

1 SENATE BILL NO. 382  
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4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA LAND USE PLANNING ACT;  
6 REQUIRING ~~COUNTIES AND CITIES~~ CITIES THAT MEET CERTAIN POPULATION THRESHOLDS TO  
7 UTILIZE THE LAND USE PLAN, MAP, ZONING REGULATIONS, AND SUBDIVISION REGULATIONS  
8 PROVIDED IN THE ACT; ALLOWING OTHER LOCAL GOVERNMENTS THE OPTION TO UTILIZE THE  
9 PROVISIONS OF THE ACT; REQUIRING PUBLIC PARTICIPATION DURING THE DEVELOPMENT,  
10 ADOPTION, OR AMENDMENT OF A LAND USE PLAN, MAP, ZONING REGULATION, OR SUBDIVISION  
11 REGULATION; PROVIDING STRATEGIES TO MEET POPULATION PROJECTIONS; PROVIDING FOR  
12 CONSIDERATION OF FACTORS SUCH AS HOUSING, LOCAL FACILITIES, ECONOMIC DEVELOPMENT,  
13 NATURAL RESOURCES, ENVIRONMENT, AND NATURAL HAZARDS WHEN DEVELOPING A LAND USE  
14 PLAN, MAP, AND ZONING REGULATION; PROVIDING FOR A PROCEDURE TO REVIEW SUBDIVISIONS  
15 AND APPROVE FINAL PLATS; PROVIDING FOR A LOCAL GOVERNING BODY TO COLLECT FEES;  
16 PROVIDING AN APPEALS PROCESS, ENFORCEMENT MECHANISMS, AND PENALTIES; PROVIDING  
17 DEFINITIONS; REPEALING SECTIONS 7-21-1001, 7-21-1002, AND 7-21-1003, MCA; AND PROVIDING AN  
18 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
21

22 NEW SECTION. Section 1. Short Title. [Sections 1 through 37] may be cited as the "Montana Land  
23 Use Planning Act".  
24

25 NEW SECTION. Section 2. Legislative purpose, findings, and intent. (1) It is the purpose of  
26 [sections 1 through 37] to promote the health, safety, and welfare of the people of Montana through a system of  
27 comprehensive planning that balances private property rights and values, ~~economic efficiency in~~ public services  
28 and infrastructure, ~~protection of the~~ human environment, natural resources, and recreation, and a diversified

1 and sustainable economy.

2 (2) The legislature finds that coordinated and planned growth ~~within cities and counties~~ will  
3 encourage, and support, ~~and protect~~:

4 (a) sufficient housing units for the state's growing population that are attainable for citizens of all  
5 income levels;

6 (b) the provision of adequate public services and infrastructure in the most cost-effective manner  
7 possible, shared equitably among all residents, businesses, and industries;

8 (c) the natural environment, including wildlife and wildlife habitat, sufficient and clean water, and  
9 healthy air quality;

10 (d) agricultural, forestry, and mining lands for the production of food, fiber, and minerals and their  
11 economic benefits;

12 (e) the state's economy and tax base through job creation, business development, and the  
13 revitalization of established communities;

14 (f) persons, property, infrastructure, and the economy against natural hazards, such as flooding,  
15 earthquake, wildfire, and drought; and

16 (g) local consideration, participation, and review of plans for projected population changes and  
17 impacts resulting from those plans.

18 (3) It is the legislature's intent that the comprehensive planning authorized in [sections 1 through  
19 37]:

20 (a) provides the broadest and most comprehensive level of collecting data, identifying and  
21 analyzing existing conditions and future opportunities and constraints, acknowledging and addressing the  
22 impacts of development on each jurisdiction, and providing for broad public participation;

23 (b) serves as the basis for implementing specific land use regulations that are in substantial  
24 compliance with the local land use plan;

25 (c) provides for local government approval of development proposals in substantial compliance  
26 with the land use plan, based on information, analysis, and public participation provided during the development  
27 and adoption of the land use plan and implementing regulations; and

28 (d) allows for streamlined administrative review decisionmaking for site-specific development

1 applications.

2

3 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 37], unless the context or

4 subject matter clearly requires otherwise, the following definitions apply:

5 (1) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest,  
6 as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the  
7 decision.

8 (2) "Applicant" means a person who seeks a land use permit or other approval of a development  
9 proposal.

10 (3) "Built environment" means man-made or modified structures that provide people with living,  
11 working, and recreational spaces.

12 (4) "Cash-in-lieu donation" is the amount equal to the fair market value of unsubdivided,  
13 unimproved land.

14 (5) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for  
15 the purpose of disclosing facts pertaining to boundary locations.

16 (6) "Dedication" means the deliberate appropriation of land by an owner for any general and public  
17 use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the  
18 public use to which the property has been devoted.

19 (7) "Division of land" means the segregation of one or more parcels of land from a larger tract held  
20 in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly  
21 filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to  
22 [sections 1 through 37]. The conveyance of a tract of record or an entire parcel of land that was created by a  
23 previous division of land is not a division of land.

24 (8) "Dwelling unit" means a residential structure in which a person or persons reside.

25 (9) "Examining land surveyor" means a registered land surveyor appointed by the governing body  
26 to review surveys and plats submitted for filing.

27 (10) "Final plat" means the final drawing of the subdivision and dedication required by [sections 1  
28 through 37] to be prepared for filing for record with the county clerk and recorder and containing all elements

1 and requirements set forth in [sections 1 through 37] and in regulations adopted pursuant to [sections 1 through  
2 37].

3 ~~(11)~~ "Immediate family" means a spouse, children by blood or adoption, and parents.

4 ~~(12)~~ "Jurisdictional area" or "jurisdiction" means the area within the boundaries of the local  
5 government. For municipalities, the term includes those areas the local government anticipates may be  
6 annexed into the municipality over the next 20 years.

7 ~~(14)(13)~~ "Land use permit" means an authorization to complete development in conformance with an  
8 application approved by the local government.

9 ~~(12)(14)~~ "Land use plan" means the land use plan and future land use map adopted in accordance with  
10 [sections 1 through 37].

11 ~~(13)(15)~~ "Land use regulations" means zoning, zoning map, subdivision, or other land use regulations  
12 authorized by state law.

13 ~~(14)(16)~~ "Local governing body" or "governing body" means the elected body responsible for the  
14 administration of a local government.

15 ~~(15)(17)~~ "Local government" means a county, consolidated city-county, or an incorporated municipality  
16 to which the provisions of [sections 1 through 37] apply as provided in [section 5].

17 ~~(16)(18)~~ "Manufactured housing" means a dwelling for a single household, built offsite in a factory on or  
18 after January 1, 1990, that is placed on a permanent foundation, ~~is at least 1,000 square feet in size,~~ has a  
19 pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-  
20 built homes, and is in compliance with the applicable prevailing standards of the United States department of  
21 housing and urban development at the time of its production. A manufactured home does not include a mobile  
22 home or housetrailer, as defined in 15-1-101.

23 ~~(17)(19)~~ "Ministerial permit" means a permit granted upon a determination that a proposed project  
24 complies with the zoning map and the established standards set forth in the zoning regulations. The  
25 determination must be based on objective standards, involving little or no personal judgment, and must be  
26 issued by the planning administrator.

27 ~~(18)(20)~~ "Planning administrator" means the person designated by the local governing body to review,  
28 analyze, provide recommendations, or make final decisions on any or all zoning, subdivision, and other

1 development applications as required in [sections 1 through 37].

2 ~~(19)(21)~~"Plat" means a graphical representation of a subdivision showing the division of land into lots,  
3 parcels, blocks, streets, alleys, and other divisions and dedications.

4 ~~(20)(22)~~"Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the  
5 layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a  
6 governing body.

7 ~~(21)(23)~~"Public utility" has the meaning provided in 69-3-101, except that for the purposes of [sections  
8 1 through 37], the term includes a county water or sewer district as provided for in Title 7, chapter 13, parts 22  
9 and 23, and municipal sewer or water systems and municipal water supply systems established by the  
10 governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

11 ~~(22)(24)~~"Subdivider" means a person who causes land to be subdivided or who proposes a subdivision  
12 of land.

13 ~~(23)(25)~~"Subdivision" means a division of land or land so divided that it creates one or more parcels  
14 containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States  
15 government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise  
16 transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its  
17 size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or  
18 mobile homes will be placed.

19 ~~(24)(26)~~"Subdivision guarantee" means a form of guarantee that is approved by the commissioner of  
20 insurance and is specifically designed to disclose the information required in [section 33].

21 ~~(25)(27)~~"Tract of record" means an individual parcel of land, irrespective of ownership, that can be  
22 identified by legal description, independent of any other parcel of land, using documents on file in the records of  
23 the county clerk and recorder's office.

24  
25 **NEW SECTION. Section 4. Planning commission.** (1) (a) Each local government shall establish, by  
26 ordinance or resolution, a planning commission.

27 (b) Any combination of local governments may create a multi-jurisdiction planning commission or  
28 join an existing commission pursuant to an interlocal agreement.

- 1 (ii) zoning regulations and map as provided in [sections 18 through 24];
- 2 (iii) subdivision regulations as provided in [sections 25 through 33]; and
- 3 (iv) any other legislative land use planning document the local governing body designates.

4 (b) In accordance with [section 36], the planning commission shall hear and decide appeals from  
 5 any site-specific land use decisions made by the planning administrator pursuant to the adopted regulations  
 6 described in subsection (3)(a). Decisions of the planning commission may be appealed to the local governing  
 7 body as provided in [section 36].

8 (4) The planning commission may be funded pursuant to 76-1-403 and 76-1-404.

9

10 **NEW SECTION. Section 5. Applicability and compliance.** (1) ~~A county with a population at or~~  
 11 ~~exceeding 70,000 in the most recent decennial census shall comply with the provisions of [sections 1 through~~  
 12 ~~37].~~

13 (2) A municipality ~~within a county identified in subsection (1)~~ with a population at or exceeding  
 14 5,000 ~~located within a county with a population at or exceeding 70,000~~ in the most recent decennial census  
 15 shall comply with the provisions of [sections 1 through 37].

16 ~~(3)(2)~~ (a) Except as provided in subsection ~~(3)(b)(2)(b)~~, any ~~local government municipality~~ that meets  
 17 the population thresholds of ~~subsections subsection (1) or (2)~~ on [the effective date of this act] shall comply with  
 18 the provisions of [sections 1 through 37] within 3 years of [the effective date of this act].

19 (b) A ~~local government municipality~~ that has adopted a growth policy within 5 years prior to [the  
 20 effective date of this act] shall comply with the provisions of [sections 1 through 37] within 5 years of the date  
 21 that the growth policy was adopted or within the deadline established in subsection ~~(3)(a)(2)(a)~~, whichever  
 22 occurs later.

23 (c) A ~~local government municipality~~ that meets the population thresholds of ~~subsections~~  
 24 ~~subsection (1) or (2)~~ on any decennial census completed after [the effective date of this act] shall comply with  
 25 the provisions of [sections 1 through 37] by December 31 of the ~~fifth-third~~ year after the date of the decennial  
 26 census.

27 ~~(4)(3)~~ (a) A local government that ~~does not meet the population thresholds set forth in subsections (1)~~  
 28 ~~or (2) may decide to~~ is not required to comply with the provisions of [sections 1 through 37] may decide to

1 comply with the provisions of [sections 1 through 37] by an affirmative vote of the local governing body. After an  
2 affirmative vote, the governing body shall comply with the provisions of [sections 1 through 37] by December 31  
3 of the fifth year after the date of the vote.

4 (b) A local government that votes pursuant to subsection ~~(4)(a)(3)(a)~~ to comply with the provisions  
5 of [sections 1 through 37] may subsequently decide to not comply with the provisions of [sections 1 through 37]  
6 by an affirmative vote.

7 (5) A local government that complies with [sections 1 through 37] is not subject to any provision of  
8 Title 76, chapters 1, 2, 3, or 8.

9  
10 **NEW SECTION. Section 6. Public participation.** (1) (a) A local government shall provide continuous  
11 public participation when adopting, amending, or updating a land use plan or regulations pursuant to [sections 1  
12 through 37].

13 (b) Public participation in the adoption, amendment, or update of a land use plan or implementing  
14 regulations must provide for, at a minimum:

- 15 (i) dissemination of draft documents;
- 16 (ii) an opportunity for written and verbal comments;
- 17 (iii) public meetings after effective notice;
- 18 (iv) electronic communication regarding the process, including online access to documents,  
19 updates, and comments; and
- 20 (v) an analysis of and response to public comments.

21 (2) A local government shall document and retain all public outreach and participation performed  
22 as part of the administrative record in accordance with the retention schedule published by the secretary of  
23 state.

24 (3) (a) A local government may decide the method for providing:

- 25 (i) general public notice and participation in the adoption, amendment, or update of a land use  
26 plan or regulation; and
- 27 (ii) notice of written comment on applications for land use permits pursuant to [sections 1 through  
28 37].

1 (b) All notices must clearly specify the nature of the land use plan or regulation under  
2 consideration, what type of comments the local government is seeking from the public, and how the public may  
3 participate.

4 (c) The local government shall document what methods it used to provide continuous participation  
5 in the development, adoption, or update of a land use plan or regulation and shall document all comments  
6 received.

7 (d) The department of commerce established in 2-15-1801 and functioning pursuant to 90-1-103  
8 shall develop a list of public participation methods and best practices for use by local governments in  
9 developing, adopting, or updating a land use plan or regulations.

10 (4) Throughout the adoption, amendment, or update of the land use plan or regulation processes,  
11 a local government shall emphasize that:

12 (a) the land use plan is intended to identify the opportunities for development of land within the  
13 planning area for housing, businesses, agriculture, and the extraction of natural resources, while  
14 acknowledging and addressing the impacts of that development on adjacent properties, the community, the  
15 natural environment, public services and facilities, and natural hazards;

16 (b) the process provides for continuous and extensive public notice, review, comment, and  
17 participation in the development of the land use plan or regulation;

18 (c) the final adopted land use plan, including amendments or updates to the final adopted land use  
19 plan, comprises the basis for implementing land use regulations in substantial compliance with the land use  
20 plan; and

21 (d) the scope of and opportunity for public participation and comment on site-specific development  
22 in substantial compliance with the land use plan must be limited only to those impacts or significantly increased  
23 impacts that were not previously identified and considered in the adoption, amendment, or update of the land  
24 use plan, zoning regulations, or subdivision regulations.

25 (5) The local governing body shall adopt a public participation plan detailing how the local  
26 government will meet the requirements of this section.

27

28 NEW SECTION. Section 7. Adoption or amendment of land use plan and future land use map.

1 compliance with the land use plan and future land use map, in accordance with the deadlines set forth in  
2 [section 5];

3 (iii) a schedule for adopting a capital improvements program or for amending an existing capital  
4 improvements program to be in substantial compliance with the land use plan and future land use map;

5 (iv) a schedule for expanding or replacing public facilities and the anticipated costs and revenue  
6 sources proposed to meet those costs, which must be reflected in a jurisdiction’s capital improvement program;

7 (v) if applicable, a schedule for updating the plan for extension of services required in 7-2-4732 to  
8 be in substantial compliance with the land use plan; and

9 (vi) a schedule for implementing any other specific actions necessary to achieve the components of  
10 the land use plan, including a timeframe or prioritization of each specific public action; and

11 (c) procedures for monitoring and evaluating the local government’s progress toward meeting the  
12 implementation schedule.

13

14 **NEW SECTION. Section 18. Authority to adopt local zoning regulations.** (1) (a) A local  
15 government subject to [sections 1 through 37], within its respective jurisdiction, has the authority to and shall  
16 regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning  
17 regulations.

18 (b) The governing body of a county or city has the authority to adopt zoning regulations in  
19 accordance with [sections 18 through 24] by an ordinance that substantially complies with 7-5-103 through 7-5-  
20 107.

21 (c) A municipality shall adopt zoning regulations for the portions of the jurisdictional area outside of  
22 the boundaries of the municipality that the governing body anticipates may be annexed into the municipality  
23 over the next 20 years. Unless otherwise agreed to by the applicable jurisdictions, zoning regulations on  
24 property outside the municipal boundaries may not apply or be enforced until those areas are annexed or are  
25 being annexed into the municipality.

26 (2) Local zoning regulations authorized in subsection (1) include but are not limited to ordinances  
27 prescribing the:

28 (a) uses of land;

- 1 (b) density of uses;
- 2 (c) types of uses;
- 3 (d) size, character, number, form, and mass of structures; and
- 4 (e) development standards mitigating the impacts of development, as identified and analyzed
- 5 during the land use planning process and review and adoption of zoning regulations pursuant to [sections 1
- 6 through 37].

7 (3) The local government shall incorporate any existing zoning regulations adopted pursuant to

8 Title 76, chapter 2, into the zoning regulations meeting the requirements of [sections 1 through 37].

9 (4) The local government shall adopt a zoning map for the jurisdiction in substantial compliance

10 with the land use plan and future land use map and the zoning regulations adopted pursuant to this section,

11 graphically illustrating the zone or zones that a property within the jurisdiction is subject to.

12 (5) The local government may provide for the issuance of permits as may be necessary for the

13 implementation of [sections 1 through 37].

14 (6) (a) The zoning regulations and map must identify areas that may necessitate the denial of a

15 development or a specific type of development, such as unmitigable natural hazards, insufficient water supply,

16 inadequate drainage, lack of access, inadequate public services, or the excessive expenditure of public funds

17 for the supply of the services.

18 (b) The regulations must prohibit development in the areas identified in subsection (6)(a) unless

19 the hazards or impacts may be eliminated or overcome by approved construction techniques or other mitigation

20 measures identified in the zoning regulations.

21 (c) Approved construction techniques or other mitigation measures described in subsection (6)(b)

22 may not include building regulations as defined in 50-60-101 other than those identified by the department of

23 labor and industry as provided in 50-60-901.

24 (7) The zoning regulations and map must prohibit development in areas located within the

25 floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to

26 flooding by the governing body.

27 (8) The zoning regulations must allow for the continued use of land or buildings legal at the time

28 that any zoning regulation, map, or amendment thereto is adopted, but the local government may provide

1 grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or  
2 buildings after the adoption of a zoning regulation, map, or amendment.

3

4 NEW SECTION. Section 19. Encouragement of development of housing. (1) The zoning  
5 regulations authorized in [section 18] must include a minimum of five of the following housing strategies,  
6 applicable to the majority of the area, ~~that allow for~~ where residential development is permitted in the  
7 jurisdictional area ~~or that are adopted as programs applicable to the entire jurisdiction:~~

8 (a) allow, as a permitted use, for at least ~~two residential units per lot on a majority of land zoned to~~  
9 allow for residential development a duplex residential unit where a single-family home is permitted;

10 (b) ~~permit housing units to be incorporated in a wider range of development by adopting mixed-use~~  
11 zoning;

12 (c)(b) zone for higher density housing near transit stations, places of employment, higher education  
13 facilities, and other appropriate population centers, as determined by the local government;

14 (d)(c) ~~provide reduced-eliminate or reduce off-street~~ parking requirements to require no more than  
15 one parking space per residential unit;

16 (e)(d) ~~reduce or eliminate local impact~~ fees for accessory dwelling units or developments that include  
17 multifamily housing units or reduce the fees by at least 25%;

18 (f)(e) allow, as a permitted use, at least one ~~for~~ internal or detached accessory dwelling units ~~in all~~  
19 residential zones on a lot with a single-family home occupied as a primary residence;

20 (g)(f) allow for single room occupancy developments;

21 (h) ~~create or support a community land trust program and rezone land trust lots to allow for higher~~  
22 residential densities;

23 (i) ~~reduce or eliminate impact fees for accessory dwelling units;~~

24 (j)(g) allow ~~for~~, as a permitted use, triplex or fourplex residential units per lot where a single-family  
25 home is permitted;

26 (k)(h) ~~reduce or eliminate~~ minimum lot sizes or reduce the existing minimum lot size required by at  
27 least 25%;

28 (l)(i) ~~reduce or eliminate~~ aesthetic, material, shape, bulk, size, ~~height~~, floor area, and other massing

1 requirements for multifamily or mixed-use residential developments or remove at least half of those  
2 requirements;

3 ~~(m)(j)~~ provide for zoning that specifically allows or encourages the development of tiny houses, as  
4 defined in Appendix Q of the International Residential Code as it was printed on January 1, 2023;

5 ~~(n)(k)~~ ~~reduce or~~ eliminate setback requirements or reduce existing setback requirements by at least  
6 25%; or

7 ~~(o)(l)~~ increase building height limits for residential dwellings by at least 25%;

8 ~~(m)~~ allow multifamily residential or mixed-use development in all areas zoned to allow as a  
9 permitted use on all lots where office, retail, or commercial ~~development as a~~ are primary permitted use uses;  
10 or

11 ~~(n)~~ allow multifamily residential development as a permitted use on all lots where three or more  
12 residential units are permitted uses.

13 (2) ~~To meet the requirements of this section, a strategy allowed in subsection (1) must be~~  
14 ~~measured in comparison to regulations adopted by a local government on or after January 1, 2021. If a local~~  
15 ~~government's existing zoning ordinance adopted pursuant to Title 76, chapter 2, before [the effective date of~~  
16 ~~this act] does not contain a zoning regulation that is listed as a regulation to be eliminated or reduced in~~  
17 ~~subsection (1), that strategy is considered adopted by the local government.~~

18 (3) If the adoption of a housing strategy allowed in subsection (1) subsumes another housing  
19 strategy allowed in subsection (1), only one strategy may be considered to have been adopted by the local  
20 government.

21  
22 **NEW SECTION. Section 20. Limitations on zoning authority.** (1) A local government acting  
23 pursuant to [sections 18 through 24] may not:

24 (a) treat manufactured housing units differently from any other residential units;

25 (b) include in a zoning regulation any requirement to:

26 (i) pay a fee for the purpose of providing housing for specified income levels or at specified sale  
27 prices; or

28 (ii) dedicate real property for the purpose of providing housing for specified income levels or at

1 to the filing of a permit application or at the time a written request is received for a preapplication meeting  
2 pursuant to 82-4-432.

3 (3) Except for a day-care home registered by the department of public health and human services,  
4 a local government may impose zoning standards and conditions on any type of home or facility identified in  
5 subsections (1)(f) and (1)(g) if those zoning standards and conditions do not conflict with the requirements of  
6 subsections (1)(f) and (1)(g).

7  
8 **NEW SECTION. Section 21. Adoption and amendment of zoning regulations.** (1) (a) The  
9 governing body shall adopt or amend a zoning regulation or map only after consideration by and on the  
10 recommendation of the planning commission.

11 (b) An amendment to an adopted zoning regulation or map may be initiated:

12 (i) by majority vote of the governing body;

13 (ii) on petition of at least 15% of the electors of the local government jurisdiction to which the  
14 regulations apply, as registered at the last general election; or

15 (iii) by a property owner, as related to an application-applying for any zoning, subdivision, or other  
16 land use permit or approval.

17 (2) Prior to making a recommendation to the governing body to adopt or amend a zoning  
18 regulation or map, the planning commission shall:

19 (a) provide public notice and participation in accordance with [section 6];

20 (b) accept, consider, and respond to public comment on the proposed zoning regulation, map, or  
21 amendment. All public comment must be part of the administrative record transmitted to the governing body.

22 (c) make a preliminary determination as to whether the zoning regulation and map as proposed or  
23 as amended would be in substantial compliance with the land use plan, including whether the zoning regulation  
24 or map:

25 (i) accommodates the projected needed housing types identified in [section 10];

26 (ii) contains five or more specific strategies from [section 19] to encourage the development of  
27 housing within the jurisdiction;

28 (iii) reflects allowable uses and densities in areas that may be adequately served by public safety,

1 emergency, utility, transportation, education, and any other local facilities or services identified by the local  
2 government in [section 11];

3 (iv) allows sufficient area for existing, new, or expanding commercial, industrial, and institutional  
4 enterprises the local government has identified in [section 12] for targeted economic growth in the jurisdiction;

5 (v) protects and maximizes the potential use of natural resources within the area, as identified in  
6 [section 13];

7 (vi) minimizes or avoids impacts to the natural environment within the area, as identified in [section  
8 13]; and

9 (vii) avoids or minimizes dangers associated with natural hazards in the jurisdiction, as identified in  
10 [section 13]; and

11 (d) preliminarily determine whether the proposed zoning regulation, map, or amendment results in  
12 new or increased impacts to or from local facilities, services, natural resources, natural environment, or natural  
13 hazards from those previously described and analyzed in the assessment conducted for the land use plan.

14 (3) If the planning commission finds new or increased impacts from the proposed regulation, map,  
15 or amendment, as provided in subsection (2)(d), the local government shall collect additional data and conduct  
16 additional analysis necessary to provide the planning commission and the public with the opportunity to  
17 comment on and consider all potential impacts resulting from adoption of the zoning regulation, map, or  
18 amendment.

19 (4) After meeting the requirements of subsections (2) and (3), the planning commission shall make  
20 a final recommendation to the governing body to approve, modify, or reject the proposed zoning regulation,  
21 map, or amendment.

22 (5) (a) The governing body shall consider each zoning regulation, map, or amendment that the  
23 planning commission recommends to the governing body.

24 (b) After providing public notice and participation in accordance with [section 6], the governing  
25 body may adopt, adopt with revisions the governing body considers appropriate, or reject the zoning regulation,  
26 map, or amendment as proposed by the planning commission.

27 (c) The governing body may not condition an amendment to a zoning regulation or map.

28 (d) The governing body may not adopt or amend a zoning regulation or map unless the governing

1 body finds that:

2 (i) the regulation, map, or amendment is in substantial compliance with the land use plan; and

3 (ii) the impacts resulting from development in substantial compliance with the proposed zoning  
4 regulation, map, or amendment have been made available for public review and comment and have been fully  
5 considered by the governing body.

6 (6) After the zoning regulation, map, or amendment has been adopted by the governing body,  
7 there is a presumption that:

8 (a) all permitting in substantial compliance with the zoning regulation, map, or amendment is in  
9 substantial compliance with the land use plan; and

10 (b) the public has been provided a meaningful opportunity to participate.

11

12 **NEW SECTION. Section 22. Effect on zoning regulations and map.** (1) After the adoption of a  
13 zoning regulation, map, or amendment pursuant to [section 21], any application proposing development of a  
14 site is subject to the process set forth in this section.

15 (2) (a) When a proposed development lies entirely within an incorporated city, or is proposed for  
16 annexation into the city, the application must be submitted to and approved by the city.

17 (b) Except as provided in subsections (2)(a) or (2)(c), when a proposed development lies entirely  
18 in an unincorporated area, the application must be submitted to and approved by the county.

19 (c) If a proposed development lies within an area subject to increased growth pressures, higher  
20 development densities, or other urban development influences identified by either jurisdiction in [section 14], the  
21 jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application.

22 (d) If the proposed development lies partly within an incorporated city, the application and  
23 materials must be submitted to and approved by both the city and the county governing bodies.

24 (3) Zoning compliance permits and other ministerial permits may be issued by the planning  
25 administrator or the planning administrator's designee without any further review or analysis by the governing  
26 body, except as provided in [section 36].

27 (4) If a proposed development, with or without variances or deviations from adopted standards, is  
28 in substantial compliance with the zoning regulations or map and all impacts resulting from the development

1 were previously analyzed and made available for public review and comment prior to the adoption of the land  
2 use plan, zoning regulation, map, or amendment thereto, the application must be approved, approved with  
3 conditions, or denied by the planning administrator and is not subject to any further public review or comment,  
4 except as provided in [section 36].

5 (5) (a) If a proposed development, with or without variances or deviations from adopted standards,  
6 is in substantial compliance with the zoning regulations and map but may result in new or significantly  
7 increased potential impacts that have not been previously identified and considered in the adoption of the land  
8 use plan or zoning regulations, the planning administrator shall proceed as follows:

9 (b) request that the applicant collect any additional data and perform any additional analysis  
10 necessary to provide the planning administrator and the public with the opportunity to comment on and consider  
11 the impacts identified in subsection (5)(a);

12 (c) collect any additional data or perform additional analysis the planning administrator determines  
13 is necessary to provide the local government and the public with the opportunity to comment on and consider  
14 the impacts identified in subsection (5)(a); and

15 (d) provide notice of a 15-business day written comment period during which the public has the  
16 reasonable opportunity to participate in the consideration of the impacts identified in subsection (5)(a).

17 (6) (a) Any additional analysis or public comment on a proposed development described in  
18 subsection (5) must be limited to only any new or significantly increased impacts potentially resulting from the  
19 proposed development, to the extent the impact was not previously identified or considered in the adoption or  
20 amendment of the land use plan or zoning regulations.

21 (b) The planning administrator shall approve, approve with conditions, or deny the application. The  
22 planning administrator's decision is final and no further action may be taken except as provided in [section 36].

23 (7) If an applicant proposes to develop a site in a manner or to an extent that the development is  
24 not in substantial compliance with the zoning regulations or map, the applicant shall propose an amendment to  
25 the regulations or map and follow the process provided for in [section 21].

26

27 NEW SECTION. Section 23. Zoning and annexation. (1) A municipality ~~may~~shall review and  
28 consider a proposed annexation in conjunction with the ~~proposed~~-zoning regulations for the property to be

1 annexed adopted pursuant to [section 18(1)(c)] following the procedures set forth in [section 22].

2 (2) The joint public process authorized in subsection (1) fulfills the notice and public hearing  
3 requirements for a proposed annexation required in Title 7, chapter 2, parts 42 through 47.

4  
5 **NEW SECTION. Section 24. Interim zoning ordinances.** (1) A local government, to protect the  
6 public safety, health, and welfare and without following the procedures otherwise required prior to adopting a  
7 zoning regulation, may adopt an interim zoning ordinance as an urgency measure to regulate or prohibit uses  
8 that may conflict with a zoning proposal that the governing body is considering or studying or intends to study  
9 within a reasonable time.

10 (2) Before adopting an interim zoning ordinance, the governing body shall first hold a public  
11 hearing upon notice reasonably designed to inform all affected parties. A notice must be published in a  
12 newspaper of general circulation at least 7 days before the public hearing.

13 (3) An interim zoning ordinance takes effect immediately on passage and approval after first  
14 reading  
15 and may be in effect no longer than 1 year from the date of its adoption.

16 (4) A local government may not act under the authority provided for in this section until the local  
17 government has adopted a land use plan and zoning regulations pursuant to [sections 1 through 37].

18  
19 **NEW SECTION. Section 25. Authority to adopt local subdivision regulations -- limitations.** (1)  
20 Within its respective jurisdiction, a local government shall regulate the creation of lots in substantial compliance  
21 with its adopted land use plan and zoning regulations by adopting subdivision regulations.

22 (b) The governing body of a county or city has the authority to adopt subdivision regulations in  
23 accordance with [sections 25 through 33] by an ordinance that substantially complies with 7-5-103 through 7-5-  
24 107.

25 (c) A municipality shall adopt subdivision regulations for those portions of the jurisdictional area  
26 outside the boundaries of the municipality that the governing body anticipates may be annexed into the  
27 municipality over the next 20 years. Unless otherwise agreed to by the applicable jurisdictions, subdivision  
28 regulations on property outside the municipal boundaries may not apply or be enforced until the areas are

1 annexed or being annexed into the municipality.

2 (2) The subdivision regulations must provide a process for the application and consideration of  
3 subdivision exemptions, certificate of survey, preliminary plats, and final plats as necessary for the  
4 implementation of [sections 1 through 37].

5 (3) (a) A local governing body may not require, as a condition for approval of a subdivision under  
6 this [sections 25 through 33]:

7 (i) the payment of a fee for the purpose of providing housing for specified income levels or at  
8 specified sale prices; or

9 (ii) the dedication of real property for the purpose of providing housing for specified income levels  
10 or at specified sale prices.

11 (b) A dedication of real property prohibited in subsection (3)(a)(ii) includes a payment or other  
12 contribution to a local housing authority or the reservation of real property for future development of housing for  
13 specified income levels or specified sale prices.

14 (4) The local governing body may not change, in the subdivision regulations or in the process for  
15 subdividing, any timelines or procedural requirements for an application to subdivide other than provided for in  
16 [sections 25 through 33].

17 (5) Subdivisions under [sections 1 through 37] must follow the uniform standards governing  
18 certificates of survey and subdivision plats adopted by the board of professional engineers and professional  
19 land surveyors.

20  
21 **NEW SECTION. Section 26. Exemptions to subdivision review.** (1) The following divisions of land,  
22 if made in substantial compliance with zoning regulations adopted pursuant to [sections 18 through 24], are not  
23 subject to the requirements of [sections 1 through 37]:

24 (a) subject to subsection (2), the creation of four or fewer new lots or parcels from an original lot or  
25 parcel:

26 (i) by order of a court of record in this state;

27 (ii) by operation of law; or

28 (iii) that, in the absence of agreement between the parties to a sale, could be created by court

1 (2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify  
2 the governing body of the pending division and allow the governing body to present written comment on the  
3 division.

4 (3) A transfer of divided land by the owner of the property at the time that the land was divided to  
5 any party other than those identified in subsection (1)(b) subjects the division of land to the requirements of  
6 [sections 1 through 37].

7 (4) Instruments of transfer of land that is acquired for state highways may refer by parcel and  
8 project number to state highway plans that have been recorded in compliance with 60-2-209 and are exempted  
9 from the surveying and platting requirements of [sections 1 through 37]. If the parcels are not shown on  
10 highway plans of record, instruments of transfer of the parcels must be accompanied by and refer to  
11 appropriate certificates of survey and plats when presented for recording.

12 (5) The governing body, in its discretion, may revoke the covenant provided for in subsection (1)(o)  
13 without subdivision review if the original lot lines are restored through aggregation of the covenanted land prior  
14 to or in conjunction with the revoking of the covenant.

15  
16 **NEW SECTION. Section 27. Adoption and amendment of subdivision regulations.** (1) (a) The  
17 governing body shall adopt or amend subdivision regulations only after consideration by and on the  
18 recommendation of the planning commission.

19 (b) An amendment to adopted subdivision regulations may be initiated:

20 (i) by majority vote of the governing body;

21 (ii) on petition of at least 15% of the electors of the local government jurisdiction to which the  
22 regulations apply, as registered at the last general election; or

23 (iii) by a property owner, as related to an application applying for any zoning, subdivision, or other  
24 land use permit or approval.

25 (2) Prior to making a recommendation to the governing body to adopt or amend subdivision  
26 regulations, the planning commission shall:

27 (a) provide public notice and participation in accordance with [section 6];

28 (b) accept, consider, and respond to public comment on the proposed subdivision regulation or

1 amendment to a subdivision regulation. All public comment must be part of the administrative record  
2 transmitted to the governing body.

3 (c) make a preliminary determination as to whether the subdivision regulation or amendment to a  
4 subdivision regulation is in substantial compliance with the land use plan and zoning regulations, including  
5 whether the regulation or amendment:

6 (i) enables the development of projected needed housing types identified in the land use plan and  
7 zoning regulations;

8 (ii) reflects applicable strategies from the land use plan and zoning regulations to encourage the  
9 development of housing within the jurisdiction;

10 (iii) facilitates the adequate provision of public safety, emergency, utility, transportation, education,  
11 and any other local facilities or services for proposed development, as identified in the land use plan and zoning  
12 regulations;

13 (iv) reflects standards that provide for existing, new, or expanding commercial, industrial, and  
14 institutional enterprises identified in the land use plan and zoning regulations for economic growth;

15 (v) protects and maximizes the potential use of natural resources within the area, as identified in  
16 the land use plan and zoning regulations;

17 (vi) contains standards that minimize or avoid impacts to the natural environment within the area,  
18 as identified in the land use plan and zoning regulations; and

19 (vii) contains standards that avoid or minimize dangers associated with natural hazards in the  
20 jurisdiction, as identified in the land use plan and zoning regulations; and

21 (d) preliminarily determine whether the proposed subdivision regulation or amendment to a  
22 subdivision regulation results in new or increased potential impacts to or from local facilities, services, natural  
23 resources, natural environment, or natural hazards from those previously described and analyzed in the  
24 assessments conducted for the land use plan and zoning regulations.

25 (3) If the planning commission finds new or increased potential impacts from the proposed  
26 regulation or amendment to a regulation pursuant to subsection (2)(d), the local government shall collect  
27 additional data and conduct additional analysis necessary to provide the planning commission and the public  
28 with the opportunity, pursuant to [section 6], to comment on and consider all potential impacts resulting from

1 adoption of the subdivision regulation or amendment to a subdivision regulation.

2 (4) After meeting the requirements of subsection (2), the planning commission shall make a final  
3 recommendation to the governing body to approve, modify, or reject the proposed subdivision regulation or  
4 amendment to a subdivision regulation.

5 (5) (a) The governing body shall consider each subdivision regulation or amendment to a  
6 subdivision regulation that the planning commission recommends to the governing body.

7 (b) After providing public notice and participation in accordance with [section 6], the governing  
8 body may adopt, adopt with revisions that the governing body considers appropriate, or reject the subdivision  
9 regulation or amendment to a subdivision regulation as proposed by the planning commission.

10 (c) The governing body may not adopt or amend a subdivision regulation unless the governing  
11 body finds:

12 (i) the subdivision regulation or amendment to a subdivision regulation is in substantial  
13 compliance with the land use plan and zoning regulations; and

14 (ii) the impacts resulting from development in substantial compliance with the proposed  
15 subdivision regulation or amendment to a subdivision regulation have been made available for public review  
16 and comment, which have been fully considered by the governing body.

17 (6) After the subdivision regulation or amendment to a subdivision regulation has been adopted by  
18 the governing body, there is a presumption that:

19 (a) all subdivisions in substantial compliance with the adopted regulation or amendment are in  
20 substantial compliance with the land use plan and zoning regulations; and

21 (b) the public has been provided a meaningful opportunity to participate.

22

23 **NEW SECTION. Section 28. Contents of local subdivision regulations.** (1) The subdivision  
24 regulations adopted under [sections 25 through 33] are limited to the following requirements:

25 (a) the date the regulations initially become effective under [sections 1 through 37] and the  
26 effective dates and the ordinance numbers for all subsequent amendments;

27 (b) design standards for all subdivisions in the jurisdiction, which may be incorporated by reference  
28 or may be based on the information and analysis contained in the land use plan and zoning regulations,