



Montana Association of Counties
2715 Skyway Drive
Helena, MT 59602-1213
(p) 406.449.4360 | (f) 406.442.5238
maco@mtcounties.org | www.mtcounties.org

RESOLUTION 2022-05

INCLUSION OF PUBLIC STORMWATER INFRASTRUCTURE AND COUNTY-OWNED PARKS IN MUNICIPAL ANNEXATION

It is the intent of the Montana Association of Counties to clarify laws pertaining to the inclusion of public stormwater infrastructure and county-owned parks in municipal annexation so as to create consistency, better meet the objectives of public land management in various jurisdictions and serve the best interests of the public.

WHEREAS MCA 76-3-621 requires parks be dedicated to the public during the subdivision process; and

WHEREAS MCA 7-2-4211 requires that all “parks created pursuant to Title 76, chapter 3” shall be included in the annexation processes; and

WHEREAS MCA 7-2-4211 further states that “county-owned parks” are excluded from the requirement to be included in annexation processes; and

WHEREAS the distinction between “parks created pursuant to Title 76, chapter 3” and “county-owned parks” has led to inconsistent and unclear application of MCA 7-2-4211 throughout the state; and

WHEREAS the provision of parks created pursuant to MCA 76-3-621 is best provided by county governing bodies when situated outside of municipal jurisdictional limits and best provided by municipal governing bodies when situated inside of municipal jurisdictional limits; and

WHEREAS the provision of parks created pursuant to MCA 76-3-621 is thwarted by inconsistent application of existing state law; and

WHEREAS the maintenance of public stormwater infrastructure is necessary for the protection of water quality, compliance with federal Clean Water Act regulations, Municipal Separate Stormwater System (MS4 permitting) mitigation of flood risks, and to reduce the erosive impacts of stormwater on roads and streets; and

WHEREAS the construction of public stormwater infrastructure is integrated with the construction of public roads and sidewalks and may be placed adjacent to public roads and sidewalks in right-of-way or other publicly controlled lands or easements; and

WHEREAS it is necessary for a governmental entity to manage and maintain public roads and rights-of-way in close conjunction with public stormwater infrastructure.

NOW, THEREFORE BE IT RESOLVED that the Montana Association of Counties will seek to revise MCA 7-2-4211 to clarify that all parks created pursuant to MCA Title 76, chapter 3, part 6 shall be transferred to the municipality undertaking the annexation except for those expressly excluded from transfer by a county; and

BE IT FURTHER RESOLVED that the Montana Association of Counties will seek to further revise MCA 7-2-4211 to clarify that public stormwater infrastructure, including associated public land and easements, shall be included in annexation.

SPONSOR:	MISSOULA COUNTY
REFERRED TO:	LAND USE, PLANNING & DEVELOPMENT COMMITTEE (LUPD)
ADOPTED:	ANNUAL CONFERENCE – SEPTEMBER 28, 2022