

## SUBDIVISIONS AND PLATTING ACT

### LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

**Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.**

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### Background Materials and Research

**Topic Summary:** In 1973, the Montana legislature handed over control of subdivision development to local governments in legislation known as the Montana Subdivision and Platting Act, found in [Title 76, Chapter 3, MCA](#). The act intends to prevent overcrowding, promote public health, safety, and general welfare, consolidate development to ensure services and minimize public utility costs, and maintain harmony with the natural environment, among other purposes. The act defines subdivisions as parcels containing less than 160 acres, including contiguous or noncontiguous parcels ([76-3-104, MCA](#)). Local governments may adopt their own subdivision regulations, granted they meet the minimum requirements set forth in the act.

Minimum requirements include:

- materials needed for application
- procedure for submission and review of application
- identification of unsuitable areas for subdivision
- set standards for roads, lots, streets, grading and drainage, water supply, sewage and solid waste disposal, public utilities, parks, water rights, ditch easements, etc.
- process for holding public hearings
- defined evasion criteria for exemptions
- defined criteria for RV and mobile home site reviews

Certain areas may claim exemption, such as airports, cemetery lots, leased or rented land used for agriculture, land used for public rights of way and utilities, and land not under state jurisdiction. Local governments are given authority to examine proposed exemptions for attempted evasions while also maintaining authority to enforce punishment for violations. Violating the act constitutes a misdemeanor offense, punishable of a fine not less than \$100 or more than \$500 or imprisonment in a county jail for no more than 3 months, or both ([76-3-105, MCA](#)).

Legislative Services Division Materials:

[Subdivisions](#), Explanation of Chapter 3 (Subdivision and Platting Act) and Chapter 4 (Sanitation in Subdivisions Act) of Title 76

[Family Transfer Subdivision Exemption](#), Legal Memo, 2012

Other Materials:

[Montana Subdivision and Platting Act \(MSPA\)](#), “Exemptions, Surveys, and other miscellaneous topics”, Montana Land Title Association, 2013

[Performance Audit of the Subdivision Approval Process](#), Legislative Audit Division, 2000

Introduced Legislation

**2019**

[HB 124](#) - Chapter Number Assigned - AN ACT GENERALLY REVISING PROVISIONS CONCERNING AGRICULTURAL COVENANTS UNDER THE SUBDIVISION AND PLATTING ACT; CLARIFYING THAT A CHANGE IN USE SUBJECTS CERTAIN EXEMPTIONS TO SUBDIVISION REVIEW; ALLOWING A GOVERNING BODY TO REVOKE CERTAIN EXEMPTIONS IF THERE IS A CHANGE IN USE; PROVIDING EXCEPTIONS; AND AMENDING SECTION 76-3-207, MCA.

[SB 33](#) - Died in Standing Committee - AN ACT REVISING THE PHASED DEVELOPMENT SUBDIVISION REVIEW PROCESS; LIMITING PUBLIC HEARING REQUIREMENTS PRIOR TO THE COMMENCEMENT OF EACH DEVELOPMENT PHASE; REQUIRING GOVERNMENT BODIES TO COMPLETE PHASE REVIEWS WITHIN 20 WORKING DAYS; AMENDING SECTIONS 76-3-103 AND 76-3-617, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[SB 198](#) - Died in Standing Committee - AN ACT GENERALLY REVISING SUBDIVISION LAWS; PROVIDING CRITERIA TO DETERMINE LEGAL ACCESS TO PARCELS EXEMPT FROM SUBDIVISION REVIEWS; AND AMENDING SECTION 76-3-504.

[SB 263](#) - Died in Standing Committee - AN ACT GENERALLY REVISING SUBDIVISION LAWS; ALLOWING EXEMPTIONS FOR CERTAIN TYPES OF DIVISIONS WITHIN A PLATTED SUBDIVISION; AND AMENDING SECTIONS 76-3-207, 76-4-127, AND 76-3-301, MCA.

**2017**

[HB 245](#) – Chapter Number Assigned -- AN ACT REVISING A GOVERNING BODY'S RESPONSIBILITIES CONCERNING THE SUBMISSION AND EVALUATION OF THE FINAL PLAT OF A SUBDIVISION; PROVIDING TIMELINES FOR DETERMINATIONS CONCERNING THE INFORMATION REQUIRED FOR THE FINAL PLAT; REQUIRING NOTIFICATIONS CONCERNING THE DETERMINATION; AND AMENDING SECTION 76-3-611, MCA.

[HB 416](#) – Chapter Number Assigned -- AN ACT REVISING LAWS GOVERNING LOCAL GOVERNMENT SUBDIVISION REVIEW DECISIONS; REQUIRING FINDINGS OF FACT IN LOCAL GOVERNMENT

REVIEW TO BE BASED ON THE RECORD AS A WHOLE; CLARIFYING WHEN A DECISION MADE BY A GOVERNING BODY MUST BE SUSTAINED WHEN CHALLENGED; CLARIFYING WHAT STANDARDS OF REVIEW APPLY TO AN ENVIRONMENTAL ASSESSMENT; AND AMENDING SECTIONS 76-3-603, 76-3-608, AND 76-3-625, MCA.

[HB 445](#) – Chapter Number Assigned -- AN ACT REVISING LOCAL SUBDIVISION REVIEW LAWS; PROVIDING FOR PHASED DEVELOPMENT FOR WHICH A SUBDIVIDER MAY APPLY TO A LOCAL GOVERNING BODY; REQUIRING THAT A PHASED DEVELOPMENT APPLICATION INCLUDE INFORMATION ON ALL PROPOSED PHASES AND A SCHEDULE FOR REVIEW OF EACH PHASE; REQUIRING THAT ALL PHASES OF A PHASED DEVELOPMENT BE SUBMITTED FOR REVIEW AND ACTED ON WITHIN A CERTAIN TIME; REQUIRING A PUBLIC HEARING FOR REVIEW OF EACH PHASE AND REQUIRING A GOVERNING BODY TO CONSIDER CHANGED PRIMARY CRITERIA IMPACTS OR NEW INFORMATION WHEN REVIEWING EACH PHASE; ALLOWING A GOVERNING BODY TO IMPOSE NECESSARY, ADDITIONAL CONDITIONS ON APPROVAL OF EACH PHASE; ALLOWING A GOVERNING BODY TO CHARGE A FEE FOR REVIEW OF PHASES IN A PHASED DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-3-102, 76-3-103, AND 76-8-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HB 456](#) – Chapter Number Assigned -- AN ACT CLARIFYING TIMELINES FOR SUBDIVISION REVIEW; AMENDING SECTION 76-4-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HB 317](#) – Died in Process -- AN ACT ALLOWING A LOCAL GOVERNING BODY TO HOLD A HEARING AS PART OF REVIEW FOR CERTAIN SUBDIVISIONS; PROVIDING THAT A HEARING MAY BE HELD FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD; AND AMENDING SECTIONS 76-3-506 AND 76-3-609, MCA.

[HJ 31](#) – Died in Process -- A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF LOCAL ZONING AND STATE AND LOCAL SUBDIVISION AND WATER AND SANITATION LAWS AND REGULATORY PROCESSES AND HOW THEY AFFECT DEVELOPMENT AND THE AVAILABILITY OF WORKFORCE HOUSING.

[SB 248](#) – Vetoed by Governor -- AN ACT PROVIDING THAT AN EXEMPT WELL PERMIT IS NOT REQUIRED FOR USE ON A LOT OR PARCEL CREATED BY A FAMILY TRANSFER DIVISION OF LAND; ~~ESTABLISHING A FEE TO BE PAID WITH A NOTICE OF COMPLETION LIMITS ON SALES OF LAND DIVIDED BY FAMILY TRANSFER; PROVIDING A PENALTY FOR EVADING SUBDIVISION REGULATIONS;~~ AMENDING SECTION ~~SECTIONS 76-3-207 AND 85-2-306,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

## 2015

[HB 367](#) – Chapter Number Assigned -- AN ACT REVISING FEES OF THE COUNTY CLERK WITH REGARD TO FILING OF SUBDIVISION AND TOWNSITE PLATS AND CERTIFICATES OF SURVEY; INCREASING THE FEE FOR FILING OF SUBDIVISION AND TOWNSITE PLATS; CLARIFYING THE FEE FOR FILING EACH PAGE OF A DOCUMENT REQUIRED TO BE FILED WITH A SUBDIVISION, TOWNSITE PLAT, OR CERTIFICATE OF SURVEY; AND AMENDING SECTION 7-4-2631, MCA.

[HB 519](#) – Died in Standing Committee -- AN ACT REVISING LAWS RELATED TO EXEMPT APPROPRIATIONS OF WATER; REVISING VOLUME LIMITS FOR EXEMPT APPROPRIATIONS OF WATER; REQUIRING CERTAIN WATER RIGHTS INFORMATION DURING SUBDIVISION REVIEW AND FOR EXEMPT APPROPRIATIONS OF WATER; PROVIDING ENFORCEMENT MEASURES FOR VIOLATIONS OF LAWS RELATED TO EXEMPT APPROPRIATIONS OF WATER; REQUIRING WATER RIGHTS INFORMATION DURING SANITATION IN SUBDIVISION REVIEW; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADOPT RULES REQUIRING WATER RIGHTS DOCUMENTATION; REQUIRING WATER RIGHTS INFORMATION DURING REVIEW OF SUBDIVISION APPLICATION; ELIMINATING PROHIBITION OF METERING A WATER WELL; REVISING CONTROL PROVISIONS FOR A CONTROLLED GROUNDWATER AREA; AMENDING SECTIONS 76-4-104, 76-4-125, 85-2-113, 85-2-306, AND 85-2-506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[SB 226](#) – Died in Standing Committee -- AN ACT PROHIBITING A LOCAL GOVERNING BODY FROM CONSIDERING THE IMPACTS OF POTENTIAL FUTURE SUBDIVISIONS WHEN REVIEWING SUBDIVISION APPLICATIONS; AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

## 2013

[SB 40](#) – Chapter Number Assigned -- AN ACT GENERALLY REVISING PROVISIONS GOVERNING SUBDIVISION REVIEW; REVISING PROCEDURES FOR THE SUBMISSION OF SUBDIVISION APPLICATIONS; AMENDING SECTIONS 76-3-504, 76-3-601, AND 76-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[SB 146](#) – Chapter Number Assigned -- AN ACT REVISING CRITERIA FOR LOCAL SUBDIVISION REVIEW TO REQUIRE THAT CERTAIN INFORMATION SUBMITTED BY A GOVERNMENTAL ENTITY BE USED BY A GOVERNING BODY ONLY IF IT IS SCIENTIFIC INFORMATION; REQUIRING A GOVERNMENTAL ENTITY THAT HAS BEEN INVOLVED IN CERTAIN PROPERTY ACQUISITION EFFORTS TO DISCLOSE THAT INFORMATION TO THE LOCAL GOVERNING BODY; AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[SB 293](#) – Chapter Number Assigned -- AN ACT REQUIRING A SUBDIVIDER TO SUBMIT INFORMATION REGARDING WHETHER A PROPOSED SUBDIVISION'S WATER AND WASTEWATER SYSTEMS WILL BE UNDER THE PUBLIC SERVICE COMMISSION'S JURISDICTION; AMENDING SECTION 76-3-622, MCA; AND PROVIDING AN APPLICABILITY DATE.

[SB 316](#) – Chapter Number Assigned -- AN ACT REVISING SUBDIVISION AND LOCAL BOARD OF HEALTH LAWS RELATED TO ENCROACHMENT ONTO PRIVATE PROPERTY; PROHIBITING LOCAL APPROVAL OF A PROPOSED SUBDIVISION IF A WELL ISOLATION ZONE OR OTHER FEATURES AND IMPROVEMENTS OF THE SUBDIVISION ENCROACH ONTO PRIVATE PROPERTY; REQUIRING DEPARTMENT OF ENVIRONMENTAL QUALITY SANITATION IN SUBDIVISION RULES TO PROVIDE FOR EVIDENCE THAT WELL ISOLATION ZONES ARE LOCATED WHOLLY WITHIN THE BOUNDARIES OF A PROPOSED SUBDIVISION; REQUIRING LOCAL BOARD OF HEALTH RULES TO ADDRESS WELL ISOLATION ZONES UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 50-2-116, 76-3-608, 76-4-102, AND 76-4-104, MCA

[SB 324](#) – Chapter Number Assigned -- AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HB 499](#) – Veto Override Failed Legislature -- AN ACT CLARIFYING CONVEYANCE EXEMPTIONS FROM SUBDIVISION REGULATIONS; AMENDING SECTION 76-3-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[SB 41](#) – Vetoed by Governor -- AN ACT PROHIBITING A GOVERNING BODY FROM CONSIDERING THE 5 IMPACTS OF POTENTIAL FUTURE SUBDIVISIONS WHEN REVIEWING SUBDIVISION APPLICATIONS; 6 AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN 7 APPLICABILITY DATE."

[SB 147](#) – Vetoed by Governor -- AN ACT REVISING CRITERIA FOR LOCAL GOVERNMENT REVIEW OF A SUBDIVISION APPLICATION WITH REGARD TO IMPACT ON ADJACENT AGRICULTURAL OPERATIONS; AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

## 2011

[HB 28](#) – Chapter Number Assigned -- AN ACT REQUIRING THAT PROPOSED DRAINFIELD MIXING ZONES BE LOCATED WHOLLY WITHIN THE SUBDIVISION WHERE THE DRAINFIELD IS LOCATED OR ON AN ADJOINING RIGHT-OF-WAY; ALLOWING LOCATION OF A DRAINFIELD MIXING ZONE OUTSIDE THE SUBDIVISION IF AN EASEMENT OR OTHER AUTHORIZATION IS OBTAINED; AMENDING SECTION 76-4-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HB 522](#) – Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS REGARDING THE LOCAL REGULATION OF SUBDIVISIONS; AUTHORIZING A GOVERNING BODY TO EXTEND THE APPROVAL OF A SUBDIVISION APPLICATION AND PRELIMINARY PLAT FOR A MUTUALLY AGREED-UPON PERIOD OF TIME; REQUIRING THE AGREEMENT FOR THE EXTENSION TO BE IN WRITING; PROVIDING THAT A GOVERNING BODY MAY ISSUE MORE THAN ONE EXTENSION; AND AMENDING SECTION 76-3-610.

[SB 298](#) – Chapter Number Assigned -- AN ACT PROVIDING THAT A GOVERNING BODY MAY NOT DENY A PROPOSED SUBDIVISION BASED SOLELY ON A CERTAIN WILDLAND-URBAN INTERFACE DESIGNATION; AND AMENDING SECTION 76-3-608, MCA.

[HB 494](#) – Vetoed by Governor -- AN ACT REVISING PROVISIONS GOVERNING EXEMPTION FROM SUBDIVISION REVIEW FOR THE SALE, RENT, LEASE, OR OTHER CONVEYANCES OF BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS; AMENDING SECTION 76-3-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[HB 542](#) – Vetoed by Governor -- AN ACT REVISING PROVISIONS GOVERNING CRITERIA FOR LOCAL GOVERNMENT REVIEW OF PROPOSED SUBDIVISIONS AND INFORMATION PROVIDED AS PART OF A REVIEW; REQUIRING INFORMATION FROM A GOVERNMENTAL ENTITY TO BE SUPPORTED BY SCIENTIFIC INFORMATION; PROHIBITING CONSIDERATION OF INFORMATION PROVIDED BY A GOVERNMENTAL ENTITY THAT IS OR HAS BEEN INVOLVED IN AN EFFORT TO ACQUIRE OR ASSIST OTHERS IN ACQUIRING AN INTEREST IN THE REAL PROPERTY UNDER REVIEW; PROHIBITING A GOVERNING BODY FROM CONSIDERING THE IMPACT OF A SUBDIVISION UNDER REVIEW IN CONJUNCTION WITH THE IMPACTS OF POTENTIAL FUTURE SUBDIVISIONS; PROVIDING THAT INFORMATION PERTAINING TO MITIGATION BY THE SUBDIVIDER MAY NOT BE CONSIDERED NEW INFORMATION; AMENDING SECTIONS 76-3-608 AND 76-3-615, MCA; AND PROVIDING AN APPLICABILITY DATE.

[SB 209](#) – Died in Standing Committee -- AN ACT GENERALLY REVISING THE MONTANA SUBDIVISION AND PLATTING ACT; CLARIFYING THE TIME FOR REVIEW OF SUBDIVISION APPLICATIONS; PROHIBITING THE INTRODUCTION OF INFORMATION OBTAINED BY A MEMBER OF A GOVERNING BODY DURING A SUBDIVISION APPLICATION HEARING; PROHIBITING A MEMBER OF A GOVERNING BODY FROM OFFERING TESTIMONY DURING A HEARING ON A SUBDIVISION APPLICATION; REQUIRING A GOVERNING BODY TO DISREGARD OPINIONS BY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES THAT ARE NOT SUPPORTED BY A FORMAL WRITTEN OPINION; PROHIBITING A GOVERNING BODY FROM CONSIDERING THE CUMULATIVE IMPACT OF THE SUBDIVISION WHEN REVIEWING CERTAIN CRITERIA; PROVIDING THAT INFORMATION PERTAINING TO MITIGATION BY THE SUBDIVIDER MAY NOT BE CONSIDERED NEW INFORMATION; REQUIRING THE DISTRICT COURT TO AWARD REASONABLE COSTS AND ATTORNEY FEES TO A SUBDIVIDER WHO PREVAILS ON APPEAL TO THE DISTRICT COURT; AMENDING SECTIONS 76-3-504, 76-3-604, 76-3-605, 76-3-608, 76-3-615, AND 76-3-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

**Prepared By:**

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