

# ZONING REGULATIONS: 101 FOR LOCAL LEADERS



## MONTANA CODE ANNOTATED

Title 76. Land Resources and Use

Chapter 2. Planning and Zoning

Part 3. Municipal Zoning

## WHAT YOU NEED TO KNOW ABOUT ZONING

- Zoning regulations direct the form and/or use of land and buildings in a municipality such as:
  - Types of land use
  - Lot size and density
  - Building setbacks and heights
- Zoning is the most common method for implementing the land use goals and objectives in a growth policy or other community plan.
- Zoning regulations apply to all existing tracts of record and to all proposed lots that fall under the regulations and zoning map.
- Zoning can be very flexible, crafted to meet each community's goals.
- Zoning regulations must be in "substantial compliance" with growth policy – i.e. the vision, goals, objectives, and policies.
- Zoning regulations are a valid exercise of a municipality's police power to protect the public health, safety, and welfare of a community.
- Adopting or amending zoning regulations is a legislative decision "entitled to presumptions of validity and reasonableness." (*Lake Co. First v. Polson City Council*, 2009 MT 322).

## ZONING REGULATION ADMINISTRATION AND ADOPTION

Reviewing a specific land use proposal/application under zoning regulations is a quasi-judicial process. Quasi-judicial decisions involve the application of regulations or ordinances to a particular person, property, or situation. When adopting or amending zoning regulations, the regulations must always meet the "Lowe" criteria (*Lowe v. Missoula*, 165 Mont. 38, 41 (1974):

- Substantially complies with community's growth policy.
- Provides safety from fire and other dangers.
- Promotes public health, safety, and welfare.
- Adequate transportation, water, sewer, schools, parks, and other public requirements.
- Adequate light and air.
- Effects on motorized and non-motorized transportation systems.
- Promotes compatible urban growth.
- Considers the character of the district.
- Considers the peculiar suitability of the property for particular uses.
- Conserves the value of buildings; and
- Encourages the most appropriate use of land throughout the municipality.