A08817

| DISTRICT or AUTHORITY -NAME -CITATION, R.C.M., 1947 | YEAR AUTHOR-IZED | BOARD MEMBERS APPOINTED (A) or ELECTED (E) | DISTRICT HAS POWER TO: acquire and/or dispose of property | acquire property by eminent domain | establish regulations | RELATED STATE AGENCY |
|---|---|---|---|---|---|---|
| County water and sewer district 16-4501 to 16-4535 (see p. 23 ) | 1957 | 5 or more E | X | | X | DNR, DHES |

Five of the major statutes authorizing special purpose local governments are summarized below.

A. Municipal and Regional Airport Authorities (Title 1, Ch. 9) 1971

By resolution of its governing body any municipality*** may create a municipal airport authority with five commissioners, or the governing body itself may elect to exercise the powers of the authority. An authority which is not comprised of the governing is essentially an independent special purpose local government. By joint resolution and following a public hearing, two or more municipalities may create a regional airport authority. Public agencies****

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* (A) by local governing body

** (A) by district court

(X) indicates an implied but not specified authority

*** "Municipality" is defined as "any village, town, city, county or other policital subdivision, public corporation, authority or district in this state authorized by law to acquire, establish, maintain and operate airports and air navigation facilities." (Section 1-102, R.C.M. 1947)

**** "Public agencies" include municipalities and airport authorities of this state, any agency of state or federal government, and any municipality, political subdivision or agency of an adjoining state.

acting jointly under the laws governing airport authorities must create a joint administrative board appointed by the governing bodies of the participating public agencies; they must also approve certain actions of the joint board concerning budgets and property acquisition or disposal.

An airport authority is granted "all powers necessary" to perform its functions, including the power (a) to plan, acquire, develop, maintain, operate, regulate, and protect airports and air navigation facilities; (b) to acquire or dispose of property including land in the hazard area and existing airports or air facilities; (c) to exercise eminent domain; and (d) to exercise its powers jointly with any public agency of this state, any adjoining state or the United States.

B. Urban Transportation District (Title 11, Ch. 45) 1975

This act authorizes the establishment of urban transportation districts to supply transportation services and facilities to district residents and other persons. Electors within the proposed district petition for its creation. After public notice, a public hearing is held by the county commissioners, who then refer the question to an election. A district is governed by a six member board, which, except for the initial board, is elected by the district.

The board has "all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the district." The board may also authorize service outside the district, if it considers such service appropriate.

Section 11-4513 requires the department of community affairs to administer $300,000 from the state earmarked revenue fund highway account, half of which is to be distributed to cities operating public transportation systems to help offset operating deficits. The other half is distributed to counties for public transportation or other transportation purposes.

C. <u>City and County Housing Authorities</u> (Title 35, Ch. 1)

1935 (city), 1941 (county)

This law authorizes the formation of both city and county housing authorities, granting them similar powers to prepare, develop, and operate housing projects and perform a variety of other functions. Any 25 residents of the city or the county may petition for a housing authority. Following public notice and a public hearing, the governing body determines whether in that area (a) unsanitary or unsafe dwellings exist or (b) there is a lack of safe and sanitary dwellings. An ordinance or resolution to create a housing authority must be approved by a majority of those electors voting on the question. The five member housing authority board is appointed by the mayor (city) or by the board of county commissioners (county). A housing authority is "a public body corporate and politic."

A housing authority is authorized to conduct investigations and examinations concerning housing conditions; to study and make recommendations concerning urban renewal and low income housing; to cooperate with planning agencies; to prepare, carry out, and operate housing projects; to act as agent for the federal government in connection with a housing project; to arrange with a city or county

to provide services for the authority; to acquire real property by eminent domain; to insure or provide for the insurance of the property or operations of the authority. In addition to their other powers, county housing authorities are specifically authorized to borrow money, accept grants and exercise their other powers to provide housing for low income farmers.

D. County Water and Sewer District Act (Title 69, Ch. 45) 1957

This act authorizes the formation of a county water and/or sewer district in any sub-county, countywide, or multi-county area. Registered voters within the proposed district, and within each included county, petition the county commissioners to create the district. After public notice and public hearing or hearings, electors residing in the district must approve the formation of the district, which becomes an incorporated entity. The district board of directors consists of five persons elected within the district, plus one appointed by the mayor of each included municipality, and one appointed by the board of county commissioners of each included county having unincorporated territory in the district.

A county water and sewer district (a) may acquire water rights; and (b) may acquire, construct, maintain and operate water works, sanitary or storm sewer works, canals, conduits, reservoirs and lands and rights useful or necessary to store, conserve, supply, produce, convey or drain water or sewage for purposes useful to the district. Useful purposes include, but are not limited to flood prevention, flood control, irrigation, drainage, municipal and industrial water supply, domestic water supply, wildlife, recreation, pollution abate-

ment, livestock water supply and similar purposes. Districts may store water, lease waterworks, accept assistance, borrow money and issue bonds, set fees and levy taxes, and make contracts.

E. Drainage District Law (Title 89, Chs. 22 through 28)

1905

This law authorizes the formation of drainage districts, which may plan, construct, and maintain drainage systems for the benefit of lands within the district. Districts may also cooperate with other entities in flood prevention projects and in the conservation, development and disposal of water. A district may include areas in more than one county and need not be contiguous.

Formation of a district requires a process of petition, public notices, and public hearings, including a description of the proposed or existing works and area; a preliminary report on the necessity or utility, desirability, and boundaries of the proposed drainage district; and a plan of work. If the district court approves the petitions, plans and issues involved, it confirms the preliminary report and declares the district to be organized and incorporated. After the initial appointed terms expire, three district commissioners are elected from within the district. Electors are landowners or their representatives, including domestic corporations; the number of votes an elector may cast varies, depending on the amount of land owned.

Drainage district commissioners may lay out, construct, inspect, improve, and repair drainage works and may enter lands for these purposes with the approval of the court.

A 1957 addition to the drainage district law permits districts

to exercise additional power, if they petition to the court to do so. They may cooperate and participate with other entities in federally authorized projects for flood prevention and water conservation, development, and utilization. A district may adopt necessary regulations, policies and procedures; enter into agreements; receive financial aid; construct, operate and maintain needed improvements; acquire lands, easements and rights-of-ways; enlarge boundaries or construct additional works outside district boundaries; and make assessments and issue bonds to carry out these projects and programs.

F. Mosquito Abatement Districts (Title 16, Ch. 48) 1953

G. Weed Control Districts (Title 16, Ch. 17) 1939 and (Title 32, Ch. 28, Section 32-2814) 1965

Some special purpose districts are considered to be subordinate to the local government rather than largely independent of it. Two such districts, mosquito abatement and noxious weed control districts, may affect land and water use. A mosquito control district is formed through a process of petition and public hearing. Its three to five member governing board may authorize entry onto lands for the purpose of taking "such action as may be necessary or advisable to survey, control, modify or abate any condition which may or does contribute to the existence of the mosquito pest." The Montana department of health and environmental sciences provides technical assistance to local governments in the formation and operation of mosquito abatement districts.

Each county comprises a mandatory noxious weed control district, which has a three or five member board of supervisors. Persons within the district are prohibited from allowing designated noxious weeds to go to seed. A district also has the authority, with the approval of the county commissioners, to destroy crops heavily infested with noxious weeds. Section 32-2814, R.C.M. 1947, requires the supervisors to control noxious weeds on county roads and on state and federal highways in the country, if the highway department does not do so. A related provision, section 32-2813, requires a county to reseed with perennial grasses or legumes, or both, any right-of-way areas that have been disturbed by construction. The Montana department of agriculture provides technical assistance to county noxious weed control boards.

# PART TWO - STATE AGENCY ENABLING LEGISLATION

## DEPARTMENT OF AGRICULTURE (DOA)

Among the responsibilities of the department of agriculture are investigation, regulation, or technical assistance with regard to agricultural products, commercial feed and fertilizers, agricultural and noxious weed seed, injurious insect pests and orchard and nursery stock diseases. The department also provides technical assistance to local noxious weed districts. (See page 26.) Those responsibilities most directly related to land use are summarized below.

A. Horticulture - Control of Fruit Pests and Diseases (Title 3, Ch. 11) 1921

B. Nurseries and Nurserymen - License and Regulation (Title 3, Ch. 12) 1921

C. Orchards - Vegetable Plant Disease Control - Quarantine (Title 3, Ch. 13)

The department licenses nurserymen and inspects and certifies orchards and nursery stock. The department may quarantine an orchard and treat, remove, or destroy any infested or infected orchard or nursery stock, if the owner has failed to do so as required. The owner is liable for the cost which may include an additional charge (section 3-1303). If the owner fails to pay within 30 days of receiving notice, the owner's cost may be collected through his property taxes.

D. Cropland Spraying Program (Title 3, Ch. 35) 1975 A

The department may survey, for and maintain surveillance of insect pest infestations, may provide technical or other assistance

to counties, may help to coordinate multi-county efforts, and may enter into cropland spraying programs with one or more counties to counteract actual or threatening serious infestations. Costs of a cropland spraying program may be apportioned equally among the state, county and landowners. The landowner's share becomes a lien upon his land if he fails to pay his share as required.

## DEPARTMENT OF COMMUNITY AFFAIRS (DCA)

The involvement of the department of community affairs in land use planning and management varies from direct ownership of airports to provision of technical assistance and funds to local planning organizations. The major land use planning function of the department has been to provide technical assistance to local governments that are establishing planning boards and developing comprehensive plans and land use regulations. DCA also distributes state and federal financial assistance to local governments and planning boards for their local planning programs.

The 1973 Subdivision and Platting Act required all local governments to adopt subdivision regulations by January, 1975 and directed the department to adopt minimum requirements for the content of local regulations. Based on the minimum requirements, DCA prepared a model subdivision regulation, which was subsequently adopted by 44 of Montana's 56 counties. (A further description of the Subdivision and Platting Act can be found on page 9 .)

The other statutes which establish DCA's role in land use planning and management are summarized below.

A. State Aeronautical Regulatory Act (Title 1, Chs. 1-5)

1945 A

This act authorizes the department of community affairs to promote and regulate aeronautics within the state. The department must approve the site for an airport or landing area before it may be operated or used. The department considers the site's location, size and layout, whether there are safe areas for expansion, the

nature of the terrain and the proximity of obstructions. DCA may also acquire, by purchase, lease, gift or condemnation, areas for airports, landing areas or navigation facilities. At the present time DCA owns or operates ten airports or landing areas, West Yellowstone being the largest. The department may also acquire easements in air space or property adjacent to airports to ensure safe approaches to landing areas.

B. Impact from Coal Development (Title 50, Ch. 38) 1975

The purpose of this chapter is to assist those local government units which have been required to expand their public services as a result of large scale development of coal mines and coal-using energy complexes. These units of local government include counties, incorporated cities and towns, school districts, and special districts. The chapter establishes a seven-member coal board which allocates funds derived from Montana's 30% severance tax on coal. Grants are awarded on the basis of (a) need, (b) degree of severity of impact from coal development, (c) availability of funds, and (d) degree of local efforts toward meeting these needs. The statute directs the coal board to give attention "to the need for community planning before the full impact is realized." Applicants for impact grants must show that their requests fit into an over-all plan "for the orderly management of the existing or contemplated growth problems." Grant awards to impact communities exceeded $11.5 million during the 1975-1977 biennium. The department of community affairs provides staff and administrative support for the coal board.

C. Planning and Economic Development Act (Title 82, Ch. 37)

1967 A

This statute constitutes the enabling legislation for DCA's planning functions. The act directs the department:

1. to encourage and aid local planning bodies, either directly or by securing planning assistance, consulting services and technical aid;
2. to provide technical assistance to county, municipal, state and regional planning commissions, zoning commissions, park or recreational boards and community development groups; and
3. to coordinate the activities of state agencies which have an impact on solution of community development problems and implementation of community plans.

A 1975 amendment to the act, section 84-1319(6), allocated one percent of the coal severance tax collections per year to a county land planning account. Section 82-3710 directs the department of community affairs to distribute these funds to each county "for land planning purposes" and establishes the formula for doing so. This financial assistance terminates at the end of fiscal year 1979. The total amount allocated to Montana's 56 counties during fiscal years 1976 and 1977 was $579,378.

D. <u>The Montana Economic Land Development Act</u> (Title 84, Ch. 75) 1975 A

As originally enacted, the Montana Economic Land Development Act required that by January of 1978 each city and county in the state develop a land use "plan" classifying all land within its

jurisdiction as residential, commercial, agricultural, recreational, open space or industrial. The act further provided that once this plan was adopted locally and approved by the state department of revenue, property tax assessments must reflect whether or not land was being used in conformance with the plan. Conforming uses were to be encouraged through a reduction of property valuations; non-conforming uses would be penalized by the imposition of higher assessments.

The Montana Economic Land Development Act will remain in effect in its present form until January 1, 1978. At that time the 1977 amendments will become effective. The concept of using tax incentives and penalties to influence land development is retained but the new law applies only to Class 1 and 2 cities which are zoned. To implement the law in those cities, 15% of the voters must sign an initiative and the question of implementation must be approved through an election by a majority of those voting. The new law will not apply to any land outside the corporate boundaries of Class 1 and 2 cities. The amendments also delete all planning requirements from the law.

As enacted in 1975, the act was to be jointly administered by the departments of community affairs and revenue; however, the 1977 amendments placed administration of the act solely in DCA. DCA is directed to adopt "such rules and regulations...as are necessary for the administration of this act."

## DEPARTMENT OF EDUCATION (DOE)

The administration of Montana's historic preservation program was changed from the department of fish and game to the Montana Historical Society by the 1977 Legislature. The Historical Society is attached to the department of education.

State Antiquities Act (Title 81, Ch. 25) 1973 A

Sites on state land identified by the Historical Society as having historic, archeologic, scientific or cultural value are recommended to the board of land commissioners for preservation. If the board designates the sites, the Society registers them and the board reserves as much land area as it considers necessary for adequate protection of the site. A permit must be obtained from the Society prior to any excavation or restoration of the registered site. The Society may also enter into cooperative agreements with private land owners to preserve identified sites.

## DEPARTMENT OF FISH AND GAME (DF&G)

The department of fish and game (DF&G) directly controls the use of certain lands through its authority to acquire and manage land for game farms, preserves and management area; historic sites and state parks; and fish hatcheries and fishing access sites. It also has the authority to regulate the recreational use of all public fishing reservoirs, public lakes, rivers and streams. By lease or agreement with private landowners or the state or federal government, the DF&G also regulates the recreational use of land areas adjacent to certain public water bodies. Under agreements with the Bureau of Reclamation and the department of natural resources and conservation, the department manages specific land tracts for cabin sites adjacent to Canyon Ferry, Deadman and Painted Rocks reservoirs. The department also indirectly influences land use through its authority to limit the duration, location and amount of the game and fish harvest on private and public lands and waters in the state.

A number of laws provide the department with specific land management authority, including the following.

A. Game Preserves, Migratory Bird Reservations (Title 26, Ch. 11) 1917 A

This chapter authorizes the department to match funds allocated from the federal excise tax on sporting goods established by the federal Pittman-Robertson Act with money from the sale of hunting licenses. The combined funds are used by the department to establish

wildlife management areas through purchase or cooperative agreements with federal, state, or private individuals.

B. Fish Restoration and Management Project (Title 26, Ch. 14) 1951 A

This chapter authorizes the department to match money from the sale of fishing licenses with funds allocated under the federal Dingall-Johnson Act for fish habitat restoration, conservation and management projects and acquisition of land from federal, state, or private individuals for these purposes.

C. Stream Preservation Act (Construction and Hydraulic Projects Affecting Fish and Game) (Title 26, Ch. 15, Sections 1501-5109) 1965 A

Any hydraulic or other project constructed or operated by a state agency or political subdivision that would obstruct, damage, or modify the natural form of any stream must be approved by the department. If any modifications proposed by the department are not considered necessary by the applicant, the district judges of the judicial district or districts in which the project is located appoint an arbitration committee of three people from the county or counties where the project is located to make the final decision on the proposed action. Irrigation projects are exempt from this law.

D. The Natural Streambed and Land Preservation Act of 1975 (Title 26, Ch. 15, Sections 1510-1523) 1975 A

This act provides for notification of the local conservation

district supervisors or, in the absence of a district, the county commissioners, when any individual or corporation plans construction which would modify or alter any perennially flowing stream within their jurisdiction. If the proposed project would alter or modify the stream, the district supervisors or county commissioners must notify the department, which may request an on-site inspection. The final authority for approval, modification or disapproval of the project rests with the conservation district supervisors or county commissioners, but there are provisions for arbitration if any of the parties involved (landowner, supervisors, or the department) are dissatisfied. (See also pages 51 and 56 for further explanation.)

E. Shooting Preserves (Title 26, Ch. 16) 1965 A

Privately owned shooting preserves are regulated by the department through the issuance of operating permits. Such perserves cannot be larger than 1,280 acres, may not be located within ten miles of another preserve, and may be used only for hunting artificially propagated birds.

F. State Parks (Title 62, Ch. 3) 1939 A

Under this act the department may acquire by purchase, lease, gift or condemnation, areas for parks, historical sites, monuments, camping grounds, fishing access and recreation. The department is further authorized to conserve, operate and maintain the areas so acquired.

G. Development of Outdoor Recreational Resources (Title 62 Ch. 4) 1965 A

This act authorizes the department to plan and develop outdoor recreational resources in Montana and designates the department as

the state agency to act for the state in implementing the federal "Land and Water Conservation Fund Act of 1965."

The act further authorizes the department to:

1. prepare a comprehensive state-wide outdoor recreational plan;
2. accept and administer moneys paid by the U.S. secretary of the interior for approved projects;
3. contract with other state agencies, cities, counties and other political subdivisions of the state, private organizations, and agencies of the federal government;
4. acquire, other than by eminent domain, and develop outdoor recreational areas and facilities, and land and waters, and interests in land and waters for such areas and facilities; and
5. co-ordinate its activities with, and represent the interests of, all agencies of state, city, county, and other governmental units with outdoor recreational recreational responsibilities.

H. Motorboat and Vessel Regulations (Title 69, Ch. 35) 1959 A

This act authorizes the department to regulate boating practices on any water body in the state. The department enforces this act through license and boat identification requirements, regulations governing the use of boats, and waste discharge prohibitions.

I. Montana Water Use Act (Title 89, Ch. 9) 1973 A

Under this law the department of fish and game may apply to the department of natural resources and conservation for reservation

of water flows to protect fish and wildlife and public recreational use. A previous law, passed in 1969, allowed the department of fish and game to acquire water rights necessary for the preservation of fish and wildlife habitat on portions of 12 streams. The 1969 law was repealed by the Montana Water Use Act, but the water rights established by the earlier law are considered valid by the department of natural resources and conservation. (See page 57 for a summary of the responsibilities of DNR&C under this act.)

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES (DHES)

The department of health and environmental sciences, under the policy guidance of the board of health and environmental sciences, administers air and water pollution and sanitation laws which have considerable effect on the use of land and water. The various permits granted under this body of law are essential for virtually all residential, commercial, and industrial development.

A. The Montana Solid Waste Management Act (Ti[illegible] 69, Ch. 40, Sections 4001 through 4010) 1965 A

B. Solid Waste Management Act (Title 69, Ch. 40, Sections 4011 through 4020) 1977

This act prohibits disposal of solid or hazardous waste, operation of a solid waste system, or transportation of hazardous waste without a license from the department. The local health officer must also review license applications for conformance with the law and applicable regulations. DHES is empowered to adopt regulations governing the approval, denial or revocation of these licenses. The department is also authorized to establish and operate a state facility to provide for the treatment, storage, and disposal of hazardous wastes.

The 1977 act requires the department to prepare a state solid waste management and resource recovery plan and to draft any rules necessary for implementation of the act and to submit these to the board. The board must adopt a plan and any necessary rules after allowing public review and comment. Local governments are authorized to develop and implement solid waste management systems consistent with the state plan and are provided with various means of financing these systems. The department is also authorized to

provide loans to local governments to aid in implementation of solid waste systems if funding is not available from other sources.

C. Clean Air Act of Montana (Title 69, Ch. 39) 1967 A

The Clean Air Act of Montana provides for the establishment of local air pollution control programs; preparation and development of a comprehensive plan for the prevention, abatement, and control of air pollution by the department; and establishment of ambient air quality standards for the state by the board of health and environmental sciences. The board of health and environmental sciences, under this law and the rules adopted in accordance with it, regulates the construction, installation, alteration, or use of any machine, equipment, device or facility which may directly or indirectly cause or contribute to air pollution or which is intended to prevent or control the emission of air pollution. Application must be made to the department for a permit 180 days prior to the time construction is to begin or 120 days prior to the time of installation, alteration, or use. The basis for permit approval is whether the article, machine, equipment, or other contrivance that produces or reduces contaminants may be expected to operate without emitting contaminants in violation of state air quality standards.

D. Local Boards of Health (Title 69, Ch. 45) 1967

This act provides for city, city-county, county and multi-county district boards of health which function under the general supervision of the department of health and environmental sciences.

(See page 16 under local government.)

E. Water Pollution Control Act (Title 69, Ch. 48) 1967 A

This chapter requires the state board of health and environmental sciences to establish standards for water quality. The act prohibits the contamination or alteration of the physical, chemical or biological properties of any waters in excess of the adopted water quality standards. A permit must be secured from the department before discharging sewage, industrial wastes or other wastes into state waters or constructing disposal systems or outlets for such discharge. The department, in cooperation with the environmental protection agency, administers the federal construction grant program for sewers and sewage treatment authorized under the federal Public Law 92-500.

F. Public Water Supply (Title 69, Ch. 49) 1967 A

Under this chapter the board has general supervision over all state waters which are directly or indirectly being used for a public water supply or domestic purposes. The board establishes drinking water standards applicable to all public water supplies. A public water supply is defined as the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves ten or more families or 25 or more persons for at least 60 days out of the calendar year. The department is responsible for administering the public water supply program which includes, in part, water supply site approval, plans and specifications review, inspections, sampling, water analysis, compliance scheduling and enforcement. The department is empowered to investigate any alleged pollution of a water supply

and may prohibit, through court injunction, the continuance of the pollution by ordering removal of the cause.

G. Tourist Campgrounds and Trailer Courts (Title 69, Ch. 56) 1967 A

Under this law, the department regulates the construction and operation of "tourist campgrounds" (campgrounds and recreational vehicle parks) and "trailer courts" (mobile home parks). The definition of "subdivision" contained in the Sanitation in Subdivision Act provides the department with a second authority for regulation of these activities. The department has adopted detailed regulations under the authority of chapter 56 which provide for inspection and annual licensing and construction requirements covering interior layout, mobile home spacing, street design, fuel supply and storage, fire protection and construction of service buildings. Provisions for water supply and disposal of sewage and solid waste are reviewed under the authority of the Sanitation in Subdivision Act described below.

H. Sanitation in Subdivision Act (Title 69, Ch. 50) 1967 A

This act prohibits the filing of a subdivision plat with a county clerk and recorder, the sale of any lot within a subdivision or the construction of any building or water or sewage system in a subdivision until the department has approved the provisions for water supply and disposal of sewage and solid waste. The law applies to divisions of land for sale, rent or lease which create parcels less than 20 acres in size and to mobile home and recreation vehicle

parks and condominiums. The definition of "subdivision" under this act approximates that in the Subdivision and Platting Act.* Certain divisions of land, such as occasional sales and family conveyances, which are exempt from review and approval under the Subdivision and Platting Act are not exempt from DHES review.

Within areas covered by an adopted master (comprehensive) plan, a final plat may be filed without department approval of sanitary facilities if the governing body certifies that municipal water supply and sewage disposal facilities will be provided. However, the plans for water supply and sewage disposal facilities must be reviewed by the department prior to construction of the systems, under the provisions of the Public Water Supply law (Title 69, Ch. 49) described earlier. Where land is acquired to add to an approved parcel, departmental approval is not required if no dwelling or building requiring water and sewer facilities will be built on the additional land.

The department must delegate to local units of government the authority to review the sanitary facilities for subdivisions with five or fewer lots where the local government has qualified personnel to conduct the review.

The department has adopted administrative rules which establish procedures for the submittal, review and approval of subdivisions and has specified standards for their sanitary facilities. Before approving or disapproving the sanitary facilities for larger subdivisions, the department must prepare an environmental impact state-

(See page 9 .)

ment in accordance with the Montana Environmental Policy Act. If a written complaint of a violation is sent to the department, the law requires the department either to hold a hearing or to take injunctive action against the party in violation.

1. Motor Vehicle Wrecking Facilities (Title 69, Ch. 68) 1973 A

This chapter provides for the licensing and regulation of motor vehicle wrecking facilities. The law also provides that each county must dev lop, or contract for the operation of, a free motor vehicle graveyard. The county must also prepare and submit to the department a plan for the collection of junk vehicles and the operation of the county's motor vehicle graveyard. The law requires that wrecking facilities and junk vehicles be shielded from public view. The type and adequacy of shielding is defined by regulation. When the county has accumulated at least 200 junk vehicles, it notifies the department, which arranges for crushing and recycling the material from the vehicles. Any person can dispose of a junk vehicle by delivering the vehicle to a motor vehicle graveyard and submitting the vehicle title or a written release to the department.

The law also prohibits the placement of junked motor vehicles between the high water channel banks of any stream for bank reinforcement.

## DEPARTMENT OF HIGHWAYS (DOH)

Highway construction affects and encourages various land use activities. The department of highways and the state highway commission also have direct regulatory authority over outdoor advertising and junkyards in proximity to the state's interstate and primary highway systems.

A. Assent to Federal Aid - Highway Commission - Department of Highways - Powers and Duties (Title 32, Ch. 24) 1965 A

This act authorizes the department of highways to plan, construct, improve or repair interstate and state highways and to cooperate and contract with cities and counties to provide assistance in performing these functions on other highways and streets. It also requires the highway commission to designate existing highways as interstate, state, primary and secondary highways, in cooperation with boards of county commissioners or adjoining states where appropriate.

B. Montana Traffic Safety Act of 1975 (Title 32, Ch. 26) A

Under this act not less than .75% of the funds received in any fiscal year by the highway commission or any county or city from the state highway commission earmarked revenue fund is to be expended for the establishment of footpaths and bicycle trails. Such bikeways and walkways must be located along newly created, reconstructed, or relocated state or interstate highways, as well as along streets under state jurisdiction. The department has established construction

standards for paths and trails.

The funds for bicycle and footpaths are allocated according to needs identified through individual city and county planning processes. To date, several communities have utilized a portion of this fund for walkways and bikeways.

C. Acquisition and Disposition of Property by State (Title 32, Ch. 39) 1965 A

This chapter authorizes the department to acquire, by purchase or condemnation, real property for present and future highway purposes. This includes property for maintenance buildings, property containing road building material (rock, sand, and gravel), rights-of-way and rest areas. Eminent domain proceedings may be initiated if the price demanded by the landowner is considered unreasonable. The law allows the department to request eminent domain proceedings by the attorney general or a county attorney; however, the department has its own legal staff and therefore has not found it necessary to request these services.

The owners of irrigated lands rendered unusable or impaired due to highway acquisition must be compensated by the department for a proportionate share of the unpaid construction costs of the irrigation project, in addition to compensation for normal damages. The department must also compensate any affected irrigation district.

D. Control of Access (Title 32, Ch. 43) 1965

Under this act, the highway commission may designate certain interstate or arterial highways as controlled access highways and may restrict or prohibit access as necessary to best serve the traffic

for which the highway was constructed. No commercial enterprise may be constructed or operated on the highway right-of-way.

E. Junkyards Along Roads (Title 32, Ch. 45) 1967 A

This chapter regulates the establishment and operation of junkyards in areas adjacent to interstate and primary highways. The act establishes an annual license and prohibits the licensing of any junkyard within 1,000 feet of a highway unless the junkyard:

1. is screened by natural objects, planting, fences or other means so as not to be visible from the highway;
2. is located in an area zoned for industrial use or an area unzoned but dominated by industrial uses (the latter area is defined according to regulations adopted by the department); or
3. is not visible from the highway.

The department is authorized to fence or screen any affected junkyard which was in existence in 1967. It may also acquire through gift, purchase or condemnation any lands necessary to provide adequate screening or to relocate, remove or dispose of junkyards. The department is also empowered to adopt regulations governing the location, planting, construction and maintenance of screening or fencing, and the materials to be used.

F. Outdoor Advertising Act (Title 32, Ch. 47) 1971 A

This act prohibits the erection or maintenance of outdoor advertising within 660 feet of the right-of-way of an interstate or primary highway, except [illegible].

1. directional and other official signs and notices such as those for scenic and historical attractions;
2. signs, displays or devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property upon which they are located; or
3. signs, displays and devices located in areas zoned for commercial or industrial use or located in unzoned commercial or industrial areas. The latter areas are defined by regulations adopted by the department.

The act also sets out specific standards for the size, location and illumination of outdoor advertising. The department is empowered to acquire by gift, purchase or condemnation existing outdoor advertising not in conformance with the requirements of the act. The act is enforced through a permit system which requires an identification tag for each roadside sign.

## DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNR&C)

The department of natural resources and conservation (DNR&C) administers a large body of law that, directly or indirectly, provides authority for land use management controls at both state and local levels. The authority for the creation or dissolution of the districts which administer a number of these laws rests with the board of natural resources and conservation or the state board of land commissioners. The seven-member board of natural resources and conservation is attached to the department and is authorized to hold hearings, adopt rules and, where required by statute, make major decisions involving actions by the department.

## AGRICULTURAL SPECIAL PURPOSE DISTRICT LAWS

The elected boards of grazing, conservation, irrigation, and conservancy districts may carry out programs for land and water conservation and use within district boundaries.* Each type of district is formed through a different procedure. Formation of a state grazing district requires a public hearing and the approval of the board of natural resources and conservation. Local petition, public notice and hearing, and a favorable referendum must precede formation of a conservation district.

* (See also: Drainage Districts, page 24 and County Water and Sewer Districts, page 23.)

A. Grass Conservation Act (Title 46, Ch. 23) 1939 A

Enacted in response to the federal Taylor Grazing Act, this chapter allows landowners to incorporate and form State Grazing Districts to improve livestock forage conditions. The district may purchase livestock supplies and equipment, acquire agricultural lands, and manage range areas in the district by limiting the use of specific range areas based on their determined carrying capacity, constructing fences or reservoirs, establishing grazing fees, specifying breeding stock, and reseeding range areas.

The department aids in organizing the districts, supervises and coordinates state grazing district operations, and has the authority to remove district directors and dissolve districts.

B. Conservation Districts Law (Title 76, Chs. 1 and 2) 1939 A*

This law provides for the formation of conservation districts, which are authorized to regulate agricultural use of land and water. In order to form a district: (1) at least 10 electors must file with the department a petition to create the district; (2) the board of natural resources and conservation must determine that the area meets necessary requirements; and (3) a referendum must succeed by majority vote. The department acts in an advisory and coordinating role for the districts.

The law provides that the district, through its elected supervisors, may: (1) study soil erosion, flood water and sediment damages, water quality as it pertains to saline seep, and conservation of water; (2) carry out preventative land and water use practices

* (See also, The Natural Streambed and Land Preservation Act of 1975, page 36.)

for the above problem areas; (3) acquire property for these preventative measures; (4) assume responsibility for federally initiated and operated comprehensive projects within district boundaries; and (5) develop comprehensive plans to carry out the above purposes. After approval by a majority of those members of the district who are voting, the district supervisors may adopt agricultural land use regulations based on the comprehensive plan. These regulations may include the construction of water spreaders, terraces and dams; contour and strip cultivation; revegetation programs and the retirement of highly erosive areas from cultivation.

A 1977 amendment directs each conservation district to select at least one off-stream water storage site for the construction of a reservoir. If funding is available, the district must purchase the site. Once the site is designated no state agency or political subdivision of the state may acquire the property for any purpose other than as a reservoir site. Funding for the construction of these reservoirs is to be sought from the renewable resources fund created by the Renewable Resources Development Act of 1975. (See page 61 ).

C. Irrigation District Law (Title 89, Ch. 12) 1907 A

This law allows 60 percent of the landowners within any area to file a petition with the district court and the department for the creation of an irrigation district. The court, after a hearing and consideration of department recommendations, approves or disapproves formation of the district. The requirements of the law vary somewhat depending on patterns of land ownership, water rights, and type of irrigation system.

An irrigation district, through an elected board of irrigation

district commissioners, may (1) appropriate and acquire water and water rights, but not by condemnation, (2) construct or acquire structures to transport, pump, or store water and control its distribution; and (3) purchase or condemn land where waterworks are to be built.

D. Conservancy District Law (Title 89, Ch. 34) 1969 A

This law is similar in many respects to the state's Conservation District Law: both districts have the authority to control and prevent floods, sedimentation and erosion. However, conservancy districts also emphasize recreational opportunities tied to water resources; fish and wildlife habitat; economic growth in the district; and the reclamation of wetlands. Conservancy districts may appropriate water and use eminent domain to acquire land on which to construct waterworks. Conservancy districts might complement conservation districts by coordinating their activities with the control methods used by conservation districts. However, formation of a conservancy district requires an extended procedure and no conservancy districts have yet been formed.

## FORESTRY LAWS

There are a total of seven laws pertaining to forest practices. The department does on-the-ground surveys of state-owned forests regulated under these laws, carries out timber assessment in these forests and enforces forest practices regulations. The forestry laws controlling logging and fire hazard reduction practices apply to both state and private lands. However, the state board of land

commissioners has the ultimate authority to approve or disapprove forest practice regulations on state lands. The five major laws have been summarized below.

A. Forest Conservation and Fire Protection (Title 28, Ch. 1) 1939 A

After determining that a private or state-owned forest area constitutes a fire hazard, the board of natural resources and conservation may hold a hearing in the area, and by majority vote of landowners within the proposed district, establish a fire protection district. The board then adopts necessary regulations and provides for fire protection through arrangements with the landowner and the department, or by contract with such agencies as the U.S. Forest Service. The department of state lands and county commissioners may also indicate areas where fire protection is needed. If an owner of forest land classified as a fire hazard by the board of natural resources and conservation does not agree to provide fire protection, he may be assessed on a per acre basis for protection by the department.

By proclamation and permits, the state forester and firewarden (forestry division of the department) may control access to areas designated as extremely hazardous. The forester may also order cessation of all activities that might contribute to fire hazard.

B. Forest Tree Disease (Title 28, Ch. 2) 1953

Under this law the department may declare any forested area in the state a zone of infestation and, with the cooperation of the

U.S. Forest Service or Bureau of Land Management, eradicate the disease.

C. Disposal of Slashings and Forest Debris (Title 28, Ch. 4) 1927

Any cutting or thinning of timber, or timber stand improvement on private land, must be done in accordance with a fire hazard reduction agreement with the department. This agreement is also required for disposal of forest debris resulting from all right-of-way clearance for projects such as powerlines, pipelines, and roads. The operator is responsible for fire hazard reductions, unless the department agrees to assume this responsibility.

D. State Forests - Timber Sales - Firewardens (Title 81, Ch. 14) 1975 A

The department, under the direction of the board of land commissioners, approves the sales of timber from any state-owned tract. The department appraises timber, determines timber cutting practices including timber scaling and disposal of slash debris.

E. Timber Sales Law (Title 81, Ch. 16) 1897 A

The board of land commissioners may sell timber on state lands and may prescribe rules for forest practices on these lands. For each proposed timber sale area DNR&C requires information concerning proposed cutting areas, their location with respect to water bodies and streams, and a statement of their value for watershed protection. The board of land commissioners also charges a fee on timber cut on state lands for stand improvement.

## WATER MANAGEMENT LAWS

Seven laws provide the department with authority to regulate the use of ground and surface water as well as construction activities adjacent to or within water bodies.

A. The Natural Streambed and Land Preservation Act of 1975 (Title 26, Ch. 15)*

Under the provisions of this act the board of natural resources and conservation adopted rules in July, 1975, setting minimum standards and guidelines for projects affecting any natural, perennial flowing stream within its mean high-water line. By January 1, 1976 conservation district supervisors, grazing districts, or county commissioners were to adopt rules meeting the board's minimum requirements and setting guidelines and standards for their review of projects. "Projects" include any channel changes or diversions, riprap, jetties, new dams and reservoirs or any commercial, industrial, or residential development.

B. Montana Water Resources Act (Title 89, Ch. 1) 1967

Under this act the department, with approval of the board of natural resources and conservation, has the authority to acquire water rights and construct waterworks on both public and private lands. It may acquire land by lease, purchase or condemnation for the construction of reservoirs, pumping stations and distribution

* A further description of this act can also be found on page 36 under the Department of Fish and Game. See also Conservation Districts, page 51.

systems. The department acquires ownership of the unappropriated water so impounded and may distribute and sell this water. The act also requires the department to prepare a comprehensive water resources inventory of the state and from this to formulate and adopt a statewide water plan. The plan will consist of a program for the conservation, development, and utilization of the state's water resources. The water plan for the Flathead River drainage has been adopted. Preparation of the plan for the Yellowstone River basin is in progress.

C. Montana Water Use Act (Title 89, Ch. 8) 1973 A

The department administers the state's water rights permit system, subject to such rules as the board of natural resources and conservation may adopt. The department determines all existing water rights through district court actions, and administers the legal process of decreeing water rights. In this process, the department first determines water rights existing prior to July 1, 1973 and files its information with a district court, which issues water decrees to individuals. The department has recently started this lengthy process and has divided the state into watershed units. Anyone who proposes to impound, divert, or distribute water after July 1, 1973 must first acquire a permit from the department.

State and federal agencies, as well as political subdivisions of the state, may apply to the board of natural resources and conservation to reserve water for existing or future beneficial uses or for maintenance of a minimum flow, level, or quality of water. Before an order reserving water may be adopted, the applicant must establish

to the board's satisfaction:

1. the purpose of the reservation;
2. the need for the reservation;
3. the amount of water necessary for the purpose of the reservation; and
4. that the reservation is in the public interest.

A water reservation, when adopted, becomes a water right. However, if objectives of the reservation are not being met, the board can later modify that water right. In addition, if the use of the reserved water requires diversion or storage, progress must be shown, over time, towards completion of those facilities. Such progress is to follow a previously submitted plan.

In 1974 the legislature enacted a three-year moratorium which suspended action on applications for permits to appropriate surface water or for certain changes of water use in the Yellowstone Basin. Under the moratorium, all large applications (diversions of over 20 cubic feet per second or storage of over 14,000 acre feet) for water use permits in the Yellowstone Basin were suspended until March 10, 1977, and applications for reservations in the basin by federal agencies were excluded until that date. A substantial number of applications, primarily for industrial water use, were suspended. The language of the moratorium emphasizes the need for reserving water in the Yellowstone Basin for the protection of existing and future beneficial water uses; particular emphasis was given to the reservation of water for agricultural and municipal needs, as well as guaranteed minimum flows for the protection of existing rights, future uses, water quality, and aquatic life. Any water reservation approved prior

to approval of the suspended permit applications has preference over those permits. The department was authorized to approve a change of water use to agricultural, irrigation, domestic and municipal uses.

Due to procedural delays for hearings to be held under the Water Use Act, the board was not able to act on the pending applications by the March 10th moratorium expiration. In recognition of this, the 1977 Legislature passed legislation extending the Yellowstone moratorium to allow time for completion of the required hearings. The extension will expire on January 1, 1978, unless the board acts on the requests before that date or the proceedings are delayed by litigation; in the latter case, the moratorium may be extended by court order until January 10, 1979.

The Water Use Act also authorizes the department to stop illegal or wasteful use of water and the board to adopt rules to regulate the construction and use of wells in order to prevent contamination and pollution of groundwater.

D. Appropriation and Regulation of Groundwater (Title 89, Ch. 29) 1961 A

The department, or 25 percent of the groundwater users in any area, may propose to the board of natural resources and conservation the designation or modification of a controlled groundwater use area. An area may be designated if (a) groundwater withdrawals are in excess of acquifer recharge, (b) excessive groundwater withdrawals could occur in the near future, or (c) disputes arise regarding the priority of water rights. If any of these reasons is substantiated, the board will determine existing appropriations in the area and limit new

withdrawals to assure that known recharge limits will not be exceeded. Anyone proposing to withdraw groundwater in a designated area or to increase the withdrawal rate of an existing well must first obtain a permit from the department. The act also provides that wells which produce contaminated water must be capped. At present, only one designated groundwater area has been created under this law (near Terry).

E. Floodway Management and Regulation (Title 89, Ch. 35) 1971 A

The board of natural resources and conservation has the authority to delineate both the 100-year frequency floodway (the channel carrying the largest volume and highest velocity floodwater) and the 100-year frequency floodplain (the total area inundated by water) of every water course in the state and to restrict the uses permitted within the floodplains. Once the board of natural resources and conservation has designated a floodplain, the local governing bodies have six months to adopt land use regulations if the local government does not adopt its own. All non-conforming uses or structures proposed for delineated floodplain areas must receive a permit from the local governing body, or from the department if the local unit fails to act.

If locally adopted land use regulations for the designated area meet board standards, the local governing body may administer the permit system to allow certain activities within the floodplain. Existing or open space uses are allowed without permits in the floodplain area.

F. Renewable Resource Development Act of 1975 (Title 89, Ch. 36) A

This act establishes a renewable resources fund and appropriates to it 2½ percent of those monies collected from the strip coal mines license tax. The board of natural resources and conservation is authorized to make loans from this fund to qualified and competent ranchers and farmers for water conservation or development projects. Eligible projects include the construction or improvement of dams and reservoirs for irrigation, stock watering, domestic use, fish and wildlife, recreation, and sedimentation and erosion control. Surface or groundwater may be developed for the same purposes. The department reviews the application and prepares a recommendation which the board may approve or reject. Periodic field reviews and reports by the department insure compliance with the loan agreement.

The department may also recommend to the Governor that grants or loans from this fund be made to any department or agency of state government or that loans be made to any other political subdivision or local government for purchase, lease or construction of projects for the conservation, management or development of the land, water, fish, wildlife, recreational and other renewable resources of the state. The Governor submits those grant proposals having his approval to the legislature for its final approval.

Note: On August 22, 1977 the Montana supreme court declared those portions of this law described in the first paragraph above "unconstitutional as an unlawful delegation of legislative power." The court held that the legislature failed to give the administering agency adequate standards for determining eligibility for loans.

"In effect, the only limit on the power to loan money for a certain project is the board of natural resources and conservation's subjective determination of whether a project is worthwhile. The parameters which define a project eligible for the loans contemplated by this act must be more clearly defined."

The court upheld those sections of the law (sections 89-3604 and 3605) summarized in the second paragraph above because "strict control is maintained by the legislature over the disbursement of funds from this program in the form of grants or loans."

G. Protection of Lake Areas (Title 89, Ch. 37) 1975

Any proposed construction project which would diminish the course, current, or cross-sectional area of a lake or its lakeshore requires a permit from the local governing body. This includes the construction of ditches, breakwaters, wharves and docks, the dredging of lake bottoms, or the lagooning or filling of lakes. Regulations which set out criteria for issuing permits are to have been adopted by every governing body by January, 1976. These regulations apply to all natural lakes or natural lakes modified to increased size of at least 160 acres in size. The governing body may reduce the minimum lake size to 20 acres.

Thirty percent of any landowners surrounding a lake, or five owners, whichever is less, may petition the department to adopt regulations for their lake area. The department may enforce the regulations until the governing body adopts its own.

The criteria for issuing a permit state that construction projects proposed for lake areas must not:

1. materially diminish water quality;
2. materially diminish habitat for fish or wildlife;
3. interfere with navigation or other lawful recreation;
4. create a public nuisance; or
5. create a visual impact discordant with natural scenic values, as determined by the local governing body, where such values form the predominant landscape elements.

## MISCELLANEOUS LAWS

A. Control of Uranium Solution Extraction (Title 50, Ch. 17) 1975 A

Chapter 17 placed a two-year moratorium, effective April 8, 1975 on the solution extraction of uranium. The basis for this action was the legislative finding that "solution extraction constitutes a technologically feasible method of uranium extraction which threatens Montana's land and water resources to the detriment of existing and projected agricultural, recreational, domestic, and other uses." The department of natural resources and conservation was required to submit recommendations to the Governor and the 1977 Legislature for the control of uranium solution extraction and rehabilitation of lands and water affected by this extraction. The DNR&C report found that there was sufficient existing authority to regulate solution extraction under two statutes administered by the department of health and environmental sciences (the Radiation Control Act and the Water Pollution Act). The report recommended that DHES and the board of health and environmental sciences exercise

their existing rule-making authority to regulate uranium solution mining."

As a result, the 1977 Legislature extended the moratorium until April 1, 1978 or until the board of health and environmental sciences adopts rules regulating solution extraction. DHES is in the process of drafting these rules under the authority of the Water Pollution Control Act. (See page 42.)

B. Conservation of Oil and Gas (Title 60, Ch. 1) 1953 A

The board of oil and gas conservation, which is attached to the department, has the authority to regulate firms operating in oil and gas fields. The board: (1) requires a permit prior to drilling oil and gas wells, (2) regulates the spacing of these wells, (3) establishes technical standards for use of drilling equipment, (4) regulates and sets forth approved methods for disposal of salt water and oil field wastes, and (5) requires that non-producing wells be capped. The department also requires restoration of these areas by the well owner. The department may reclaim land which has been disturbed by abandoned oil and gas wells if ownership cannot be established.

C. Montana Major Facility Siting Act (Title 70, Ch. 8) 1973 A

Before beginning construction of any major facility, the person or firm proposing construction must file an application for a certificate of enrivonmental compatibility and public need with the department. Any major facility that will generate electricity, produce gas, enrich uranium, or use or convert coal of a certain quantity

or volume, or any addition that will cost more than $250,000, is subject to this act. Also included are any electric transmission line of a certain capacity, any energy-related geothermal use, or any pipelines associated with these facilities.

A filing fee, based on a percentage of the total projected facility cost, is required to cover the costs of research and analysis related to the application. The appiciation is also sent to local government officials and planning boards in the potential impact area for their review and recommendations. Depending on the kind of proposed facility, the department then has up to one or two years to complete its studies. A hearing is held by the board 120 days after its receipt of the studies and a decision granting, denying, or modifying the application is made. The board must consider a lengthy list of environmental, social, economic, and technical factors in reaching its decision. If the application is approved, the department monitors the approved facility's activities to assure compliance.

Those firms with existing facilities and those proposing additional construction within ten years must annually submit long-range plans to the department.

This act was amended in 1975 to provide for suspension of board action on applications for a certificate of environmental compatibility for facilities which would cost at least $250,000 and (a) generate at least 50 megawatts of electricity; (b) produce at least 100,000,000 cubic feet of gas daily; or (c) produce at least 50,000 barrels of liquid hydrocarbon products daily. After board action on these facilities, the 1975 amendments mandated the completion of a long-term

comprehensive state energy conservation policy and plan by the Governor's office and its submittal to the 1977 Legislature. The plan, prepared by the Montana Energy Advisory Council, includes proposals for a statewide siting inventory, alternative long-term growth goals, and a coordinated siting policy. The suspension of board action was terminated upon review of the energy policy and siting plan by the 1977 Legislature.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

The board of real estate administers two laws which regulate the interstate sale of subdivided land. The first law controls the sale of land by Montana subdividers to persons outside the state. The second, and more strict, law regulates the sale of subdivided land located outside of the state to persons within the state. Neither law regulates the sale of subdivided land located in Montana to persons within the state.

### A. Sales or Lease of Subdivided Lands (Title 67, Ch. 21, Sections 2101 to 2116) 1963

This act regulates the sale or lease of subdivided Montana land offered outside the state. "Subdivided land," as used in this act, means any tract of land divided into five or more parcels, any of which is less than five acres in size. Before offering any subdivided land for sale or lease, the subdivider must notify the board of real estate in writing of his intent to sell or lease the land and must pay a $100 registration fee. The subdivider is also required to submit certain background information describing the land to be sold, including its ownership; location; the condition of the title to the land and any encumbrances; provisions for access, water, sewage disposal, and public utilities; and copies of the promotional material to be used. The law establishes provisions for the protection of purchasers and lessees which the subdivider must comply with in order to sell or lease the subdivided land. The board of real estate is empowered to investigate any subdivision subject to regulation under the act for conformance with the act and any regulations adopted under

it. The board is authorized to issue cease and desist orders prohibiting the sale of land where the land has been misrepresented or the provisions of the act have not been complied with. Violation of this act is a misdemeanor.

B. Foreign Land Sales Practices Act (Title 67, Ch. 21, Sections 2117 to 2136) 1969

This act prohibits the sale or lease of lands located outside the state of Montana to Montana residents unless the provisions of this act are met. Apparently patterned after the Federal Interstate Land Sales Registration Act, this law is more restrictive than Sections 2101-2116 of Chapter 21. "Subdivided land," as used in this act means any land divided into five or more parcels (regardless of size) offered as part of common plan of advertising or sale. Before offering any subdivided land within Montana the subdivider must file an application for registration with the board. The board is authorized to charge a registration fee of up to $500. The subdivider is required to submit a "public offering statement" which details certain required information regarding the land to be sold. No subdivided land may be sold unless an approved offering statement is provided to the purchaser and he is provided a reasonable amount of time to examine it before purchase.

As in the above law, the board is empowered to investigate any subdivision subject to regulation under this act and to prohibit the sale of land where the land has been misrepresented or the provisions of the act and the board's regulations have not been complied with. Violation of this act is a felony.

## DEPARTMENT OF REVENUE (DOR)

Montana has three major laws which seek to influence land use through taxation. Preservation of open space and natural areas is supported by Montana's conservation easement law. Montana's differential assessment law attempts to preserve agricultural land and discourage premature conversion to alternate uses by taxing agricultural land on the basis of its productivity rather than at a rate equal to market value. The Montana Economic Land Development Act (MELDA) passed in 1975 established a complex system of tax penalties and benefits for a broad range of land use decisions. The law applied to agricultural, recreational, residential, industrial, commercial, and open space land. However, the act was substantially revised and reduced in scope by the 1977 Legislature. As enacted in 1975, the act was to be jointly administered by the department of community affairs and revenue, however, the administration was placed solely in DCA by the 1977 amendments. (See page 32 for a summary of MELDA.)

### A. Open-Space Land and Voluntary Conservation Act (Title 62, Ch. 6) 1975

This act allows the state, local governments, and qualified private organizations to acquire title to, or interest or rights in, real property as a means of preserving open space lands, significant biotic communities, and geologic or geographic formations of scientific, aesthetic, or educational interest. Conservation easements may prohibit or limit structures, landfills, excavation, removal of

vegetation, surface use, subdivision of land or other acts detrimental to conservation. Land subject to an easement can be converted from open-space land uses only if the conversion is: (a) necessary to the public interest; (b) not in conflict with the comprehensive plan for the area; and (c) permitted by the conditions imposed by the conservation easement itself. If the land use is changed other property of equal value and equivalent location and usefulness must be substituted within one year.

Taxes on property subject to an easement must be determined on the basis of the restricted purposes for which the property may be used. The value of the interest acquired by the public body or private organization is exempt from property taxation. Conservation easements may be established in perpetuity or for a term of not less than 15 years. An open space easement in perpetuity is also deductible under federal income tax laws as a charitable constribution, the amount being equal to the fair market value of the easement. The easement runs with the land and will remain in effect through its term even if the property is subsequently sold or reconveyed.*

B. Differential Assessment and Agricultural Land Use (Title 84, Ch. 4, Sections 84.437.1 through 84.437.17) 1973 A

Montana's differential assessment law seeks to influence land use, specifically preservation of agricultural land, by providing

* Further information regarding this act is available in a Department of Fish and Game publication, "Conservation Easements in Montana."

a system whereby taxes on agricultural land cannot reflect speculative values and conversion of agricultural land is penalized through roll-back taxes. The law sets out criteria for land which qualifies for differential assessment and establishes a four-year roll-back tax, which is determined by subtracting actual taxes assessed from taxes that would have been assessed at undeveloped market values.**

** An analysis of the law is provided in the Department of Community Affairs publication, Differential Taxation and Agricultural Land published in October, 1975.

## DEPARTMENT OF STATE LANDS (DSL)

The department of state lands has administrative responsibilities which affect land use and management under two major titlesof Montana law, Title 50 and Title 81.* Title 50 contains the state mining laws and Title 81 the laws that establish the administrative structure, authority, and management controls for state-owned lands. The department and the board of land commissioners also provide some policy direction to the forestry division of the department of natural resources in its administration of state-owned forest lands.

### MINING LAWS - TITLE 50

A. The Montana Strip and Underground Mine and Reclamation Act (Title 50, Ch. 10) 1973

B. The Strip and Underground Mine Siting Act (Title 50, Ch. 16) 1974

Together these two major laws authorize the State of Montana to regulate strip and underground coal and uranium mining ity. The Strip and Underground Mine and Reclamation Act primarily addresses prospecting and mining activities. The Strip and Underground Mine Siting Act concerns siting of new mines and preparation of sites for mining. These laws provide that prospecting, mining, and mine site location permits may be denied if any of the following circumstances prevails:

*In addition, Title 67 has some general language that provides for state ownership of property that no one else owns, and 81-601 (amended, 1977) allows for building of wharves and docks upon "lands under water" belonging to the state. See also pages 53-55, forestry laws

1. The requirements of the law or rules will not be observed or the method of operation and reclamation cannot be carried out consistent with the purposes of the law;
2. The land to be affected has special, exceptional, critical or unique characteristics, or the proposed activity will adversely affect neighboring land with such qualities. Factors that would qualify an area as special, exceptional, critical, or unique include the area's biological productivity, ecological fragility, ecological importance, or scenic, historic, archeologic, topographic, geologic, ethnologic, scientific, cultural or recreational significance;
3. Substantial deposition of sediment in streambeds, subsidence, landslides, or water pollution cannot be prevented; or
4. The operation would constitute a hazard to urban developments, roads, streams, lakes, or other public property.

Prospecting permits are required under the Strip and Underground Mine Reclamation Act for prospecting activity on all lands that are not included in a valid strip or underground mining permit. Before the department of state lands gives final approval to the prospecting permit application, the applicant must file a reclamation and revegetation bond with the department. Reclamation of the land affected by prospecting may be postponed if the area is to be mined and would be incorporated into an overall mine reclamation plan.

The Strip and Underground Mine Siting Act requires a potential mine developer to obtain a new mine site location permit before beginning any preparatory work. Preparatory work is defined as all on-site disturbances, excluding prospecting, associated with the initiation of a new strip or underground mine. This includes but is not limited to the construction of railroad spurs and loops, buildings to house mining operations, roads, storage and train load-out facilities, transmission lines, erection of draglines and loading shovels and other associated facilities. In essence, the department of state lands under this chapter must determine if the proposed new mine site is located in an area which has critical or unique qualities before mine preparatory work may begin.

A mine operation permit must be secured under the Strip and Underground Mine Reclamation Act, after the previously discussed procedures have been followed and before actual mining may be initiated. The reclamation plans of the operator must be approved by the department and a reclamation bond be posted. Reclamation is defined to include backfilling, subsidence stabilization, water control, grading, topsoiling, planting, revegetation and other work to restore an affected area.

C. Reclamation of Mining Lands, New Hard Rock Law (Title 50, Ch. 12) 1971 A

Under the authority of the New Hard Rock Law, the board of land commissioners regulates the exploration, development, and operation of mines for any ore, rocks, or substance, other than oil, gas, bentonite, clay, sand, gravel, phosphate rock or uranium. The law requires that a person must obtain an exploration license from the

board before engaging in mine exploration. Prior to issuance of a license, the applicant must agree to reclaim any surface damage as a result of exploration and file a reclamation and revegetation bond with the department.

To develop and operate a mine, a permit must be obtained from the board. The board must act on the permit application within 60 days unless the department determines that additional time is necessary to inspect the site or to review the application and reclamation plan. The board and the applicant may negotiate to extend the review period up to 365 days. Failure of the board to act on a permit application within the required or extended period constitutes approval. The board may deny the permit if (1) the plan for development, mining or reclamation conflicts with the state air and water purfication standards, or (2) the reclamation plan does not provide an acceptable method for accomplishing reclamation as required by the act. A reclamation bond is required. If the land is not reclaimed by the operator, the board may provide for its reclamation and hold the operator liable for all costs.

Small miners are exempt from the law if they agree in writing, annually, that no stream will be polluted or contaminated, that human and animal life will be protected, and that no more than five acres will be disturbed and not reclaimed. A 1977 amendment defines a small miner as a mining operation which does not remove over 36,500 tons per year.

D. Strip Mine Coal Conservation Act (Title 50, Ch. 14) 1973 A

It is the declared purpose of this act to provide "for the orderly development of coal resources through strip-mining to assure

the wise use and to prevent the waste of coal."

No operator may engage in strip-mining without first obtaining approval of a strip-mining plan from the department. The department reviews the plan to determine whether waste will occur and must approve or disapprove the plan within six months of its receipt from the operator. If the plan is disapproved the department must recommend the means to bring the plan into conformance with the act. Any plan which has not been approved or disapproved by the department within the six months is deemed approved. If the plan is disapproved, the operator may appeal to the board of land commissioners. Approved plans are effective for five years from the date the plan is approved. The operator must make annual reports to the department indicating whether any waste has occurred in the past year or is expected to occur in the forthcoming year.

The board of land commissioners is also authorized to adopt rules to prevent the waste of coal resulting from strip-mining operations.

E. The Open Cut Mining Act (Title 50, Ch. 15) 1973 A

The Open Cut Mining Act regulates the reclamation and conservation of land subject to bentonite, clay, scoria, phosphate rock, sand or gravel mining. If more than 10,000 yards of material is to be removed by open cut mining, the operator must enter into a contract with the board of land commissioners for reclamation.

The act sets out several criteria which must be met before the board may approve the reclamation plan. The reclamation plan must provide for:

1. Reclamation of the land for one or more specific uses;
2. Revegetation commensurate with the proposed land use;
3. Construction of earth dams or other devices to control water drainage where there is acid drainage or sedimentation in adjoining lakes or streams, provided the controls will not contribute to water pollution or interfere with other landowners' rights;
4. Practical utilization of soil materials;
5. Removal or burial of soil materials;
6. Locating and construction roads in such a way as to control and minimize channeling and other erosion;
7. Conducting operations in such a way as to avoid fire;
8. Protection of archeological and historical values;
9. Revegetation when use for extractive purposes is no longer required;
10. Reclamation concurrent with mining operation where feasible.

The law requires a performance bond and grants the board the power to reclaim lands. The state, counties, cities, and towns are exempted from any fees or bonds under this act. This chapter may not apply to certain federal lands, as specified by the board, if the board determines that the federal law imposes controls equal to or greater than this law.

## STATE-OWNED LANDS - TITLE 81

The state board of land commissioners and the department of state lands manage state-owned lands in Montana under the authority of

approximately twenty chapters of Title 81. The majority of this body of law deals with methods for sale and leasing of lands, investment of funds, and resource development and management. The administrative specifics of the law are included in this review only as necessary for general understanding.

A. General Provisions (Title 81, Ch. 1) 1927 A

The board of land commissioners is given general authority and control over the care, management and disposition of state lands. In excercising this authority, the guiding rule and principle is that:

> these lands and funds are held in trust for the support of education, and for the attainment of other worthy objects helpful to the well-being of the people of this state; and the Board shall administer this trust to secure the largest measure of legitimate and reasonable advantage to the state.

The board is required to manage these lands under the multiple-use management concept defined by the act.

The department of state lands, under the direction of the board of land commissioners, has charge of the selection, exchange, classification, appraisal, leasing, management, sale, or other disposition of state-owned lands.

B. Selection-Classification, Appraisal and Exchange of Lands (Title 81, Ch. 3) 1927

Chapter 3 sets out classifications for state lands: (1) grazing; (2) timber productions or watershed protection; (3) crop production; and (4) other uses. When land is classified or reclassified a capability inventory is required which includes information on soil capability, vegetation, wildlife, minerals, public use, aesthetic

values, cultural values, surrounding land use and other resources, and zoning or planning information. Should a parcel of state land in one class have other multiple-uses or resource values which do not sufficiently warrant separate classification, the land must nonetheless be managed, as far as possible, to maintain or enhance those multiple-uses.

C. Leasing of Agricultural Lands - Grazing Land and City and Town Lots (Title 81, Ch. 4) 1927 A

Chapter 4 establishes procedures for the appraisal and leasing of state lands for agricultural and urban land uses. Any person who is 18 years old or the head of a household may lease state lands. A person, association, company or corporation may hold more than one lease, and one lease may cover more than one section of land. Generally, agricultural leases must be for either a five or ten year period and leases on city or town lots may not exceed 25 years; however, a 1977 amendment provides that from 1979-1983 the department may issue 4, 5, or 6 year leases in order to achieve uniformity in the number of lease renewals each year. Gross violation of good agricultural or range management practices may be cause for cancellation of a lease.

D. Coal Mining Leases and Permits (Title 81, Ch. 5) 1927

Chapter 5 allows the leasing of state lands for coal mining, subject to the condition that coal must be mined in such a way as to prevent waste and in an systematic manner that will not make subsequent mining operations more difficult or expensive. Leases are awarded by a competitive bid system and are issued for a primary term of ten years and after that, as long as coal is produced in commercial quantities.

E. Prospecting Permits and Mining Leases (Title 81, Ch. 6) 1937

A prospecting permit for metalliferous minerals and gems may be issued by the board without lease, however, a lease is required for the mining of such materials on state lands. A person holding a prospecting permit has a preferential right to a lease on the land area covered by the permit, upon such terms as the board determines to be just. Lease lands may include the beds of navigable streams and bodies of water.

F. Leases and Permits for Deposits for Stone, Gravel, Sand and Other Material (Title 81, Ch. 7) 1927

The board may lease lands for the removal of materials noted in the title to private persons or for public purposes.

G. Granting of Easements for Public Purposes (Title 81, Ch. 8) 1927

This act authorizes the board of land commissioners to grant easements across state lands for any public highway or street, for any ditch, reservoir, railroad, private road, telegraph or telephone line, or for any other public use, including school sites, public parks, community buildings and cemeteries.

The act also grants easements to the United States Government over all state lands for ditches, canals, tunnels, telephone, telegraph and electric power lines, flood control, river regulation, conservation of water, and transmission and distribution of electricity. The board may also sell land to the United States for such purposes.

H. Sales of State Lands (Title 81, Ch. 9) 1927 A

Timberlands and lands likely to contain coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals may not be sold. All state lands within the limits of any town or city or within three miles of such limits must be subdivided into tracts of not more than five acres before being offered for sale. Any citizen, 18 years of age may purchase state lands; however, no person or corporation may purchase more than one section and this area shall not include more than 160 acres of land suitable for irrigation.

I. Oil and Gas on State Lands - Disposal of Oil and Gas Leases Issued by the State Board (Title 81, Ch. 17) 1955

Chapter 17 provides for oil and gas lease procedures and requires that all state oil and gas leases be granted for a period of ten years.

J. Hydroelectric Power Sites on State Lands (Title 81, Ch. 18) 1931

State lands containing power sites or portions of power sites capable of developing hydroelectric energy in commercial quantities may be leased by the board but not sold.

K. Certain Stream and Lake Beds and Island Property of State (Title 81, Ch. 23) 1937

This act declares as property of the state the abandoned bed of any navigable stream or lake, those lands lying between meandered lines of a navigable stream or lake and all islands existing in navigable streams which have not been surveyed by the U.S. government.

Chapter 23 authorizes the board to sell or lease these lands in the same manner as other state lands. (Section 67-302, R.C.M. 1947 establishes the state as the owner of all land below the water of a navigable lake or stream; of all property lawfully appropriated by the state; of all property dedicated or granted to the state, and all property of which there is no other owner.)

L. Development of State Land Resources (Title 81, Ch1 24) 1967

This statute creates a resource development account to be used to develop and conserve the various state land resources, including water (both surface and underground), grazing land, agricultural land, and timberland. The law restates the general purpose of state lands: "it is in the best interest and to the great advantage of the State of Montana to seek the highest development of state-owned lands in order that they may be placed to their highest and best use and derive greater revenue for the support of schools."

M. Lease of Geothermal Resources (Title 81, Ch. 26) 1974

The board may lease state-owned lands for prospecting, exploration, well construction, and the production of geothermal resources with a primary term of ten years or as long as production in paying quantities continues.

N. Montana Natural Areas Act of 1974 (Title 81, Ch. 27)

A natural area is one with (1) an outstanding mixture or variety of vegetation, wildlife, water resources, landscape and scenic values, or (2) an important or rare ecological or geological feature or other

rare or significant natural features worthy of preservation for scientific, educational or ecological purposes. Such an area may be designated by the board or the legislature on existing state-owned lands or lands acquired by purchase, gift, or trade. Once the area is established, the board shll develop regulations which will preserve the natural ecosystem in perpetuity.

## OTHER LAWS

Saline Seep Control Program (Chapter 100, L.1975*)

The 1975 Legislature passed a law to establish a temporary saline seep program. The law requires the department to develop and implement a program for the control of saline seep, and to conduct necessary research, education, and other activities:

1. to implement necessary agricultural practices and technology which will prevent or correct saline-alkali damage;
2. to appraise and monitor the extent, nature and magnitude of saline-alkali damage;
3. to develop vegetation species useful for the reduction or correction of saline-alkali damage; and
4. to develop technology useful in the detection of saline-alkali damage.

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* This law is not included in the Revised Codes of Montana, 1947. Refer to the session laws.

## OFFICE OF PUBLIC INSTRUCTION (OPI)

School Districts, Trustees and Officers; School Sites (Title 75, Chs. 59 and 82) 1971

Under the school law recodification of 1971, school districts established prior to January 26, 1971 are recognized as the districts of the state, subject to subsequent modification as provided by Title 75. Depending on the classification of the district, based on its population, the electors in each school district elect 3, 5, or 7 trustees for that district. The trustees have the power and the duty to prescribe and enforce policies for the government of the district, including the policies required by Title 75, those of the board of education, and the rules and regulations of the superintendent of public instruction. Among their duties, the trustees are to "hold in trust, acquire and dispose of the real and personal property of the district." The selection of sites for school buildings or other school purposes must be approved by the electors of the district or be identified in a bond or levy election, except for property contiguous to an existing school site. Sites and facilities must conform to regulations of the state board of health; school construction plans must be approved by the department of administration.

In accordance with the provisions of Title 75, school district trustees also participate in district boundary change actions and establish, maintain, budget and finance the transportation program of the district.

## AMENDMENT INDEX

The 1977 Legislature amended, repealed, or enacted the following acts; these changes may not be reflected in the text of this publication:

| NAME OF ACT | TITLE AND CHAPTER R.C.M., 1947 | 1977 BILL NUMBER | 1977 SESSION LAWS CHAPTER |
|---|---|---|---|
| State Aeronautical Regulatory Act | 1-3 | HB373 | 210 |
| State Aeronautical Regulatory Act | 1-4 | SB10 | 232 |
| State Aeronautical Regulatory Act | 1-5 | SB10, SB40 | 232, 234 |
| Airport Zoning Act | 1-7 | SB10, SB198 | 232, 551 |
| Municipal Airports Act | 1-8 | SB10 | 232 |
| Municipal and Regional Airport Authorities | 1-9 | SB10 | 232 |
| Cemetery District | 9-2 | SB64 | 74 |
| Planned Community Development Act of 1973 | 11-5 | SB113, HB323 | 81, 131 |
| Vacation and Abandonment of Streets, Parks & Townsite | 11-28 | SB23 | 72 |
| Subdivision and Platting Act | 11-38 | SB224, SB225, SB227 | 552, 553, 555 |
| Urban Renewal Law | 11-39 | HB36, HB595, HB70 | 38, 532, 566 |
| County Water & Sewer Districts | 16-45 | HB677 | 296 |
| County Parks | 16-48 | HB36 | 38 |
| Game Preserves, Migratory Bird Reservations | 26-11 | HB44, HB791 | 9, 417 |
| Fish Restoration and Management Projects | 26-14 | HB791 | 417 |
| Stream Preservation Act; The Natural Streambed and Land Preservation Act | 26-15 | HB791, HB719, SB2 | 417, 453, 140 |

| NAME OF ACT | TITLE AND CHAPTER R.C.M., 1947 | 1977 BILL NUMBER | 1977 SESSION LAWS CHAPTER |
|---|---|---|---|
| Shooting Preserves | 26-16 | HB791 | 417 |
| Forest Conservation & Fire Protection | 28-1 | HB203, HB68 | 110, 397 |
| Assent to Federal - Highway Commission - Department of Highways - Powers and Duties | 32-24 | SB420, HB769 | 283, 390 |
| Montana Traffic Safety Act of 1975 | 32-26 | SB98, SB103, HB365 | 78, 79, 372, 382 |
| Acquisition and Disposition of Property by State | 32-29 | SB94 | 143 |
| Junkyards Along Road | 32-45 | HB437 | 252 |
| Outdoor Advertising Act | 32-47 | SB2, SB40 | 140, 234 |
| Grass Conservation Act | 46-23 | HB452 | 22 |
| Montana Strip and Underground Mine and Reclamation Act | 50-10 | HB558 | 39, 352 |
| Reclamation of Mining Lands New Hard Rock Law | 50-12 | HB197 | 427 |
| The Open Cut Mining Act | 50-15 | HB40 | 39 |
| Control of Uranium Solution Extraction | 50-17 | SB268 | 543 |
| Conservation of Oil and Gas | 60-1 | HB540, HB516, SB111 | 178, 254, 336 |
| State Parks | 62-3 | HB16, HB644, HB791 | 2, 415, 417 |
| Building & Mobile Home Construction Standards | 69-21 | HB430, SB29, SB401 | 173, 187, 504 |
| Motorboard and Vessel Regulations | 69-35 | SB16, HB791, HB70 | 124, 417, 566 |

| NAME OF ACT | TITLE AND CHAPTER R.C.M., 19 | 1977 BILL NUMBER | 1977 SESSION LAWS CHAPTER |
|---|---|---|---|
| Clean Air Act of Montana | 69-39 | SB2, SB393, HB70 | 140, 308, 566 |
| Solid Waste Management Act | 69-40 | SB175, SB200 | 542, 575 |
| Local Boards of Health | 69-45 | SB29 | 187 |
| Water Pollution Control Act | 69-48 | SB2, SB393, HB585 | 140, 308, 444 |
| Public Water Supply | 69-49 | SB269 | 556 |
| Sanitation in Subdivision | 69-50 | SB2, SB226, SB310 | 140, 554, 557 |
| Tourist Campgrounds and Trailer Courts | 69-56 | SB2 | 140 |
| Motor Vehicle Wrecking Facilities | 69-68 | SB2, HB308, HB437 | 140, 251, 252 |
| Montana Major Facility Siting Act | 70-8 | HB542, HB151 | 179, 401 |
| School District Trustees and Officers | 75-59 | SB40, SB17 | 234, 266 |
| Community College | 75-81 | HB121, SB17 | 121, 266 |
| Conservation Districts | 76-1&2 | SB35, SB209, HB810 | 18, 395, 418 |
| State-Owned Lands - General Provisions | 81-1 | SB262 | 203 |
| Leasing of Agricultural Lands - Grazing Land & City and Town Lots | 81-4 | SB261, HB256, HB494 | 304, 311, 410 |
| Sales of State Lands | 81-9 | HB494 | 410 |
| State Forests - Timber Sales - Firewardens | 81-14 | SB128, HB68 | 301, 397 |
| Timber Sales Law | 81-16 | SB135 | 464 |

| NAME OF ACT | TITLE AND CHAPTER R.C.M., 1947 | 1977 BILL NUMBER | 1977 SESSION LAWS CHAPTER |
|---|---|---|---|
| State Antiquities Act | 81-25 | SB3, HB493 | 3, 440 |
| Planning & Economic Development Act | 82-37 | SB44 | 540 |
| Differential Assessment & Agricultural Land Use | 84-4 | HB20 | 126 |
| Montana Economic Land Development Act | 84-75 | HB70, HB630 | 566, 582 |
| Montana Water Resources Act | 89-1 | SB43, SB26 | 73, 460 |
| Montana Water Use Act Water Rights - Appropriation - Adjudication | 89-3 | HB310, HB451, SB316, HB664, SB26 | 26, 117, 307, 416, 460 |
| Montana Water Use Act | 89-9 | HB664, SB26 | 416, 460 |
| Irrigation District Law | 89-12 | SB26 | 460 |
| Drainage District Law | 89-22 to 28 | SB403, SB26 | 342, 460 |
| Appropriation and Regulation of Groundwater | 89-29 | SB26 | 460 |
| Conservancy District Law | 89-34 | HB791, SB26, HB70 | 417, 460, 566 |
| Floodway Management & Regulation | 89-35 | SB42, HB759 | 73, 262 |
| Renewable Resource Development Act of 1975 | 89-36 | SB298, SB44 | 323, 540 |

## SUBJECT INDEX


ACCESS, EASEMENT, AND RIGHT-OF-WAY.....4, 17, 25 - 26, 31, 35, 37, 47 - 48, 54 - 55, 67, 69 - 70, 80

ADVERTISING.....46, 48 - 49, 67 - 68

AGRICULTURAL LANDS.....9 - 10, 13, 18 - 19, 23 - 26, 28 - 29, 33, 50 - 53, 63, 69 - 71, 78 - 79, 82, 84

AIRPORTS.....4 - 6, 17 - 18, 20 - 21, 30 - 31

AIR QUALITY.....16, 40 - 41, 75

ANNEXATION.....5 - 6

ARCHEOLOGICAL, HISTORICAL AND OTHER UNIQUE SITES.....34 - 35, 37, 49, 69, 73 - 74, 77 - 79, 82 - 83

BIKEWAYS.....46 - 47

BUILDING CODES, STANDARDS.....4 - 6, 14 - 15

COAL.....31 - 32, 61, 64 - 65, 72 - 76, 79 - 80

COMMUNITY DEVELOPMENT.....4, 6, 8, 11 - 13, 31 - 33

CONSERVATION (NATURAL RESOURCES).....13, 18, 36 - 38, 50 - 52, 61, 64, 68 70, 76, 82, 84
(See also WATER CONSERVATION)

DISTRICTS.....1, 7, 12 - 14, 16 - 26, 31, 36 - 37, 41, 47, 50 - 54, 56 - 57, 85

EMINENT DOMAIN AND CONDEMNATION.....12, 17 - 21, 23, 31, 38, 47 - 49, 53, 56

ENERGY.....63 - 66, 74, 80 - 82

ENVIRONMENTAL ASSESSMENTS.....10, 44 - 45, 64 - 65, 72 - 73

FACILITIES.....4 - 6, 8, 10 - 11, 14 - 25, 30, 38, 40 - 41, 44 - 45, 47, 56, 58, 64 - 65, 67, 74, 80, 85

FIRE HAZARD OR PROTECTION.....18 - 19, 28, 43, 53 - 55, 77

FISH AND WILDLIFE.....16, 23, 35 - 39, 53, 58, 61, 63, 78

FLOOD

CONTROL AND PREVENTION.....5, 16, 18, 23 - 25, 51 - 53, 80

FLOODPLAINS.....10, 60

FOREST AND FORESTRY MANAGEMENT.....9, 13, 53 - 55, 72, 78, 82

GEOTHERMAL RESOURCES.....65, 82

GROUNDWATER USE AREA.....59 - 60

HEALTH OR SAFETY.....4 - 5, 10, 15 - 17, 22, 31, 40 - 45, 85

HIGHWAYS.....5, 22, 26, 46 - 69, 80

HOUSING.....11, 17, 19, 22 - 23

IRRIGATION.....16, 19, 23, 36, 47, 50, 52 - 53, 58 - 59
61, 81

LICENSES (See PERMITS AND LICENSES)

LOCAL GOVERNMENT.....1, 4 - 26, 28 - 33, 36 - 38, 40 - 41,
43 - 47, 50 - 54, 56 - 57, 60 - 63,
65, 69, 77, 85

MINING.....9, 13, 31, 72 - 77, 79 - 80

MOBILE AND MODULAR HOMES.....9, 14 - 15, 43 - 44

MOTORBOAT REGULATIONS.....38

NATURAL AREAS.....82 - 83

OIL AND GAS.....64, 74, 80 - 81

OPEN SPACE.....14, 33, 60, 69 - 70

PARKS AND RECREATION.....5, 7 - 10, 14 - 15, 18, 23, 32 - 33, 35,
37 - 39, 43 - 44, 53, 61, 63, 69, 73, 80

PERMITS AND LICENSES..... 13, 28, 34 - 36, 40 - 45, 48 - 49, 54,
57 - 62, 64, 72 - 75, 79 - 80

PLANS.....4, 6 - 9, 11 - 15, 21, 24, 30 - 33,
37 - 38, 40 - 42, 44 - 47, 52, 57 - 58,
66, 70, 73, 75 - 77, 79, 85

PLANNING BOARDS.....[illegible]

RECLAMATION AND RESTORATION.....16, 53, 63 - 64, 72 - 77, 84

REGULATIONS.....4 - 10, 13 16, 18 - 21, 25, 30, 33, 35, 38, 40 - 41, 43 - 45, 48 - 60, 62, 64, 67, 72 - 76, 83, 85

RESERVOIRS AND DAMS.....23, 35, 51 - 52, 56, 61, 77, 80

RESOURCE RECOVERY.....40, 45

SALINE SEEP.....51, 84

SAND AND GRAVEL.....47, 74, 76, 80

SEDIMENTATION AND EROSION.....51 - 53, 61, 73, 77

SEWAGE DISPOSAL.....11, 16, 18, 20, 23, 42 - 44, 67

SOLID WASTE DISPOSAL.....16, 18 - 19, 38, 40 - 41, 43, 45, 48, 77

STATE BOARDS AND DEPARTMENTS.....1, 5, 10, 15 - 16, 18 - 22, 25 - 26, 28 - 85

STATE-OWNED LANDS.....30 - 31, 34, 47, 53 - 55, 72, 77 - 83

STREETS AND ROADS.....5, 7, 10, 16 - 17, 26, 43, 46, 48, 55, 73 - 74, 77, 80

SUBDIVISION.....4 - 5, 8 - 10, 11, 15, 30, 43 - 45, 67 - 68, 70, 81

TRAILER COURTS.....9 - 10, 43

TRAFFIC AND TRANSPORTATION.....4, 10, 18 - 19, 21 - 22, 47, 85

URANIUM.....63 - 64, 72, 74

URBAN RENEWAL.....5, 11 - 12, 22

WATER

CONSERVATION.....5, 16, 23 - 25, 51 - 52, 57 - 59, 61, 80, 82

DRAINAGE.....4, 10, 16, 19, 23 - 25, 77

QUALITY.....16, 23, 36 - 40, 42 - 45, 51 - 53, 56 - 60 62 - 64, 73 - 75, 77

RIGHTS.....23, 38 - 39, 52 - 53, 56, 77

SUPPLY AND USE.....11, 16, 18, 20, 23 - 25, 35 - 39, 42 - 44, 51 - 53, 56 - 63, 67

WATERSHED PROTECTION.....55, 57, 78

WATERWAY MODIFICATION.....16 - 20, 36 - 37, 42, 45, 50 - 53, 56 - 63, 73, 77, 80, 82 - 83

ZONING.....4 - 8, 12 - 15, 32 - 33, 48 - 49, 54, 79

## LAND USE LAWS BY YEAR OF ENACTMENT

The 95 laws summarized in the publication "Land Use Planning and Management in Montana" are listed below according to the year in which the law was enacted.

| | |
|---|---|
| 1887 | Vacation and Abandonment of Streets, Parks and Townsites |
| 1897 | Timber Sales Law |
| 1905 | Drainage Districts |
| 1907 | Irrigation Districts |
| 1911 | Orchards -- Vegetable Plant Disease Control -- Quarantine |
| 1917 | Game Preserves, Migratory Bird Reservations |
| 1921 | Horticulture -- Control of Fruit Pests and Diseases |
| 1921 | Nurseries and Nurserymen -- License and Regulations |
| 1927 | Disposal of Slashings and Forest Debris |
| 1927 | General Provisions (State Owned Lands) |
| 1927 | Selection -- Classification, Appraisal Land -- Exchange of Lands |
| 1927 | Leasing of Agricultural Lands -- Grazing Land and City and Town Lots |
| 1927 | Coal Mining Leases and Permits |
| 1927 | Leases and Permits for Deposits for Stone, Gravel, Sand and Other Material |
| 1927 | Granting of Easements for Public Purpose |
| 1927 | Sale of State Lands |
| 1929 | Municipal Airports Act |
| 1929 | Municipal Zoning Statute |
| 1931 | Hydroelectric Power Sites on State Lands |
| 1935 | (City) Housing Authorities |
| 1937 | Certain Stream and Lake Beds and Island Property of the State |
| 1937 | Prospecting Permits and Mining Leases |
| 1939 | Airport Zoning Act |
| 1939 | Weed Control Districts |
| 1939 | State Parks |
| 1939 | Grass Conservation Act (State Grazing Districts) |
| 1939 | Conservation Districts Law |
| 1939 | Forest Conservation and Fire Prevention |
| 1941 | (County) Housing Authorities |
| 1945 | State Aeronautical Regulatory Act |

| | |
|---|---|
| 1951 | Fish Restoration and Management Projects |
| 1953 | County Planning and Zoning Districts |
| 1953 | Conservation of Gas and Oil |
| 1953 | Forest Tree Disease |
| 1953 | Mosquito Abatement Districts |
| 1955 | Oil and Gas on State Lands -- Disposal of Oil and Gas Leases Issued by the State Board |
| 1957 | City and County Planning Enabling Act |
| 1957 | County Water and/or Sewer Districts |
| 1959 | Urban Renewal Law |
| 1959 | Motorboat and Vessel Regulations |
| 1961 | Appropriation and Regulation of Groundwater |
| 1963 | County Zoning |
| 1963 | Sales or Lease of Subdivided Lands |
| 1965 | Development of Outdoor Resources |
| 1965 | The Montana Solid Waste Management Act |
| 1965 | Flood Control and Water Conservation Projects |
| 1965 | Shooting Preserves |
| 1965 | Stream Preservation Act |
| 1965 | Assent to Federal Aid -- Highway Commission -- Department of Highways -- Powers and Duties |
| 1965 | Acquisition and Disposal of Property by State |
| 1965 | Control of Access |
| 1967 | County Parks |
| 1967 | Local Boards of Health |
| 1967 | Planning and Economic Development |
| 1967 | Clean Air Act of Montana |
| 1967 | Water Pollution Control Act |
| 1967 | Public Water Supply |
| 1967 | Tourist Campgrounds and Trailer Courts |
| 1967 | Sanitation in Subdivision |
| 1967 | Junkyards Along Roads |
| 1967 | Montana Water Resources Act |
| 1967 | Development of State Land Resources |
| 1969 | Building and Mobile Home Construction Standards |
| 1969 | Conservancy District Law |
| 1969 | Foreign Land Sales Practices Act |
| 1971 | Municipal and Regional Airport Authorities |
| 1971 | Outdoor Advertising Act |
| 1971 | Floodway Management and Regulation |
| 1971 | Reclamation of Mining Lands, New Hardrock Law |
| 1973 | Planned Community Development Act of 1973 |
| 1973 | Subdivision and Platting Act |
| 1973 | State Antiquities Act |
| 1973 | Montana Water Use Act |
| 1973 | Motor Vehicles Wrecking Facilities |
| 1973 | Montana Major Facility Siting Act |
| 1973 | Differential Assessment and Agricultural Land Use |

| | |
|---|---|
| 1973 | The Montana Strip and Underground Mine and Reclamation Act |
| 1973 | Strip Mine -- Coal Conservation Act |
| 1973 | The Open Cut Mining Act |
| 1974 | The Strip and Underground Mine Siting Act |
| 1974 | Lease and Development of Geothermal Resources |
| 1974 | Montana Natural Areas Act of 1974 |
| 1975 | Cropland Spraying Program |
| 1975 | Urban Transportation Districts |
| 1975 | Impact from Coal Development |
| 1975 | The Montana Economic Land Development Act |
| 1975 | The Natural Streambed and Land Preservation Act of 1975 |
| 1975 | Montana Traffic Safety Act of 1975 |
| 1975 | State Forests -- Timber Sales -- Firewardens |
| 1975 | Renewable Resource Development Act of 1975 |
| 1975 | Protection of Lake Areas |
| 1975 | Control of Uranium Solution Extraction |
| 1975 | Open Space Land and Voluntary Conservation Act |
| 1975 | Saline Seep Control Program |
| 1977 | Solid Waste Management Act |