

HOUSE BILL NO. 592

INTRODUCED BY W. STAHL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS PROVIDED IN THE SUBDIVISION AND PLATTING ACT; PROVIDING A DEFINITION OF "ALIQUOT PART"; CLARIFYING THE DEFINITION OF "TRACT OF RECORD"; AND AMENDING SECTION 76-3-103, MCA."

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

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

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

(1) "Aliquot part" means a tract or other parcel of land definitely located by reference to the division of a United States government survey township into sections, half sections, quarter sections, half-quarter sections, quarter-quarter sections or 1/16 sections, 1/32 sections, 1/64 sections, 1/128 sections, or 1/256 sections.

~~(+)(2)~~ "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)(3)~~ "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

~~(3)(4)~~ "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

~~(4)(5)~~ "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. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

~~(5)(6)~~ "Examining land surveyor" means a registered land surveyor appointed by the governing body to

1 review surveys and plats submitted for filing.

2 ~~(6)~~(7) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to
3 be prepared for filing for record with the county clerk and recorder and containing all elements and requirements
4 set forth in this chapter and in regulations adopted pursuant to this chapter.

5 ~~(7)~~(8) "Governing body" means a board of county commissioners or the governing authority of a city or
6 town organized pursuant to law.

7 ~~(8)~~(9) "Immediate family" means a spouse, children by blood or adoption, and parents.

8 ~~(9)~~(10) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

9 ~~(10)~~(11) "Planned unit development" means a land development project consisting of residential clusters,
10 industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in
11 a prearranged relationship to each other and having open space and community facilities in common ownership
12 or use.

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

15 ~~(12)~~(13) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the
16 layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a
17 governing body.

18 ~~(13)~~(14) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter,
19 the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter
20 13, parts 22 and 23.

21 ~~(14)~~(15) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision
22 of land.

23 ~~(15)~~(16) "Subdivision" means a division of land or land so divided that it creates one or more parcels
24 containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States
25 government section, exclusive of public roadways, in order that the title to or possession of the parcels may be
26 sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium
27 or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or
28 mobile homes.

29 ~~(16)~~(17) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be
30 identified by legal description, independent of any other parcel of land, using documents on file in the records of

1 the county clerk and recorder's office. The term includes but is not limited to land described:

2 (i) by aliquot part that is separated by a comma or other punctuation in the same deed on file in the
3 records of the county clerk and recorder's office; or

4 (ii) as a government lot that is separated by a comma or other punctuation in the same deed on file in
5 the records of the county clerk and recorder's office.

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

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

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

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

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