



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.”