

## ZONING

### 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:** County commissioners and municipal legislative bodies may establish planning and zoning districts to help promote public health, safety, morals, and general welfare as granted in [Title 76, chapter 2, MCA](#). When establishing a planning and zoning district, affected real property owners in the district may petition or protest the creation of the district. If a planning and zoning district is approved, the board of county commissioners may appoint a planning and zoning commission who will then carry out the purposes of the district.

Both counties and municipalities may create planning and zoning districts, but county and municipal districts should not overlap ([76-2-101, MCA](#)). Generally, county zoning commissions control unincorporated land and have the power to regulate the erection, construction, reconstruction, alteration, repair, location, use of buildings or structures, or the use of land ([76-2-202, MCA](#)). Municipal zoning commissions have powers similar to counties, but may also regulate the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes ([76-2-301, MCA](#)). Both municipal and county zoning districts may be adjusted as necessary while remaining in harmony with their general purpose and intent. Affected citizens, officers, boards, or departments may appeal to the board of adjustments using the correct appeal procedure addressed in [76-2-226, MCA](#) for county zoning districts or [76-2-326, MCA](#) for municipal zoning districts.

#### Legislative Services Division Materials:

[County Zoning Protests, Legal Challenges Update](#), Education & Local Government Interim Committee Report, 2011

[Due Process Considerations in Zoning](#), Legal Memo, 2009

[County Zoning Law and establishing penalties](#), Legal Memo, 2004

[Legal Opinion Regarding Citizen Petition Zoning](#), Legal Memo, 1999

## Other Materials:

[Zoning and the Public Process](#), Montana Community Technical Assistance Program - Montana League of Cities and Towns

[No Zoning? No Problem.](#), High County News, Jan 16, 2016

## Introduced Legislation

### 2017

[House Bill 548](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROTEST PROVISIONS FOR COUNTY ZONING; INCREASING THE PERCENTAGE OF PROPERTY OWNERS REQUIRED TO PREVENT CREATION OF A ZONING DISTRICT OR ESTABLISHMENT OF REGULATIONS; ELIMINATING PROTEST SPECIFIC TO PROPERTY OWNERS WHOSE PROPERTY IS TAXED FOR AGRICULTURAL PURPOSES OR AS FOREST LAND; AND AMENDING SECTION 76-2-205, MCA."

[House Joint Resolution 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.

### 2015

[House Bill 193](#) – Chapter Number Assigned -- AN ACT REVISING THE PROCESSES FOR APPEALING COUNTY ZONING DECISIONS; PROVIDING THAT A DECISION OF A BOARD OF ADJUSTMENT MAY BE APPEALED TO A BOARD OF COUNTY COMMISSIONERS IF THE COMMISSIONERS ESTABLISH A PROCESS AND A DECISION BY A BOARD OF COUNTY COMMISSIONERS OR A BOARD OF ADJUSTMENT MAY BE APPEALED TO A COURT OF RECORD; AND AMENDING SECTIONS 76-2-226, 76-2-227, AND 76-2-228, MCA.

[House Bill 289](#) – Chapter Number Assigned -- AN ACT REVISING ZONING REQUIREMENTS FOR TARGETED ECONOMIC DEVELOPMENT DISTRICTS; ALLOWING PROVISIONS ADOPTED THROUGH ZONING BY PETITION TO FULFILL THE ZONING REQUIREMENTS FOR CREATION OF A TARGETED ECONOMIC DEVELOPMENT DISTRICT; AND AMENDING SECTION 7-15-4279, MCA.

[House Bill 182](#) – Missed Deadline for General Bill Transmittal -- A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A LOCAL GOVERNING BODY FROM CONSIDERING THE PROPOSED USE OF THE LOTS WITHIN A PROPOSED SUBDIVISION IF ZONING HAS NOT BEEN ADOPTED; AND AMENDING SECTION 76-3-604, MCA."

### 2013

[Senate Bill 23](#) – Chapter Number Assigned -- AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE EXISTENCE OF AN EMERGENCY; ELIMINATING THE SPECIFICATION OF EXIGENT

CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; AND AMENDING SECTION 76-2-206, MCA.

[Senate Bill 290](#) – Chapter Number Assigned -- AN ACT PROVIDING A PROCESS FOR NOTIFICATION OF NEARBY MUNICIPAL PROPERTY OWNERS WHEN A CHANGE IN USE IN CERTAIN COUNTY ZONING DISTRICTS OCCURS; AND REQUIRING THE COUNTY TO HOLD A PUBLIC HEARING UNDER CERTAIN CIRCUMSTANCES.

[House Bill 156](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A FIRST-CLASS MUNICIPALITY MAY ALLOW ACCESSORY DWELLING UNITS IN CERTAIN ZONING DISTRICTS ONLY UPON APPROVAL OF A CERTAIN PERCENTAGE OF PROPERTY OWNERS; AND AMENDING SECTION 76-2-302, MCA."

[House Bill 531](#) – Died in Process -- A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING EXEMPTIONS FOR SUBDIVISIONS FOR RENT OR LEASE AND FOR TOWNHOUSES; ALLOWING A GOVERNING BODY TO EXEMPT SUBDIVISIONS CREATED BY RENT OR LEASE FROM LOCAL SUBDIVISION REVIEW IF ZONING HAS BEEN ADOPTED; REMOVING THE ALLOWED EXEMPTION FOR TOWNHOUSES; AND AMENDING SECTIONS 70-23-301, 76-3-203, AND 76-3-208, MCA."

[Senate Bill 24](#) – Vetoed by Governor -- AN ACT PROVIDING THAT A SAND AND GRAVEL OPERATION MAY NOT BE PROHIBITED THROUGH ZONING UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 76-2-209, MCA.

[Senate Bill 105](#) – Vetoed by Governor -- AN ACT PROHIBITING THE ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT A PROPOSED USE UNDER CERTAIN CIRCUMSTANCES; PROHIBITING ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT AGRICULTURAL ACTIVITIES; AND AMENDING SECTION 76-2-206, MCA.

## 2011

[Senate Bill 417](#) – Chapter Number Assigned -- AN ACT CREATING THE MILITARY AREA COMPATIBILITY ACT; ALLOWING A GOVERNING BODY TO DESIGNATE MILITARY AFFECTED AREAS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR MILITARY AFFECTED AREA REGULATIONS; REQUIRING MAPS AND LEGAL DESCRIPTIONS OF THE MILITARY AFFECTED AREA; REQUIRING A PUBLIC HEARING BEFORE DESIGNATION OF A MILITARY AFFECTED AREA; ALLOWING CREATION OF A JOINT REGULATION BOARD; PROVIDING FOR PRIOR NONCONFORMING USES IN A MILITARY AFFECTED AREA; ALLOWING REGULATIONS TO BE PART OF ZONING ORDINANCES; REQUIRING A PERMIT SYSTEM; REQUIRING THE REGULATIONS TO PROVIDE FOR ENFORCEMENT; ESTABLISHING AN APPEALS PROCESS; PROVIDING FOR A VARIANCE FROM THE REGULATIONS; AND PROVIDING PENALTIES AND REMEDIES FOR VIOLATIONS.

[House Bill 366](#) – Vetoed by Governor -- AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE EXISTENCE OF AN EMERGENCY; LIMITING A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO 182 DAYS FROM THE DATE IT BECOMES EFFECTIVE; ELIMINATING THE SPECIFICATION OF EXIGENT CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE

EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; AND AMENDING SECTION 76-2-206, MCA.

[Senate Bill 183](#) – Vetoed by Governor -- AN ACT PROHIBITING ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT A PROPOSED USE UNDER CERTAIN CIRCUMSTANCES; PROHIBITING ESTABLISHMENT OF AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO PREVENT AGRICULTURAL ACTIVITIES; AND AMENDING SECTION 76-2-206, MCA.

[Senate Bill 379](#) – Vetoed by Governor -- AN ACT GENERALLY REVISING COUNTY ZONING LAWS; REVISING PROCEDURES FOR THE ESTABLISHMENT OR REVISION OF BOUNDARIES FOR A ZONING DISTRICT AND THE ADOPTION OR AMENDMENT OF ZONING REGULATIONS; CLARIFYING ZONING PROTEST REQUIREMENTS; PROVIDING THAT A BOARD OF COUNTY COMMISSIONERS MAY VOTE TO OVERRIDE A SUCCESSFUL PROTEST UNDER CERTAIN CIRCUMSTANCES; REQUIRING THE BOARD OF COUNTY COMMISSIONERS TO DEVELOP FINDINGS OF FACT TO OVERRIDE A ZONING PROTEST; CLARIFYING PROCEDURES FOR THE ADOPTION OF ZONING REGULATIONS AND BOUNDARIES; AMENDING SECTIONS 76-2-101 AND 76-2-205, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE.

[Senate Bill 383](#) – Died in Process -- A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CRITERIA AND GUIDELINES FOR ZONING REGULATIONS; REQUIRING A BOARD OF COUNTY COMMISSIONERS TO EVALUATE THE REGULATIONS TO ENSURE THAT THE PROPOSED PROCESS FOR ZONING OR REZONING AN AREA WILL NOT RESULT IN IMPERMISSIBLE SPOT ZONING; AND AMENDING SECTION 76-2-203, MCA."

## 2009

[House Bill 156](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING UNIFORM PENALTIES FOR VIOLATIONS OF ZONING LAWS, ORDINANCES, OR REGULATIONS; ALLOWING A 10-DAY PERIOD TO BRING A VIOLATION INTO COMPLIANCE; PROVIDING THAT A VIOLATION OF A ZONING LAW, ORDINANCE, OR REGULATION IS AN ABSOLUTE LIABILITY OFFENSE; ALLOWING A GOVERNING BODY TO PROVIDE CIVIL PENALTIES; PROVIDING THAT EACH DAY OF VIOLATION CONSTITUTES A SEPARATE VIOLATION; AMENDING SECTIONS 76-2-113, 76-2-210, 76-2-211, 76-2-308, AND 76-2-315, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

[House Bill 523](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURE FOR ADOPTING THE BOUNDARIES FOR ZONING DISTRICTS OR ADOPTING OR AMENDING ZONING REGULATIONS; ALLOWING THE BOARD OF COUNTY COMMISSIONERS TO SCHEDULE AN ELECTION ON A PROPOSED RESOLUTION FOLLOWING THE PROTEST OF A ZONING DISTRICT OR ZONING REGULATIONS; ALLOWING A CITIZEN OR GROUP OF CITIZENS TO PETITION FOR AN ELECTION FOLLOWING A PROTEST OF A ZONING DISTRICT OR ZONING REGULATIONS; REQUIRING THE COUNTY ATTORNEY TO PROVIDE AN IMPARTIAL DESCRIPTION OF THE PROPOSED RESOLUTION; PROVIDING LANGUAGE TO BE INCLUDED IN A PETITION FOR AN ELECTION; AND AMENDING SECTION 76-2-205, MCA."

[Senate Bill 345](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY ZONING PROCEDURES; REVISING HEARING NOTICE AND PUBLICATION REQUIREMENTS FOR A PROPOSED ZONING DISTRICT; INCREASING THE AMOUNT OF TIME ALLOWED FOR PROTESTING

A PROPOSED ZONING DISTRICT; INCREASING TO 2 YEARS THE PROHIBITION ON PROPOSING A RESOLUTION FOR ZONING IN AN AREA WHERE ZONING HAS BEEN SUCCESSFULLY PROTESTED; ESTABLISHING PROCEDURES FOR INTERIM ZONING AND REQUIRING A PROTEST PERIOD FOR INTERIM ZONING; AMENDING SECTIONS 76-2-202, 76-2-205, AND 76-2-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

[Senate Bill 433](#) – Died in Standing Committee -- A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE APPLICABILITY OF ZONING REGULATIONS TO SAND AND GRAVEL OPERATIONS; PROVIDING THAT A PROPOSED OPENCUT OPERATION THAT HAS PROVIDED PUBLIC NOTICE IS NOT SUBJECT TO ZONING REGULATIONS ADOPTED AFTER THE NOTICE; REQUIRING PUBLIC NOTICE FOR OPENCUT OPERATIONS; PROVIDING FOR A PUBLIC MEETING; REVISING REVIEW CRITERIA; PROVIDING FOR AN EXTENDED REVIEW PERIOD; AMENDING SECTIONS 76-2-109, 76-2-206, 76-2-208, 76-2-209, AND 82-4-432, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."