## HOUSE BILL NO. 408

# INTRODUCED BY FAGG, GILBERT, SWANSON, DOHERTY, YELLOWTAIL, WELDON, WEEDING, B. BROWN, WANZENRIED, BRANDEWIE, HARRINGTON, HIBBARD

## IN THE HOUSE

IN THE HOUSE			
JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.		
	FIRST READING.		
FEBRUARY 16, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.		
FEBRUARY 17, 1993	PRINTING REPORT.		
	SECOND READING, DO PASS AS AMENDED.		
FEBRUARY 18, 1993	ENGROSSING REPORT.		
FEBRUARY 19, 1993	THIRD READING, PASSED. AYES, 76; NOES, 22.		
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.		
IN THE SENATE			
FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.		
	FIRST READING.		
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.		
MARCH 29, 1993	SECOND READING, CONCURRED IN.		
MARCH 30, 1993	THIRD READING, CONCURRED IN. AYES, 38; NOES, 12.		
	RETURNED TO HOUSE.		
•	IN THE HOUSE		

RECEIVED FROM SENATE.

SENT TO ENROLLING.

MARCH 30, 1993

## REPORTED CORRECTLY ENROLLED.

	House BILL NO. 408
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2	INTRODUCED BY Sullest Swanson Other
3	Yellowtand Welton, Weeding Box Brown among
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
5	MONTANA SUBDIVISION AND PLATTING ACT; CHANGING THE
6	DEFINITION OF SUBDIVISION; REMOVING THE OCCASIONAL SALE
7	EXEMPTION; REMOVING THE 20-ACRE LIMITATION; CHANGING THE
8	CRITERIA FOR LOCAL GOVERNMENT SUBDIVISION REVIEW; LIMITING
9	THE NUMBER OF PUBLIC HEARINGS ON SUBDIVISIONS; AMENDING
10	SECTIONS 76-3-102, 76-3-103, 76-3-104, 76-3-207, 76-3-605,
11	AND 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
12	AND APPLICABILITY DATES."

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

Section 1. Section 76-3-102, MCA, is amended to read:

"76-3-102. Statement of purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to-require-that-whenever-necessary; the-appropriate-approval of-subdivisions-be-contingent-upon-a-written-finding-of

public-interest--by--the--governing--body; and to require
uniform monumentation of land subdivisions and transferring
interests in real property by reference to plat or
certificate of survey."

Section 2. Section 76-3-103, MCA, is amended to read:

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

- (1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.
  - (2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself the landowner no rights which that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
  - (3) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter.
- (4) "Examining land surveyor" means a registered land



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surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

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- (5) "Pinal plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant thereto.
- 9 (6) "Governing body" means a board of county
  10 commissioners or the governing authority of any a city or
  11 town organized pursuant to law.
  - (7) "Irregularly shaped tract of land" means a parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
- 17 (8)--\*Occasional--sale\*--means-one-sale-of-a-division-of 18 land-within-any-12-month-period:
  - t9)(8) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks,—or—any—combination—thereof—which—comprises that comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

- 1 (10)(9) "Plat" means a graphical representation of a 2 subdivision showing the division of land into lots, parcels, 3 blocks, streets, alleys, and other divisions and 4 dedications.
- thing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body.
- 10 (12)(11) "Registered land surveyor" means a person

  11 licensed in conformance with Title 37, chapter 67, to

  12 practice surveying in the state of Montana.
- 13 (13) "Registered professional engineer" means a
  14 person licensed in conformance with Title 37, chapter 67, to
  15 practice engineering in the state of Montana.
- 16 (14)(13) "Subdivider" means any a person who causes land 17 to be subdivided or who proposes a subdivision of land.
- 18 +25+(14) "Subdivision" means a division of land or land 19 so divided which that creates one or more parcels containing 20 less-than-20-acres, exclusive of public roadways, in order 21 that the title to or possession of the parcels may be sold, 22 rented, leased, or otherwise conveyed and shall--include 23 includes any resubdivision and shall further include 24 includes any a condominium or area, regardless of its size, 25 which that provides or will provide multiple space for

- recreational camping vehicles or mobile homes." 1
- Section 3. Section 76-3-104, MCA, is amended to read: 2
- \*76-3-104. What constitutes subdivision. A subdivision 3
- 4 shall--comprise comprises only those parcels less-than-20
- acres-which that have been segregated from the original 5
- tract, and the subdivision plat thereof-shall must show all 6
- such the parcels whether contiguous or not." 7
- Section 4. 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
- 12 is adopted for the purpose of evading this chapter, the
- following divisions of land are not subdivisions under this 13

chapter but are subject to the surveying requirements of

- 15 76-3-401 for divisions of land not amounting to
- 16 subdivisions:

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- (a) divisions made outside of platted subdivisions for 17
- the purpose of relocating common boundary lines between 18
- 19 adjoining properties;
- 20 (b) divisions made outside of platted subdivisions for
- 21 the purpose of a gift or sale to any a member of the
- landowner's immediate family; 22
- (c) divisions made outside of platted subdivisions by 23
- 24 sale or agreement to buy and sell where the parties to the
- 25 transaction enter a covenant running with the land and

- 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;
  - +d+--a-single-division-of-a-parcel--outside--of--platted subdivisions-when-the-transaction-is-an-occasional-sale;
- tet(d) for five or fewer lots within a platted subdivision, relocation of common boundaries the 7 8 aggregation of lots; and
  - tf)(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. Any restrictions-or-requirements A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
    - (2) Notwithstanding the provisions of subsection (1):
- (a) within a platted subdivision filed with the county clerk and recorder, any a division of lots which that 17 results in an increase in the number of lots or which 18
- redesigns or rearranges six or more lots must be reviewed 19
- and approved by the governing body, and an amended plat must 20
- be filed with the county clerk and recorder; 21
- (b) any a 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

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- (3) No A division of land may not be made under this section unless the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are not delinquent."
- Section 5. Section 76-3-605, MCA, is amended to read:

- "76-3-605. Hearing on preliminary plat. (1) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body.
- (2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the preliminary plat and annexation whenever possible.
- publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the plat shall also be notified of the hearing by registered-or certified mail not less than 15 days prior to the date of the hearing.
  - (4) When a hearing is held by an agent or agency

- designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than 10 days after the public hearing.
- 7 (5) The governing body or its authorized agent or 8 agency may hold no more than two public hearings on a proposed subdivision."
  - Section 6. Section 76-3-608, MCA, is amended to read:
  - "76-3-608. Criteria for local government review. (1)
    The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall-be is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, and or additional information demonstrate demonstrates that development of the subdivision would-be-in-the-public interest---The---governing---body---shall---disapprove--any subdivision-which-it-finds-not-to-be-in-the-public--interest meets the requirements of this chapter.
  - (2) To-determine-whether-the-proposed-subdivision-would be--in--the--public--interesty--the The governing body shall issue written findings of fact which that weigh the following criteria for-public-interest: in subsection (3), as applicable.

the parcel."

<pre>{a}the-basis-of-the-need-for-the-subdivision;</pre>
<pre>{b}expressed-public-opinion;</pre>
{c}effects-on-agriculture;
<pre>td)effects-on-local-services;</pre>
(e)effects-on-taxation;
<del>{f}effects-on-the-natural-environment;</del>
<pre>tg}effects-on-wildlife-and-wildlife-habitat;-and</pre>
(h)effects-on-the-public-health-and-safety:
(3) A subdivision proposal must undergo review for the
following primary criteria:
(a) the effect on agriculture, local services, the
natural environment, wildlife and wildlife habitat, and
public health and safety;
(b) compliance with:
(i) the survey requirements provided for in part 4 of
this chapter;
(ii) the local subdivision regulations provided for in
part 5 of this chapter; and
(iii) the local subdivision review procedure provided
for in this part;
(c) the provision of easements for the location and
installation of any planned utilities; and
(d) the provision of access to each parcel within the
subdivision and the required notation of that access on the

- NEW SECTION. Section 7. Applicability. (1) [Sections 1
   through 5] apply to all subdivision applications filed after
   passage and approval of [this act].
   (2) [Section 6] applies to all subdivision applications
- filed after September 30, 1993.
   NEW SECTION. Section 8. Refective date. [This act] is
   effective on passage and approval.

-End-

applicable plat and any instrument of transfer concerning

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## APPROVED BY COMM. ON NATURAL RESOURCES

1	HOUSE BILL NO. 408
2	INTRODUCED BY FAGG, GILBERT, SWANSON, DOHERTY, YELLOWTAIL,
3	WELDON, WEEDING, B. BROWN, WANZENRIED, BRANDEWIE,
4	HARRINGTON, HIBBARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
7	MONTANA SUBDIVISION AND PLATTING ACT; CHANGING THE
8	DEFINITION OF SUBDIVISION; REMOVING THE OCCASIONAL SALE
9	EXEMPTION; REMOVING THE 20-ACRE LIMITATION; MODIFYING THE
10	FAMILY SALE EXEMPTION; CHANGING THE CRITERIA FOR LOCAL
11	GOVERNMENT SUBDIVISION REVIEW; LIMITING-THE-NUMBER-OP-PUBLIC
12	HEARINGSONSUBDIVISIONS; AMENDING SECTIONS 76-3-102,
13	76-3-103, 76-3-104, 76-3-207, <del>76-3-605,</del> AND 76-3-608, MCA;
14	AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY
15	DATES."
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17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	Section 1. Section 76-3-102, MCA, is amended to read:
19	"76-3-102. Statement of purpose. It is the purpose of
20	this chapter to promote the public health, safety, and
21	general welfare by regulating the subdivision of land; to
22	prevent overcrowding of land; to lessen congestion in the
23	streets and highways; to provide for adequate light, air,
24	water supply, sewage disposal, parks and recreation areas,

ingress and egress, and other public requirements; to

2	to-require-that-whenever-necessary;-the-appropriate-approva
3	of-subdivisions-be-contingentuponawrittenfindingof
4	publicinterestbythegoverningbody; and to require
5	uniform monumentation of land subdivisions and transferring
6	interests in real property by reference to plat or
7	certificate of survey."

require development in harmony with the natural environment:

Section 2. Section 76-3-103, MCA, is amended to read:

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

- (1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.
- (2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself the landowner no rights which that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
  - (3) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat

HB 0408/02 HB 040B/02

establishing the identity of the segregated parcels pursuant to this chapter.

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- (4) "Examining land surveyor" means a registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
- (5) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant thereto.
- 12 (6) "Governing body" means a board of county
  13 commissioners or the governing authority of any <u>a</u> city or
  14 town organized pursuant to law.
  - of land other than an aliquot part of the United States government survey section or a United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
- 20 (8)--\*Occasional-sale\*-means-one-sale-of-a--division--of
  21 land-within-any-12-month-period:
- 22 (9)(8) "Planned unit development" means a land
  23 development project consisting of residential clusters,
  24 industrial parks, shopping centers, or office building
  25 parks, or -- any -- combination -- thereof -- which -- comprises that

comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

4 (10)(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 (11)(10) "Preliminary plat" means a neat and scaled 9 drawing of a proposed subdivision showing the layout of 10 streets, alleys, lots, blocks, and other elements of a 11 subdivision which furnish a basis for review by a governing 12 body.

13 (±2)(11) "Registered land surveyor" means a person
14 licensed in conformance with Title 37, chapter 67, to
15 practice surveying in the state of Montana.

16 (13)(12) "Registered professional engineer" means a
17 person licensed in conformance with Title 37, chapter 67, to
18 practice engineering in the state of Montana.

19 (14)(13) "Subdivider" means any a person who causes land 20 to be subdivided or who proposes a subdivision of land.

21 (+5)(14) (A) "Subdivision" means a division of land or
22 land so divided which that creates one or more parcels
23 containing-less-than-20-acres CONTAINING LESS THAN 160 ACRES
24 THAT CANNOT BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A
25 UNITED STATES GOVERNMENT SECTION exclusive of public

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25 UNITED STATES GOVERNMENT SECTION, exclusive of public

-3- HB 408

HB 408

HB 0408/02 HB 0408/02

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1 roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed 2 and shall--include includes any resubdivision and shall further includes any a condominium or area, regardless of its size, which that provides or will provide multiple space for recreational camping vehicles or mobile homes.

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contiguous or not."

- 8 (B) A LOCAL GOVERNING BODY MAY INCREASE OR REMOVE THE 9 160-ACRE PROVISION IN SUBSECTION (14)(A) AFTER:
- 10 (I) PROVIDING PUBLIC NOTICE PURSUANT TO 7-1-4128 FOR A 11 MUNICIPALITY OR PURSUANT TO 7-1-2121 FOR A COUNTY;
- (II) CONDUCTING A PUBLIC HEARING ACCORDING TO 12 13 PROCEDURES IN 7-1-4131; AND
- 14 (III) FOLLOWING THE PROCEDURES FOR THE ADOPTION OF ORDINANCES IN 7-5-103.\*\* 15
- 16 Section 3. Section 76-3-104, MCA, is amended to read:
- 17 "76-3-104. What constitutes subdivision. A subdivision shall-comprise comprises only those parcels less-than--20 18 19 acres--which that CONTAINING LESS THAN 160 ACRES THAT CANNOT 20 BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A UNITED STATES GOVERNMENT SECTION WHEN THE PARCELS have been 21 22 segregated from the original tracty-and-the. THE subdivision 23 plat thereof-shall must show all such the parcels whether
  - Section 4. Section 76-3-207, MCA, is amended to read:

2 subject to survey requirements -- exceptions. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 7 76-3-401 for divisions of land not amounting subdivisions:

"76-3-207, Subdivisions exempted from review but

- 9 (a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between 10 adjoining properties; 11
- 12 (b) divisions made outside of platted subdivisions for 13 the purpose of a SINGLE gift or sale IN EACH COUNTY to any a 14 EACH member of the landowner's immediate family;
- 15 (c) divisions made outside of platted subdivisions by 16 sale or agreement to buy and sell where the parties to the 17 transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and 18 19 the property owner that the divided land will be used 20 exclusively for agricultural purposes:
- 21 td)--a--single--division--of-a-parcel-outside-of-platted 22 subdivisions-when-the-transaction-is-an-occasional-sale;
- 23 tet(d) for five or fewer lots within a platted subdivision, relocation of common boundaries and the 24 25 aggregation of lots; and

HB 0408/02 HB 0408/02

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

- (2) Notwithstanding the provisions of subsection (1):
- (a) within a platted subdivision filed with the county clerk and recorder, any a division of lots which that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must be filed with the county clerk and recorder;
- (b) any  $\underline{a}$  change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.
- (3) No A division of land may not be made under this section unless the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are not delinquent."
- Section 5. Section 76-3-6057-MCA7-is-amended-to-read:-
  23 #76-3-6057-Hearing-on-preliminary--plat---(1)---The

  24 governing--body-or-its-authorized-agent-or-agency-shall-hold

  25 a-public-hearing-on-the-preliminary-plat-and-shall--consider

all-relevant-evidence-relating-to-the-public-healthy-safetyy
and--welfarey--including--the--environmental--assessmenty-to
determine-whether-the-plat-should-be-approvedy-conditionally
approvedy-or-disapproved-by-the-governing-body;

(2)--When-a-proposed-subdivision-is-also-proposed-to--be annexed--to--a--municipality--the--governing--body--of--the municipality--shall--hold--joint-hearings-on-the-preliminary plat-and-annexation-whenever-possible-

(3)--Notice-of-such a-hearing-shall must-be-given-by publication-in-a-newspaper-of-general-circulation-in-the county-not-less-than-15-days-prior-to-the-date-of-the hearing--The-subdivider-each-property-owner-of-record-and each-purchaser-under-contract-for--deed--of--property immediately-adjoining-the-land-included-in-the-plat-shall also-be-notified-of-the-hearing-by-registered--or--certified mail-not-less-than-15-days-prior-to-the-date-of-the-hearing-

designated-by-the-governing-body;-the-agent-or-agency-shall act--in--an-advisory-capacity-and-recommend-to-the-governing body-the-approval;-conditional-approval;-or--disapproval--of the--plat;--This--recommendation--must--be--submitted-to-the governing-body-in-writing-not-later-than-10-days--after--the public-hearing;

f4}--When--a--hearing--is--held--by--an--agent-or-agency.

<u>#5j--The--governing--body--or--its--authorized--agent-or</u>

<u>agency-may-hold-no--more--than--two--public--hearings--on--a</u>

-8- HB 408

HB 0408/02 HB 0408/02

1 proposed-subdivision+# 2 Section 5. Section 76-3-608, MCA, is amended to read: 3 \*76-3-608. Criteria for local government review. (1) The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall-be is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, 7 В and or additional information demonstrate demonstrates that 9 development of the subdivision would--be--in--the-public interest;--The---qoverning---body---shall---disapprove---any 10 11 subdivision--which-it-finds-not-to-be-in-the-public-interest 12 meets the requirements of this chapter. (2) To-determine-whether-the-proposed-subdivision-would 13 be-in-the-public-interesty--the The governing body shall 14 issue written findings of fact which that weigh the 15 16 following criteria for-public-interest: in subsection (3), 17 as applicable. 18 ta}--the-basis-of-the-need-for-the-subdivision; 19 tb)--expressed-public-opinion; 20 tel--effects-on-agriculture; 21 td:--effects-on-local-services; 22 tet--effects-on-taxation; 23 ff)--effects-on-the-natural-environment;

fat--effects-on-wildlife-and-wildlife-habitat;-and

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th}--effects-on-the-public-health-and-safety-

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1 (3) A subdivision proposal must undergo review for the following primary criteria: 3 (a) the effect on agriculture, local services, the natural environment, wildlife and wildlife habitat, and 5 public health and safety; 6 (b) compliance with: 7 (i) the survey requirements provided for in part 4 of 8 this chapter; (ii) the local subdivision regulations provided for in 9 10 part 5 of this chapter; and 11 (iii) the local subdivision review procedure provided 12 for in this part; 13 (c) the provision of easements for the location and 14 installation of any planned utilities; and 15 (d) the provision of LEGAL AND PHYSICAL access to each 16 parcel within the subdivision and the required notation of 17 that access on the applicable plat and any instrument of 18 transfer concerning the parcel." NEW SECTION. SECTION 6. COORDINATION INSTRUCTION. IF 19 20 HOUSE BILL NO. 280 IS PASSED AND APPROVED, THEN [THIS ACT] 21 IS VOID. 22 NEW SECTION. Section 7. Applicability. (1) [Sections 1] 23 through 5 4] apply to all subdivision applications filed 24 after passage and approval of [this act].

(2) [Section 6 5] applies to all subdivision

-10-

## HB 0408/02

- 1 applications filed after September 30, 1993.
- 2 NEW SECTION. Section 8. Effective date. [This act] is
- 3 effective on passage and approval.

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2	INTRODUCED BY PAGG, GILBERT, SWANSON, DOHERTY, YELLOWTAIL,
3	WELDON, WEEDING, B. BROWN, WANZENRIED, BRANDEWIE,
4	HARRINGTON, HIBBARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
7	MONTANA SUBDIVISION AND PLATTING ACT; CHANGING THE
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9	EXEMPTION; REMOVING THE 20-ACRE LIMITATION; MODIFYING THE
.0	PANILY SALE EXEMPTION: CHANGING THE CRITERIA FOR LOCAL
11	GOVERNMENT SUBDIVISION REVIEW; LIMITING-THE-NUMBER-OF-PUBLIC
.2	HEARINGSONSUBDIVISIONS; AMENDING SECTIONS 76-3-102,
.3	76-3-103, 76-3-104, 76-3-207, 76-3-605, AND 76-3-608, MCA;
.4	AND PROVIDING AN INMEDIATE EFFECTIVE DATE AND APPLICABILITY
.5	DATES."
.6	
7	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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20	this chapter to promote the public health, safety, and
21	general welfare by regulating the subdivision of land; to
22	prevent overcrowding of land; to lessen congestion in the
23	streets and highways; to provide for adequate light, air,

water supply, sewage disposal, parks and recreation areas,

ingress and egress, and other public requirements; to

HOUSE BILL NO. 408

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require development in harmony with the natural environment; to-require-that-whenever-necessary,-the-appropriate-approval of-subdivisions-be-contingent--upon--a--written--finding--of public--interest--by--the--governing--body; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey."

Section 2. Section 76-3-103, MCA, is amended to read:

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

- (1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.
- (2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself the landowner no rights which that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
- (3) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat

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establishing the identity of the segregated parcels pursuant to this chapter.

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- (4) "Examining land surveyor" means a registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
- (5) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant thereto.
- (6) "Governing body" means a board of county commissioners or the governing authority of any <u>a</u> city or town organized pursuant to law.
- of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
- (8)--\*Occasional-sale\*-means-one-sale-of-a--division--of
  land-within-any-12-month-pariod:
- (9)(8) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parksy-or--any--combination--thereof--which--comprises that

- comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.
- 4 (10)(9) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.
- thing (10) "Preliminary plat" means a nest and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body.
- 13 till "Registered land surveyor" means a person
  14 licensed in conformance with Title 37, chapter 67, to
  15 practice surveying in the state of Montana.
- 16 (13)(12) "Registered professional engineer" means a 17 person licensed in conformance with Title 37, chapter 67, to 18 practice engineering in the state of Montana.
- ti4)(13) "Subdivider" means any a person who causes land
   to be subdivided or who proposes a subdivision of land.
- 21 (15)(14) (A) "Subdivision" means a division of land or
  22 land so divided which that creates one or more parcels
  23 containing-less than-20-acres CONTAINING LESS THAN 160 ACRES
  24 THAT CANNOT BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A
  25 UNITED STATES GOVERNMENT SECTION, exclusive of public

1	roadways, in order that the title to or possession of the
2	parcels may be sold, rented, leased, or otherwise conveyed
3	and shallinclude includes any resubdivision and shall
4	further include includes any a condominium or area,
5	regardless of its size, which that provides or will provide
6	multiple space for recreational camping vehicles or mobile
7	homes.
8	(B)A-LOCAL-GOVERNING-BODY-MAY-INCREASE-ORREMOVETHE
9	160-ACRE-PROVIBION-IN-BUBBBCTION-(14)(A)-APTER+
	ATT - DOORTDEWA - DEDITE WORKER DEMARKING MA T A ALAA MAD I

- 10 <u>{i}--PROVIDING--PUBLIG-NOTICE-PURSUANT-TO-7-1-4126-POR-A</u>
  11 MUNICIPALITY-OR-PURSUANT-TO-7-1-2121-POR-A-COUNTY;
- 12 <u>fill-conducting--a--public--mearing--according--to---the</u>
  13 PROCEDURES-IN-7-1-4131;-AND

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- <u>tiii)-Pollowing--THE--Procedures--Por--THE--Adoption--OP</u>

  ORDINANCES-IN-7-5-103-
- (15) "TRACT OF RECORD" MEANS A PARCEL OF LAND,
  IRRESPECTIVE OF OWNERSHIP, THAT CAN BE IDENTIFIED BY LEGAL
  DESCRIPTION, INDEPENDENT OF ANY OTHER PARCEL OF LAND, USING
  DOCUMENTS ON FILE IN THE RECORDS OF THE COUNTY CLERK AND
  RECORDER'S OFFICE."
- 21 Section 3. Section 76-3-104, MCA, is amended to read:
- 22 \*\*76-3-104. What constitutes subdivision. A subdivision
  23 shall-comprise comprises only those parcels less-than--20
  24 seres--which that CONTAINING LESS THAN 160 ACRES THAT CANNOT
  25 BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A UNITED

STATES GOVERNMENT SECTION WHEN THE PARCELS have been segregated from the original tracty-end-the. THE subdivision plat thereof-shall must show all such the parcels whether

contiquous or not."

subdivisions:

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

  "76-3-207. Subdivisions exempted from review but

  subject to survey requirements exceptions. (1) Except as

  provided in subsection (2), unless the method of disposition

  is adopted for the purpose of evading this chapter, the

  following divisions of land are not subdivisions under this

  chapter but are subject to the surveying requirements of

  76-3-401 for divisions of land not amounting to
- 14 (a) divisions made outside of platted subdivisions for 15 the purpose of relocating common boundary lines between 16 adjoining properties;
- 17 (b) divisions made outside of platted subdivisions for
  18 the purpose of a SINGLE gift or sale IN EACH COUNTY to any a
  19 EACH member of the landowner's immediate family;
- 20 (c) divisions made outside of platted subdivisions by
  21 sale or agreement to buy and sell where the parties to the
  22 transaction enter a covenant running with the land and
  23 revocable only by mutual consent of the governing body and
  24 the property owner that the divided land will be used
  25 exclusively for agricultural purposes:

(d)esingledivisionof-e-percel-outside-of-platted
subdivisions-when the transaction-is-an-occasional-sale;

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

(f)(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. Any restrictions or requirements A restriction or requirement on the original platted lot or original unplatted percel continue continues to apply to those areas.

- (2) Notwithstanding the provisions of subsection (1):
- (a) within a platted subdivision filed with the county clerk and recorder, any a division of lots which that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must he filed with the county clerk and recorder;
- (b) any a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.
- (3) No A division of land may not be made under this section unless the county treasurer has certified that no real property taxes assessed and levied on the land to be

Section 5. - Section-76-3-6657-MSAy-is-emended-to-read:--3 #76-3-605;--Beering--on--preliminary---plat----fib---The ooverning--body-or-its-authorized-agent-or-agency-shall-hold a-public-hearing-on-the-preliminary-plat-and-shall--consider all-relevant-evidence-relating-to-the-public-healthy-safety; 7 and--welfarey--including--the--environmental--assessmenty-to determine-whether-the-plat-should-be-approvedy-conditionally approvedy-or-disapproved-by-the-governing-body, 10 (2)--When-e-proposed-subdivision-is-also-proposed-to--be 11

divided are not delinquent."

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annexed-to-a-municipality--the-coverning-body--of--the municipality--shall--hold--jeint-hearings-on-the-preliminary plat-and-annexation-whenever-possible:

(3)--Notice-of-such a-hearing-shall must--be--given--by publication--in--a--newspaper--of-ceneral-circulation-in-the county-not-less-then-15--days--prior--to--the--date--of--the hearing -- The subdividery each property owner of recordy and each--purchaser--under--contract--for---deed---of---property immediately--adfoining--the--land-included-in-the-plat-shall also-be-notified-of-the-hearing-by-registored--or--certified mail-not-less-than-15-days-prior-to-the-date-of-the-hearing-

22 (4)--When--e--bearing--is--beld--by--an--agent-or-agency designated-by-the-governing-bodyy-the-agent-or-agency--shall act -- in -- an -advisory -capacity - and - recommend - to - the -governing body-the-approvaly-conditional-approvaly-or--disapproval--of

1	theplat:Thisrecommendation-mustbesubmitted-to-the
2	governing-body-in-writing-not-later-than-10-daysafterthe
3	public-hearing
4	(5)Thegoverningbodyoritsauthorizedagent-or
5	agency-may-hold-nomorethantwopublichearingsona
6	proposed-subdivision-
7	Section 5. Section 76-3-608, MCA, is amended to read:
8	"76-3-608. Criteria for local government review. (1)
9	The basis for the governing body's decision to approve,
ro .	conditionally approve, or disapprove a subdivision shall-be
11	is whether the preliminary plat, applicable environmental
12	assessment, public hearing, planning board recommendations,
13	and or additional information demonstrate demonstrates that
L <b>4</b>	development of the subdivision wouldbeinthe-public
15	interest;Thegoverningbodyshalldisapproveany
16	subdivisionwhich-it-finds-not-to-be-in-the-public-interest
17	meets the requirements of this chapter.
18	(2) To-determine-whether-the-proposed-subdivision-would
19	be-in-the-public-interestythe The governing body shall
20	issue written findings of fact which that weigh the
21	following criteria for-public-interest: in subsection (3),
22	as applicable.
23	(a)the-besis-of-the-meed-for-the-subdivision;
24	{b}expressed-public-opinion;
25	+c+effects-on-egriculture:

1	(d)effects-on-local-services;
2	(c)effects-on-taxation;
3	ff;effects-on-the-natural-environment;
4	tg;effects-on-wildlife-and-wildlife-habitat;-and
5	th)effects-on-the-public-health-and-safety-
6	(3) A subdivision proposal must undergo review for the
. 7	following primary criteria:
8	(a) the effect on agriculture, local services, the
9	natural environment, wildlife and wildlife habitat, and
10	public health and safety;
11	(b) compliance with:
12	(i) the survey requirements provided for in part 4 of
13	this chapter;
14	(ii) the local subdivision regulations provided for in
15	part 5 of this chapter; and
16	(iii) the local subdivision review procedure provided
17	for in this part;
18	(c) the provision of easements for the location and
19	installation of any planned utilities; and
20	(d) the provision of LEGAL AND PHYSICAL access to each
21	parcel within the subdivision and the required notation of
22	that access on the applicable plat and any instrument of
23	transfer concerning the parcel."
24	NEW SECTION. SECTION 6. COORDINATION INSTRUCTION. IF

HOUSE BILL NO. 280 IS PASSED AND APPROVED, THEN [THIS ACT]

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L	IS	WOID.

- 2 <u>MEM SECTION.</u> Section 7. Applicability. (1) [Sections 1 through 5 4] apply to all subdivision applications filed after passage and approval of [this act].
- 5 (2) [Section 6 5] applies to all subdivision 6 applications filed after September 30, 1993.
- 7 MEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

-End-

HB 0408/03 53rd Legislature HB 0408/03

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1	HOUSE BILL NO. 408						
2	INTRODUCED BY FAGG, GILBERT, SWANSON, DOHERTY, YELLOWTAIL,						
3	WELDON, WEEDING, B. BROWN, WANZENRIED, BRANDEWIE,						
4	HARRINGTON, HIBBARD						
5							
6	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE						
7	MONTANA SUBDIVISION AND PLATTING ACT; CHANGING THE						
8	DEFINITION OF SUBDIVISION; REMOVING THE OCCASIONAL SALE						
9	EXEMPTION; REMOVING THE 20-ACRE LIMITATION; MODIFYING THE						
10	FAMILY SALE EXEMPTION; CHANGING THE CRITERIA FOR LOCAL						
11	GOVERNMENT SUBDIVISION REVIEW; bimiting-the-number-of-public						
12	HEARINGSONSUBDIVISIONS; AMENDING SECTIONS 76-3-102,						
13	76-3-103, 76-3-104, 76-3-207, <del>76-3-605,</del> AND 76-3-608, MCA;						
14	AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY						
15	DATES."						
16							
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:						
18	Section 1. Section 76-3-102, MCA, is amended to read:						
19	"76-3-102. Statement of purpose. It is the purpose of						
20	this chapter to promote the public health, safety, and						
21	general welfare by regulating the subdivision of land; to						
22	prevent overcrowding of land; to lessen congestion in the						
23	streets and highways; to provide for adequate light, air,						
24	water supply, sewage disposal, parks and recreation areas,						

ingress and egress, and other public requirements; to

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to-require-that-whenever-necessaryy-the-appropriate of-subdivisions-be-contingent-upon-a-written-fi  public-interest-by-the-governing-body; and t  uniform monumentation of land subdivisions and tra  interests in real property by reference to  certificate of survey."	vironment;
public-interest-by-the-governing-body; and tuniform monumentation of land subdivisions and training interests in real property by reference to	e-approva
5 uniform monumentation of land subdivisions and tra 6 interests in real property by reference to	indingof
6 interests in real property by reference to	to require
	ansferring
7 certificate of survey."	plat or

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

Section 2. Section 76-3-103, MCA, is amended to read:

- (1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.
- (2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself the landowner no rights which that incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
  - (3) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat

HB 0408/03

- establishing the identity of the segregated parcels pursuant to this chapter.
  - (4) "Examining land surveyor" means a registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.
  - (5) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant thereto.
  - (6) "Governing body" means a board of county commissioners or the governing authority of any a city or town organized pursuant to law.
  - (7) "Irregularly shaped tract of land" means a parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
  - t8}--\*\*Gccasional-sale\*-means-one-sale-of-a--division--of
    land-within-any-12-month-period-

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- comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.
- 4 (±0)(9) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.
- thing (10) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body.
- 13 (12)(11) "Registered land surveyor" means a person
  14 licensed in conformance with Title 37, chapter 67, to
  15 practice surveying in the state of Montana.
- 16 (13)(12) "Registered professional engineer" means a
  17 person licensed in conformance with Title 37, chapter 67, to
  18 practice engineering in the state of Montana.
- 19 ti47(13) "Subdivider" means any a person who causes land 20 to be subdivided or who proposes a subdivision of land.
- 21 (±5)(14) (A) "Subdivision" means a division of land or
  22 land so divided which that creates one or more parcels
  23 containing-less-than-20-acres CONTAINING LESS THAN 160 ACRES
  24 THAT CANNOT BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A
- 25 UNITED STATES GOVERNMENT SECTION, exclusive of public

**HB 408** 

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roadways, in order that the title to or possession of the
parcels may be sold, rented, leased, or otherwise conveyed
and shallinclude includes any resubdivision and shall
further include includes any a condominium or area,
regardless of its size, which that provides or will provide
multiple space for recreational camping vehicles or mobile
homes.

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- 8 <u>{B}--A-bOCAb-GOVERNING-BODY-MAY-INCREASE-OR--REMOVE--THE</u>
  9 160-ACRE-PROVISION-IN-SUBSECTION-(14)(A)-APTER:
- 10 <u>(i)--Providing--Public-Notice-Pursuant-to-7-1-4128-Por-A</u>
  11 MUNICIPALITY-OR-PURSUANT-to-7-1-2121-POR-A-COUNTY;
- 12 <u>(ii)-Conducting--a--Public--Hearing--according--to---the</u>
  13 PROCEDURES-IN-7-1-4131:-AND
- 14 <u>(III)-POBLOWING-THE--PROCEDURES--POR--THE--ADOPTION--OF</u>
  15 ORDINANCES-IN-7-5-103.
  - (15) "TRACT OF RECORD" MEANS A PARCEL OF LAND,

    IRRESPECTIVE OF OWNERSHIP, THAT CAN BE IDENTIFIED BY LEGAL

    DESCRIPTION, INDEPENDENT OF ANY OTHER PARCEL OF LAND, USING

    DOCUMENTS ON FILE IN THE RECORDS OF THE COUNTY CLERK AND

    RECORDER'S OFFICE."
    - Section 3. Section 76-3-104, MCA, is amended to read:

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22 \*76-3-104. What constitutes subdivision. A subdivision
23 shall-comprise comprises only those parcels less-than--20
24 scres--which that CONTAINING LESS THAN 160 ACRES THAT CANNOT
25 BE DESCRIBED AS A ONE-QUARTER ALIQUOT PART OF A UNITED

- 1 STATES GOVERNMENT SECTION WHEN THE PARCELS have been
  2 segregated from the original tracty-and-the. THE subdivision
  3 plat thereof-shall must show all such the parcels whether
  4 contiguous or not."
- 5 Section 4. Section 76-3-207, MCA, is amended to read:
- subject to survey requirements -- exceptions. (1) Except as
  provided in subsection (2), unless the method of disposition
  is adopted for the purpose of evading this chapter, the
  following divisions of land are not subdivisions under this
  chapter but are subject to the surveying requirements of
  76-3-401 for divisions of land not amounting to
  subdivisions:
- 14 (a) divisions made outside of platted subdivisions for 15 the purpose of relocating common boundary lines between 16 adjoining properties:
- 17 (b) divisions made outside of platted subdivisions for
  18 the purpose of a SINGLE gift or sale IN EACH COUNTY to any a
  19 EACH member of the landowner's immediate family;
- 20 (c) divisions made outside of platted subdivisions by
  21 sale or agreement to buy and sell where the parties to the
  22 transaction enter a covenant running with the land and
  23 revocable only by mutual consent of the governing body and
  24 the property owner that the divided land will be used
  25 exclusively for agricultural purposes;

-6-

HB 408

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HB 0408/03

(d)asingledivisionof-a-parcel-outside-of-platted
ambdivisions-when-the-transaction-is-an-occasional-sale;

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 $\{e\}$  for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and

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

- (2) Notwithstanding the provisions of subsection (1):
- (a) within a platted subdivision filed with the county clerk and recorder, any a division of lots which that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must be filed with the county clerk and recorder;
- (b) any a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.
- (3) No A division of land may not be made under this section unless the county treasurer has certified that no real property taxes assessed and levied on the land to be

divided are not delinquent."

Section 5.—Section-76-3-6857-MCA7-is-amended-to-read:-
#76-3-6857-Hearing-on--preliminary---plat----(1)---The

governing--body-or-its-authorized-agent-or-agency-shall-hold

a-public-hearing-on-the-preliminary-plat-and-shall--consider

alt-relevant-evidence-relating-to-the-public-healthy-safetyy

and--welfarey--including--the--environmental--assessmenty-to

determine-whether-the-plat-should-be-approvedy-conditionally

approvedy-or-disapproved-by-the-governing-body-

(2)--When-a-proposed-subdivision-is-also-proposed-to--be annexed--to--a--municipality--the--governing--body--of--the municipality--shall--hold--joint-hearings-on-the-preliminary plat-and-annexation-whenever-possible.

t3)--Notice-of-such a-hearing-shall must-be-given-by
publication-in-a-newspaper-of-general-circulation-in-the
county-not-less-than-15-days-prior-to-the-date-of-the
hearing--The-subdividery-each-property-owner-of-recordy-and
each-purchaser-under-contract-for--deed--of--property
immediately-adjoining-the-land-included-in-the-plat-shall
also-be-notified-of-the-hearing-by-registered--or--certified
mail-not-less-than-15-days-prior-to-the-date-of-the-hearing(4)--When-a-hearing-is-held-by-an-agent-or-agency-shall
act--in-an-advisory-capacity-and-recommend-to-the-governing

HB 408

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body-the-approvaly-conditional-approvaly-or--disapproval--of

**HB 408** 

HB 0408/03

HB 0408/03

1	theplat:Thisrecommendationmustbesubmitted-to-the
2	governing-body-in-writing-not-later-than-l0-daysafterthe
3	public-hearing:
4	+5}Thegoverningbodyoritsauthorizedagent-or
5	agency-may-hold-nomorethantwopublichearingsona
6	proposed-subdivision:
7	Section 5. Section 76-3-608, MCA, is amended to read:
8	"76-3-608. Criteria for local government review. (1)
9	The basis for the governing body's decision to approve,
10	conditionally approve, or disapprove a subdivision shall-be
11	is whether the preliminary plat, applicable environmental
12	assessment, public hearing, planning board recommendations,
13	and or additional information demonstrate demonstrates that
14	development of the subdivision wouldbeinthe-public
15	interest:Thegoverningbodyshalldisapproveany
16	subdivisionwhich-it-finds-not-to-be-in-the-public-interest
17	meets the requirements of this chapter.
18	(2) To-determine-whether-the-proposed-subdivision-would
19	be-in-the-public-interestythe The governing body shall
20	issue written findings of fact which that weigh the
21	following criteria for-public-interest: in subsection (3),
22	as applicable.
23	<pre>(a)the-basis-of-the-need-for-the-subdivision;</pre>
24	<pre>(b)expressed-public-opinion;</pre>
25	tc}effects-on-agriculture;

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1
          fd}--effects-on-local-services;
 2
          te}--effects-on-texation:
 3
         ffy--effects-on-the-natural-environment;
         tg)--effects-on-wildlife-and-wildlife-habitat;-and
         th)--effects-on-the-public-health-and-safety-
 6
         (3) A subdivision proposal must undergo review for the
 7
      following primary criteria:
 8
         (a) the effect on agriculture, local services, the
      natural environment, wildlife and wildlife habitat, and
 9
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      public health and safety;
11
          (b) compliance with:
12
         (i) the survey requirements provided for in part 4 of
13
      this chapter:
14
         (ii) the local subdivision regulations provided for in
15
     part 5 of this chapter; and
16
         (iii) the local subdivision review procedure provided
17
     for in this part;
18
         (c) the provision of easements for the location and
     installation of any planned utilities; and
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         (d) the provision of LEGAL AND PHYSICAL access to each
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     parcel within the subdivision and the required notation of
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     that access on the applicable plat and any instrument of
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      transfer concerning the parcel."
24
         NEW SECTION. SECTION 6. COORDINATION INSTRUCTION. IF
     HOUSE BILL NO. 280 IS PASSED AND APPROVED, THEN [THIS ACT]
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#### HB 0408/03

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- 2 NEW SECTION. Section 7. Applicability. (1) [Sections 1
- 3 through 5  $\underline{4}$ ] apply to all subdivision applications filed
- 4 after passage and approval of [this act].
- 5 (2) (Section 6 5) applies to all subdivision
- 6 applications filed after September 30, 1993.
- 7 NEW SECTION. Section 8. Effective date. [This act] is
- 8 effective on passage and approval.

-End-