

_____ BILL NO. _____

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA COMPREHENSIVE PLANNING ACT; REQUIRING CERTAIN LOCAL GOVERNMENTS TO ADOPT COMPREHENSIVE PLANS THAT ALLOW FOR THE TIERING OF SITE-SPECIFIC DEVELOPMENT REVIEW AND IMPACT ANALYSIS; ALLOWING LOCAL GOVERNMENTS TO OPT INTO THE MONTANA COMPREHENSIVE PLANNING ACT; PROVIDING FOR A TRANSITION PERIOD; AND PROVIDING FOR THE REQUIRED CONTENTS OF A COMPREHENSIVE PLAN."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

PART 1. ADOPTION AND AMENDMENT OF A COMPREHENSIVE PLAN.

NEW SECTION. **Section 1. Legislative Purpose, Findings, and Intent.** (1) It is the purpose of [this chapter] to promote the health, safety, and welfare of the people of Montana through a system of comprehensive planning that balances private property rights and values, economic efficiency in public services and infrastructure, protection of the environment, natural resources, and recreation, and a diversified and sustainable economy.

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

(a) sufficient housing units for Montana's growing population that are attainable for Montanans of all income levels;

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

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

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

(d) Montana's economy and tax base through job creation, business development, and the revitalization of established communities;

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

(g) local consideration, participation, review, and planning of growth while meeting the state's broader comprehensive planning purposes set forth in [Part II].

(3) It is the Legislature's intent that the comprehensive planning authorized in [this chapter]:

(a) provides the broadest and most comprehensive level of collecting data, identifying and analyzing existing conditions and future opportunities and constraints, and mitigating the impacts of development on each local government jurisdiction;

(b) be the basis for the specific land use regulations which implement the policies expressed through a local comprehensive plan;

(c) anticipates tiering of information, analysis, public participation, and judicial review of subsequent development decisions made by the local government in substantial conformity with the local comprehensive plan; and

(d) results in narrowed and specific review and decision-making for development permitting.

NEW SECTION. Section 2. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

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

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

(3) “Local governing body” means the elected body responsible for the administration of a local government.

(4) “Local government” means either a consolidated city-county, a county, or an incorporated city or town.

(5) “Natural environment” is comprised of the land, water, air, flora and fauna, wildlife, and wildlife habitat.

(6) “Natural hazards” means environmental phenomena that have the potential to negatively impact societies and the human environment.

(7) “Natural resources” includes agricultural lands, agricultural water user facilities, minerals including but not limited to sand and gravel resources, forestry lands, and materials or substances that occur in nature and can be used for economic gain.

(8) “New information” means information regarding a previously unknown development constraint or adverse impact from development that was not addressed in the comprehensive plan and that requires a reasonable opportunity for the public to examine and comment on.

(9) “Subdivision administrator” means the person designated by the local governing body to review, analyze, provide recommendations, or make final decisions on subdivision applications as set forth in [this Act].

(10) “Zoning administrator” means the person designated by the local governing body to review, analyze, provide recommendations, or make final decisions on any or all zoning applications as set forth in [this Act].

NEW SECTION. Section 3. Planning Commission. (1)(a) Each local government shall establish, by ordinance or resolution, a planning commission(s).

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

(c)(i) Legally authorized planning boards, zoning commissions, or planning and zoning commissions existing prior to enactment of [this chapter] may be considered duly constituted under this chapter as a planning commission by agreement of the governing bodies of each local jurisdiction represented thereon.

(ii) If more than one legally authorized planning board, zoning commission, or planning and zoning commission exists within a jurisdiction, the governing bodies of each local jurisdiction represented thereon may agree to designate one of them as the planning commission; combine, consolidate, or modify one or more of them as the planning commission; or create a new planning commission pursuant to [this section] and disband the existing boards and commissions.

(2)(a)(i) Each planning commission shall consist of an odd number of not less than three (3) voting members and confirmed by majority vote of each local governing body.

(ii) The membership of a multi-jurisdiction planning commission must provide equal representation for each of the local government jurisdictions represented.

(b) The planning commission shall meet at least once every six (6) months.

(c) Minutes shall be kept of all meetings of the planning commission, and all meetings and records shall be open to the public.

(d) A majority of currently appointed voting members of the commission constitutes a quorum. An action of the planning commission is not official unless a quorum is present, and unless the action is authorized by a majority of the quorum at a regular or properly called special meeting.

(e) The ordinance, resolution, or interlocal agreement creating the commission shall set forth the requirements for appointments, terms, qualifications, removal, vacancies, meetings, officers, reimbursement of costs, bylaws, or any other requirement deemed necessary by the local governing body.

(3)(a) Except as set forth in [subsection (b)], the planning commission shall review and make recommendations to the local governing body regarding the development, adoption, amendment, review, and approval or denial of the following documents:

(i) the comprehensive plan;

(ii) zoning regulations;

(iii) subdivision regulations; and

(iv) any other legislative land use planning document the local governing body designates.

(b) The planning commission shall hear and decide appeals from any site-specific land use decisions made by the zoning or subdivision administrator pursuant to the adopted

documents set forth in [subsection (a)] in accordance with [*new section on appeals in zoning and subdivision chapters*]. Planning commission decisions shall be appealable to the local governing body as set forth in [xxxx].

(4) The planning commission may be funded as set forth in Sections 76-1-403 and 76-1-404.

NEW SECTION. Section 4. Applicability and Compliance. (1) Any county with a population at or exceeding 50,000 in the most recent decennial census shall be subject to the provisions of this Act.

(2) Any municipality located within a county meeting the population threshold set forth in [subsection (1)] that either: (i) has a population at or exceeding 5,000 in the most recent decennial census; or (ii) that has a jurisdictional boundary that lies equal to or less than 10 miles from the jurisdictional boundary of a municipality meeting [subsection (i)] shall be subject to the provisions of this Act.

(3)(i) Any local government that meets the applicability thresholds of [sections 1 or 2] on the effective date of [this Act] shall comply with the provisions of [this Act] by December 31, 2025.

(ii) Any local government that meets the applicability thresholds of (1) or (2) upon any decennial census completed after the effective date of [this Act] shall comply with the provisions of [this Act] by December 31 of the fifth year after the date of the decennial census.

(4) After a local government adopts a comprehensive plan under this Act, the plan must be updated by December 31 of each fifth year thereafter.

(5) Any local government not meeting the thresholds set forth in [sections 1 or 2] may opt to comply with some or all of the provisions of this Act by the affirmative vote of its local governing body..

NEW SECTION. Section 5. Adoption and Amendment (1) The adoption of a new or updated comprehensive plan in conformance with [this Act] must comply with [section 6] and all other relevant sections in this Act.

(2) Upon adoption or update, the information and analysis contained within the comprehensive plan may be considered accurate for the purposes of making site-specific development decisions in substantial conformance with the plan.

(3)(i) If at any point before an update is required under [Section 4 above] the local governing body may direct an amendment to the plan or future land use map be prepared for consideration by the planning commission.

(ii) In developing, drafting, and considering an amendment to the comprehensive plan, the local governing body shall follow the process set forth in Section 6 with respect to the changes proposed to the plan.

NEW SECTION. Section 6. Public Participation. (1)(a) Local governments shall provide early and continuous public participation when amending an existing or drafting a new comprehensive plan for a planning area or a planning regulation.

(b) Public participation for adoption or amendment of a comprehensive plan or planning regulations must provide for, at a minimum:

(i) dissemination of draft documents;

(ii) opportunity for written and verbal comments;

(iii) public meetings after effective notice;

(iv) electronic communication regarding the process, including online access to documents, updates, and comments; and

(v) consideration of and response to public comments;

(2) Local governments shall document and retain all public outreach and participation performed as part of the administrative record.

(4)(a) Each local government may decide how general public notice and participation in the development of or an amendment to a comprehensive plan or planning regulation is accomplished.

(b) All notices must clearly specify the nature of the comprehensive plan under consideration, what feedback the local jurisdiction is seeking from the public, and how the public may participate.

(c) The general public notice and participation may include any or all methods. The local jurisdiction shall document what methods it chose to provide early and continuous

participation in the amendment to or adoption of a comprehensive plan and all comments received.

(d) The Community Technical Assistance Program shall develop a list of public participation methods and best practices for use by local governments in developing and considering the adoption or amendment of a comprehensive plan or other planning regulations.

(5) The local jurisdiction shall emphasize throughout the comprehensive plan or planning regulation process that:

(a) the comprehensive plan is intended to identify the opportunities for development of land within the planning area for housing, businesses, and the extraction of natural resources while mitigating the impacts of that development on adjacent properties and the community, the natural environment, public services and facilities, and natural hazards;

(b) the process provides for continuous and extensive public notice, review, comment, and participation in the development of the comprehensive plan;

(c) the final adopted comprehensive plan comprises the basis for implementing planning regulations consistent with the future land use map contained in the comprehensive plan; and

(d) the scope of and opportunity for public participation and comment on site-specific development consistent with the comprehensive plan and future land use map will be limited only to specific information required to be gathered for other agencies or the discovery of new information that would no longer support the adoption of the future land use map or the comprehensive plan, considering the administrative record of the comprehensive plan as a whole.

NEW SECTION. Section 7. Actions or Proceedings. (1) Any party aggrieved by the adoption or amendment of a comprehensive plan may present to a court of record a petition, duly verified, setting forth that the decision is arbitrary and capricious or that the governing body failed to follow the procedures required by law.

(2) The petition must be presented to the court within 30 days after the final decision by the governing body to adopt or amend the comprehensive plan.

(3) The court's review of the governing body's decision must be made solely on the evidence contained in the administrative record or improperly excluded therefrom.

(4) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

PART II – CONTENTS OF A COMPREHENSIVE PLAN.

NEW SECTION. Section 1. Existing Conditions. (1) A comprehensive plan shall include inventories and descriptions of existing conditions on the built environment, natural environment, social and demographic conditions, housing and affordability, and economic conditions within the plan's jurisdictional boundaries.

(2) The inventories and descriptions shall be based on up-to-date surveys, maps, diagrams, charts, descriptive material, studies, and reports necessary to explain and supplement the analysis of each element of the comprehensive plan.

(3) Every jurisdiction must use demographics provided by the most recent decennial census or census estimate of the United States Census Bureau, including population projections for a 20-year period based upon permanent and seasonal population estimates, as provided by:

(i) Montana Department of Commerce published demographics;

(ii) Generated by the local government;

(iii) Produced by a professional firm specializing in projections; or

(iv) When a population projection is not available, population projections for the local jurisdiction shall be reflective of the area's proportional share of the total county population and the total county population growth.

NEW SECTION. Section 2. Housing. (1) Each local governing body shall identify and analyze existing and projected housing type needs and a statement of goals and policies for the preservation, improvement, and development of needed housing types. This housing element shall include:

(a) A quantification of the jurisdiction's existing and projected housing needs, including location, type, age, condition, and occupancy needed to accommodate existing and estimated future populations;

(b) an inventory of sites, including zoned, unzoned, vacant, underutilized, and potentially redeveloped sites, available to meet the jurisdictions' housing needs and reflected in the land use element and future land use map;

(c) an analysis of any constraints to development such as zoning, development standards, and infrastructure needs and capacity, and identification of market-based incentives that could affect or encourage the development of housing; and

(d) a detailed description of what actions the local jurisdiction will take to accommodate the projected housing needs identified in [subsection (a)].

(2) The housing element may incorporate by reference any information or policies identified in other housing needs assessments adopted by the governing body.

(3) If, after performing the analysis as required in [section (1)], the local government determines that the total housing needs cannot be met due to lack of resources, development sites, infrastructure capacity, or other constraints, the local government shall establish the minimum number of housing units by designated income level that can be constructed, rehabilitated, and conserved within the jurisdiction over the 20-year planning period and the actions the local government will take to remove constraints to the development of those units over that period.

(3) The existing and projected housing needs shall be evaluated annually and progress documented of the residential units available to meet projected housing needs during the 20-year planning period of the comprehensive plan.

NEW SECTION. Section 3. Local Services and Facilities. (1) The local government must (a) determine the existing and anticipated levels of public safety and emergency services necessary to serve future growth in the community, including law enforcement, fire protection, EMS agencies, and local health care organizations.

(b) Prepare an inventory and map of existing fire protection, law enforcement, and emergency service jurisdictional areas and response times, descriptions of mutual aid or cooperative service agreements, and hospitals or clinics in the jurisdiction; and

(c) Identify capital and service improvements for fire, law enforcement, emergency services, and health service for the jurisdictional area necessary to meet anticipated growth.

(2) The local government must (a) determine the existing capacity, planned expansion of, and anticipated levels of utility services necessary to serve future growth in the community, including water, wastewater, and storm water systems, solid waste disposal, and other utility services as identified by the local jurisdiction;

(b) Prepare an inventory and map of all utility service areas, system networks, and facilities; and

(c) Identify capital and service improvements for local utilities for the jurisdictional area necessary to meet anticipated growth.

(3) The local government must (a) determine the existing capacity, planned expansion of, and anticipated improvements to the transportation network serving the jurisdictional area necessary to serve future growth in the community;

(b) Prepare an inventory and classification map of all existing and planned roads within the jurisdictional area, including major highways, secondary highways, and local routes, all non-motorized routes, including bike lanes and pedestrian thoroughfares, and all public transit systems and facilities; and

(c) Identify planned capital and service transportation improvements necessary to serve anticipated growth.

(4)(a) A local jurisdiction must coordinate with local school districts serving the jurisdictional area to determine the existing capacity, planned expansion of, and anticipated improvements necessary to the local K-12 school system to serve future growth in the community.

(b) Local school districts must provide the local jurisdiction with any inventory and maps of existing K-12 educational facilities within the jurisdictional area, and identify any capital and service improvements necessary to meet anticipated growth.

(5) A local jurisdiction may include an analysis of existing capacity and service levels, planned expansions of, and anticipated improvements necessary to provide other services to future growth in the community, such as child care, libraries, community centers; parks and recreational areas, or any other local community services identified.

(6) The local services and facilities element may incorporate by reference any information or policies identified in other relevant assessments, such as a capital improvements plan, adopted by the governing body.

NEW SECTION. Section 4. Economic Development. (1) The local government shall

(a) prepare an assess existing and potential commercial, industrial, and institutional enterprises in the jurisdiction, including the types of sites and supporting services needed by these enterprises;

(b) summarize job composition and trends by industry sector including existing labor force characteristics and future labor force requirements for existing and potential enterprises in the jurisdiction;

(c) assess the extent to which local characteristics, assets, and resources support or constrain existing and potential enterprises, including access to transportation to market for goods and services and historic, cultural, and scenic resources and their relationship to private sector success in the jurisdiction;

(d) inventory sites within the jurisdiction, including zoned, unzoned, vacant, underutilized, and potentially redeveloped sites, available to meet the jurisdiction's economic development needs and reflected in the land use element and future land use map;

(e) assess the adequacy of existing and projected local facilities and services, schools, housing stock, and other land uses necessary to support existing and potential commercial, industrial, and institutional enterprises; and

(f) the financial feasibility of supporting anticipated economic growth in the community.

NEW SECTION. Section 5. Natural Resources, Environment, and Hazards. (1) The

plan shall (a) include inventories and maps of natural resources within the jurisdiction, including agricultural lands, agricultural water user facilities, minerals, including but not limited to sand and gravel resources, forestry lands, and other natural resources identified by the jurisdiction; and

(b) describe the natural resource characteristics of the jurisdictional area, including a summary of historical natural resource utilization, data on existing utilization, and projected future trends.

(2) The plan must include an inventory, maps, and description of the natural environment of the jurisdictional area, including a summary of important natural features, the conditions of, and real and potential threats to soils, geology, topography, vegetation, surface water, groundwater, aquifers, floodplains, climate, scenic resources, wildlife, wildlife habitat, wildlife corridors, and nesting sites within the jurisdiction.

(3) The plan must (a) include maps, identify factors related to, and describe natural hazards within the jurisdictional area, including flooding, fire, earthquakes, steep slopes and other known geologic hazards, and other natural hazards identified by the jurisdiction, including a summary of past significant events resulting from natural hazards;

(b) describe land use constraints resulting from natural hazards; and

(c) describe efforts that have been taken within the local jurisdiction to mitigate the impact of natural hazards.

(4) The plan must describe the role that natural resource and environment play in the local economy, outline the jurisdiction's goals related to the development or conservation of natural resources and environment; and provide information required by a federal land management agency for the local governing body to establish or maintain coordination or cooperating agency status.

(7) The natural resources, environment, and hazards element may incorporate by reference any information or policies identified in other relevant assessments, such as a pre-disaster mitigation plan or community wildfire protection plan, adopted by the governing body.

NEW SECTION. Section 6. Land Use and Future Land Use Map. (1) A comprehensive plan shall include a future land use map and written description of proposed general distribution, location, and extent of the residential, commercial, mixed, industrial, agricultural, recreation and conservation uses, and other categories of public and private uses as determined by the local jurisdiction.

(2) The future land use map does not confer any authority to regulate what is not otherwise specifically authorized by law or regulations adopted pursuant to this part.

(3) The future land use map and written description shall include the following:

(a) A statement of intent describing the local jurisdiction's applicable zoning and subdivision regulations.

(b) Descriptions of existing and future land uses including:

- (i) categories of public and private use;
- (ii) general descriptions of use types;
- (iii) general descriptions of population and building intensity;
- (iv) zoning districts; and
- (v) other aspects of the built environment.

(c) Geographic distribution of future land uses in the local jurisdiction, anticipated over a 20-year planning period, that specifically demonstrate:

- (i) Adequate land to support anticipated growth in all land use types;
- (ii) Adequate sites to accommodate the type and supply of housing needed for the projected population;

and

(iv) Those areas of the jurisdiction that are not generally suitable for development and why, based on the constraints identified through the comprehensive plan analysis.

NEW SECTION. Section 7. Area Plans. (1) A local government may adopt area plans for a portion of the jurisdiction to provide a more localized analysis of all or any part of a comprehensive plan.

(2) The drafting and adoption of an area plan shall follow the same process as a comprehensive plan.

(3) The area plan shall be consistent with the comprehensive plan. To the extent an area plan is inconsistent with the comprehensive plan, the comprehensive plan shall govern.

NEW SECTION. Section 8. Issue Plans. (1) The local government may adopt issue plans for all or part of a jurisdiction that provide a more detailed or thorough analysis for any component of the comprehensive plan.

(2) The drafting and adoption of an issue plan shall follow the same process as a comprehensive plan.

(3) If an issue plan covers the jurisdictional area of the comprehensive plan, that issue plan can serve as the detailed analysis required in the comprehensive plan for any element.

PART III. IMPLEMENTATION OF COMPREHENSIVE PLAN.

NEW SECTION. **Section 1. Implementation.** (1) The comprehensive plan is not a regulatory document but shall include an implementation section that:

(a) establishes meaningful and predictable implementation measures for the use and development of land within the planning jurisdiction; and

(b) provides meaningful direction for the content of more detailed land development regulations; and

(c) requires identification of those programs, activities, actions, or land development regulations that will be part of the jurisdictions' overall strategy for implementing the comprehensive plan's principals, goals, objectives, policies, and strategies.

(2) The implementation section of the plan shall include the following:

(a) An analysis of whether any inconsistencies exist between the current zoning districts and the Future Land Use Map, including a map of such inconsistencies. If inconsistencies exist:

(i) specific implementation actions necessary to amend zoning regulations and zoning map to bring them into conformance with the Future Land Use Map; and

(ii) a schedule by which the zoning regulations and zoning map will be amended to provide consistency with the Future Land Use Map.

(b) An analysis of whether any inconsistencies exist between the current subdivision regulations and the goals, objectives, policies, and strategies in the Future Land Use Map. If inconsistencies exist:

(i) specific implementation actions necessary to amend the subdivision regulations to bring them into consistency with the Future Land Use Map; and

(ii) a schedule by which the subdivision regulations will be amended to provide consistency with the Future Land Use Map.

(c) A schedule by which the planning jurisdiction will adopt a capital improvements program or amend an existing capital improvements program to provide consistency with the comprehensive plan.

(d) A schedule of expansion or replacement of public facilities, and the anticipated costs and revenue sources proposed to meet those costs reflected in a jurisdiction's capital improvement program.

(e) For municipalities, a schedule by which the planning jurisdiction will adopt or amend the plan for extension of services set forth in 7-2-4732, to provide consistency with the comprehensive plan.

(f) An implementation schedule which defines the specific public actions in accordance with [xxxx] to be undertaken in order to achieve the goals and objectives of each component of the comprehensive plan. The implementation schedule must include a timeframe or prioritization of each specific public action; and

(g) Procedures for monitoring, evaluating, and appraising the planning jurisdictions progress towards meeting the implementation schedule.