

# PLANNING FOR PEOPLE AND WILDLIFE



A Workbook for Montana's Citizens and Local Officials



Shaping the Future of the West



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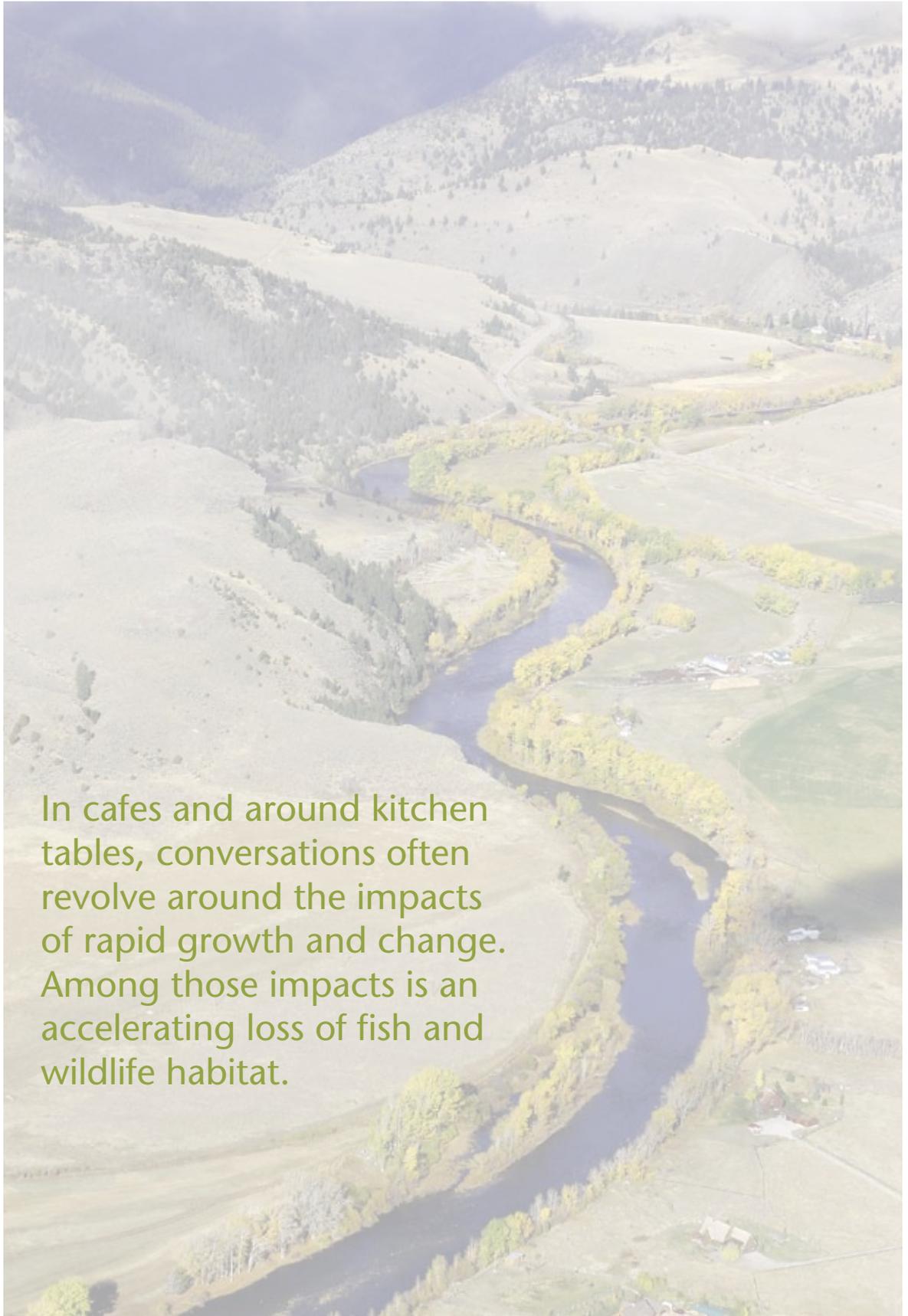
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The Sonoran Institute inspires, informs, and empowers community decisions that respect the land and people of western North America. The Sonoran Institute, a nonprofit organization, helps communities conserve and restore natural and cultural assets by promoting sustainable communities, protecting open spaces, and preserving our vital natural resources through collaboration, civil dialogue, and sound information. Information about the Institute can be found on our web site, [www.sonoraninstitute.org](http://www.sonoraninstitute.org).

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In cafes and around kitchen tables, conversations often revolve around the impacts of rapid growth and change. Among those impacts is an accelerating loss of fish and wildlife habitat.

# PREFACE

Montana is blessed with an unparalleled array of natural and cultural assets. Historic small towns offer a quality of life that is the envy of the nation. The “working landscape” of farms and ranches provides both cash receipts and character. The State’s fish and wildlife delight local hunters, fishermen, and Montanans who like to enjoy nature at its best. Montana attracts numerous visitors to our region.

Some of these visitors return, determined to live here, at least for part of the year. So it is not surprising that Montana is also becoming known for the pace at which its landscape is changing. In cafes and around kitchen tables, conversations often revolve around the impacts of rapid growth and change. Among those impacts is an accelerating loss of fish and wildlife habitat.

The Montana Department of Fish, Wildlife & Parks has completed a Comprehensive Fish and Wildlife Conservation Strategy that identifies rural sprawl as one of the greatest threats to the long-term health of many Montana fish and wildlife species. This, in turn, threatens the survival of the State’s rich hunting and fishing heritage, the vitality of its tourism industry, and its unique sense of place.

The good news is that effective growth management can help Montanans accommodate growth without sacrificing valuable fish and wildlife habitat and the associated benefits. This workbook and training have been produced by the

Sonoran Institute to help agency personnel, local governments, and concerned citizens learn how to plan for areas where growth pressures and the needs of wildlife collide.

- The workbook begins with reminders of the economic value of Montana’s fish, wildlife, and open spaces, and of how rapidly the State’s landscape is changing.
- It then provides an overview of the Department of Fish, Wildlife & Parks’ Comprehensive Fish and Wildlife Conservation Strategy.
- In this workbook we will discuss how fish and wildlife habitat conservation can be integrated into local growth policies.
- The workbook then explains the growth management tools that are available to Montana’s local governments and how both public investments and land use regulations can be used to protect fish and wildlife habitat. Case studies are provided to show how these tools have been used in Montana and neighboring states.
- The workbook ends with a review of the ways in which local planning can help sustain fish and wildlife populations and habitat. It also includes a final case study of community action to protect cherished resources.



# CHAPTER 1

## The Values of Montana's Fish, Wildlife, and Open Spaces

Fish, wildlife, and our open spaces have many values. These values can be protected by sound local growth management. Let's start with a reminder of the economic value of these resources in Montana.

Montana hunters and anglers supply more than \$200 million for salaries and wages supporting 8,000 to 12,000 jobs, and annually pay \$23.8 million in state fuel and income taxes.

For every dollar Montana Fish Wildlife & Parks (FWP) spends on wildlife, \$14.35 comes back to local communities and the Montana economy. (2006 National Survey of Fishing, Hunting, and Wildlife Associated Recreation)

Hunting, fishing, and wildlife watching contributed more than \$122 billion to the U.S. economy in 2006 (the most recent year for which data exist). In Montana, anglers, hunters, and wildlife enthusiasts spent more than \$910 million on travel, guides, equipment, and miscellaneous items like subscriptions to hunting and fishing magazines. Wildlife watching accounted for 41 percent of those expenditures, hunting for 34 percent, and fishing for

the remaining quarter. These figures include only expenditures by individuals. They do not include the State's costs of wildlife management (presently more than \$30 million) nor any of the investments individuals, organizations, and local governments make in the conservation, acquisition, restoration, and management of fish and wildlife habitat.

Residents and nonresidents contribute almost equally to wildlife driven economic activity. Fifty-one percent of the total expenditures were generated by visitors, 49 percent by Montana residents. In 2006, 172,000 residents fished and 145,000 hunted. They were joined by 119,000 non-resident anglers and 52,000 out-of-state hunters. Roughly 80 percent of all Montanans (755,000 people) participated in wildlife watching, along with more than 340,000 visitors. More information on participation in wildlife-associated recreation and its economic impact in the U.S. and Montana may be found in the *2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*: [www.census.gov/prod/www/abs/fishing.html](http://www.census.gov/prod/www/abs/fishing.html)

### Back Country Bounty

As long as we're talking about money, this is a good place to point out that conservation can benefit a community's taxpayers. Numerous studies, including a recent one from Gallatin County, show that it costs less to provide public facilities and services to compact development as compared to more sprawling rural residential development. A brief summary of cost of community services may be found online at: [www.sonoran.org/cowboy/8.html](http://www.sonoran.org/cowboy/8.html).

The 2009 Gallatin County Fiscal Impact Analysis may be downloaded from the list of reports found at: [www.sonoraninstitute.org/index.php?option=com\\_docman&Itemid=181](http://www.sonoraninstitute.org/index.php?option=com_docman&Itemid=181)

Fish, wildlife, and their habitat are valuable economic assets. Add the nonmonetary values of these resources - like the spring in your step after you see an elk cross the trail - and it is clear that they are fundamental elements of Montanan's quality of life. It is equally clear that fish, wildlife, and their habitat can be threatened by land development.



## Hunting, Fishing and Wildlife Watching Expenditures in Montana (2006)

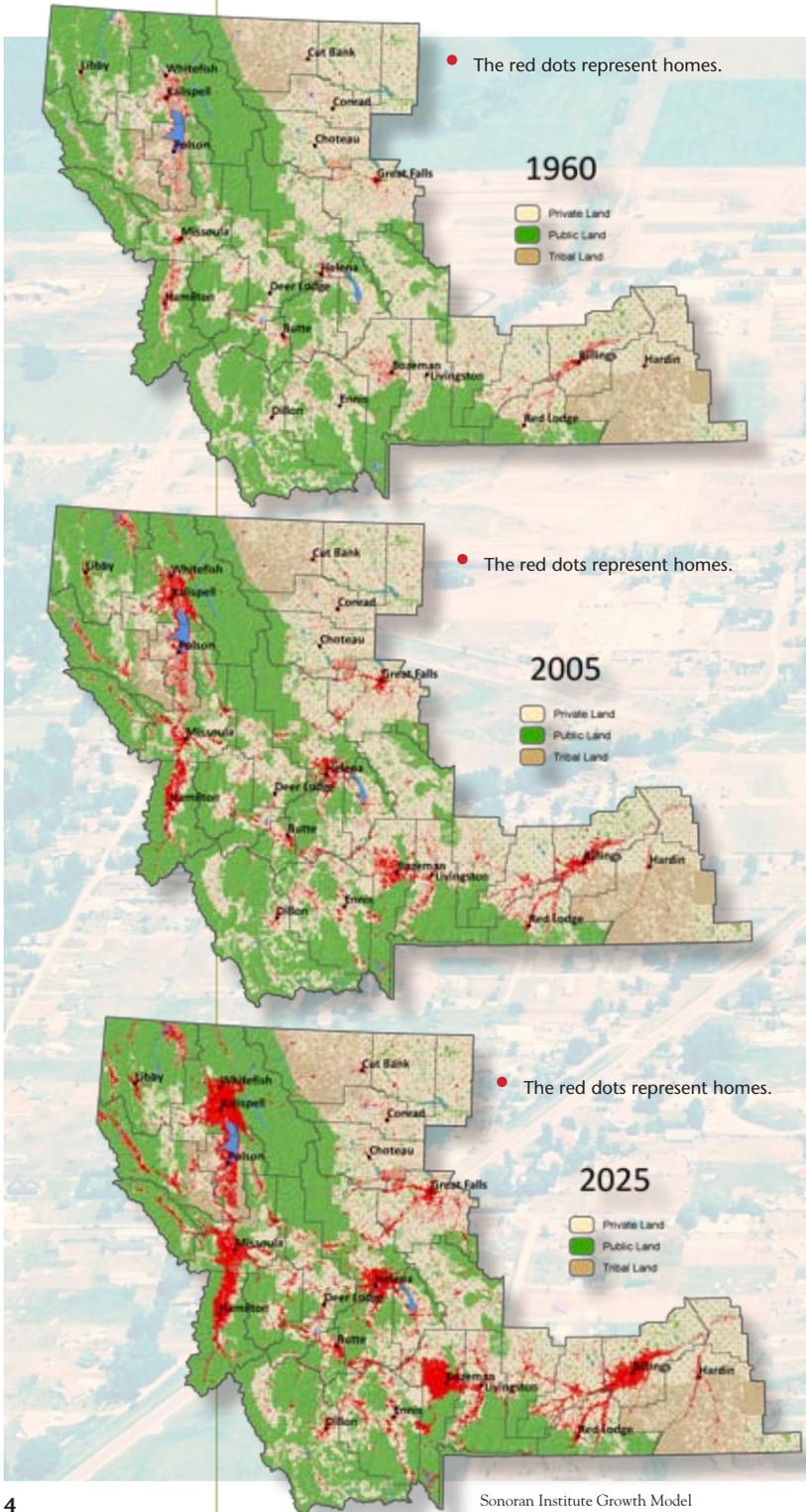


Source: U.S. Fish & Wildlife Service, 2006 National Survey  
[www.census.gov/prod/www/abs/fishing.htm](http://www.census.gov/prod/www/abs/fishing.htm)



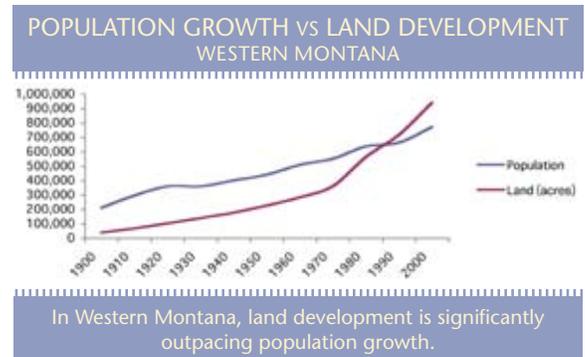
# CHAPTER 2

## Land Development and Montana's Fish, Wildlife, and Open Spaces



Western Montana's population has increased by 49 percent since 1970. Continuing growth fueled in part by Montana's abundance of fishing, hunting, and wildlife watching opportunities seems inevitable. But whether that growth enhances or degrades the state's communities and rural landscapes depends on where and how it takes place. In most Montana counties growth has sprawled into the countryside, including into ecologically important landscapes like riparian corridors, ungulate winter ranges, wildlife migration corridors, and the borders of national forests and parks. During the same period that western Montana's population increased by 49 percent, the amount of land developed increased by a startling 200 percent. (Source: Sonoran Institute and Lincoln Institute of Land Policy)

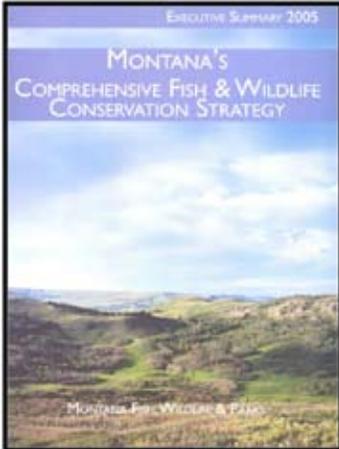
The impacts of sprawling exurban development on fish and wildlife habitat are of concern to many Montanans. This workbook and the training it supports are intended to help people learn how to act on their concern. The next section summarizes the state-level response: the *Comprehensive Fish and Wildlife Conservation Strategy* adopted by the Montana Department of Fish, Wildlife and Parks. That is followed by the heart of this handbook: a thorough explanation of how Montanans can use local growth management policies and powers to minimize adverse impacts on fish and wildlife habitat, while steering development to those locations where it makes the most sense.



In Western Montana, land development is significantly outpacing population growth.

# CHAPTER 3

## Montana's Comprehensive Fish & Wildlife Conservation Strategy



Congress has charged the states with developing comprehensive wildlife conservation strategies. These wildlife action plans are intended to ensure the best use of federal funds granted through the federal Wildlife Conservation

and Restoration and State Wildlife Grants programs to help conserve wildlife and vital natural areas for future generations. The State Wildlife Grants associated with Montana's *Comprehensive Fish and Wildlife Conservation Strategy* (CFWCS) has totaled almost \$8 million since 2000. These funds have been used to support projects identified in the CFWCS, including research and monitoring, education and outreach, habitat restoration, and other conservation efforts like bearproofing garbage containers and waste dumps.

Montana's *Comprehensive Fish and Wildlife Conservation Strategy* was completed by the Department of Fish, Wildlife & Parks in 2005 and can be found online at:

<http://fwp.mt.gov/wildthings/cfwcs/swg/default.html>.

The CFWCS describes those Montana species and habitats that are in greatest need of conservation in order to maintain Montana's rich fish and wildlife heritage, and to help prevent future listings under the Federal Endangered Species Act. Although all of the actions identified in the CFWCS are important, a more practical subset of priorities has been identified in a 5-year Action Plan that is also available on the web at:

<http://fwp.mt.gov/specieshabitat/strategy/actionplan.html>.

The CFWCS separates conservation priorities into four components:

1. Geographic focus areas that are mapped in Figures 1 and 2
2. Fish and wildlife community types
3. Fish and wildlife species
4. Species and groups of species to be inventoried in the future.

Components 1 and 2 identify the areas around Montana that offer the greatest opportunities for habitat conservation. The CFWCS describes focus areas and communities, listing representative species and critical habitat concerns. Tables 1 and 2 which are excerpted from the CFWCS outline habitat concerns and links these concerns to actions that can minimize and mitigate habitat loss or fragmentation. Overall, the CFWCS provides information and direction that local governments can use when their planning efforts and decisions address fish and wildlife issues.

"Hunters and anglers have supported conservation of game species since the early 1900s. Now is the time for other conservationists to join in and help secure funds for Montana – based conservation efforts. In short, all Montanans need to pitch in and work together to ensure the health of all species. This strategy is the first step in that important direction."

Brian Schweitzer - Governor



Chris Boyer

Montana Fish Wildlife & Parks  
 Comprehensive Fish and Wildlife Conservation Strategy  
 AQUATIC FOCUS AREAS

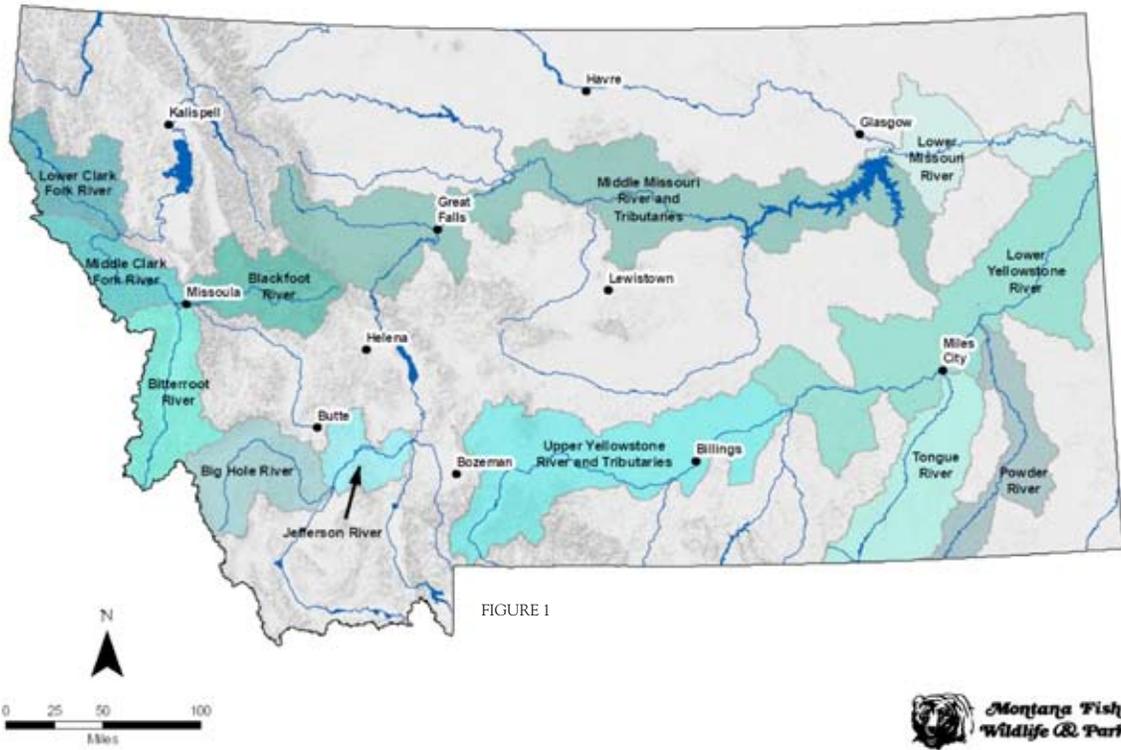


FIGURE 1

AQUATIC/WATERSHED CFWCS CONSERVATION SUMMARY	
CONCERN	STRATEGY
Streamside residential development and modification/degradation of stream channels caused by construction.	Develop statewide riparian best management principles.
	Restore stream channels or stream banks to a condition that simulates their natural form and function.
	Modify riparian management practices such that riparian vegetation is allowed to recover.
Alteration to the quantity or timing of stream flows resulting in unnatural flow water quantity and quality for essential habitats.	Implement various water conservation or flow management practices that restore essential habitats, help sustain lower temperatures, stimulate the natural hydrograph, and protect instream flows.
Drainage of natural wetlands.	Participate in government and private conservation partnerships to reduce the loss of wetland habitat and restore lost wetlands.
Water chemistry/quality problems that arise due to municipal discharge, irrigation return water, and other sources.	Work with municipal government and private landowners to reduce point source pollutants.

TABLE 1

Overall, the CFWCS provides information and direction that local governments can use when their planning efforts and decisions address fish and wildlife issues.

Montana Fish Wildlife & Parks  
 Comprehensive Fish and Wildlife Conservation Strategy  
 TERRESTRIAL FOCUS AREAS

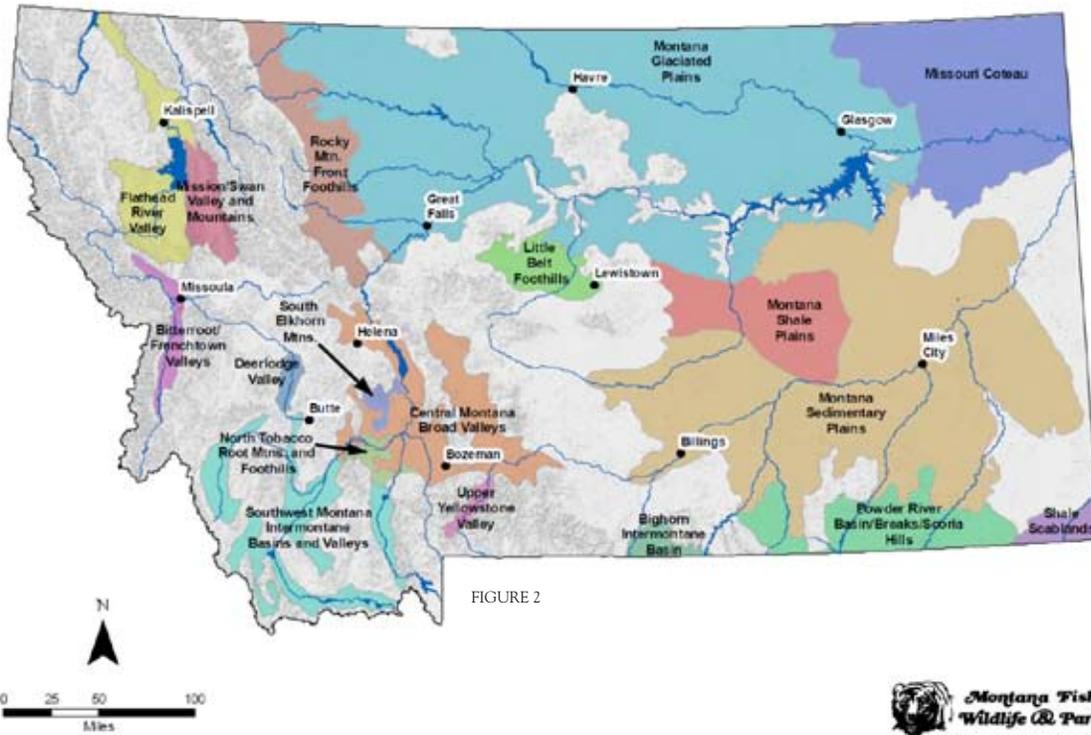


FIGURE 2



TERRESTRIAL FWCS CONSERVATION SUMMARY	
CONCERN	STRATEGY
Habitat loss, degradation, and fragmentation especially as a result of human population growth and conversion of land (residential, energy, recreation, agriculture).	Support strategic conservation easements/protection by conservation organizations or public agencies.
	Participate in cooperative programs and activities that encourage and support private land stewardship.
	Promote and further develop county ordinances that help plan for and manage development.
	Identify and prioritize key wildlife linkage areas, and work with other agencies and landowners to restore wildlife connectivity.
Habitat fragmentation due to transportation infrastructure.	Work with the Montana Department of Transportation and Federal Highway Commission to effectively mitigate impacts of highway construction.
Invasive and exotic plant species.	Participate in partnerships to develop and implement strategies to control exotics or invasive plant species.
Disruption of natural disturbance processes especially altered natural fire regime.	Work with public and private efforts to restore natural disturbance processes/ fire regime to areas.
Loss of habitat as result of conversion of native habitat to agriculture.	Implement practices, economic and ecological, that sustain ranching profitability and promote public access.
	Develop policy-based approaches that encourage the conservation of natural communities rather than support their conversion.

TABLE 2

# CHAPTER 4

## Integrating Fish and Wildlife Conservation into Local Planning



Randy Carpenter

How do we build respect for fish, wildlife, and their habitat into local planning efforts? We can by following the same basic principles of growth management that can be applied to any community asset or resource.

The Western Community Stewardship Forum, a joint effort of the National Association of Counties and the Sonoran Institute, has identified **five** hallmarks of communities that successfully manage growth. [www.sonoraninstitute.org/index.php?option=com\\_docman&Itemid=181](http://www.sonoraninstitute.org/index.php?option=com_docman&Itemid=181) These hallmarks can serve as guiding principles for planning to protect fish and wildlife habitat in Montana. They are also used to organize this workbook. Let's review them briefly here.

### 1. DEVELOPING A BROADLY SHARED VISION

Protecting fish and wildlife habitat doesn't just happen. Habitat will be conserved only when local leaders and their constituents come together and decide that they want abundant fish and wildlife resources in their future. Chapter 5 of this workbook offers an introduction to community visioning and a case study of an impressive vision-driven regional planning process in the Big Hole Watershed.

### 2. UNDERSTANDING THE LOCAL ECONOMY

Most Montanans know that fish and wildlife habitat is an economic asset. What fewer people realize is that protecting habitat may do even more for a local economy than sustaining revenues from fishing, hunting, and wildlife watching. Compact development in suitable locations can also moderate the costs of providing public services and reduce

energy consumption, leading to savings for local households and a more competitive business climate. Chapter VI of this workbook discusses the type of analysis, including economic analysis, which should form the factual foundation of local growth policies.

### 3. UNDERSTANDING NATURAL AND CULTURAL ASSETS

You have to know where fish and wildlife habitat are, and how they function, before you can steer development to other locations or mitigate its impact. This knowledge must be reflected in the local growth policy before it can serve as a defensible basis for regulations or public investments. Chapter 6 of this workbook explains how information about fish and wildlife habitat can be integrated into local planning efforts. It also offers two case studies. The first case illustrates how fish, wildlife, and other information have been assembled in the Flathead Lake basin. The second case study shows how Madison County developed a policy of protecting wildlife habitat, and then translated that policy into action.

### 4. EFFECTIVELY MANAGING GROWTH AND CHANGE

Fish and wildlife habitat won't endure if they aren't conserved through proactive efforts. As the hallmarks say, successful communities use "a wide variety of both regulatory and nonregulatory strategies and tools to protect or enhance local assets." Chapters 7-9 of this workbook review the major growth management tools and provide case studies of how they are being used in Montana or neighboring states.

### 5. VALUING LEADERSHIP

This workbook and the associated training are intended to help leaders from Montana cities and counties learn how to protect fish and wildlife habitat through their local planning process. They also emphasize a key trait of effective leaders: the willingness to collaborate and build partnerships. Managing fish and wildlife - which run, hop, swim, and fly across political boundaries - involves all local, state, and federal government. It can't be done without partnerships. In that spirit, we move ahead with a case study of how local government and state agency leaders are working together through Missoula County's Rural Initiatives Program.

# Building Partnerships Benefits Wildlife

## A Case Study from Missoula County



Mack Long, Montana FWP's Region Two Supervisor, and his staff believe the greatest benefit for fish and wildlife can be achieved by directing new development away from critical habitat and wildlife corridors. FWP does NOT have the power to make this happen, however. Its goal can be achieved only by having a positive influence on local land use decisions. Is that possible? This case study from Missoula County suggests that it is.

One Region-Two jurisdictions - Missoula County, makes it easier than most for FWP and other agencies to be involved in its planning process and can serve as a model for collaboration throughout Montana. Missoula County interacts with FWP in two ways.

### 1. SUBDIVISION REVIEW

First, FWP comments on the fish and wildlife impacts of subdivision proposals. Despite the huge workload of proposals to review, FWP staff tries to take the time to fully comment on each development proposal knowing that Missoula County takes their comments seriously. Region Two receives about 300 subdivision proposals a year. According to Mack Long, the biologists work very hard to ensure that their comments are specific to each proposal, but also take landscape level conservation concerns into account. By making the extra effort to give specific comments within a broader context, they provide the scientific basis needed for defensible land use decisions. Missoula County may not always do what FWP recommends, but it will always consider the agency's recommendations.

*"The willingness of FWP's Region Two to share information and professional staff has been invaluable to Missoula County's citizens, staff, and elected officials."*

Patrick O' Herren, Missoula County Rural Initiatives

### 2. THE RURAL INITIATIVES PROGRAM

Missoula County's Rural Initiatives Program (RIP) works with state, federal, tribal agencies, and landowners to protect the natural resources that sustain rural communities. The RIP staff notifies the relevant agencies of proposed land use changes and initiates meetings to work out an agreement explaining how to move forward with the interested parties. The County Commissioners listen to the RIP staff and respect their collaborative approach to reaching solutions. The program has enhanced communication between Missoula County and natural resource agencies like FWP, and is currently working with natural resource agencies to develop more specific priorities for natural and working landscape protection. You can learn more about Missoula County's RIP at:

[www.co.missoula.mt.us/rural/](http://www.co.missoula.mt.us/rural/)

Missoula County planners and the FWP staff must work to keep their lines of communication open, and increased collaboration has resulted in many benefits:

- the county gets the best scientific data on fish and wildlife issues;
- developers get an improved understanding of fish and wildlife concerns earlier in the process;
- landowners get the best information on how to maintain their rural environment and what the obstacles to sound land conservation will be; and
- in the end, fish and wildlife benefit, too.

# CHAPTER 5

## A Local Vision of Healthy Landscapes

The first hallmark of successful growth management calls for the creation of a broadly shared vision of the future that is based on a clear understanding of the local economy and assets. The vision must be developed through a well-informed, constructive community conversation in which everyone is welcome to help answer questions like these:

What do we treasure about where we live? Are fish, wildlife, and the recreational opportunities they support assets we want to keep?

What concerns do we have for the future? Are we experiencing a loss of fish and wildlife habitat, or access to fishing and hunting opportunities?

What do we want to change about where we live? Do we want to change the patterns of development that fragment or consume fish and wildlife habitat?

What do we want our community to be like in 20 years? Are we willing to take the actions required to ensure that wildlife is in our lives two decades from now?

### Developing a Broadly Shared Vision

Protecting fish and wildlife habitat doesn't just happen. Habitat will be conserved only where local leaders and their constituents come together to say that they want abundant fish and wildlife resources in their future. Chapter V of this workbook offers an introduction to community visioning and a case study of an impressive vision-driven regional planning process in the Big Hole Watershed.

The goals and guiding principles of the Big Hole Watershed Land Use Plan come directly from the Big Hole residents. They identified what they value most about their community. These community values are the basis for the quality of life in the Big Hole and what makes the watershed a special place. The following guiding principles reflect the values of Big Hole residents:

#### RANCHING

- Support family based agriculture and ranching operations.
- Conserve prime agriculture and ranch land.
- Respect and maintain private property rights and water rights.

#### COMMUNITY

- Maintain small town character and rural atmosphere.
- Enhance rural community vitality.
- Promote a blended economy with new and old industries.

#### FUTURE DEVELOPMENT

- Target future development around existing communities with good services.
- Target future development along existing travel corridors and county road systems.
- Target future development away from high-risk areas: forests, floodplain.

#### ENVIRONMENT

- Maintain the existing character of the Big Hole River and valley. The character of the Big Hole is exemplified by: an undisturbed river corridor, open spaces and view sheds, large ranches, healthy functioning ecosystem, high quality fish and wildlife habitat, and clean air and water.
- Protect critical fish and wildlife habitat and winter range.
- Maintain the quality of recreation experience with limited development on the banks of the river.

Of course, you can't just bring everyone into a room and hope for a coherent vision to emerge. There is an art to developing community visions. That art, and many of the techniques it entails, are covered in Chapters 1 and 2 of Sonoran Institute's *The Planning for Results Guidebook*. Here we offer a case study of a successful vision-driven planning effort from the Big Hole Watershed. This case study shows how visioning was translated into action by four Montana counties.

As in the Big Hole case, a community's vision usually becomes part of its growth policy. In the next chapter of this workbook, we'll talk about growth policies, covering the factual background needed for a growth policy that protects fish and wildlife habitat, and the development of goals and objectives.

# Vision-Driven Planning

## A Case Study from the Big Hole Watershed



The adoption of the Big Hole Land Use Plan and the River Conservation Standards it recommends, by Anaconda-Deer Lodge, Beaverhead, Butte-Silver Bow, and Madison counties is a great example of how a shared vision can lead to significant protection for fish and wildlife habitat. The process of building the Plan began in the spring of 1999, when a land use planning steering committee was formed by the Big Hole Watershed Committee, a group collaborative of diverse interests and

the Big Hole River Foundation. You can learn more about these groups at: [bhwc.org](http://bhwc.org) and [bhrf.org](http://bhrf.org).

For the next two years the steering committee focused on outreach and communication with the wider Big Hole community. It received technical guidance from a variety of organizations and individuals. Local planners, county commissioners, land trust experts, appraisers, real estate professionals, and many others contributed. The steering committee also sponsored tours of the watershed to identify outstanding values and development concerns; community meetings to create a vision for the future of the Big Hole; and developed guiding principles for future development. They also sponsored a mail survey of all watershed residents asking them, what land use planning tools they support, and held a special session on the land value and tax implications of land use planning for the steering committee, county planning boards, and other local government officials.

Based on the community input at public meetings, the surveys, and many conversations around kitchen tables from Wisdom to Twin Bridges, the committee drafted a *Big Hole Land Use Plan* in the spring of 2002. The plan was introduced through mailings, the local press, and a series of community meetings. There was general support, but it was also apparent that the plan would require revisions. With guidance from planning departments and boards, a second draft was released in the fall of 2002, again accompanied by public meetings.

Nearly four years after the first steering committee meeting, a final, resident-supported *Big Hole Land Use Plan* emerged. That *Plan* makes five recommendations that are based on the goals and guiding principles including right-to-farm protection, concentrating development around existing communities and infrastructure, the purchase of development rights, a set of development standards for construction within 500 feet of the river that included 150 foot setbacks, and floodplain mapping.

All four counties adopted the *Big Hole Land Use Plan* into their comprehensive plans and enacted the River Conservation Standards it recommended. These actions followed an interlocal agreement that also created a variance review board with two representatives from each of the four county planning boards and one representative from the BHWC. This board makes recommendations regarding variance requests to the counties.

As one area planner says, “they have not been a silver bullet,” but the River Conservation Standards have greatly expanded the four counties’ ability to influence development along the Big Hole River corridor. The *Plan* has also proven to be a starting point for other initiatives as the BHWC and its partners seek ways to strengthen the protection of streamside vegetation and protect the river corridor through better floodplain regulations.



# CHAPTER 6

## Growth Policies for Conserving Wildlife



jennifer Boyer

How does a Montana city or county make a commitment to the protection or consideration of fish and wildlife habitat? It does so by stating that commitment in its growth policy.

Cities and counties are authorized, but not required, to adopt growth policies by state law (see 76-1-106, MCA and 76-1-601-604, MCA). Once a growth policy is adopted, however, it is a commitment. 76-1-605, MCA states that:

... after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 **must** be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the: (a) authorization, construction, alteration, or

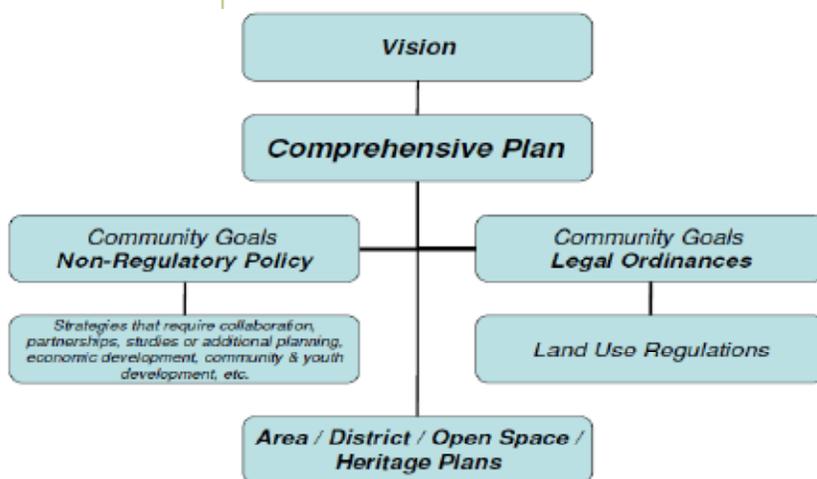
abandonment of public ways, public places, public structures, or public utilities; (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and (c) adoption of zoning ordinances or resolutions.

76-1-606, MCA adds this:

When a growth policy has been approved, the subdivision regulations adopted pursuant to Chapter 3 of this title must be made in accordance with the growth policy.

So a local government that has adopted one is required to implement its growth policy in decisions about the construction of public works, including roads, water mains, and sewers. Subdivision regulations and zoning ordinances must also be consistent with the adopted growth policy as noted above and again (for zoning) at 76-2-203, MCA.

**🔑** The local growth policy is the key to planning for a future with wildlife. What goes in a growth policy? 76-1-601, MCA provides a long list. The second and third hallmarks of successful communities boil it down. A well-drafted growth policy will reflect an accurate understanding of the changes occurring in the local economy and landscape. It will also feature policies designed to protect the community's natural and cultural assets, including fish and wildlife habitat.



### Wildlife and The Local Economy

Most Montanans know that fish and wildlife habitat is an economic asset, as described in Chapter 2 of this workbook. What fewer people realize is that protecting habitat may do even more for a local economy than sustaining revenues from fishing, hunting, and wildlife watching. Compact development in suitable locations can also moderate the costs of providing public services and reduce energy consumption, leading to savings for local households and a more competitive business climate. Chapter 6 of this workbook discusses the type of analysis, including economic analysis, which should form the factual foundation of local growth policies.

## Wildlife and the Local Economy

Chapter 2 presented some basic facts about the economic value of fish and wildlife in Montana. Growth policies should start there, and then add local data. You can learn more about how to do this in Chapter 3 of *The Planning for Results Guidebook*. Note that the Economic Profile System described in that book is now maintained by Headwaters Economics. You can access this tool, which will give you a great start on the economic analysis needed for a growth policy at:

[www.headwaterseconomics.org/eps/](http://www.headwaterseconomics.org/eps/).

Just remember that simply describing a local economy is not a sufficient basis for policy development. It is analysis clearly stating what you have learned from the facts that can lead to action. What trends do the facts suggest? What policies can the community adopt in response to those trends?

## Understanding Natural Assets

A growth policy cannot defensibly protect fish and wildlife habitat without a sound factual foundation. An inventory of habitats, including wetlands, riparian zones, cliffs, old growth forests and other important plant communities; migration corridors, and seasonal ranges, like elk calving grounds, should be summarized in the growth policy using both narratives and maps. Details should be presented in an appendix or a separate document. You may be able to pull information from the CFWCS described in Chapter 4 of this workbook for this part of your growth policy. You should also consult with local or regional FWP biologists, as well as wildlife experts from the public lands agencies (BLM, Forest Service, the U.S. Fish and Wildlife Service), and local colleges or universities. An example of the necessary data collection, reporting, and mapping is featured in the case study on page 14.

That case study, which comes from the Flathead, is also a good example of collaborative work on a regional scale. Planning to protect or restore habitat must look beyond the traditional land-use planning boundaries: city and county jurisdictions. Local planners must understand how their community's landscape is connected to the larger region.

Finally, remember that even a sophisticated description of local fish and wildlife habitat is insufficient as a basis for a fish and wildlife protection policy or for actions based on that policy. An effective growth policy will combine habitat information with analyses of demographic and land

use changes to show where and how anticipated development could adversely impact fish and wildlife habitat. In fact, Montana's infrastructure planning law, which is explained in some detail in Chapter 7, requires that future growth areas be mapped and that the growth policy include an explicit analysis of the possible impacts of growth on natural resources.

<http://fwp.mt.gov>



## Understanding Natural and Cultural Assets

You have to know where fish and wildlife habitat are, and how they function, before you can steer development to other locations or mitigate its impact. This knowledge must be reflected in the local growth policy before it can serve as a defensible basis for regulations or public investments. Chapter 6 of this workbook explains how information about fish and wildlife habitat can be integrated into local planning efforts. It also offers two case studies. The first of those tells you how fish, wildlife, and other information has been assembled in the Flathead Lake basin. The second case study shows how Madison County developed a policy of protecting wildlife habitat, and then translated that policy into action.



Randy Carpenter

# Mapping Habitat

## A Case Study from the Flathead Country

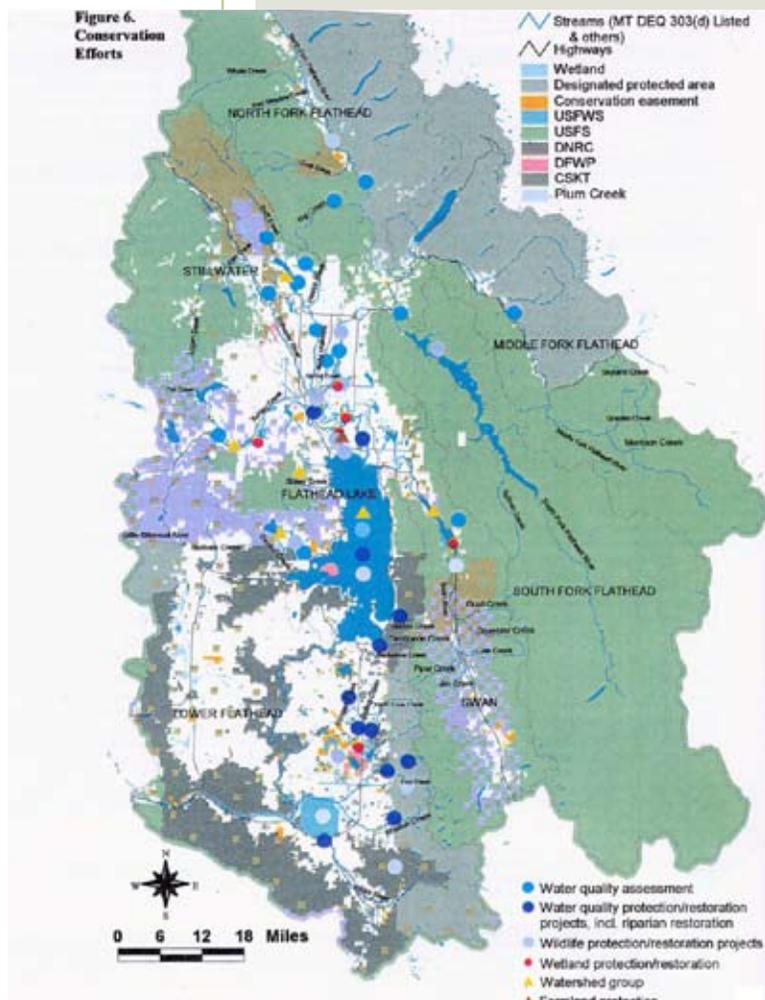


The Flathead Lakers, a citizen's group that is dedicated to maintaining habitat, water quality, and other values in Flathead Lake, sponsored an assessment of critical lands that used existing research and interviews with natural resource managers to identify ecologically significant areas and recreational opportunities in the Flathead Lake watershed. The Lakers' Critical Lands Project relied on expertise from Flathead and Lake Counties, local educational institutions, conservation organizations, FWP, and federal agencies to produce reports that include GIS maps like the one shown in Figure 3. It describes water resources, wetlands and riparian areas, important native fish and wildlife populations and habitat, infrastructure and human development, and recreation resources.

This collaborative project has proven to be a valuable conservation planning tool, the scientific basis for many Lakers' projects, and an important resource when discussing community concerns. For more information on the project visit:

[www.flatheadlakers.org/flathead\\_lake\\_basin/critical\\_lands/index.html](http://www.flatheadlakers.org/flathead_lake_basin/critical_lands/index.html)

FIGURE 3



Jennifer Boyer

## Putting the Policy in a Growth Policy

Growth policies too frequently just recite facts about a community rather than setting a clear direction for land use and public investment decisions. Where policies do appear, they are often too vague to be of use. A typical goal for wildlife protection might be:

**To preserve and enhance critical wildlife habitat and river and stream corridors throughout the county.**

That's a nice sentiment, but how do you make it happen? A more useful policy statement, which appears in Figure 4, is found in Fremont County, Idaho's Comprehensive Plan 2008. This policy makes it clear that the county should quite specific things.

The clarity and specificity of policies is critical! As explained at the beginning of this chapter, all zoning and subdivision regulations must be consistent with the local growth policy, and so must public investment decisions. But you can't demonstrate that individual decisions are consistent with vague policies. You can learn more about how to write policy statements that are useful and defensible from Chapter 6 of *The Planning for Results Handbook*. This chapter ends with a case study from Madison County, where the planning process and growth policy laid the foundation for subdivision regulation amendments that include specific mitigation measures for impacts on wildlife habitat.

**Figure 4**

### **Fremont County, Idaho Policy 11. Fish and Wildlife Resources**

It shall be the policy of Fremont County to use its development code to maintain, protect and enhance fish and wildlife resources and their habitats as identified on the Fremont County Wildlife Overlay Map. The County recognizes that fish and wildlife are a cornerstone element of Fremont County's economy, image, heritage and reputation as an international recreational destination. The County also recognizes that fish and wildlife resources offer recreation and sporting opportunities, which depend on abundant open space, clean water, and healthy ecosystems with intact fish and wildlife resources and habitat.

1. Fremont County should use its development code to establish regulations to maintain, protect, and enhance fish and wife resources by limiting impacts to fish and wildlife habitats through the following requirements: Developments should include site designs and / or mitigation measures for open space, wildlife habitats, riparian areas, wetland protection and enhancement, stream corridor protection, and wildlife migration routes in wildlife habitat areas identified in Fremont County Development Code map overlays, and other important habitat areas identified by Idaho Department of Fish and Game.
2. Fremont County should develop language in its Development Code requiring developers to establish and maintain (1) a fish and wildlife habitat plan for protecting fish and wildlife habitat present including design features to minimize impacts, and (2) a plan to mitigate for unavoidable impacts to fish and wildlife habitat. Mitigation measures to include, but not be limited to, land restoration in designated wildlife habitat areas within the county, revegetation with native plants, land protection with the use of conservation easements, and for protection of habitat in other locations suitable for the affected species. Idaho Department of Fish And Game should review and make recommendation to the County on the developer's proposed mitigation prior to the scheduling of a public hearing.
3. The County should require that fish and wildlife habitat plans be analyzed in the context of mapped wildlife corridors and habitats and abutting developments.
4. The County should use its development code to require stream and lakeshore corridor setbacks.

The Fremont County Comprehensive Plan is available online at:

[www.co.fremont.id.us/departments/planning\\_building/Comp\\_Plan/index.htm](http://www.co.fremont.id.us/departments/planning_building/Comp_Plan/index.htm)

# How Policy Provides a Basis for Land Use Regulations

## A Case Study from Madison County



Madison is one of the few Montana counties to have adopted subdivision review criteria that protect fish and wildlife habitat. When the subdivision regulations were updated in 2006, wildlife protection was included in the General Design and Development Standards. Section IV.20 lists specific mitigation measures that may be required where a proposed subdivision would adversely affect fish or wildlife. Note also – as the case study in Chapter 5 of this workbook reports - that Madison County has adopted River Conservation Standards along the Big Hole River.

The need for wildlife habitat protection was first identified in Madison County's 1999 *Comprehensive Plan*, which clearly stated that all developments should be located, designed, and scaled to preserve environmentally sensitive areas including riparian corridors and important wildlife habitat. That policy was incorporated verbatim into the County's 2003 *Growth Policy*, and the subdivision regulations were finally amended to implement it in 2006. You find the documents cited here online at:

<http://madison.mt.gov/departments/plan/publications/planpub.asp>

The progression of events in Madison County shows how policy development can become the basis for effective land use regulations. It also shows that discussion of these policies can take years, but Madison County now has tangible results to show for its process. The wildlife protection standards have been applied to a number of proposed subdivisions since they were adopted and Madison County planners report that numerous changes have been made to protect habitat (and other resources). These include the prohibition of fencing, requirements that fencing be wildlife-friendly, and changes in the density and pattern of the proposed subdivisions.



## From Policy to Action

The next two chapters of this workbook stem from the fourth hallmark of successful communities. They show how a variety of growth management tools (regulatory and nonregulatory) can be used to promote land use patterns that respect and accommodate the needs of fish and wildlife. Chapter 7 is about local public investment. It covers both the direct investments communities sometimes make in habitat conservation and the impacts other public investments like road-building can have on wildlife. Chapter 8 shows you how local land use regulations can be used to protect habitat.

## Effectively Managing Growth and Change

Fish and wildlife habitat won't endure if they aren't conserved through proactive efforts. As the hallmarks say, successful communities use "a wide variety of both regulatory and nonregulatory strategies and tools to protect or enhance local assets." Chapters 7-9 of this workbook review the major growth management tools and provide case studies of how they are being used in Montana or neighboring states.

# Peaceful Co-Existence A Case Study from Eagle County, Colorado



Eagle County is one of several Colorado communities that require people living in rural areas to refrain from feeding wildlife and to use wildlife-proof solid waste containers. While Eagle County had problems with bears in some mountainous neighborhoods, its regulations also protect mountain lions, skunks, magpies, raccoons, crows, coyotes, and other creatures that are sometimes attracted to human waste.

The county began its campaign to protect wildlife from the consequences of feeding and improper waste disposal

with passage of the ordinance (07-001), about a year of education, including press releases, the issuance of warnings to violators, and direct mail to homeowners in targeted areas. It then progressed to a "three strikes" approach to enforcement for a year.

Eagle County now actively enforces its ordinance with regular patrols. Violators are given ample notice and an opportunity to correct problems before being summoned to court. Andy Jessen of Eagle County's Environmental Health Department estimates that compliance countywide is 65-70 percent, but higher in neighborhoods that have been targeted for public education and enforcement.

You can learn more about Eagle County's efforts to protect people and wildlife online at:

[www.eaglecounty.us/news.cfm?id=2699](http://www.eaglecounty.us/news.cfm?id=2699)

You may also want to visit the Living With Wildlife Foundation's web site: [www.lwwf.org/](http://www.lwwf.org/).

Eagle County's Comprehensive Plan (equivalent to a growth policy in Montana) has an excellent wildlife resources element that clearly supports its regulation of animal feeding and solid waste practices, as well as calling for many measures to protect wildlife habitat.



# CHAPTER 7

## Managing Growth: Using Public Investment to Protect Habitat

Local governments can invest directly in the protection of fish and wildlife resources by buying land or, buying the right to develop land. Local governments can have a positive impact on habitat when they decide where and how to build public facilities.

### Land Acquisition

The purchase of either land or its associated development rights is a common and effective method of protecting important landscapes. It is attractive because it is voluntary. There are many examples of the successful protection of fish and wildlife habitat and other resources via acquisition in Montana. The Nature Conservancy, the Trust for Public Lands, Montana Land Reliance, more than half a dozen local land trusts, and a few local governments have conserved hundreds of thousands of acres throughout the Treasure State. If you want to learn more about nonprofit conservation organizations that are buying land and development rights, visit the following web sites listed below. The local government programs are described later in this chapter.

The Nature Conservancy:  
[www.nature.org/wherewework/northamerica/states/montana/](http://www.nature.org/wherewework/northamerica/states/montana/)

The Trust for Public Lands:  
[www.tpl.org/tier2\\_rl.cfm?folder\\_id=678](http://www.tpl.org/tier2_rl.cfm?folder_id=678)

Montana Land Reliance:  
[www.mtlandreliance.org/](http://www.mtlandreliance.org/)

The Land Trust Alliance provides a directory of local land trusts at:  
[www.ltanet.org/landtrustdirectory/](http://www.ltanet.org/landtrustdirectory/)

Because acquisition to protect fish and wildlife habitat is being used so extensively and so successfully in Montana, we will just cover the basics here. There are three types of programs: fee simple purchases, conservation easements, and the purchase of development rights.

### FEE SIMPLE PURCHASE

The most straightforward way to protect habitat is to own it. This provides the best protection, but requires significant amounts of money, not only for the purchase of the property, but also for managing it in the long run. Among Montana communities, Gallatin County, Helena and Missoula/Missoula County have used local bond issues to purchase open space lands. You can learn more about their programs at:

Missoula County: [www.co.missoula.mt.us/measures/UrbanEnviro/OpenSpace.htm](http://www.co.missoula.mt.us/measures/UrbanEnviro/OpenSpace.htm)

### CONSERVATION EASEMENTS

A conservation easement is a voluntary agreement by which a landowner limits the type and/or amount of development on all or portions of a property, while retaining ownership and some (usually agriculture or forestry) beneficial use of the land. Conservation easements are generally in perpetuity (they must be to qualify for the tax benefits mentioned below), but can be for a limited term. Conservation easements may be donated by the landowner, purchased by private conservation organizations, or purchased by the Purchase of Development Rights (PDR) programs described next. The easement is recorded in the county's records as a deed restriction and the right to enforce it is given to the organization holding the easement. The most effective conservation easements clearly define goals for habitat conservation and do not simply restrict specific uses. By focusing on habitat protection goals, landowners retain greater flexibility, while the conservation value of the land is protected.

### PURCHASE OF DEVELOPMENT RIGHTS

PDR programs generate consistent funding for the purchase of conservation easements by a state or local government. Gallatin County, Lewis and Clark County, and Missoula County have successfully



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Randy Carpenter

created PDR programs supported by bond issues. As the Gallatin County case study on page 20 shows, bond funds can be leveraged with state and federal grant programs and other sources.

PDR programs in other states, like Colorado, are supported by real estate transfer taxes, lotteries (see [www.coloradolottery.com/index.cfm/ID/69/Colorado-Lottery---Where-the-Money-Goes](http://www.coloradolottery.com/index.cfm/ID/69/Colorado-Lottery---Where-the-Money-Goes)), dedicated sales taxes, and similar sources that are not yet used in Montana.

Gallatin County: [www.gallatin.mt.gov/public\\_documents/gallatincomt\\_openlands/bond](http://www.gallatin.mt.gov/public_documents/gallatincomt_openlands/bond)

Lewis and Clark County: [www.co.lewis-clark.mt.us/departments/community-development-planning/county-growth.html](http://www.co.lewis-clark.mt.us/departments/community-development-planning/county-growth.html)

Missoula County: [www.co.missoula.mt.us/measures/UrbanEnviro/OpenSpace.htm](http://www.co.missoula.mt.us/measures/UrbanEnviro/OpenSpace.htm)

PDR is a popular tool because it keeps land in private stewardship and on the tax rolls. This means the public does not pay for long-term management and, since only the development right associated with the parcel is being acquired, the cost of a conservation easement may be considerably less than a fee simple purchase. Conservation easements can also support landowners' continued stewardship with federal income tax-credits and reduced estate tax burdens. Some states have created additional tax incentives because many large landowners, particularly ranchers, are unable to utilize a federal income tax credit. Colorado allows landowners to sell a state tax credit on the open market for up to \$200,000, encouraging willing buyers to generate direct income for landowners. Montana has been exploring a similar program.

Almost everyone loves voluntary land conservation because it is based on the landowner's choice. But it does have two major drawbacks.

First, fee simple purchases and the other tools listed here work only where there is a willing seller. There may be critical habitats where voluntary tools won't work.

Second, the money available for land conservation is limited. The \$20 million raised by Gallatin County's taxpayers to help protect open space is less than 30 percent of the current use value (a little more than \$155 million according to the Montana Department of Revenue) of the county's agricultural and timber lands. In fact, to date about \$13.3 million of Open Space Bonds has been spent on parks and conservation easement projects. Three parks projects have been completed, covering 125 acres. These projects used approximately \$2.5 million in bond money leveraged by \$465,000 in matching funds and \$710,000 in donated value of the land. Twenty-five conservation easement projects have been completed, covering almost 35,000 acres. These projects used approximately \$10.8 million in bond money leveraged by \$6.7 million in matching funds and over \$43 million in donated value. On average, Gallatin County pays just 25 percent of the value of these conservation easements.

The purchase of private land and voluntary conservation easements will continue to be a key strategy for preserving critical fish and wildlife habitat, but the scope of Montana's conservation challenge is immense. We cannot rise to that challenge until we recognize that both local governments and landowners have a responsibility to guide development away from the habitat from which so many economic and community benefits flow.

# Open Space Bond Issues

## A Case Study from Gallatin County



In the past decade, the voters of Gallatin County Montana have approved two \$10 million open space bonds that have leveraged many millions of additional dollars for the purchase of conservation easements that conserve prime agricultural lands, critical wildlife habitat, and scenic views. The bonds were proposed by an “Open Space Task Force,” appointed by the county commissioners and made up of rural landowners, conservationists, and members of the business community.

The Task Force surveyed tools and strategies for protecting the county’s scenic open spaces and working farms and ranches. Both bonds enjoyed strong support with the second bond passing by an even wider margin than the first bond. By 2008, over 35,000 acres had been protected through the purchase of easements using open space bond funds and matching grants.

The successful campaign to build public support for the open space bond involved a broad coalition that included members of the agricultural community, business leaders, conservationists, and people with fundraising experience. A media strategy, public outreach to prominent opinion makers, and the involvement of well-respected community leaders were key. Now the direct involvement of a local land trust in the identification of priority properties for protection helps to ensure that this money is well spent and achieving conservation goals.



### Infrastructure and Land Use

The way in which infrastructure, especially roads and utilities, is provided determines the overall pattern of community development. Roads are necessary for access to property in even the most remote exurban areas, and the closer one gets to town, the more infrastructure comes into play. Development follows roads, water mains, and sewers. It is also influenced by the location of other public facilities, especially elementary schools. A community that is serious about protecting fish and wildlife resources can accomplish a lot by ensuring that its investments in new or improved infrastructure help guide growth away from habitat.

Remember, in fact, that Montana law requires cities and counties, which have adopted a growth policy, to make public investments consistent with that policy. 76-1-605, MCA says:

... after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 **must** be guided by and give consideration to the general policy and

pattern of development set out in the growth policy in the: (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities; (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities...

If a local growth policy calls for the protection of fish and wildlife resources, the community’s decisions about the extension of roads and utilities, the location of schools and parks, and other public investments must take wildlife into account through infrastructure planning.

76-1-601, MCA, the statute that lists the contents of a growth policy, was amended to promote infrastructure planning in 2007. As with all growth policy requirements, this process is optional, but the statutes do provide an incentive in the form of modest planning fees that may be collected IF the process is followed.

76-1-601(4)(c), MCA, establishes the minimum contents of an infrastructure plan. This workbook translates the statutory requirements that are listed

below, into the practical steps planners take to develop a Capital Improvements Plan. These steps are taken from Sonoran Institute's, *The Planning for Results Guidebook*, which provides more detail.

### Capital Improvements Programs

Fiscal impact analysis helps you understand and anticipate the costs of growth. It does not provide you with a plan for improving or building the specific facilities your community will need. You also need a capital improvements program (CIP). A CIP is a prioritized list of needed improvements and facilities, their estimated costs, and the proposed means of meeting those costs. Given its level of detail, a CIP usually extends only five or six years into the future, but is updated every year as part of the budgeting process. The steps in developing a CIP are listed below.

**1 – Find Partners.** Montana law makes it clear that cities and counties must cooperate in infrastructure planning. Other service providers, including special districts, school districts, and state agencies, must also be involved.

**2 – Project Demand.** Infrastructure planning begins with demographic projections (population, jobs, housing) and a buildout study. These provide the basis for determining the demand for new and improved public facilities and services. Projections may suggest that a community will have to accommodate X number of new homes each year, but that's only so helpful since you don't know where those homes will be built. Montana law requires that future growth areas be mapped. This is where infrastructure planning intersects with land use planning, and particularly with the understanding of local natural assets that is called for in Chapter 7. Proposed growth areas should avoid riparian corridors, wetlands, critical upland habitats, and other important natural assets.

**3 – Determine Capacity.** The next step in infrastructure planning is to determine the capacity of existing facilities. How many gallons per day can the sewage treatment plant handle? How many vehicles can pass through that busy intersection before a traffic signal is warranted? This part of the process requires numerous interviews with department heads and other service providers. You may also find yourself reading lots of dusty engineering reports. The goal is to know which facilities can and cannot accommodate additional demand. But this requires one more step—a step that is missing from the statutory description of infrastructure planning.



### What is a Buildout Study?

The basis for projecting the demand for infrastructure is a buildout study. These studies deduct the land occupied by existing development; areas that cannot be developed due to natural constraints like flooding, steepness, wetness, or to ownership (federal lands); and areas that should not be developed, including important wildlife habitat, from the community's land base. They then apply the zoning, where it exists, defensible assumptions about the density of future uses to the remaining developable land base to determine how much new building should ultimately be anticipated. A buildout study has no time dimension: it looks far ahead. One can work backwards from buildout using reasonable assumptions about the pace of growth to create the 20-year projections required by Montana law, but buildout should always be kept in mind when planning for facilities. An example can be found in the Sonoran Institute publication, *“Western Montana's Future – It's Our Legacy.”*

**4 – Set Level of Service Standards.** You can't understand how demand and capacity interact without standards defining adequate service. Professional planners and consulting engineers can help you find national standards for most facilities and services, but these must be carefully evaluated and modified as necessary before using them in a given community. Level of service standards are policies, and should ideally appear in the local growth policy.

**5 – Apply Level of Service Standards.** Now do some simple math. If your community's level of service standard for parks is seven acres of parkland per thousand residents (a typical standard) and you

anticipate 2,000 more residents during the next 20 years, you should either have 14 acres of parks in place that are not needed to serve the existing population, OR have a plan for where and how you will build 14 more acres of parks.

**6 – Conduct Cost Studies.** Once you have calculated how much additional infrastructure will be needed, you need to estimate the cost of building it. Estimates will generally be based on past experience, either locally or in nearby communities.

**7 – Decide How to Pay.** Different types of public facilities are financed in different ways. On-site facilities, including roads, sidewalks, water distribution and sewage collection systems, stormwater works, neighborhood parks or playgrounds should be built by developers and maintained by them through a multi-year warranty period. But facilities that serve more than one project (water and sewage treatment plants, arterial roads, libraries, and similar facilities) must be supported by some combination of user fees, impact fees, and tax revenues, perhaps with occasional help from a state or federal grant.

**8 – Set Priorities.** Finally, local decision makers must set priorities. Their decisions about what to build, what to build first (and second, third, etc.), what not to build, and how to pay for it all should be reflected in the growth policy, in a detailed five or six year capital improvements program, and, ideally, in annual capital budgets. Determining how to provide adequate future infrastructure may also necessitate

revisions of the local subdivision and zoning regulations (where they exist).

### **WHAT DOES A CAPITAL IMPROVEMENTS PROGRAM LOOK LIKE?**

A CIP is a prioritized list of needed capital improvements and facilities, their estimated costs, and the proposed means of meeting these costs. Given its level of detail, a CIP usually extends only five or six years into the future, but is updated every year as part of the local budget process.

### **OPEN SPACE IMPACT FEES?**

76-6-1601, MCA, et seq make it clear that a CIP is prerequisite to the adoption of impact fees. It is the only way to meet the procedural requirements of 76-6-1602, MCA. The impact fee law also opens up the intriguing possibility that a Montana county could, with the unanimous approval of its Commissioners, assess open space impact fees that would be used to help protect fish and wildlife habitat.

Wise public investments will help protect fish and wildlife populations directly through the acquisition of habitat, and indirectly through infrastructure planning that influences the way the community expands. But the reluctance of some landowners to participate in conservation programs, limitations on funding, and the fact that so many rural areas are well-served by “farm-to-market” roads all place definite limits on what can be accomplished with nonregulatory tools. The same planning process that provides a sound factual and policy basis for infrastructure planning must also be used as a basis for land use regulations if the people of Montana want to sustain their fish and wildlife resources.

## **Roads**

Roads have a direct and indirect effect on wildlife. Direct effects include mortality, habitat fragmentation, and reduced connectivity between habitats and populations. The severity of the effect of roads varies on different wildlife with wide-ranging wildlife most impacted. Indirect effects include noise, vibration, chemical pollutants, erosion, weeds, and light pollution. The most wildlife-friendly road policy is not to extend or construct roads in critical wildlife habitat or corridors. When roads must be extended, consult best practices for wildlife friendly design principles that reduce species mortality. Working with the Montana Department of Transportation on planning for future road networks with sensitivity to county natural resources is also essential.



# Rebuilding Highway 93 to Accommodate Cars and Wildlife A Case Study from the Flathead Reservation



Highways are potential barriers to the movement and migration of wildlife. And not surprisingly, increased traffic has resulted in increased wildlife-vehicle collisions. In recent years, for example, more deer have been killed by cars than by Montana hunters. To address this situation, Montana Department of Transportation (MDT) engineers have teamed up with individuals and organizations concerned about the safety of motorists and the well-being of wildlife to reduce the incidence of accidents and facilitate the safe passage of wildlife across roadways. Highway 93 in

northwestern Montana illustrates the challenges and opportunities facing these efforts.

North of Missoula, 93 bisects the Flathead Indian Reservation of the Confederated Salish and Kootenai Tribes. This stretch of road is notable for both its scenic beauty and its high accident rate. In the early 1980s, growth in the Flathead Valley and increasing tourist traffic stimulated plans for a major redesign of this highway. The preferred road design identified in the MDT's Environmental Impact Statement sparked a heated debate between the MDT and the Confederated Salish and Kootenai Tribes (CSKT). Construction was deferred until these differences were resolved.

Negotiations among the tribes, MDT, and federal officials resulted in agreement on an alternative road design that had as its premise that the road was a "visitor" and should reflect a respect for the "Spirit of the Landscape." That focus would ensure historic, cultural, and natural heritage preservation that had not been considered in the previous design.

One result of this redesign has been the construction of over 40 wildlife passages on the stretch of highway passing through the Reservation. These include extensive fencing, route-box culverts, open span bridges, and corrugated metal pipes. The 56 mile, \$125 million project has been billed as a national showcase for wildlife and highway interconnection. In addition, landscapes that are important to the Salish Kootenai are being preserved, and special signage, materials, and plants enhance the project. Habitat mitigation is focusing on preserving and mitigating adverse impacts on wetlands and riparian areas, including a "net-gain" approach to unavoidable impacts. Wetland creation is focused on crossing areas to facilitate revegetation and cover for wildlife. The final design is proving successful at achieving project safety and capacity goals while avoiding social and environmental impacts.

American Wildlands has developed a safe passage project that helps communities address wildlife and vehicle conflicts at:

[www.wildlands.org/programs/safepassages](http://www.wildlands.org/programs/safepassages)



Image courtesy of CSKT & M



Whisper Camel

# CHAPTER 8

## Managing Growth: How Regulatory Tools Can Protect Habitat

Land use regulation can be a controversial subject in Montana. This workbook leaves ideology and philosophy for another time and focuses on the practical realities of how a community can utilize land use regulations to protect fish and wildlife habitat.

The fourth hallmark of successful communities notes the “wide variety” of tools that can be used to protect local assets. Indeed, the list of regulatory tools is a long one, and we could spend a lot of time distinguishing between different types of zoning (conventional, form-based, performance) or trying to explain why a conditional use permit is different from a variance or a special exception. Instead, this workbook begins its discussion of land use regulations with a key general principle, then moves on to show how different communities are achieving habitat protection goals.

### Positive Regulation

It is easy to focus on the negative when you are thinking about the impacts of land development. Poorly sited and designed projects adversely affect fish and wildlife habitat in many ways: sediment from construction sites finds its way into streams; roads cross migration routes; and exurban subdivisions introduce dogs, fences, and invasive weeds into formerly healthy habitats, or cut off access for anglers and hunters. All of these impacts, and more, can be addressed through local land use regulations. But people seldom respond well to this singular focus. If you want to get new or improved regulations adopted in your community, you need to focus on these words from the fourth hallmark:

... promoting land use patterns that provide housing for all members of the community, preserve open space, and sustain viable central business districts and traditional neighborhoods.

The land use regulations (and growth policies on which they are based) that do the most to protect natural assets are also those that express a clear vision of the type of development the community DOES want. Chapter 7 of *The Planning for Results Guidebook* lists some fundamental principles for successful land use regulation, including, “Be Positive” and “Use Incentives.” Chapter 8 goes on

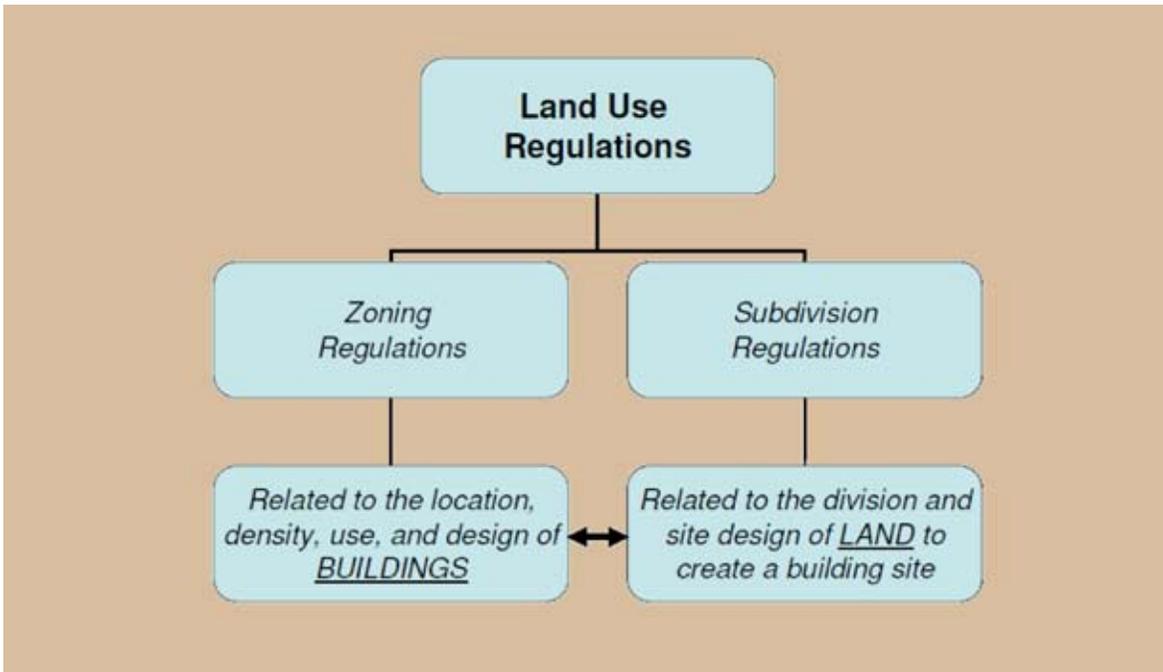
to show how some communities are implementing that advice. You will also find great examples of development that respects wildlife and other resources in *True West: Authentic Development Patterns for Small Towns and Rural Areas* by Christopher Duerksen and James Van Hemert. This 2003 book may be ordered from the Planners Book Service (<http://myapa.planning.org/apastore/>). This workbook continues with a tight focus on the protection of fish and wildlife habitat. An effective local growth policy and the regulations it supports must convey a clear vision of where and how to develop.

### Consistency

Remember that 76-1-605 and 606, MCA require city and county land use regulations to be consistent with the local growth policy. This means that the work of drafting local regulations must begin with the growth policy. Whether you are starting from scratch or making revisions, the local growth policy must provide a firm factual and policy foundation for any regulations the community intends to adopt.

### Scale

Growth policies and land use regulations should operate at the site and community or landscape scales. And as already noted in Chapter VI, they should also consider the regional impacts of local decisions. The remainder of this chapter is organized by scale, too. Ideally, the local growth policy, public investments, and land use regulations will strive to protect habitat using both community and site scale strategies. Montana’s historic emphasis on subdivision regulations as the primary (and usually only) form of growth management has stunted work at the community scale, but examples do exist. The next section of this chapter discusses regulatory tools that can be used to direct development into the best locations in the community. The final part of the chapter describes regulatory tools that can be used at the site level to help avoid or mitigate impacts on fish and wildlife resources.



## Land Use Regulations

The purpose of land use regulations is to guide development in harmony with the community's vision. A few states, such as Colorado, authorize local governments to adopt any reasonable type of land use regulation. Most states still authorize only "zoning." We will use the term "zoning" from this point forward, but keep in mind that zoning is not so much a specific tool as it is a strategy that can employ a variety of tools, including zoning districts, performance standards, conditional or special use permits, and site plan or design review. The combination of these tools your community adopts should flow directly from its vision and land use policies. We can only make some basic points here.

- **Defensible regulations are based on a sound visioning and policy development process.** Try to maintain a one-to-one correspondence between your regulations and your vision and policies.
- **Focus on what's important!** Much of the resistance to local land use regulation has little to do with important community goals. It is a reaction to detailed standards governing things that affect people's everyday lives like outdoor storage and keeping livestock on residential lots.
- **Good procedures are essential!** Your local development code should give everyone involved in the process of development review (the applicant, the neighbors, and the decision makers) a clear, step-by-step understanding of how decisions will be made and enforced. Use flowcharts, checklists, and similar aids to keep the development review on track.
- **Be positive!** Discussions of land use regulations usually focus on the restrictions they impose. Reframing the discussion by showing people examples of what type of development proposed regulations will permit can be helpful.
- **Use incentives!** It is possible to build incentives for good development practices into zoning. These usually come in the form of density bonuses, (which allow a developer to build additional dwelling units or more square feet of commercial space in exchange for protecting open space), providing affordable housing units, providing amenities like landscaped buffers between different uses, or providing infrastructure that benefits the entire community.

## Locally Designed Zoning

As Chapter 6 of this workbook suggested, every local growth policy should identify important fish and wildlife habitats. This information can be used as a basis for one or more policy statements and provide a foundation for actions (public investments and regulations) that will protect habitat. The most effective regulatory tool for protecting habitat at the community scale is zoning.

It is best not to imagine zoning as “a” growth management tool. Effective zoning involves a locally-designed combination of many specific techniques that regulate the location of development on the ground. Broadly speaking, these techniques fall into two categories: districts and standards.

### ZONING DISTRICTS

Creating zoning districts is a geographic exercise. A line is drawn around an area in which certain standards will apply. In conventional zoning, districting revolves around land use and the result is a suite of residential, commercial, industrial, and perhaps, other districts. But there are other ways to define zoning districts, ways that oftentimes are more accurate in recognizing the presence of natural resources or the unique elements of a community’s character. This chapter includes a case study of how Teton County, Wyoming uses a Natural Resources Overlay zoning district to protect fish and wildlife habitat.

### ZONING STANDARDS

We call it “zoning” because it involves dividing a community into districts, but zoning practice in the year 2009 is mostly about the standards that are imposed within the districts. Originally these were simple and easy to measure. Minimum setbacks from property lines, maximum building heights, and minimum numbers of off-street parking spaces were typical, but standards have become more sophisticated since the idea of “performance zoning” was introduced in the 1970s. This chapter will discuss some of the standards that can be used to protect fish and wildlife habitat.

### DENSITY STANDARDS

Most efforts to protect fish and wildlife with zoning have begun with density. The assumption that lower densities are more compatible with habitat is far from perfect, but in some of Montana’s spacious landscapes, zoning for very low densities (which is simple to explain and easy to administer) will sometimes be the most feasible way to protect fish and wildlife habitat. Jefferson County offers the premier example, which is described in this chapter

below. Very large lot zoning is also used in parts of Flathead, Gallatin, and Powell Counties. Powell County has specifically applied this tool to the elk winter range.

### BEYOND DENSITY

Where a 640-acre minimum lot size is not feasible (which is to say, in most places), more complex standards will be needed to help protect fish and wildlife habitat. *Building With Wildlife, A Guide to Conservation-Oriented Development*, a publication produced by an interdisciplinary group of biologists, land use planners and government agencies, outlines six core principles that can help guide the development of local growth policies and zoning standards, and the case-by-case review of proposed developments.

1. Maintain natural habitat patterns.
2. Allow natural processes to continue.
3. Enable the movement of wildlife.
4. Plan development to fit the land’s capacity.
5. Maintain key plants and animals.
6. Minimize the extent of disturbance.

Principle 3 is a good example of how these concepts apply at both the community and the site scales. If maintaining critical migration routes is a goal, the community will need a standard that allows it to substantially rearrange or even reject a proposed development that obstructs one of those routes. But this principle also calls for attention to the details of development, and might lead a community to write a standard requiring wildlife-friendly fencing. Another set of principles (seven this time) that can guide communities in writing growth policies and regulations is set forth in *Managing Development for People and Wildlife: A Handbook for Habitat Protection by Local Governments*, which was prepared by Clarion Associates and the Colorado Division of Wildlife for the Great Outdoors Colorado Trust Fund, available from the Colorado Division of Wildlife.

### STREAM BUFFERS

Zoning has always featured setbacks from property lines. Some communities have adapted that tool to require that an undeveloped, vegetated buffer be left along streams and around lakes and wetlands as development occurs. These buffer requirements are imposed at the site level, one project at a time. But because water ties the landscape together like nothing else, stream buffers are one of the most effective ways to “allow natural processes to continue” and “enable the movement of wildlife” at

# VERY Large Lot Zoning Protects a Agricultural Landscape A Case Study from Jefferson County



Jefferson County is typical of many places in western Montana, with beautiful rivers and mountains, small towns, abundant fish and wildlife, and an economy based on agriculture, mining, tourism, small business, and government employment. It is also one of the fastest growing counties in the State, and its citizens are concerned with preserving their community identity and agricultural economy as land uses change. Some of them, set an ambitious land conservation goal by establishing the citizen initiated Milligan Canyon Boulder Valley Zoning District.

The Milligan Canyon Boulder Valley Zoning District in the southeast corner of Jefferson County was created by local farmers and ranchers to protect their way of life and the productivity of the land. The ordinance limits residential uses to parcels of at least 640 acres in size. Special provisions for critical businesses ensure that the community has access to necessary services like veterinary hospitals, agricultural and livestock equipment sales and repair, schools, parks, and churches, all of which are permitted on parcels of 3 acres or more.

This very large lot zoning ensures that future development will be compatible with the agricultural heritage and use of the area. It will also help the County avoid impacts on public services and, while it was not explicitly a goal of this zoning district, it will protect wildlife habitat.



# Protecting Wildlife Habitat with an Overlay Zoning District

## A Case Study from Teton County, Wyoming



Teton County is located in northwestern Wyoming, in close proximity to Grand Teton National Park, the National Elk Refuge, Yellowstone National Park, and the Bridger-Teton National Forest. Its wildlife resources are abundant and critically important to the character of the county. Hundreds of thousands of tourists visit Jackson Hole each year and many new residents (the population has more than tripled since 1970) have come because of the stunning scenery and abundant wildlife.

Teton County uses a Natural Resource Overlay (NRO) district that is based on high resolution, species-specific data to protect fish and wildlife. Overlay zoning districts add standards to those

adopted for conventional zoning districts, addressing issues or protecting features, like fish and wildlife habitat, that are not confined to a single commercial, industrial, or residential district. Teton County uses overlays to address both natural and scenic resources. Other jurisdictions use them to regulate development of floodplains, steep slopes, and similar naturally-defined areas.

Teton County's planning process resulted in a list of priority species on which to base the NRO. Its purpose can be clearly stated to: protect migration routes and critical winter ranges for elk, mule deer,

and moose; to protect nesting areas and winter habitat for trumpeter swans and bald eagles; and to protect spawning areas of cutthroat trout. This specificity has been critical to implementation. The NRO details the needs of each species, providing a scientific basis for the standards it imposes.

The NRO is mapped at a general scale to inform landowners that they may be within the overlay, but a site-specific analysis is required for all development to determine if the property is in the

NRO. If it is, development there will be subject to setbacks from nesting areas and spawning grounds. Design changes may be required to reduce impacts on fish and wildlife. The text of the NRO is online at:

[www.tetonwyo.org/plan/pdplan/nav/201976.asp](http://www.tetonwyo.org/plan/pdplan/nav/201976.asp)

"Because of the NRO, the impact of development on the natural resources receives as much consideration as the impacts of roads and other infrastructure. Development is steered to the location where there will be the least impact on natural resources."

Bill Collins, Former Teton County Planning Director



the community and regional scales. The Big Hole case study in Chapter 5 offers one example of how Montana counties are protecting stream corridor and wetland habitats with setbacks and other standards. Another example comes from Lewis and Clark County, which adopted the setbacks from streams and rivers shown in Figure 5 into its subdivision regulations in 2005.

Powell County's Floodplain Overlay District prohibits all new construction within 75 feet of the Blackfoot River and its floodplain, as well as all residential, commercial, and industrial structures within the floodplains of the Clark Fork and Little Blackfoot Rivers. A helpful source for those who want to write stream protection standards into a local growth policy or land use regulations, is *A Planning Guide for Protecting Montana's Wetlands and Riparian Areas*, which is available online at:

[www.mtwatercourse.org/Publications/Planning%20Guide/08planning%20guidechpts/Planning\\_Guide\\_Cover\\_TOC\\_2008.pdf](http://www.mtwatercourse.org/Publications/Planning%20Guide/08planning%20guidechpts/Planning_Guide_Cover_TOC_2008.pdf)

## Working at the Site Scale

In a state where local subdivision regulations are required, but zoning has been controversial, most of what has been done to limit land development impacts on fish and wildlife habitat in Montana has been at the site scale. The changes to subdivisions cited in the Madison County case study that accompanies Chapter VI are good examples of how site planning can help limit the impacts development has on fish and wildlife habitat. Another example appears here, in case study of a subdivision in Missoula County.

**Key** This case study shows how local planners, planning boards, and county commissioners can have a positive impact during development review using the power of persuasion. But their recommendations are more likely to be heard by developers and respected by judges when they stem from clear and specific written standards that are incorporated in the local growth policy and in land use regulations that are consistent with that policy.

## Figure 5 – Lewis and Clark County Waterway Setbacks

Type I major rivers, specifically the Missouri River, Dearborn River, Sun River, and the Big Blackfoot River. 250 foot setback, 100 foot buffer.

Type II major streams, generally defined as all main tributaries of Type I water courses. 200 foot setback, 75 foot buffer.

Type III, generally all tributaries of type II water courses; all intermittent streams; Missouri River Reservoirs; Lake Helena; and the Helena Valley Regulating Reservoir. 100 foot setback, 50 foot buffer.

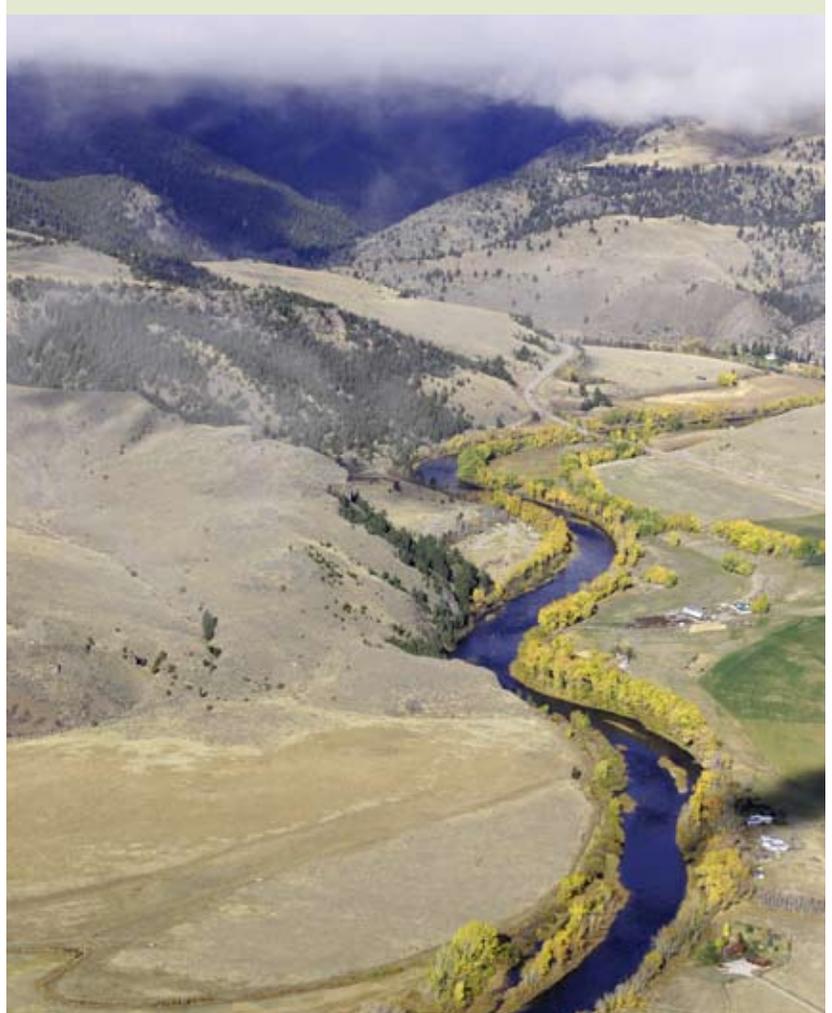
Type IV, drainage channels generally conveying stormwater and snowmelt as well as irrigation canals. 50 foot setback, 30 foot buffer.

Setbacks regulate the minimum distance that structures must be from the water course. In addition to commercial, residential, and industrial buildings, setbacks also apply to barns, feed lots, corrals, and communication towers. Setbacks must extend to the edge of adjacent wetlands and the 100-year floodplain.

Buffers describe a portion of the setback that is supposed to be undisturbed. Buffers are areas where all natural vegetation, rocks, soil, and topography shall be maintained in their original state, or enhanced by the additional planting of native plants.

Lewis and Clark County's subdivision regulations are online at:

[www.co.lewis-clark.mt.us/departments/community-development-planning/subdivision-regulation.html](http://www.co.lewis-clark.mt.us/departments/community-development-planning/subdivision-regulation.html)



# Negotiating to Minimize Impacts to Wildlife Habitat

## A Case Study from Missoula County



Jacquelyn Corday spent several years at the Missoula Office of Planning and Grants, focusing on reviewing rural subdivisions. With the first review of almost every project, often her initial reaction could be characterized by, “You want to put housing here? And then I had to get past that to work with the landowner and their hired development consultant to minimize impacts to wildlife. There was no zoning, and the proposal would be reviewed by County Commissioners who had been incorrectly informed over and over that Montana law gives them very little authority to turn down subdivision.”

A prime example of this was a 500+ acre ranch west of Missoula that consisted of open grasslands on a series of benches that rose up from the valley floor. The last bench was close to the ridgeline, which was a combination of Lolo National Forest and Plum Creek Timber property. The benches were located between two large woody ravines. The eastern one ran the length of the property from south to north and contained a perennial spring. The spring created a small perennial creek that resulted in rich habitat of native shrubs. The eastern ravine continued up to the ridgeline making it an important wildlife corridor. A site visit revealed copious bear scat, mule deer and elk, coyote, and numerous bird species.

The western ravine had been impacted by years of heavy grazing, had no water source, did not connect to the ridgeline, and was predominately a monoculture of hawthorn. Wildlife use was significantly less than the eastern ravine. Another important feature of the site was a 160-acre parcel located in the northwest corner. Montana Fish, Wildlife & Parks had identified that acreage as important elk winter range.

The first proposed design included a loop road that worked its way up the benches, then crossed the eastern ravine and wound its way back down to the frontage road. About 100 lots were placed between the two ravines and another 40 lots were proposed adjacent to the eastern ravine. The most important wildlife habitat would have been surrounded by houses and bisected by a road. Additionally, the two ravines were designated as common area, which meant that bike trails, tree forts, and dogs would soon displace the wildlife.

“I asked the property owners and their representatives to make the following changes to minimize impacts to wildlife: 1) delete the eastern ravine crossing and all but one of the 40 lots on the east bench, leaving one large lot that would encompass the eastern ravine and eastern bench with a building envelope at its southern end to keep the ravine on private property and minimize conflicts with wildlife; 2) pull back the lots on the west side of the eastern ravine to allow for a larger buffer; 3) place the 160 acres and the eastern ravine lot in a conservation easement; and 4) keep the northern lots below the 3,500 foot elevation to protect the elk winter range. FWP also proposed covenants relating to garbage and pet food storage to minimize bear conflicts.”

The owners made some of the recommended changes, including reducing the number of lots to 97 and eliminating the loop road across the eastern ravine, before submitting a final design to the County Commissioners. Ultimately, the Commissioners approved almost all of the recommended conditions, including requiring a conservation easement on the 160 acres of elk winter range. This was the first time that such a condition had been required in Missoula County. FWP’s involvement in field visits, letters to the Commissioners, and public testimony all helped to achieve the design changes.

Those standards can be included in subdivision regulations (the Madison County case) or a zoning ordinance (as in Powell County or Teton County, WY). Zoning has a broader reach. It is also simpler for both local officials and landowners due to the complexity of Montana's subdivision laws. Whether you put them in the subdivision regulations or in a zoning code, the single best way to incorporate standards that protect fish and wildlife habitat is in requirements for conservation or open space subdivisions.

### **CONSERVATION SUBDIVISIONS**

A conservation subdivision is one for which the provision of significant open space is a prerequisite of approval. The landowner uses the assigned development rights on a small (how small is specified in the local subdivision regulations or zoning code) portion of the site and the remaining land is protected by a conservation easement, deed restriction, or dedication to a public agency. Most communities make conservation subdivision voluntary, but it can be highly effective in protecting wildlife habitat and other rural resources if it is made mandatory, with limited exemptions. The Larimer County, Colorado case study that appears in this chapter is an example of that approach. Alternatively, many communities offer incentives to conservation subdivisions, usually in the form of a density bonus that allows the developer to build more units than would be permitted in a conventional subdivision. Whether it is mandatory or voluntary with incentives, the language establishing conservation subdivisions must be quite specific about what lands are to be protected. It is especially important to emphasize connectivity with conserved lands on adjoining parcels.

### **CAN WE DO THAT IN MONTANA?**

Yes. 76-3-509, MCA, allows local governments to adopt land use regulations that promote "clustered" subdivisions. The statutes require that local regulations set a maximum size for each parcel to be clustered and a maximum number of parcels per cluster. They also require a minimum size for the area to be preserved as open space and specifically state, "The regulations must require that open space be preserved through an irrevocable conservation easement, granted in perpetuity, as provided for in Title 76, Chapter 6, prohibiting further division of the parcel." Local governments are also authorized to adopt incentives for clustering to preserve open space. Some Montana counties, including Cascade,

Gallatin, and Yellowstone permit conservation subdivisions in at least some areas. The case study of the Hebgen Basin Zoning District that accompanies this chapter offers an example.

### **CONSERVATION DESIGN**

How do you get a conservation subdivision? By starting with conservation design, of course. If your community adopts incentives and/or requirements for the protection of open space in new subdivisions, you may have to help local landowners and their professional advisors understand how to take advantage of this opportunity.

1. The first step in conservation design is to create a vision for the site: How does the land speak to you? Who are you creating this subdivision for?
2. The process then involves a thorough inventory of the natural and cultural resources and existing infrastructure on the site. Inventory maps will locate and identify physical constraints like steep slopes or wetlands, as well as opportunities like potential building sites with scenic views or existing historic structures.
3. With the inventory complete, the next step is to decide how much of the site - including stream corridors, wetlands, wildlife migration routes, and other important upland habitats - will remain in open space.
4. With the open space deducted, building sites can be selected, and then linked together with roads, trails, and any other infrastructure (power, telephone, cable television, water, and sewer) that is being provided. Even where substantial open space is set aside, the road network should be minimized; this cuts both costs and stormwater runoff as it complements the open space.

## Additional Wildlife Considerations

Whether they are established in subdivision regulations – and 76-3-608(3)(a), MCA makes it clear that Montana cities and counties can review subdivision impacts on fish and wildlife habitat – or via zoning, a number of other standards can be adopted to help protect fish and wildlife habitat as development occurs. These seek to mitigate specific impacts and complement a basic requirement for conservation design.

### Do NOT FEED THE BEARS!

You can (and should) require bearproof solid waste storage wherever there is a possibility for conflict. Enforcing other standards, like prohibitions on bird feeders, is difficult and this is an area where education may be the community's best tool.

### FENCING: IN AND OUT

Your community may need to look at both sides of the fence; writing standards that confine the impacts recreational livestock (mostly horses) can have on water quality and wildlife forage, and adopting standards for wildlife-friendly fencing.

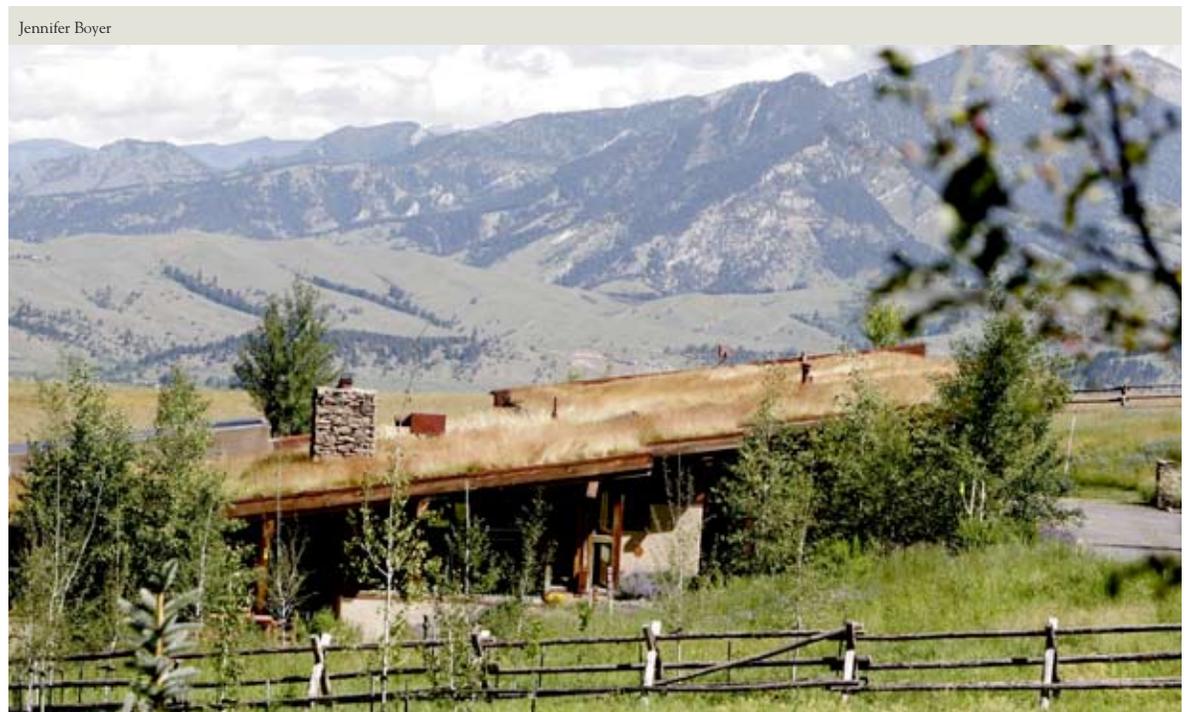
## OUTDOOR LIGHTING

It is becoming increasingly clear that humans' need for outdoor illumination adversely impacts wildlife. Besides that, who wants to live in Montana without seeing the stars wheeling through the "Big Sky?" The International Dark-Sky Association (IDA) provides excellent guidance on how your community can limit outdoor illumination while still permitting the light people actually need. IDA is online at:

<http://www.darksky.org/mc/page.do>

## THE GOOD, THE BAD, AND THE INVASIVE

Your community may want to protect desirable vegetation. This is especially important in the stream buffers described earlier in this chapter because healthy plant communities are essential to sustain the filtering and flood reduction functions of riparian and wetland areas, but may also be important in other habitat areas. On the other hand, the spread of noxious and invasive weeds is a huge problem in Montana. Without natural predators,



Jennifer Boyer

The 800-acre Eagle Rock Subdivision outside of Bozeman in Gallatin County was one of the first conservation subdivisions in Montana. It protects wildlife habitat by carefully arranging homes on lots of one to three acres outside elk winter range, wetlands, stream corridors, agricultural lands, and viewsheds. Beyond the building sites, native vegetation is used for landscaping and horses are restricted to a community pasture and barn to ensure appropriate grazing. Lots were slow to sell at first, but this development is now considered one of the most desirable subdivisions in Montana.

# Conservation Development

## A Case Study from Larimer County, Colorado



Larimer County, Colorado requires conservation subdivisions (called conservation developments there) on parcels of 30 or more acres outside designated growth areas. This protects agricultural, open space, and environmentally sensitive lands, while honoring landowners' rights by allowing development at the prescribed zoning density.

Building sites are restricted to a small portion of the parcel (20-50 percent) and the remaining land (50-80 percent) is placed under permanent protection. The

County promotes creativity in lot design, layout, and size. There is no minimum lot size unless the house is going to use an on-site wastewater treatment system, in which case a two-acre minimum is required. The code clearly articulates what features should be included in the protected open space, ranging from wildfire and flood hazard areas to productive agricultural lands, unique geologic features, and critical wildlife habitat. Where practical, the protected open space must connect to adjoining protected lands. The intention is to create large patches and corridors that provide the greatest benefit to wildlife and permit natural processes like flooding and wildfire to work.

The county is grappling with the appropriateness of mandatory conservation development in areas with no significant agricultural or natural features. It may also decide to permit the use of standard setbacks where building envelopes are not necessary, but this is a great example of conservation subdivision regulations. You can find it online at:

[www.co.larimer.co.us/planning/planning/land\\_use\\_code/land\\_use\\_code.htm](http://www.co.larimer.co.us/planning/planning/land_use_code/land_use_code.htm).



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weeds out-compete native vegetation and spread in large patches. The subsequent loss of native plants reduces the amount of food and habitat available for wildlife. Local governments can require developers to minimize soil disturbance and implement weed management plans.

### **WATER QUALITY**

If your community can adopt and enforce standards that limit soil disturbance during construction and the area of impervious surfaces in new development, it will have accomplished a great deal. Poor construction practices and growing areas of impervious surfaces (parking lots, rooftops, etc.) can drastically increase the quantity and velocity of water reaching wetlands, streams, and rivers. This runoff carries many pollutants, but its biggest impact may be the way in which it restructures stream channels. Fish and their food chain suffer, as do other wildlife that rely on healthy streams. Taxpayers suffer as local government copes with the consequences of flooding where



U.S. Forest Service

it never occurred before. Writing stormwater management standards could be the topic of an entire workshop. You can find examples and places to start at Montana Watercourse and the Center for Watershed Protection:

[www.mtwatercourse.org/WaterResources/Stormwater2.htm](http://www.mtwatercourse.org/WaterResources/Stormwater2.htm)

[www.cwp.org/Resource\\_Library/Better\\_Site\\_Design/index.htm](http://www.cwp.org/Resource_Library/Better_Site_Design/index.htm)

### **POSITIVE REGULATION, AGAIN**

Let's complete this chapter with a return to the theme of 'positive regulation' and to the hallmarks' admonition that successful communities "promote" certain types of development. The possibility of density bonuses for conservation subdivisions has already been mentioned. Other incentives can be

structured into subdivision regulations or a zoning code, but the single most important principle of positive regulation is this.

### **🔑 Make doing the right thing the course of least resistance.**

For example, the most common way local governments have permitted conservation subdivisions in the past is as planned unit developments. But that adds cost for extra design services and time for more hearings. A community that really wants conservation subdivisions will make them the "use-by-right" in its zoning and allow them to use the provisions of Montana law (76-3-509 and 76-3-616, MCA) reduce review requirements for subdivisions that comply with a local growth policy and zoning.

Beyond incentives for the protection of fish and wildlife habitat, cities and counties can encourage development that attracts people to live where conflict with habitat and other resources is minimized. They can do this by insisting that developers produce neighborhoods or even whole communities rather than just "developments." It is clear that at least some developers understand the appeal of nearby open space and that others are using physical design to create compact neighborhoods where walking is a realistic and even pleasant alternative to dependence on the automobile.

Examples of attractive developments can be found in the Sonoran Institute's *Building from the Best of the Northern Rockies*, which identifies best building practices for urban, rural, and edge projects, and the *True West* book cited earlier in this chapter. *Building from the Best* is available online at:

[www.sonoraninstitute.org/index.php?option=com\\_docman&Itemid=181](http://www.sonoraninstitute.org/index.php?option=com_docman&Itemid=181).

The Yellowstone Business Partnership is piloting a certification process for developments in the Greater Yellowstone region. You can read about this program and the guidelines it has developed for sustainable development at:

[www.yellowstonebusiness.org/our\\_programs/growth\\_challenges/](http://www.yellowstonebusiness.org/our_programs/growth_challenges/)

# Rewarding Conservation

## A Case Study from the Hebgen Basin Zoning District



The Hebgen Basin Zoning District encompasses 13,280 ecologically important acres at the edge of Yellowstone National Park. Grizzly bears, elk, bison, and other species regularly traverse the area in their seasonal and daily movements. Developments proposed in the 1990s galvanized local concern about the future of the area and the potential impacts of unregulated growth. While a land use plan and zoning ordinance existed, both

were outdated and needed revision. Over a two-year period, volunteers painstakingly revised both. They crafted a shared vision for the future of this special landscape and developed a land use plan and zoning regulation that would achieve their goals.

The new plan and regulations place strict limits on commercial development and offer strong incentives for clustering residential development. The density bonuses range from 10-25 percent for protecting 50-80 percent of a site as open space. The open space is required to meet performance standards including: protection of at least 90 percent of sensitive lands on the site, providing linkages to adjoining property or public lands, and providing a buffer between the proposed development and adjoining properties. You can find the Hebgen Basin plan and regulations online at:

[www.gallatin.mt.gov/public\\_documents/gallatincomt\\_plandep/gallatincomt\\_zonedist/zoningdistricts/hebgen](http://www.gallatin.mt.gov/public_documents/gallatincomt_plandep/gallatincomt_zonedist/zoningdistricts/hebgen)

The community's planning process also encouraged conservation partners like the Trust for Public Lands to help protect the valley's wildlife corridors through the acquisition of conservation easements. More than 500 acres have been conserved.



Sonoran Institute Buildout Illustrations

# CHAPTER 9

## Leadership for Conserving Wildlife



Dennis Glick

This workbook has shown that Montana communities can plan to protect fish and wildlife habitat. All that is needed is leadership. Remember the final hallmark of successful communities! Sometimes this comes from local officials, but more often from citizens organizing themselves.

This final chapter briefly reviews the opportunities cities and counties have to protect habitat in their local planning process. It then concludes with some thoughts about building support for effective local planning and one more case study of a place where Montana citizens acted to protect wildlife and other resources they treasure.

Figure 6 offers a concise summary of Montanan's opportunities to use their communities' planning powers to help ensure a future with abundant fish and wildlife resources. Truly effective planning uses all of the tools available, but there is a place to start or a next step for every city and county.

### **Building Community Support for Wildlife**

Wherever your community is at – whether you are writing a vision statement about how wildlife contributes to the local quality of life, promoting an open space bond issue, or debating regulations that require developers to protect habitat - taking that step will require community support. Every case study presented in this workbook reflects a patient

process of building public understanding and support.

All of these efforts engaged the entire community, had a facilitator or professional planner managing the process, and used a variety of public outreach and involvement strategies to build the shared knowledge and understanding that are prerequisites for action. You can learn more about effective public process in Sonoran Institute's *The Planning for Results Guidebook*. Here are a few widely recognized keys to success.

- Have good ground rules for conducting your meetings and public forums. Ensure that people are able to participate, be heard, and be respected in a safe environment.
- Have a transparent process that clearly communicates how citizens can be involved and what the steps and timeline will be for the project. Use multiple forms of communication from newspapers, to mailings, to websites.
- Have clear objectives for meetings and forums. Document public input. Make it clear that you are listening to people's perspectives.
- Bring good information from trusted messengers. Be sensitive to how both the information and the messenger will be received. Answer the questions "what do people need to hear?" and "who do they need to hear it from?"

### **Valuing Leadership**

This workbook and the associated training are intended to help leaders from Montana cities and counties learn how to protect fish and wildlife habitat through their local planning process. A key trait of effective leaders is their willingness to collaborate and build partnerships. Managing fish and wildlife - which run, hop, swim, and fly across political boundaries - involves local, state, and federal government. It can't be done without partnerships.

- As much as possible, focus on areas of agreement, especially early on. Building on areas of agreement will foster trust and collaboration that will be helpful when more difficult issues have to be confronted.

Most of all, remember to keep the process positive. Focus on benefits, economic and otherwise. Focus on what people CAN do, not on what they can't. And do not be discouraged. This workbook ends with a case study from Bozeman Pass. That

story includes public rejection of the process (or at least of its results) at one point, followed by success in the end.

It sometimes seems that the “Western” attitude of independence will overwhelm any sense of community or individual responsibility. But as the case studies presented in this workbook show, most Montanans understand the need for respectful stewardship of the landscape they inhabit. Work in that spirit will eventually succeed.

## OPPORTUNITIES TO PLAN FOR WILDLIFE

**VISIONING** (Chapter 5) Crafting a community vision provides an opportunity to create an agreed upon statement about what the community values, and what it wants to be like in the future. If fish and wildlife resources are the most treasured values, essential to the sense of place, and something the community wants future generations to enjoy, this is the place to start.

**POLICY MAKING** (Chapter 6) This is the key opportunity, the legally required basis for community action. If your community values fish and wildlife resources its growth policy will provide both a firm factual foundation, including maps and narrative, and clear and specific policies that say, as precisely as possible, how local public investment and land use decisions will protect habitat.

**PUBLIC INVESTMENTS** (Chapter 7). This workbook has shown how a few Montana communities are making direct investments in habitat protection through the acquisition of land and development rights. It is also important that local investments in roads and other infrastructure are consistent with habitat protection goals. The best way to ensure that consistency is through the systematic infrastructure planning process.

**REGULATIONS: COMMUNITY SCALE** (Chapter 8) Regulations that protect fish and wildlife at the community or landscape scale mostly come packaged as some form of zoning, but some can also be integrated into subdivision regulations. They include wildlife overlay zoning districts; requirements, or at least incentives, for conservation subdivisions; and requirements for ample vegetated buffers along streams.

**REGULATIONS: SITE SCALE** (Chapter 8) Focus on the details of development and on the broad patterns addressed at the community scale. Fish and wildlife will benefit from clear and specific standards: bearproof solid waste storage, wildlife-friendly fencing, outdoor lighting reduction, weed suppression, and protecting water quality.

## Residents Rally for Rural Life and Wildlife A Case Study from Bozeman Pass



It is not unusual to see deer, elk, or an occasional moose or black bear bound across Interstate 90 between Bozeman and Livingston. The Bozeman Pass area is a vital wildlife corridor connecting Yellowstone National Park and the wildlands to the north.

When an energy company announced plans to explore for coal bed methane, area residents were concerned about the impact this could have on water quality, ranchlands, and wildlife. However, instead of paralyzing the community, it galvanized them. For nearly five years,

citizens engaged in a planning process that ultimately resulted in a land use plan and zoning regulation that would help protect water quality, wildlife, and open space in this 26,000-acre area. “We learned that our homes, fences, and dogs are already creating

a bottleneck for wildlife,” said Bozeman Pass landowner Tina Visscher. “To protect wildlife, water supplies, and open space, we couldn’t focus solely on coal bed methane development; we also had to limit subdividing of our own property. I am extremely proud that my neighbors came together and did this.”

A citizen planning committee began with a community visioning process and mail survey that identified top priority planning issues and concerns. The results were used to formulate the overall goals for the plan and zoning regulation. Because this was a citizen petitioned zoning district, over 50 percent of the district’s residents had to sign a petition supporting the plan. The first draft of the plan and zoning regulation failed to receive the support required for approval. Modifications were made to address citizen concerns, yet still achieve the resource protection goals identified by local residents.

The Gallatin County Commissioners approved the plan and zoning regulations, which establish three districts that have minimum lot sizes of 40, 80, and 640 acres (in a public lands sub-district), but allow clustered development. Energy companies must now study water supplies and other sensitive resources, submit plans for local approval before drilling, use the best available technology, and post a bond to pay for cleanup.



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Shaping the Future of the West

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