body of the  
11 county. However, if the proposed subdivision lies within 1  
12 mile of a third-class city or town or within 2 miles of a  
13 second-class city or within 3 miles of a first-class city,  
14 the county governing body shall submit the preliminary plat  
15 to the city or town governing body or its designated agent  
16 for review and comment.

17 (c) If the proposed subdivision lies partly within an  
18 incorporated city or town, the proposed plat thereof must be  
19 submitted to and approved by both the city or town and the  
20 county governing bodies.

21 (d) When a proposed subdivision is also proposed to be  
22 annexed to a municipality, the governing body of the  
23 municipality shall coordinate the subdivision review and  
24 annexation procedures to minimize duplication of hearings,  
25 reports, and other requirements whenever possible.

1 (e) If the proposed subdivision lies partly or totally  
2 within the boundaries of a water user entity, the proposed  
3 plat of the subdivision must be submitted for review to the  
4 water user entity WITHIN 60 DAYS OF ITS SUBMISSION TO THE  
5 GOVERNING BODY to ensure that the existence and location of  
6 all water user facilities OF PUBLIC RECORD are properly  
7 noted on the plat. Water user facilities include but are not  
8 limited to canals, laterals, open drains, closed drains, and  
9 water storage facilities, AND SOURCES OF WATER.

10 (3) This section and 76-3-604, 76-3-605, and 76-3-608  
11 through 76-3-610 do not limit the authority of certain  
12 municipalities to regulate subdivisions beyond their  
13 corporate limits pursuant to 7-3-4444."

14 **Section 6.** Section 76-3-608, MCA, is amended to read:

15 **"76-3-608. Criteria for local government review.** (1)  
16 The basis for the governing body's decision to approve,  
17 conditionally approve, or disapprove a subdivision shall be  
18 whether the preliminary plat, environmental assessment,  
19 public hearing, planning board recommendations, and  
20 additional information demonstrate that development of the  
21 subdivision would be in the public interest. The governing  
22 body shall disapprove any subdivision which it finds not to  
23 be in the public interest.

24 (2) To determine whether the proposed subdivision would  
25 be in the public interest, the governing body shall issue

1 written findings of fact which weigh the following criteria  
2 for public interest:

- 3 (a) the basis of the need for the subdivision;
- 4 (b) expressed public opinion;
- 5 (c) effects on agriculture;
- 6 (d) effects on local services;
- 7 (e) effects on taxation;
- 8 (f) effects on the natural environment;
- 9 (g) effects on wildlife and wildlife habitat; and
- 10 (h) effects on the public health and safety; and
- 11 (i) effects on water user entity facilities."

12 **Section 7.** Section 76-3-609, MCA, is amended to read:

13 **"76-3-609. Review procedure for minor subdivisions.**  
14 Subdivisions containing five or fewer parcels where proper  
15 access to all lots is provided and in which no land is to be  
16 dedicated to the public for parks or playgrounds are to be  
17 reviewed as follows:

18 (1) The governing body must approve, conditionally  
19 approve, or disapprove the first such subdivision from a  
20 tract of record within 35 days of the submission of an  
21 application for approval thereof.

22 (2) The governing body shall state in writing the  
23 conditions which must be met if the subdivision is  
24 conditionally approved or what local regulations would not  
25 be met by the subdivision if it disapproves the subdivision.

1 (3) The requirements for holding a public hearing and  
2 preparing an environmental assessment shall not apply to the  
3 first such subdivision created from a tract of record.

4 (4) Subsequent subdivisions from a tract of record  
5 shall be reviewed under 76-3-505 and regulations adopted  
6 pursuant to that section.

7 (5) If the proposed subdivision lies partly or totally  
8 within the boundaries of a water user entity, the proposed  
9 plat of the subdivision must be submitted for review to the  
10 water user entity WITHIN 35 DAYS OF ITS SUBMISSION TO THE  
11 GOVERNING BODY to ensure that the existence and location of  
12 all water user facilities OF PUBLIC RECORD are properly  
13 noted on the plat. Water user facilities include but are not  
14 limited to canals, laterals, open drains, closed drains, and  
15 water storage facilities, AND SOURCES OF WATER."

-End-

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 195 (third reading copy --blue) be concurred in as amended .

Signed: \_\_\_\_\_

*Bob Raney*

Bob Raney, Chairman

Carried by: Rep. *Gilbert*

And, that such amendments read:

1. Page 14, line 16.

Following: line 15

Insert: "NEW SECTION. Section 8. Coordination instruction. If House Bill No. 671 is passed and approved, then [sections 2 through 7 of this act] are void."

HOUSE  
SB 195

HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
Senate Bill 195  
Representative Gilbert

April 6, 1991  
Page 2 of 4

April 6, 1991 8:56 am  
Page 1 of 4

Mr. Chairman: I move to amend Senate Bill 195 (third reading copy -- blue).

Signed: Bob Gilbert  
Representative Gilbert

And, that such amendments to Senate Bill 195 read as follows:

1. Title, line 10.  
Following: ";"  
Insert: "REMOVING CERTAIN EXEMPTIONS AND CERTAIN CRITERIA FOR REVIEW;"
2. Title, line 11.  
Following: "76-3-103,"  
Insert: "76-3-104,"  
Strike: "AND"  
Following: "76-3-609,"  
Insert: "76-4-102, AND 76-4-103,"  
Following: "MCA"  
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"
3. Page 6, lines 23 and 24.  
Strike: subsection (7) in its entirety  
Renumber: subsequent subsections
4. Page 8, line 4.  
Strike: "so"
5. Page 8, lines 5 and 6.  
Strike: "which" on line 5  
Insert: "in a manner that"  
Strike: "containing" on line 5 through "acres" on line 6
6. Page 8, line 8.  
Following: "conveyed"  
Strike: "and shall include"  
Insert: ".The term includes"
7. Page 8, line 9.  
Strike: "shall further include"
8. Page 8, line 10.

Strike: "which"  
Insert: "that"

9. Page 8, line 11.  
Strike: "space"  
Insert: "spaces"  
Following: "for"  
Insert: "dwellings,"  
Following: "vehicles"  
Insert: ", "  
Strike: "or"

10. Page 8, line 12.  
Following: "homes"  
Insert: ", or work camp structures to exist for more than 1 year"

11. Page 8.  
Following: line 15  
Insert:

"Section 4. Section 76-3-104, MCA, is amended to read:  
"76-3-104. What constitutes subdivision. A subdivision ~~shall comprise~~ comprises only those parcels ~~less than 20 acres~~ which have been that would be segregated from the original tract, and the plat ~~thereof shall~~ of the subdivision must show all such parcels, whether contiguous or not."  
Renumber: subsequent sections

12. Page 9, lines 12 and 13.  
Strike: subsection (1)(d) in its entirety  
Renumber: subsequent subsections

13. Page 13, lines 3 and 4.  
Strike: subsection (1)(a) and (1)(b) in their entirety  
Renumber: subsequent subsections

14. Page 14.  
Following: line 15  
Insert:

"Section 9. Section 76-4-102, MCA, is amended to read:  
"76-4-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following words or phrases have the following meanings:  
(1) "Board" means the board of health and environmental sciences.  
(2) "Department" means department of health and environmental sciences.  
(3) "Extension of public sewage disposal system" means a

ADOPT

REJECT

730855CW.HSF

HOUSE



sewer line that connects two or more sewer service lines to a sewer main.

(4) "Extension of public water supply system" means a water line that connects two or more water service lines to a water main.

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

(6) "Public water supply system" or "public sewage disposal system" means, respectively, a water supply or sewage disposal system that serves 10 or more families or 25 or more persons for at least 60 days out of the calendar year.

(7) "Registered professional engineer" means a person licensed to practice as a professional engineer under Title 37, chapter 67.

(8) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37, chapter 40.

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

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

(11) "Sewer service line" means a sewer line that connects a single building or living unit to a public sewer system or extension of such a system.

(12) "Solid wastes" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and solid industrial wastes.

(13) "Subdivision" means ~~a division of land or land so divided which creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area, regardless of size, which provides permanent multiple space for recreational camping vehicles or mobile homes~~ has the meaning given in 76-3-103.

(14) "Water service line" means a water line that connects a single building or living unit to a public water system or extension of such a system."

~~shall comprise~~ comprises only those parcels ~~of less than 20 acres~~ which that have been created by a division of land, and the plat ~~thereof shall~~ of the subdivision must show all such parcels, whether contiguous or not. The rental or lease of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a subdivision, as that term is defined in this part, and is not subject to the requirements of this part."

NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval."

Section 10. Section 76-4-103, MCA, is amended to read:  
"76-4-103. What constitutes subdivision. A subdivision

## 1 SENATE BILL NO. 195

2 INTRODUCED BY BENGTSON, VAUGHN, ECK, PINSONEAULT, WEEDING,  
3 GROSFIELD, T. BECK, SWYSGOOD  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING WATER USER  
6 ENTITY; ALLOWING INCLUSION OF WATER USER ENTITY FACILITIES  
7 IN LOCAL GOVERNMENT MASTER PLANS; REQUIRING SUBDIVISION PLAT  
8 REVIEW BY AFFECTED WATER USER ENTITIES; REQUIRING  
9 CONSIDERATION OF THE EFFECT OF SUBDIVISION DEVELOPMENT ON  
10 WATER USER ENTITIES; REMOVING CERTAIN EXEMPTIONS AND CERTAIN  
11 CRITERIA FOR REVIEW; AMENDING SECTIONS 76-1-103, 76-1-601,  
12 76-3-103, 76-3-104, 76-3-207, 76-3-601, 76-3-608, AND  
13 76-3-609, 76-4-102, AND 76-4-103, MCA; AND PROVIDING AN  
14 IMMEDIATE EFFECTIVE DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

18 "76-1-103. Definitions. As used in this chapter, the  
19 following definitions apply:

- 20 (1) "City" includes incorporated cities and towns.  
21 (2) "City council" means the chief legislative body of  
22 a city or incorporated town.  
23 (3) "Governing body" or "governing bodies" means the  
24 governing body of any governmental unit represented on a  
25 planning board.

1 (4) "Master plan" means a comprehensive development  
2 plan or any of its parts such as a plan of land use and  
3 zoning, of thoroughfares, of sanitation, of recreation, and  
4 of other related matters.

5 (5) "Mayor" means mayor of a city.

6 (6) "Person" means any individual, firm, or  
7 corporation.

8 (7) "Planning board" means a city planning board, a  
9 county planning board or a joint city-county planning board.

10 (8) "Plat" means a subdivision of land into lots,  
11 streets, and areas, marked upon the earth and represented on  
12 paper, and includes replats or amended plats.

13 (9) "Public place" means any tract owned by the state  
14 or its subdivisions.

15 (10) "PUBLIC RECORD" MEANS ANY RECORD OR OTHER WRITTEN  
16 MATERIAL IN THE POSSESSION-OF-THE-COUNTY COUNTY CLERK AND  
17 RECORDER'S OFFICE.

18 ~~(10)~~(11) "Streets" includes streets, avenues,  
19 boulevards, roads, lanes, alleys, and all public ways.

20 ~~(11)~~(12) "Units of government" means any federal, state,  
21 or regional unit of government or any county, city, or town.

22 ~~(12)~~(13) "Utility" means any facility used in rendering  
23 service which the public has a right to demand.

24 ~~(13)~~(14) "Water user entity" means an entity, as  
25 described in 7-12-1151, and irrigation districts, as

1 provided in 85-7-101."

2 **Section 2.** Section 76-1-601, MCA, is amended to read:

3 "76-1-601. Master plan -- contents. The planning board  
4 shall prepare and propose a master plan for the  
5 jurisdictional area. The plan may propose ordinances or  
6 resolutions for possible adoption by the appropriate  
7 governing body. The plan may include:

8 (1) careful and comprehensive surveys and studies of  
9 existing conditions and the probable future growth of the  
10 city and its environs or of the county;

11 (2) maps, plats, charts, and descriptive material  
12 presenting basic information, locations, extent, and  
13 character of any of the following:

14 (a) history, population, and physical site conditions;  
15 (b) land use, including the height, area, bulk,  
16 location, and use of private and public structures and  
17 premises;

18 (c) population densities;

19 (d) community centers and neighborhood units;

20 (e) blighted and slum areas;

21 (f) streets and highways, including bridges, viaducts,  
22 subways, parkways, alleys, and other public ways and places;

23 (g) sewers, sanitation, and drainage, including  
24 handling, treatment, and disposal of excess drainage waters,  
25 sewage, garbage, refuse, and other wastes;

1 (h) flood control and prevention;

2 (i) public and private utilities, including water,  
3 light, heat, communication, and other services;

4 (j) transportation, including rail, bus, truck, air,  
5 and water transport and their terminal facilities;

6 (k) local mass transit, including motor and trolley  
7 bus; street, elevated, or underground railways; and  
8 taxicabs;

9 (l) parks and recreation, including parks, playgrounds,  
10 reservations, forests, wildlife refuges, and other public  
11 grounds, spaces, and facilities of a recreational nature;

12 (m) public buildings and institutions, including  
13 governmental administration and service buildings,  
14 hospitals, infirmaries, clinics, penal and correctional  
15 institutions, and other civic and social service buildings;

16 (n) education, including location and extent of  
17 schools, colleges, and universities;

18 (o) land utilization, including areas for manufacturing  
19 and industrial uses, concentration of wholesale business,  
20 retail business, and other commercial uses, residential  
21 uses, and areas for mixed uses;

22 (p) conservation of water, soil, agricultural, and  
23 mineral resources;

24 (q) any other factors which are a part of the physical,  
25 economic, or social situation within the city or county;

1 (r) water user entity facilities, including but not  
2 limited to canals, laterals, open drains, closed drains, and  
3 water storage facilities, AND SOURCES OF WATER;

4 (3) reports, maps, charts, and recommendations setting  
5 forth plans for the development, redevelopment, improvement,  
6 extension, and revision of the subjects and physical  
7 situations of the city or county set out in subsection (2)  
8 so as to substantially accomplish the object of this chapter  
9 as set out in 76-1-101 and 76-1-102;

10 (4) a long-range development program of public works'  
11 projects, based on the recommended plans of the planning  
12 board, for the purpose of eliminating unplanned, unsightly,  
13 untimely, and extravagant projects and with a view to  
14 stabilizing industry and employment and the keeping of such  
15 program up-to-date for all separate taxing units within the  
16 city or county, respectively, for the purpose of assuring  
17 efficient and economic use of public funds;

18 (5) recommendations setting forth the development,  
19 improvement, and extension of areas, if any, to be set aside  
20 for use as trailer courts and sites for mobile homes."

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

22 "76-3-103. **Definitions.** As used in this chapter, unless  
23 the context or subject matter clearly requires otherwise,  
24 the following words or phrases shall have the following  
25 meanings:

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

4 (2) "Dedication" means the deliberate appropriation of  
5 land by an owner for any general and public use, reserving  
6 to himself no rights which are incompatible with the full  
7 exercise and enjoyment of the public use to which the  
8 property has been devoted.

9 (3) "Division of land" means the segregation of one or  
10 more parcels of land from a larger tract held in single or  
11 undivided ownership by transferring or contracting to  
12 transfer title to or possession of a portion of the tract or  
13 properly filing a certificate of survey or subdivision plat  
14 establishing the identity of the segregated parcels pursuant  
15 to this chapter.

16 (4) "Examining land surveyor" means a registered land  
17 surveyor duly appointed by the governing body to review  
18 surveys and plats submitted for filing.

19 (5) "Governing body" means a board of county  
20 commissioners or the governing authority of any city or town  
21 organized pursuant to law.

22 (6) "Irregularly shaped tract of land" means a parcel  
23 of land other than an aliquot part of the United States  
24 government survey section or a United States government lot,  
25 the boundaries or areas of which cannot be determined

1 without a survey or trigonometric calculation.

2 ~~{7}--"Occasional-sale"-means-one-sale-of-a-division-of~~  
3 ~~land-within-any-12-month-period-~~

4 {8}{7} "Planned unit development" means a land  
5 development project consisting of residential clusters,  
6 industrial parks, shopping centers, office building parks,  
7 or any combination thereof which comprises a planned mixture  
8 of land uses built in a prearranged relationship to each  
9 other and having open space and community facilities in  
10 common ownership or use.

11 {9}{8} "Plat" means a graphical representation of a  
12 subdivision showing the division of land into lots, parcels,  
13 blocks, streets, alleys, and other divisions and  
14 dedications.

15 {10}{9} "Preliminary plat" means a neat and scaled  
16 drawing of a proposed subdivision showing the layout of  
17 streets, alleys, lots, blocks, and other elements of a  
18 subdivision which furnish a basis for review by a governing  
19 body.

20 {11}{10} "Final plat" means the final drawing of the  
21 subdivision and dedication required by this chapter to be  
22 prepared for filing for record with the county clerk and  
23 recorder and containing all elements and requirements set  
24 forth in this chapter and in regulations adopted pursuant  
25 thereto.

1 ~~{12}{11}~~ "Registered land surveyor" means a person  
2 licensed in conformance with Title 37, chapter 67, to  
3 practice surveying in the state of Montana.

4 ~~{13}{12}~~ "Registered professional engineer" means a  
5 person licensed in conformance with Title 37, chapter 67, to  
6 practice engineering in the state of Montana.

7 ~~{14}{13}~~ "Subdivider" means any person who causes land  
8 to be subdivided or who proposes a subdivision of land.

9 ~~{15}{14}~~ "Subdivision" means a division of land or land  
10 so divided which IN A MANNER THAT creates one or more  
11 parcels ~~containing--less-than-20-acres~~, exclusive of public  
12 roadways, in order that the title to or possession of the  
13 parcels may be sold, rented, leased, or otherwise conveyed  
14 ~~and-shall-include~~. THE TERM INCLUDES any resubdivision and  
15 ~~shall-further-include~~ any condominium or area, regardless of  
16 its size, which THAT provides or will provide multiple space  
17 SPACES for DWELLINGS, recreational camping vehicles, or  
18 mobile homes, OR WORK CAMP STRUCTURES TO EXIST FOR MORE THAN  
19 1 YEAR.

20 ~~{16}{15}~~ "Water user entity" means an entity, as  
21 described in 7-12-1151, and irrigation districts, as  
22 provided in 85-7-101.

23 {16} "PUBLIC RECORD" MEANS ANY RECORD OR OTHER WRITTEN  
24 MATERIAL IN THE COUNTY CLERK AND RECORDER'S OFFICE."

25 SECTION 4. SECTION 76-3-104, MCA, IS AMENDED TO READ:

1 "76-3-104. What constitutes subdivision. A subdivision  
 2 ~~shall comprise~~ comprises only those parcels ~~less--than--20~~  
 3 ~~acres--which--have--been~~ that would be segregated from the  
 4 original tract, and the plat ~~thereof--shall~~ of the  
 5 subdivision must show all such parcels, whether contiguous  
 6 or not."

7 **Section 5.** Section 76-3-207, MCA, is amended to read:

8 "76-3-207. Subdivisions exempted from review but  
 9 subject to survey requirements -- exceptions. (1) Except as  
 10 provided in subsection (2), unless the method of disposition  
 11 is adopted for the purpose of evading this chapter, the  
 12 following divisions of land are not subdivisions under this  
 13 chapter but are subject to the surveying requirements of  
 14 76-3-401 for divisions of land not amounting to  
 15 subdivisions:

16 (a) divisions made outside of platted subdivisions for  
 17 the purpose of relocating common boundary lines between  
 18 adjoining properties;

19 (b) divisions made outside of platted subdivisions for  
 20 the purpose of a gift or sale to any member of the  
 21 landowner's immediate family;

22 (c) divisions made outside of platted subdivisions by  
 23 sale or agreement to buy and sell where the parties to the  
 24 transaction enter a covenant running with the land and  
 25 revocable only by mutual consent of the governing body and

1 the property owner that the divided land will be used  
 2 exclusively for agricultural purposes;

3 ~~(d)--a--single--division--of--a--parcel--outside--of--platted~~  
 4 ~~subdivisions--when--the--transaction--is--an--occasional--sale;~~

5 ~~(e)~~(D) for five or fewer lots within a platted  
 6 subdivision, relocation of common boundaries and the  
 7 aggregation of lots; and

8 ~~(f)~~(E) divisions made for the purpose of relocating a  
 9 common boundary line between a single lot within a platted  
 10 subdivision and adjoining land outside a platted  
 11 subdivision. Any restrictions or requirements on the  
 12 original platted lot or original unplatted parcel continue  
 13 to apply to those areas.

14 (2) Notwithstanding the provisions of subsection (1):

15 (a) within a platted subdivision filed with the county  
 16 clerk and recorder, any division of lots which results in an  
 17 increase in the number of lots or which redesigns or  
 18 rearranges six or more lots must be reviewed and approved by  
 19 the governing body, and an amended plat must be filed with  
 20 the county clerk and recorder;

21 (b) any change in use of the land exempted under  
 22 subsection (1)(c) for anything other than agricultural  
 23 purposes subjects the division to the provisions of this  
 24 chapter;

25 (c) any proposed division that lies partly or totally

1 within the boundaries of a water user entity must be  
 2 reviewed by the water user entity to ensure that the  
 3 existence and location of all water user facilities OF  
 4 PUBLIC RECORD are properly noted on the certificate of  
 5 survey. Water user facilities include but are not limited to  
 6 canals, laterals, open drains, closed drains, and water  
 7 storage facilities, AND SOURCES OF WATER.

8 (3) No division of land may be made under this section  
 9 unless the county treasurer has certified that no real  
 10 property taxes assessed and levied on the land to be divided  
 11 are delinquent."

12 **Section 6.** Section 76-3-601, MCA, is amended to read:

13 **"76-3-601. Submission of preliminary plat for review.**

14 (1) Except where a plat is eligible for summary approval,  
 15 the subdivider shall present to the governing body or the  
 16 agent or agency designated thereby the preliminary plat of  
 17 the proposed subdivision for local review. The preliminary  
 18 plat shall show all pertinent features of the proposed  
 19 subdivision and all proposed improvements.

20 (2) (a) When the proposed subdivision lies within the  
 21 boundaries of an incorporated city or town, the preliminary  
 22 plat shall be submitted to and approved by the city or town  
 23 governing body.

24 (b) When the proposed subdivision is situated entirely  
 25 in an unincorporated area, the preliminary plat shall be

1 submitted to and approved by the governing body of the  
 2 county. However, if the proposed subdivision lies within 1  
 3 mile of a third-class city or town or within 2 miles of a  
 4 second-class city or within 3 miles of a first-class city,  
 5 the county governing body shall submit the preliminary plat  
 6 to the city or town governing body or its designated agent  
 7 for review and comment.

8 (c) If the proposed subdivision lies partly within an  
 9 incorporated city or town, the proposed plat thereof must be  
 10 submitted to and approved by both the city or town and the  
 11 county governing bodies.

12 (d) When a proposed subdivision is also proposed to be  
 13 annexed to a municipality, the governing body of the  
 14 municipality shall coordinate the subdivision review and  
 15 annexation procedures to minimize duplication of hearings,  
 16 reports, and other requirements whenever possible.

17 (e) If the proposed subdivision lies partly or totally  
 18 within the boundaries of a water user entity, the proposed  
 19 plat of the subdivision must be submitted for review to the  
 20 water user entity WITHIN 60 DAYS OF ITS SUBMISSION TO THE  
 21 GOVERNING BODY to ensure that the existence and location of  
 22 all water user facilities OF PUBLIC RECORD are properly  
 23 noted on the plat. Water user facilities include but are not  
 24 limited to canals, laterals, open drains, closed drains, and  
 25 water storage facilities, AND SOURCES OF WATER.

1 (3) This section and 76-3-604, 76-3-605, and 76-3-608  
2 through 76-3-610 do not limit the authority of certain  
3 municipalities to regulate subdivisions beyond their  
4 corporate limits pursuant to 7-3-4444."

5 **Section 7.** Section 76-3-608, MCA, is amended to read:

6 **"76-3-608. Criteria for local government review.** (1)  
7 The basis for the governing body's decision to approve,  
8 conditionally approve, or disapprove a subdivision shall be  
9 whether the preliminary plat, environmental assessment,  
10 public hearing, planning board recommendations, and  
11 additional information demonstrate that development of the  
12 subdivision would be in the public interest. The governing  
13 body shall disapprove any subdivision which it finds not to  
14 be in the public interest.

15 (2) To determine whether the proposed subdivision would  
16 be in the public interest, the governing body shall issue  
17 written findings of fact which weigh the following criteria  
18 for public interest:

19 ~~{a)--the-basis-of-the-need-for-the-subdivision;~~

20 ~~{b)--expressed-public-opinion;~~

21 ~~{c)--~~ {h}{F} effects on agriculture;

22 ~~{d)--~~ {i}{G} effects on local services;

23 ~~{e)--~~ {j}{H} effects on taxation;

24 ~~{f)--~~ {k}{I} effects on the natural environment;

25 ~~{g)--~~ {l}{J} effects on wildlife and wildlife habitat; and

1 ~~{h}{F}~~ {h}{F} effects on the public health and safety; and  
2 ~~{i}{G}~~ {i}{G} effects on water user entity facilities."

3 **Section 8.** Section 76-3-609, MCA, is amended to read:

4 **"76-3-609. Review procedure for minor subdivisions.**  
5 Subdivisions containing five or fewer parcels where proper  
6 access to all lots is provided and in which no land is to be  
7 dedicated to the public for parks or playgrounds are to be  
8 reviewed as follows:

9 (1) The governing body must approve, conditionally  
10 approve, or disapprove the first such subdivision from a  
11 tract of record within 35 days of the submission of an  
12 application for approval thereof.

13 (2) The governing body shall state in writing the  
14 conditions which must be met if the subdivision is  
15 conditionally approved or what local regulations would not  
16 be met by the subdivision if it disapproves the subdivision.

17 (3) The requirements for holding a public hearing and  
18 preparing an environmental assessment shall not apply to the  
19 first such subdivision created from a tract of record.

20 (4) Subsequent subdivisions from a tract of record  
21 shall be reviewed under 76-3-505 and regulations adopted  
22 pursuant to that section.

23 {m}{K} If the proposed subdivision lies partly or totally  
24 within the boundaries of a water user entity, the proposed  
25 plat of the subdivision must be submitted for review to the



1 water user entity WITHIN 35 DAYS OF ITS SUBMISSION TO THE  
 2 GOVERNING BODY to ensure that the existence and location of  
 3 all water user facilities OF PUBLIC RECORD are properly  
 4 noted on the plat. Water user facilities include but are not  
 5 limited to canals, laterals, open drains, closed drains, and  
 6 water storage facilities, AND SOURCES OF WATER."

7 **SECTION 9. SECTION 76-4-102, MCA, IS AMENDED TO READ:**

8 "76-4-102. Definitions. As used in this part, unless  
 9 the context clearly indicates otherwise, the following words  
 10 or phrases have the following meanings:

11 (1) "Board" means the board of health and environmental  
 12 sciences.

13 (2) "Department" means department of health and  
 14 environmental sciences.

15 (3) "Extension of public sewage disposal system" means  
 16 a sewer line that connects two or more sewer service lines  
 17 to a sewer main.

18 (4) "Extension of public water supply system" means a  
 19 water line that connects two or more water service lines to  
 20 a water main.

21 (5) "Facilities" means public or private facilities for  
 22 the supply of water or disposal of sewage or solid waste and  
 23 any pipes, conduits, or other stationary method by which  
 24 water, sewage, or solid wastes might be transported or  
 25 distributed.

1 (6) "Public water supply system" or "public sewage  
 2 disposal system" means, respectively, a water supply or  
 3 sewage disposal system that serves 10 or more families or 25  
 4 or more persons for at least 60 days out of the calendar  
 5 year.

6 (7) "Registered professional engineer" means a person  
 7 licensed to practice as a professional engineer under Title  
 8 37, chapter 67.

9 (8) "Registered sanitarian" means a person licensed to  
 10 practice as a sanitarian under Title 37, chapter 40.

11 (9) "Reviewing authority" means the department or a  
 12 local department or board of health certified to conduct  
 13 review under 76-4-104.

14 (10) "Sanitary restriction" means a prohibition against  
 15 the erection of any dwelling, shelter, or building requiring  
 16 facilities for the supply of water or the disposition of  
 17 sewage or solid waste or the construction of water supply or  
 18 sewage or solid waste disposal facilities until the  
 19 department has approved plans for those facilities.

20 (11) "Sewer service line" means a sewer line that  
 21 connects a single building or living unit to a public sewer  
 22 system or extension of such a system.

23 (12) "Solid wastes" means all putrescible and  
 24 nonputrescible solid wastes (except body wastes), including  
 25 garbage, rubbish, street cleanings, dead animals, yard

1 clippings, and solid market and solid industrial wastes.

2 (13) "Subdivision" means ~~a division of land or land so~~  
 3 ~~divided which creates one or more parcels containing less~~  
 4 ~~than 20 acres, exclusive of public roadways, in order that~~  
 5 ~~the title to or possession of the parcels may be sold,~~  
 6 ~~rented, leased, or otherwise conveyed and includes any~~  
 7 ~~resubdivision and any condominium or area, regardless of~~  
 8 ~~size, which provides permanent multiple space for~~  
 9 ~~recreational camping vehicles or mobile homes~~ has the  
 10 meaning given in 76-3-103.

11 (14) "Water service line" means a water line that  
 12 connects a single building or living unit to a public water  
 13 system or extension of such a system."

14 **SECTION 10.** SECTION 76-4-103, MCA, IS AMENDED TO READ:

15 "76-4-103. What constitutes subdivision. A subdivision  
 16 ~~shall comprise~~ comprises only those parcels ~~of less than 20~~  
 17 ~~acres which~~ that have been created by a division of land,  
 18 and the plat ~~thereof shall~~ of the subdivision must show all  
 19 such parcels, whether contiguous or not. The rental or lease  
 20 of one or more parts of a building, structure, or other  
 21 improvement, whether existing or proposed, is not a  
 22 subdivision, as that term is defined in this part, and is  
 23 not subject to the requirements of this part."

24 **NEW SECTION. SECTION 11.** EFFECTIVE DATE. [THIS ACT] IS  
 25 EFFECTIVE ON PASSAGE AND APPROVAL.

1 **NEW SECTION. SECTION 12.** COORDINATION INSTRUCTION. IF  
 2 HOUSE BILL NO. 671 IS PASSED AND APPROVED, THEN [SECTIONS 2,  
 3 3, AND 5 THROUGH 8 OF THIS ACT] ARE VOID.

-End-