



# ***Montana Land Use and Planning Act*** **(SB 382)**

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# WHY do we need these changes?

- Montana's land use and planning statutes are outdated, inconsistent with each other, duplicative, and bureaucratic
- Cities, staff, developers, consultants, and public all frustrated with the slow, expensive, risky process set forth in the statutes
- No alignment between growth policy elements, zoning (*Lowe*) criteria, or subdivision (-608) criteria; every level of permitting must duplicate full review
- Administrative review and other streamlining processes are prohibited under current statutes
- No ability to rely on previous planning or analysis in permitting

# WHO does it apply to?

## (Section 5)

- Belgrade
- Billings
- Bozeman
- Columbia Falls
- Great Falls
- Helena
- Kalispell
- Laurel
- Missoula
- Whitefish

All other jurisdictions may OPT IN

Other cities under 5,000 in a county of 70,000 will be mandatory after each decennial census.

# WHEN does it apply?

## (Section 5)

- Must adopt land use plan, zoning, and subdivision regulations that meet the new framework ***within 3 years*** from effective date of the Act
- IF growth policy adopted in previous 5 years, then 5 years from adoption or 3 years from effective date of Act, whichever is later

# WHAT is in it?



Entirely new statutes for:

- Land Use Plan and Map
- Zoning Regulations and Map
- Subdivision Regulations and Map
- Administrative Review with Appeals

# Planning Commission

## (Section 4)

- Consolidates all existing boards and commissions
- Responsible for recommendations on all legislative land use and planning decisions:
  - land use plan and future land use map
  - zoning regulations and map
  - subdivision regulations; and
  - any other legislative land use planning document the local governing body designates
- Hears appeals from administrative decisions

# Public Participation Plan

## (Section 6)

- Used throughout the framework. Must identify how you will provide:
  - dissemination of documents;
  - opportunity for comments;
  - public meetings;
  - electronic communication and access; and
  - analysis of and response to public comments.
- Must emphasize that public comment will be narrowed as the process moves to site-specific development

# Land Use Plan

## (Sections 9-13)

- Existing conditions, future estimates, and anticipated needs for:
  - Housing
    - Population projections for 20 years
    - Number of housing units needed for that population
  - Local Services and Facilities
    - Public safety and emergency services
    - Water, wastewater, solid waste
    - Transportation network
    - Coordinate with school systems
  - Economic Development
  - Natural Resources, Environment, and Hazards



# Future Land Use Map

## (Section 14)

- Identify preferred and anticipated pattern and intensities of development within the jurisdiction and any areas anticipated for future annexation
- Must reflect adequate area to accommodate the housing units and other needs reflected in the plan

# Implementation Plan

## (Section 17)

- Analysis of inconsistencies in current regulation with plan and map
- Steps to bring them into compliance
- Schedule for adopting or amending CIP
- Schedule for updating plan for extension of services
- Procedures for monitoring and evaluating progress

# Update Review

## (Section 8)

- Every 5 years, PC must review plan and map to determine whether an update must be performed
  - ❑ Staff prepares determination regarding new or increased impacts
  - ❑ Public participation and comment provided
- If no new or increased impacts from original analysis, no update necessary
- If new or increased impacts, staff conducts analysis necessary to provide opportunity to comment on and consider all potential impacts resulting from the changes to the plan or map

# Zoning Regulations

## (Section 18-19)

- Authority to regulate:
  - ❑ uses of land;
  - ❑ density and types of uses;
  - ❑ size, character, number, form, and mass of structures; and
  - ❑ development standards mitigating the impacts of development, as identified and analyzed in review and adoption of land use plan and zoning regulations
  
- Must adopt 5 of 14 housing reforms identified in Section 19. If your code already meets them or doesn't have such regulations, you can count those towards the 5.

# Subdivision Regulations

## (Sections 25, 28)

- Authority to adopt standards for:
  - ❑ grading and erosion control;
  - ❑ design and arrangement of lots, streets, and roads;
  - ❑ location and installation of public utilities, including water supply and sewage and solid waste disposal;
  - ❑ provision of other public improvements; and
  - ❑ legal and physical access to all lots
  
- Same exemptions to subdivision but consolidated and made consistent (all must meet zoning)

# Adoption and Amendments

(Sections 7, 21, 27)

- Adoption of these documents all follows same process:
  - PC adopts PPP
  - PC follows PPP in drafting and revising plan/regulations/map; recommends drafts to CC for approval
  - CC adopts final plan/regulations/map
  
- Amendments to any of these documents follow same process
  - ❑ Amendment may be initiated by petition, applicant, or governing body;
  - ❑ Consistency with plan and map made with each amendment to zoning regulations and map or subdivision regulation

# Recommendation for Next Steps

- 1) Reconfigure existing board and commissions into Planning Commission
- 2) Draft, adopt, and implement public participation plan
- 3) Draft and adopt land use plan, map, and implementation plan
- 4) Draft and adopt (updated?) zoning regulations and map
  - Make findings of compliance with land use plan and map
- 5) Draft and adopt subdivision regulations
  - Make findings of compliance with land use plan and map

# Site-Specific Review

- Development proposal comes in
- Administrative review to determine if, with or without variances (Sections 22 and 29), the proposal is:
  - ❑ In substantial compliance with zoning regs, map/subdivision regs; AND
  - ❑ Impacts resulting from development previously analyzed and underwent public review and comment.
- If meets both, staff issues permit/prelim plat
- If in substantial compliance with regs/map, BUT there are new or significantly increased potential impacts not previously analyzed or considered, then:
  - ❑ 15-day written comment period
  - ❑ Staff issues permit/prelim.



# Site-Specific Review

- If not in substantial compliance with regs/map, then must follow land use/zoning/subreg amendment process.
- Variances all treated under consistent language and administrative decision.
- Appeals to all administrative decisions (including variances) can be made by applicant or aggrieved person to PC. All decisions by PC can be appealed to CC. Administrative exhaustion process for filing in DC, limited to administrative record in DC, 30-day statute of limitations.

# Other



- Authority to adopt and set fees.
  - New enforcement section that provides for civil enforcement with notice of violation.
- \*\*\* Need to work closely together on this as we all move through the process, documenting issues and brainstorming solutions.

# Issues Identified to Date



- City-county joint/consolidated planning boards
- Municipal facilities exclusion – exemption in Title 76, Chapter 4 cross-references only existing MSPA
- Retention of extra-territorial zoning