

## Approved Legislation Related to Land Use Planning and Regulation 2003 Montana Legislature

Prepared by Mary Vandebosch, Research Analyst  
Legislative Services Division  
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<p>This is a summary. Please consult the actual law for details. Bills can be found on the Legislative Branch website at: <a href="http://leg.mt.gov">http://leg.mt.gov</a></p>	
Bill No./ Sponsor	Key Provisions
<p>SB 95 Stonington</p>	<ul style="list-style-type: none"> <li>◆ Revises zoning laws to provide that a kinship foster home or youth shelter care facility is considered a residential use of property for purposes of zoning if the home provides care on a 24-hour-a-day basis.</li> <li>◆ Revises the definition of "community residential facility" in the zoning laws to include foster home, kinship foster home, and youth shelter care facility.</li> </ul> <p><b>Effective date:</b> October 1, 2003</p>
<p>SB 98 Mangan</p>	<p>Provides that personal-care facilities are community residential facilities for purposes of including those facilities as residential uses of property under zoning regulations. The law applies to personal-care facilities established in a residential zone after October 1, 2003.</p> <p><b>Effective date:</b> October 1, 2003</p>
<p>SB 168 Stonington</p>	<p>Requires that municipalities annex public streets and roads, including the rights-of-way that are adjacent to property that is being annexed.</p> <p><b>Effective date:</b> October 1, 2003</p>
<p>SB 197 Perry</p>	<p>Clarifies the following with respect to appointment of a county representative on a city planning board:</p> <ul style="list-style-type: none"> <li>◆ a mayor may not reject or refuse to appoint to the city planning board a representative designated by a board of county commissioners; and</li> <li>◆ the board of county commissioners must designate a representative to fill a vacancy in the county's membership within 45 days.</li> </ul> <p><b>Effective date:</b> October 1, 2003</p>

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SB 246 Glaser	<ul style="list-style-type: none"> <li>◆ Requires board of county commissioners to alter the boundaries of a fire service area to exclude an area that is annexed.</li> <li>◆ Requires annexing municipality to be notified if a fire service area is reduced or eliminated by annexation.</li> </ul> <p><b>Effective date:</b> October 1, 2003</p>
SB 325 McGee	<p>Revises the restrictions on subdivision activities so that a person may not engage in the listed activities until:</p> <ul style="list-style-type: none"> <li>◆ a certificate of subdivision approval has been issued pursuant to 76-4-125;</li> <li>◆ the governing body has certified that the subdivision is: within a jurisdictional area that has adopted a growth policy under Title 76, chapter 1, or within a first-class or second-class municipality and adequate municipal facilities and adequate storm water drainage will be provided; or</li> <li>◆ the subdivision is otherwise exempt from review under 76-4-125.</li> </ul> <p><i>Note: This bill corrects a drafting error in SB 167 (2001).</i></p> <p><b>Effective date:</b> April 30, 2003</p>
SB 326 McGee	<ul style="list-style-type: none"> <li>◆ Provides that a growth policy may cover all or part of the jurisdictional area. (Under current law and this bill, the jurisdictional area is the jurisdictional area of the planning board.)</li> <li>◆ Revises the definition of "growth policy" to include a plan adopted under Title 76, Chapter 1 before SB 97 (1999) became effective on October 1, 1999.</li> <li>◆ Establishes a deadline of October 1, 2006 by which time a growth policy must include the required elements listed in 76-1-601(3). The deadline applies to all growth policies, regardless of when they were adopted. (No new required elements were added during the 2003 regular session.)</li> <li>◆ Clarifies that the extent to which a growth policy addresses the required elements is at the full discretion of the governing body.</li> <li>◆ Eliminates the definition of the term "units of government" because it was not used as defined in the chapter.</li> <li>◆ Clarifies that the preparation and adoption of a growth policy is optional: <ul style="list-style-type: none"> <li>• provides that a planning board is required to prepare a growth policy, if requested by the governing body;</li> </ul> </li> </ul>

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SB 326, cont.	<ul style="list-style-type: none"> <li>• authorizes the planning board to recommend that a growth policy be adopted or not adopted or recommend that the governing body take some other action related to preparation of a growth policy after the public hearing. (Under the previous law, the planning board was only authorized to recommend the proposed growth policy, regardless of the comments received at the public hearing.)</li> <li>◆ Authorizes a governing body to revise an adopted growth policy following the procedures for adoption of a proposed growth policy.</li> <li>◆ Authorizes a governing body to repeal a growth policy by resolution.</li> <li>◆ Clarifies that a petition for initiative or referendum to adopt, revise, or repeal a growth policy must contain the signatures of 15% of the qualified electors of the area covered by the growth policy. (Corrects a glitch in the previous law which authorized the electors in the jurisdictional area covered by the growth policy to use the initiative and referendum processes, but referenced requirements for the initiative and referendum process which assumed that the electors were within the jurisdiction (e.g., city, town), not the jurisdictional area. The jurisdictional area for a city-county planning board may be larger than the jurisdiction.)</li> <li>◆ Requires the governing body to assign staff to the planning board and eliminates the authority of the planning board to appoint staff. Authorizes the governing body to contract for services.</li> <li>◆ Clarifies that a growth policy is not a regulatory document and does not confer any authority to regulate that is not specifically authorized by law or regulations adopted pursuant to the law.</li> <li>◆ Provides that a governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act (e.g., building permit) based solely on compliance with a growth policy.</li> <li>◆ Conforms provisions in zoning and subdivision laws to provision that authorizes growth policy to cover part of a jurisdictional area (see 76-2-201, 76-2-310, 76-3-210, 76-3-505, 76-4-122, 76-4-127).</li> <li>◆ Eliminates requirement that subdivision regulations be made in accordance with the goals and objectives established in an adopted growth policy that are within the scope of 76-3-501 within 1 year of adoption of the growth policy.</li> </ul> <p><i>Notes:</i></p> <p><i>A jurisdiction that does not want to revise an old master plan to address the required elements by October 1, 2006 may repeal the old master</i></p>

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SB 326 cont.	<p><i>plan by resolution. Does not change provisions in existing law that require that:</i></p> <ul style="list-style-type: none"> <li>◆ <i>the governing body be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the adoption of zoning ordinances or resolutions or with respect to development or abandonment of public ways, public places, public structures, or public utilities (76-1-605, MCA); and</i></li> <li>◆ <i>subdivision regulations be made in accordance with a growth policy, if a growth policy has been approved (76-1-606, MCA).</i></li> </ul> <p><b>Effective date:</b> May 9, 2003</p>
SB 406 McGee	<ul style="list-style-type: none"> <li>◆ Authorizes filing of a properly completed corner record in lieu of a certificate of survey for certain listed corners. Requires the county clerk and recorder to place the book and page number in which the corner record is filed near the same corner on a cross-index plat (for public land corners) or on an index referenced to tract or lot number in a survey of record.</li> <li>◆ Revises the exemption from the Montana Subdivision and Platting Act for divisions of land created to provide security for mortgages, liens, or trust indentures for the following purposes: construction, improvements to the land being divided, or refinancing.</li> <li>◆ Creates an additional exemption for rights-of-way or utility sites.</li> </ul> <p><b>Effective date:</b> October 1, 2003</p>

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SB 484 Mangan	<ul style="list-style-type: none"> <li>◆ Authorizes the creation of empowerment zones for the purpose of establishing businesses in designated areas.</li> <li>◆ Authorizes income tax credits and insurance tax credits based upon the number of jobs that an employer creates in an empowerment zone.</li> <li>◆ Empowerment zones may be created by:               <ul style="list-style-type: none"> <li>• the governing body of a county, a consolidated local government, or a municipality; or</li> <li>• jointly the governing bodies of counties, consolidated local governments, and municipalities.</li> </ul> </li> <li>◆ Establishes procedures for creation of an empowerment zone.</li> <li>◆ Limits the creation of empowerment zones to one for each governing body in a 7-year period.</li> <li>◆ Establishes criteria for empowerment zones:               <ul style="list-style-type: none"> <li>• criterion based on average unemployment or poverty rate in area;</li> <li>• contiguous geographical area and within one county;</li> <li>• may not consist of less than 1/4 square mile, unless the empowerment zone consists totally of undeveloped land;</li> <li>• boundaries must be based on historic community or neighborhood identity;</li> <li>• boundaries may be based on boundaries of U.S. census geographical units, political subdivisions, Indian reservations, and school districts; and</li> <li>• Empowerment zone must include an area in which there is an annual average population of at least 1,000 residents.</li> </ul> </li> <li>◆ Authorizes Department of Labor and Industry to adopt rules.</li> </ul> <p><b>Note:</b> <i>Some of the criteria appear to be inconsistent.</i></p> <p><b>Effective date:</b> October 1, 2003</p>

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HB 292 Younkin	<ul style="list-style-type: none"> <li>◆ Clarifies that the law governing county acquisition of real property applies to the acquisition of conservation easements. County may not pay more than the appraised value for a conservation easement.</li> <li>◆ Revises the requirements for appraisal of county purchases of real property or conservation easements. Estimate of value of property must be prepared by a disinterested certified general real estate appraiser selected by the county commission, county attorney, and landowner, if the county pays more than \$10,000 for property or \$40,000 for a conservation easement.</li> </ul> <p><b>Effective date:</b> April 21, 2003</p>
HB 298 Younkin	<p>Authorizes the governing body to charge fees (not to exceed \$200) to examine a division of land to determine whether or not the requirements of the Montana Subdivision and Platting Act apply to the division.</p> <p><b>Effective date:</b> May 3, 2003</p>
HB 437 A. Olson	<p>Adds an intent provision to the "Open-Space Land and Voluntary Conservation Easement Act" that says:</p> <p style="padding-left: 40px;">It is the legislature's intent that the requirements of this chapter provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.</p> <p><i><b>Note:</b> This bill includes several other provisions revising environmental laws. Review the bill for further information.</i></p> <p><b>Effective date:</b> April 16, 2003</p>
HB 441 Cyr	<p>Provides for the proration of property taxes on centrally assessed property when land is subdivided.</p> <p><b>Effective date:</b> October 1, 2003</p>

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<p>HB 511 Everett</p>	<ul style="list-style-type: none"> <li>◆ Provides that a master plan adopted under Title 76, Chapter 1 may be:               <ul style="list-style-type: none"> <li>• repealed following the procedures for repeal of a growth policy.</li> <li>• revised following the procedures for revision of a growth policy (until October 1, 2006).</li> </ul> </li> <li>◆ Authorizes cities, counties, and towns to adopt or revise zoning regulations under part 2 or 3 of Title 76, Chapter 2 that are consistent with a master plan that was adopted before October 1, 1999, and that does not meet the requirements of a growth policy. The adoption or revision must be made by October 1, 2006.</li> <li>◆ Authorizes interim zoning under part 2 if a county has held or is holding a hearing for the purpose of considering a revision to a master plan.</li> </ul> <p><b>Note:</b> Refer to SB 326 for related provisions.</p> <p><b>Effective date:</b> March 20, 2003</p>
<p>HB 512 Sinrud</p>	<p>Authorizes the addition of territory that is directly adjacent to an existing planning and zoning district (a "part 1" zoning district) but that is not part of the district, subject to the procedures provided in Title 76, Chapter 2, part 1.</p> <p><b>Note:</b> <i>There are no procedures for adding territory to an existing planning and zoning district in Title 76, Chapter 2, part 1. [The original purpose of the bill was to establish procedures but the bill was amended extensively.] Consult your attorney. It may be helpful to refer to 48 A.G. Op. 5, in which the Attorney General agreed with a Letter Opinion from the Attorney General to Mr. Thomas A. Olson, Dec. 2, 1971, at 3. This opinion stated:</i></p> <p style="padding-left: 40px;"><i>The exterior boundaries of district may be changed upon receipt of a petition by sixty percent of the freeholders within the area affected by the boundary change.</i></p> <p><b>Effective date:</b> October 1, 2003</p>

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HB 640 Haines	<ul style="list-style-type: none"> <li>◆ Revises local government building code authority.</li> <li>◆ Provides that a county may enforce its building code on a countywide basis, except when a city or town within the county has adopted a building code.</li> <li>◆ Provides that a city or town that adopts a building code may enforce its building code only within the incorporated limits of the city or town.</li> <li>◆ Authorizes a county, city, or town to contract for the enforcement of its building code.</li> <li>◆ Eliminates election requirement for county building code.</li> <li>◆ Requires a municipality to complete inspections for permits issued by the municipality in an extended jurisdictional area before October 1, 2003.</li> </ul> <p><b>Effective date:</b> October 1, 2003. Provision that requires completion of municipal inspections in extended area effective 4/21/03.</p>
HB 669 Younkin	<p>Revises the park dedication requirements as follows:</p> <ul style="list-style-type: none"> <li>◆ Provides that a donation of land may be inside or outside of the subdivision.</li> <li>◆ Authorizes the governing body to waive the park dedication requirement if:               <ul style="list-style-type: none"> <li>• the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses. The land set aside must be sufficient to meet the needs of the persons who will ultimately reside in the subdivision. Land and improvements set aside must equal or exceed the area of dedication required under the law; or</li> <li>• the subdivider provides for land outside of the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values. The land subject to long-term protection must equal or exceed the area of dedication required under the law.</li> </ul> </li> </ul> <p><b>Effective date:</b> October 1, 2003</p>



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HJR 37 Noennig	Requests the Legislative Council to assign staff or an interim committee to review the Montana Subdivision and Platting Act and make recommendations for legislation to facilitate consistent application of the laws by revising the act so that it is clear, concise, logically organized, and in conformance with the bill drafting manual.  File with Secretary of State (not a law)