

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.

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

Other Materials:

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

Introduced Legislation

2021

[HB 134](#) – Died in Process -- AN ACT GENERALLY REVISING MUNICIPAL ZONING LAWS; PROHIBITING ZONING REGULATIONS THAT RESTRICT DUPLEX, TRIPLEX, AND FOURPLEX HOUSING IN CERTAIN CITIES; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA.

[HB 259](#) – Chapter Number Assigned -- AN ACT PROHIBITING A LOCAL GOVERNMENT FROM REQUIRING HOUSING FEES OR THE DEDICATION OF REAL PROPERTY FOR THE PURPOSES OF PROVIDING HOUSING FOR SPECIFIED INCOME LEVELS OR SALE PRICES; PROHIBITING ZONING REGULATIONS THAT REQUIRE HOUSING FEES OR THE DEDICATION OF REAL PROPERTY FOR THE PURPOSES OF PROVIDING HOUSING FOR SPECIFIED INCOME LEVELS OR SALE PRICES; AMENDING SECTIONS 7-2-4203, 76-2-203, AND 76-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[HB 395](#) – Died in Process -- AN ACT GENERALLY REVISING ZONING DISTRICT LAWS; PROHIBITING THE ESTABLISHMENT OF NEW ZONING DISTRICTS DURING DECLARATIONS OF EMERGENCY AND DISASTER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE..

[HB 450](#) – Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW; PROVIDING THAT COURT-ORDERED DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW MAY NOT CREATE MORE THAN FOUR NEW LOTS OR PARCELS; AND AMENDING SECTION 76-3-201, MCA.

[HB 470](#) – Died in Process -- AN ACT GENERALLY REVISING COUNTY ZONING LAWS; ALLOWING THE RESIDENTS OF AN UNINCORPORATED AREA TO PETITION THE BOARD OF COUNTY COMMISSIONERS TO CREATE A COUNTY PLANNING BOARD; PROVIDING ADDITIONAL CRITERIA THAT MUST BE USED TO DEVELOP ZONING REGULATIONS; REQUIRING ADDITIONAL RESOURCES BE PROVIDED TO THE PUBLIC BEFORE A HEARING ON THE ADOPTION OF ZONING REGULATIONS; ALLOWING REGISTERED VOTERS TO CALL FOR THE REVOCATION OF ZONING REGULATIONS; AND AMENDING SECTIONS 76-1-104, 76-2-203, AND 76-2-205, MCA.

[HB 496](#) – Chapter Number Assigned -- AN ACT REVISING COUNTY ZONING LAWS; REQUIRING A LOCAL GOVERNING BODY TO HOLD A PUBLIC HEARING ON CERTAIN PUBLIC LAND USE; REMOVING A LOCAL BOARD OF ADJUSTMENTS PROHIBITION TO DENY A PUBLIC LAND USE THAT IS CONTRARY TO ZONING REGULATIONS; AND AMENDING SECTION 76-2-402, MCA.

[HB 527](#) – Chapter Number Assigned -- AN ACT GENERALLY REVISING LAWS RELATED TO PLANNING AND ZONING DISTRICTS; EXTENDING THE PERIOD TO PROTEST THE CREATION OF A PLANNING

AND ZONING DISTRICT; REQUIRING THE SUBMITTAL OF DRAFT RESOLUTIONS TO THE BOARD OF COUNTY COMMISSIONERS; PROHIBITING ZONING REGULATIONS FROM REGULATING MINERALS OR MINERAL RIGHTS; AMENDING SECTIONS 76-2-101, 76-2-109, AND 82-11-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[HB 528](#) – Died in Process -- AN ACT GENERALLY REVISING PLANNING, ZONING, AND SUBDIVISION REGULATION LAWS; PROVIDING ADDITIONAL GROWTH POLICY AND ZONING REGULATION CRITERIA AND ELEMENTS; REQUIRING ADDITIONAL PUBLIC INPUT BEFORE A HEARING ON THE ADOPTION OF ZONING REGULATIONS; PROVIDING ADDITIONAL CRITERIA THAT A LOCAL GOVERNING BODY SHALL CONSIDER WHEN ADOPTING SUBDIVISION REGULATIONS; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 76-1-102, 76-1-103, 76-1-601, 76-2-203, 76-2-205, 76-2-216, 76-3-103, 76-3-501, 76-3-511, AND 76-8-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

[HB 529](#) – Died in Process -- AN ACT GENERALLY REVISING PLANNING, ZONING, AND SUBDIVISION REGULATION LAWS; PROVIDING ADDITIONAL CRITERIA TO CONSIDER WHEN ADOPTING ZONING AND SUBDIVISION REGULATIONS; ALLOWING THE RESIDENTS OF AN UNINCORPORATED AREA TO PETITION THE BOARD OF COUNTY COMMISSIONERS TO CREATE A COUNTY PLANNING BOARD; PROVIDING ADDITIONAL METHODS FOR GRANTING VARIANCES TO ZONING AND SUBDIVISION REGULATIONS; ALLOWING THE BOARD OF APPEALS TO HEAR ADDITIONAL ARGUMENTS; AND AMENDING SECTIONS 76-1-104, 76-2-221, 76-2-223, 76-2-227, 76-3-103, 76-3-501, 76-3-506, AND 76-8-101, MCA.

[SB135](#) – Chapter Number Assigned -- AN ACT REVISING THE APPEAL PROCESS FOR COUNTY ZONING DECISIONS; CLARIFYING THAT AN APPEAL FROM A BOARD OF ADJUSTMENT TO A BOARD OF COUNTY COMMISSIONERS IS A DE NOVO REVIEW; AND AMENDING SECTION 76-2-227, MCA.

[SB 294](#) – Chapter Number Assigned -- AN ACT REVISING COUNTY ZONING LAWS; PROVIDING FOR A REFERENDUM TO TERMINATE ZONING DISTRICTS; REMOVING CERTAIN PROTEST PROVISIONS THAT HAVE BEEN INVALIDATED BY THE MONTANA SUPREME COURT; PROVIDING MINIMUM LOT SIZE RESTRICTIONS IN RESIDENTIAL ZONING; AMENDING SECTION 76-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[SB 349](#) – Died in Standing Committee -- AN ACT REVISING MINIMUM RESIDENTIAL LOT RESTRICTIONS IN ZONING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

2019

None

2017

[HB 548](#) – Died in Standing Committee -- 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.

2015

[HB 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.

[HB 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.

[HB 182](#) – Missed Deadline for General Bill Transmittal -- 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

[SB 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.

[SB 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.

[HB 156](#) – Died in Standing Committee -- 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.

[HB 531](#) – Died in Process -- 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.

[SB 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.

[SB 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

[SB 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.

[HB 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.

[SB 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.

[SB 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.

[SB 383](#) – Died in Process -- 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.

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