

2007 Montana Legislative Session Produces Seven Bipartisan Smart Growth Successes

New laws help growing cities and counties preserve quality of life and open spaces

Seven laws that will move Montana toward smarter growth emerged from the recently completed legislative session.

Not only did the Montana Smart Growth Coalition (MSGC) successfully help make proactive, smart growth law, we also stopped every bad land use and development bill. Several of them would have taken away the ability of local governments and citizens to protect their homes, property values and quality of life from being adversely impacted by gravel pits.

The only major smart growth bill that did not pass — SB 345 by Senator Hawks (D-Bozeman) — proposed creating statewide river and stream setbacks and a clear process for local governments to adopt their own setbacks. We will be back with this important bill to protect our rivers and streams and keep people and property out of harm's way.



SB 201 promotes well-designed infill development on the edges of cities and towns.

SB 201— Smart Growth Planning Process Becomes Law

Senate Bill 201 (Senator Laible, R-Darby) creates and incentivizes a smart growth planning process that cities and counties can use together to plan for efficient growth inside and adjacent to cities and towns. This bill is an important bipartisan victory — MSGC worked closely with the Montana Association of Realtors on SB 201, which would not have passed without their support.

Previously there was no clear process in law that cities and counties could follow to get ahead of infrastructure and other impacts of new growth inside cities on the urban fringe. The lack of a clear planning process tied to zoning to implement the plans often led to a contentious process for new development. No one knew what standards would be applied — not local government officials, the developer or the surrounding neighbors. SB 201 creates a clear, more predictable planning and zoning process that can help cities and counties give people a voice in how growth will affect them, their property, the community and the environment.

The new planning process is designed to help cities and counties get ahead of the infrastructure needed to service growth and the planning needed to adopt impact fees. As a result, it will be easier to put new development where it can be serviced most efficiently — in and adjacent to existing cities and towns — and where the public has participated in creating clear zoning standards to ensure that quality of life is protected when growth takes place.

SB 201 allows a streamlined subdivision review if a city or county engages its public in planning and adopts zoning that implements the plans. They also must avoid or mitigate adverse impacts on wildlife, waters, the natural environment, health and safety, and local services. Developments that comply with the zoning regulations will be exempt from an environmental assessment, a public hearing, and a review of the 76-3-608(3)(a) primary subdivision review criteria; issues normally addressed by these are covered by the more detailed SB 201 planning and zoning process. Instead of relying on developers to come up with mitigation measures based on their own environmental assessment, under SB 201 the community will agree on clear standards for development approval. If developers do not meet the standards, they will have to go through a public hearing process for any variance. This means that no one can do an end-run around the new planning and zoning process. Additionally, developments will still require a public meeting and must meet subdivision standards even when cities and counties use the streamline review process.

This bill provides an important new source of money for this planning in the form of a planning fee that can be included in subdivision or zoning review fees.

MSGC will be working on models for SB 201-compliant planning and zoning and will work with the realtors to promote it in cities and counties across the state. Please contact MSGC if you would like us to come to your community.

SB 51 Fights Fire With Planning

Senate Bill 51 (Senator Hawks, D-Bozeman) requires that growth policies identify where the wildland-urban interface areas are located to help in planning to protect people and property from wildfire. More development has been taking place, and much more is projected, in rural locations like wooded hills and mountainsides where wildfire is a natural and relatively common phenomena.

This legislation is an important step to help local and state government get ahead of wildfire threats and spiraling fire-fighting costs. More homes to protect in the wildland-urban interface mean higher taxes for all Montanans, unless the new homes are kept out of areas of high wildfire hazard and are required to meet clear water-supply, defensible-space, access, and construction standards.

SB 51 clearly restates that a subdivision shall be denied if it does not mitigate or avoid threats to public health and safety. It also requires that subdivision regulations protect people and property from wildland fire.

It engages the Department of Natural Resources and Conservation and the Department of Labor and Industry in developing rules and providing incentives to help cities and counties get ahead of growth in the wildland-urban interface. This will include identifying best planning and land use practices for wildland-urban interface development.

This bill clarifies that counties and cities can regulate fire-related construction techniques — such as requiring sprinklers in certain circumstances or prohibiting cedar shake roofs — through their subdivision regulations if they adopt the new Department of Labor and Industry rules authorized by SB 51. This bill will save taxpayer dollars. It may ultimately save lives.



Newly passed smart growth bills will:

- create and promote “smart growth planning” to get ahead of growth impacts in and adjacent to cities and towns.
- require identifying wildland - urban interface areas and planning to protect people and property from wildfire.
- close a loophole that led to the abuse of the condo subdivision exemption.
- allow local governments to require parkland dedication for minor subdivisions.
- ensure that property cannot be taken through eminent domain to give it to a private developer.
- reorganize the affordable housing revolving loan account.
- require subdividers to learn about the city or county’s regulations and processes and to get feedback on proposed subdivisions.

SB 527 Slams Door on Abuse of Condo Loophole

Senate Bill 527 (Senator Gillan, D-Billings) closes a loophole that has led to the abuse of the condo subdivision exemption. Since a Supreme Court decision last year created it, some developers have been trying to build developments with dozens and even hundreds of lots using the condo loophole to evade any review of the impact on roads, services, neighboring property owners, or the environment. At our request, the governor has already signed SB 527 to stop unscrupulous developers who have been threatening to file lawsuits against counties that have been doing the right thing by denying these abuses of the condo exemption.

HB 415 Promotes Parks, Prevents Piecemeal Parcels

House Bill 415 (Representative Reinhart, D-Missoula) gives the green light to local governments to require parkland dedication for minor subdivisions and will create much needed parks and open space across Montana. Previous law required parkland dedication for major subdivisions (five or more lots) but not for minor subdivisions — even if someone created multiple minor subdivisions. In other words, this bill eliminates incentives to create piecemeal development using minor subdivisions to avoid providing for any parkland. HB 415 leaves it up to local governments to decide if they want to require parkland for minor subdivisions.

SB 363 Reins in Trojan Horse

Senate Bill 363 (Senator Kaufmann, D-Helena), along with SB 41 (Elliott), ensures that property cannot be taken through eminent domain just to give that property to a private developer — like a Wal-Mart. This issue has become a major source of mischief following the U.S. Supreme Court’s Kelo decision on eminent domain. MSGC promoted this bill to: 1.) give people the peace of mind of knowing that their homes are not at risk from the perceived threat that an abuse of eminent domain might pose; and 2.) ensure that the proponents of a radical regulatory takings agenda can no longer use the threat of eminent domain as a Trojan horse for another I-154 to undermine local land-use planning and zoning.

SB 491 Supports Affordable Housing

Senate Bill 491 (Senator Moss, D-Billings) reorganizes the affordable housing revolving loan account under the new name, “the Montana Housing Fund,” to better invest state dollars in affordable housing across the state.

HB 425 Gives Local Governments Input Upfront on Subdivision Proposals

House Bill 425 (Representative Sesso, D-Butte) cleans up the subdivision law by requiring that subdividers attend a meeting with local planning staff before a subdivision application is submitted in order to learn about the city or county’s regulations and processes and to get feedback on the proposed subdivision.

Building from the Best of the Northern Rockies Highlights Smart Development



Advocates for sound planning have a new resource for inspiration and policy recommendations in the Sonoran Institute’s new publication, *Building from the Best of the Northern Rockies*.

The 132-page book, loaded with colorful photos, offers a blueprint for smart growth and development by showcasing dozens of projects that demonstrate innovative ways communities can grow without sacrificing their natural, cultural and architectural assets.



Guided by an advisory team of some of the region’s best-known architects, builders, developers, conservationists, affordable-housing advocates and community leaders, the book defines best practices for innovative design, historic preservation, conservation, community engagement, economic viability and more. A primary goal of the project is to shift the growth debate to “what is right with development.”

To illustrate best practices in action, the book highlights projects in town centers, fast-growing edges of towns, and rural areas. It highlights creative and successful developments, including: Bridger Apartments and Valley West in Bozeman; Gold Dust and Orchard Gardens in Missoula; Great Northern Town Center in Helena; Downtown Billings Partnership and Little Bighorn College in Billings; Butte’s Community Trail and Bus Transfer Station; and the Big Hole River Land Use Plan; plus many others across Montana, Idaho and Wyoming.



We expect the policy recommendations in the book to help communities struggling to manage growth and change. The project’s next step is to provide workshops on how to implement some of these recommendations.

To order a complimentary copy of the book, please contact the Sonoran Institute’s Northern Rockies office at 406-587-7331 or e-mail sbrodie@sonoran.org. Additional copies cost \$15.95, plus shipping and handling.

MSGC goes to bat for truly smart growth projects

The Montana Smart Growth Coalition will endorse smart-growth development using criteria based on the Sonoran Institute’s *Building from the Best of the Northern Rockies*. The Smart Growth Development Endorsement Criteria is a quantitative checklist that MSGC uses to determine if a development is truly smart growth and deserves our support as it goes through the local permitting process. A developer may use the endorsement criteria for marketing purposes after the development is half built out. The checklist will be available shortly at www.mtsmartgrowth.org. Until then, it is available by contacting Tim Davis at smartgrowth@mcn.net.

**Thank you MSGC members and donors —
Your support is creating smarter growth in Montana!**

Join Today! MSGC welcomes businesses, organizations & individuals

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Individual Membership:

_____ \$35 (general membership)

_____ \$20 (student, senior, or living lightly)

Organization/Business Membership:

_____ \$25 (budget of \$9,999 or less)

_____ \$50 (budget of \$10K to \$24,499)

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I/we are adding \$_____ to our membership dues to help MSGC keep fighting for smart growth.

**Please make your check to Sonoran Institute — MSGC, and
send it along with this form to: Sonoran Institute
201 S. Wallace, #B3C, Bozeman, MT 59715. Thank you!**

MSGC is a project of the Sonoran Institute, a nonprofit organization that promotes community decisions that respect the land and people of Western North America.
www.sonoran.org

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- Bitterrooters for Planning
- City of Bozeman
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- Drake Engineering Incorporated
- Clark Fork Coalition
- Downtown Billings Partnership, Inc.
- Flathead Lakers
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