



# ***2023 Session Land Use Webinars***

Montana Association of Counties and  
Montana League of Cities and Towns

June 2023

# Subdivision Exemptions



**SB 158 – May 1, 2023**

**SB 331 – May 4, 2023**

**SB 131 – October 1, 2023**

**HB 874 – October 1, 2023**

# SB 158

## SB 158 – May 1, 2023

- Allows for Family Transfer in Platted Subdivision
  - ▣ All restrictions or requirements on the platted subdivision continue to apply to the family transfer lot
- Family Transfers (inside or outside a subdivision) must be held for 2 years unless governing body sets a holding period of less than 2 years
- Family Transfers outside a platted subdivision in zoning districts are allowed if on a lot that is at least 5 acres, unless zoning district allows for smaller lots

# SB 331

## SB 331 – May 4, 2023

- Condo/townhome subdivision exemption
- Must be in conformance with zoning regulations “pertaining to land use, density, bulk and dimensional requirements, landscaping, and parking requirements”
- 20-working day exemption review
- Cannot impose other conditions, CUP, other quasi-judicial process to be eligible for exemption

# SB 131

## SB 131 – October 1, 2023

- Creates timeline for -201 and -207 exemptions
- Complete review and approval/denial of subdivision exemption within 20 working days of receiving all materials and information necessary to complete review.
- May not impose conditions on approval of exemptions

# HB 874

## HB 874 – October 1, 2023

- Increases exemption review fee from \$200 to \$400
- 76-3-201 and 76-3-207 exemptions

# Subdivision Review and Other



**HB 211 – October 1, 2023**

**SB 152 – October 1, 2023**

**SB 170 – October 1, 2023**

**SB 130 – October 1, 2023**

**SB 142 – January 1, 2024**

# HB 211

## HB 211 – October 1, 2023

- 1) Modifies standards necessitating subsequent hearing
  - New information must be relevant; or
  - Change in design of subdivision must be significant;  
AND
  - Has a substantial effect on the governing body's consideration of the subdivision.



# HB 211

## HB 211 – October 1, 2023

- 2) Moves the required hearing for a subsequent phase of a subdivision to 5 years from approval of overall plat – those phases before that do not require another hearing.
  - Tightens language for imposing additional conditions on subsequent phases

# HB 211

## HB 211 – October 1, 2023

- 3) Allows SB 161 expedited review to apply even if request for variance or deviation from subdivision regulations
  - If requesting a variance, the timeline for expedited review is 45 days.

# SB 152

## SB 152 – October 1, 2023

- What is a minor or major subdivision?
- Moves counting from July 1, 1973 to October 1, 2003

# SB 170

## SB 170 – October 1, 2023 – Administrative Review

- Administrative review for minor subdivisions that:
  - ▣ Are in a zoned area;
  - ▣ Have a will-serve letter from water and sewer system;
  - ▣ Have existing legal and physical access to each lot; and
  - ▣ Do not require a variance to subdivision regulations.
- No environmental assessment, hearing, or review for compliance with primary criteria
- Specific notice provisions
- Decision may be appealed to governing body

# SB 130

## SB 130 – October 1, 2023 – Consolidated Boards

- Allows for creation consolidated land use board
- Any combination of a planning board, zoning commission, and board of adjustment
- Same statutory duties; must adopt bylaws that clearly define roles and duties when acting as member of each board or commission
- Minimum of 5 members residing in jurisdictional area of the consolidated board (9 if includes city-county, consolidated, or joint planning board)

# SB 142

## SB 142 – January 1, 2024 – Impact Fees

- ❑ Must deposit impact fees in a special proprietary fund created specifically for each facility identified in the service area report
- ❑ Fees must be spent and accounted for solely for the facility identified in the report
- ❑ Within 90 days written request for refund, must remit any fees paid to the owner of the property at the time the fee was paid without “imposing conditions”
- ❑ Establishes cause of action against city

# Zoning Affecting Cities and Counties



**SB 178 – May 2, 2023**

**SB 143 – May 3, 2023**

**HB 918 – July 1, 2023**

**HB 246 – October 1, 2023**

# SB 178

## SB 178 – May 2, 2023

- Must treat digital asset mining facilities the same as data centers in zoning
- Must allow digital asset mining facilities to operate in industrial zones
- Must allow home-based digital asset mining, unless activities violate an “existing” noise ordinance
- All digital asset mining facilities in operation on or before May 2, 2023 may “continue to operate” regardless of changes in zoning regulations.



# SB 143

## SB 143 – May 3, 2023

- Struck the protest provision in Part 1 Zoning
- Added a referendum to terminate Part 1 Zoning
  - ▣ Requires a petition, signed by 20% of real property owners in district
  - ▣ Submitted to registered electors in district
  - ▣ Requires a majority vote to terminate

# HB 918

## HB 918 – July 1, 2023

- “Day-care home” is care for 3 to 15 children on a regular basis.
- “Day-care center” is care for more than 16 children
- Existing law – Day care HOMES are permitted uses in all residential zones. Cannot require a CUP for a day-care home *registered by DPHHS*.
- New law removes “registered by DPHHS”
- Distinction without a difference? Bills uses terms as defined in licensing/registration statute, and day-care homes must be registered by DPHHS under that statute.

# HB 246

## HB 246 – October 1, 2023

- Specifically authorizes zoning districts that allow for tiny dwelling units (350-750 sf on a permanent foundation) and authorizes application of Appendix Q
- Revises existing definition of “manufactured housing”: “A dwelling for a single household, built offsite in a factory that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production.”