

1 *Senate* BILL NO. *110*
 2 INTRODUCED BY *David Holt Manly E. Smith*
 3 *Robbie Duane Flynn*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENCOURAGE
 5 DEVELOPMENT IN HARMONY WITH THE NATURAL ENVIRONMENT AND TO
 6 REPEAL THE REQUIREMENT OF A FINDING THAT SUBDIVISIONS BE IN
 7 THE PUBLIC INTEREST; AMENDING SECTIONS 11-3860 AND 11-3866,
 8 R.C.M. 1947."

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

11 Section 1. Section 11-3860, R.C.M. 1947, is amended to
 12 read as follows:

13 "11-3860. Statement of purpose. It is the purpose of
 14 this act to promote the public health, safety, and general
 15 welfare by regulating the subdivision of land; to prevent
 16 overcrowding of land; to lessen congestion in the streets
 17 and highways; to provide for adequate light, air, water
 18 supply, sewage disposal, parks and recreation areas, ingress
 19 and egress, and other public requirements; to ~~require~~
 20 ~~encourage~~ development in harmony with the natural
 21 ~~environment; to require that approval of any subdivision be~~
 22 ~~contingent upon a written finding of public interest by the~~
 23 ~~governing body;~~ and to require uniform monumentation of land
 24 subdivisions and transferring interests in real property by
 25 reference to plat or certificate of survey."

1 Section 2. Section 11-3866, R.C.M. 1947, is amended to
 2 read as follows:

3 "11-3866. Submission of subdivision plat to governing
 4 body -- notice -- hearing -- approval -- disapproval. (1)
 5 Except where a plat is eligible for summary approval the
 6 subdivider shall present to the governing body, or the agent
 7 or agency designated thereby, the preliminary plat of the
 8 proposed subdivision for local review. When the proposed
 9 subdivision lies within the boundaries of an incorporated
 10 city or town, the preliminary plat shall be submitted to and
 11 approved by the city or town governing body. When the
 12 proposed subdivision is situated entirely in an
 13 unincorporated area the preliminary plat shall be submitted
 14 to and approved by the governing body of the county;
 15 however, if the proposed subdivision lies within one (1)
 16 mile of a third class city or town or within two (2) miles
 17 of a second class city or within three (3) miles of a first
 18 class city the county governing body shall submit the
 19 preliminary plat to the city or town governing body or its
 20 designated agent for review and comment. If the proposed
 21 subdivision lies partly within an incorporated city or town,
 22 the proposed plat thereof must be submitted to and approved
 23 by both the city or town and the county governing bodies.
 24 This section does not limit the authority of certain
 25 municipalities to regulate subdivisions beyond their

1 corporate limits pursuant to section 11-3305.

2 (2) The governing body shall approve, conditionally
3 approve, or reject the preliminary plat within sixty (60)
4 days of its presentation unless the subdivider consents to
5 an extension of the review period. The preliminary plat
6 shall show all pertinent features of the proposed
7 subdivision and all proposed improvements. The governing
8 body or its designated agent or agency shall review the
9 preliminary plat to determine whether it conforms to the
10 local master plan if one has been adopted pursuant to
11 sections 11-3801 through 11-3856 to the provisions of this
12 act, and to rules and regulations prescribed or adopted
13 pursuant to this act.

14 (3) The governing body or its authorized agent or
15 agency shall hold a public hearing on the preliminary plat
16 and shall consider all relevant evidence relating to the
17 public health, safety and welfare, including the
18 environmental assessment, to determine whether the plat
19 should be approved, conditionally approved, or disapproved
20 by the governing body. Notice of such hearing shall be
21 given by publication in a newspaper of general circulation
22 in the county not less than fifteen (15) days prior to the
23 date of the hearing. The subdivider and each property owner
24 of record immediately adjoining the land included in the
25 plat shall also be notified of the hearing by registered

1 mail not less than fifteen (15) days prior to the date of
2 the hearing. When a hearing is held by an agent or agency
3 designated by the governing body, the agent or agency shall
4 act in an advisory capacity and recommend to the governing
5 body the approval, conditional approval, or disapproval of
6 the plat. This recommendation must be submitted to the
7 governing body in writing not later than ten (10) days after
8 the public hearing. If the governing body rejects or
9 conditionally approves the preliminary plat, it shall
10 forward one (1) copy of the plat to the subdivider
11 accompanied by a letter over the appropriate signature
12 stating the reason for rejection or enumerating the
13 conditions which must be met to assure approval of the final
14 plat.

15 ~~(4) The basis for the governing body's decision to~~
16 ~~approve, conditionally approve, or disapprove a subdivision~~
17 ~~shall be whether the preliminary plat, environmental~~
18 ~~assessment, public hearing, planning board recommendations~~
19 ~~and additional information demonstrate that development of~~
20 ~~the subdivision would be in the public interest. The~~
21 ~~governing body shall disapprove any subdivision which it~~
22 ~~finds not to be in the public interest. To determine~~
23 ~~whether the proposed subdivision would be in the public~~
24 ~~interest the governing body shall issue written findings of~~
25 ~~fact which weigh the following criteria for public interest:~~

1 ~~(a) the basis of the need for the subdivision;~~

2 ~~(b) expressed public opinion;~~

3 ~~(c) effects on agriculture;~~

4 ~~(d) effects on local services;~~

5 ~~(e) effects on taxation;~~

6 ~~(f) effects on the natural environment;~~

7 ~~(g) effects on wildlife and wildlife habitat; and~~

8 ~~(h) effects on the public health and safety.~~

9 (5) Upon approving or conditionally approving a
10 preliminary plat, the governing body shall provide the
11 subdivider with a dated and signed statement of approval.
12 This approval shall be in force for not more than one (1)
13 calendar year; at the end of this period the governing body
14 may, at the request of the subdivider, extend its approval
15 for no more than one (1) calendar year."

-End-

Approved by Committee
on Natural Resources

Senate BILL NO. 110
David Galt Manly E. Smith
Robbie Deane F. Dymon

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24 This section does not limit the authority of certain
25 municipalities to regulate subdivisions beyond their

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1 corporate limits pursuant to section 11-3305.

2 (2) The governing body shall approve, conditionally
3 approve, or reject the preliminary plat within sixty (60)
4 days of its presentation unless the subdivider consents to
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1 ~~{a)--the-basis-of-the-need-for-the-subdivision}~~
2 ~~{b)--expressed-public-opinion}~~
3 ~~{c)--effects-on-agriculture}~~
4 ~~{d)--effects-on-local-services}~~
5 ~~{e)--effects-on-taxation}~~
6 ~~{f)--effects-on-the-natural-environment}~~
7 ~~{g)--effects-on-wildlife-and-wildlife-habitat}~~ and
8 ~~{h)--effects-on-the-public-health-and-safety}~~
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THIRD READING

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