

# HOA GOVERNANCE IN MONTANA UPDATE

LOCAL GOVERNMENT INTERIM COMMITTEE  
MADDIE KREZOWSKI – MARCH 2026

## 2023-2025 UPDATE

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This document summarizes bills related to homeowners' associations passed during the 2023 and 2025 legislative sessions to update the [HOA Governance in Montana](#) memo provided by Toni Henneman during the 2023-2024 Interim.

### 2023: SENATE BILL 247

*Senate Bill 247 provides limitations on the enforcement of covenants and provides criteria for when a covenant would be deemed abandoned. Senate Bill 247 added a new section codified at section [70-17-210](#), MCA. As passed in 2023, section 70-17-210, MCA, read:*

**70-17-210. Covenant enforcement and abandonment.** (1) An association or any party to an interest in land subject to a covenant, condition, or restriction may initiate a legal action to enforce covenants, conditions, or restrictions.

(2) A parcel owner may assert a defense that a covenant, condition, or restriction has been abandoned for purposes of enforcement by offering evidence that no enforcement action has been undertaken for the prescribed period in 27-2-202. Once a covenant, condition, or restriction is abandoned by a court order or agreed to have been abandoned by the approval of the appropriate association, by recording a notice of abandonment or amendment in the office of the county clerk and recorder of the county where the development is situated, all persons are precluded from undertaking a different interpretation or enforcement action of the abandoned covenant, condition, or restriction against a similarly situated parcel owner in the same development.

(3) (a) Except as provided in subsection (3)(b), an association that has not met for a period of 15 years is prohibited from taking an enforcement action against a parcel owner whose use of the parcel is substantially similar to the nature and scope of the use of other parcels in the development.

(b) Covenants, conditions, and restrictions are still valid and enforceable under this subsection (3) if they are otherwise necessary:

- (i) to comply with applicable federal, state, and local laws, ordinances, and regulations;
- (ii) for an easement or right-of-way;
- (iii) for the maintenance of infrastructure or improvements in the development;
- (iv) to comply with a court order or the approval provided by a government on the establishment of the covenants, conditions, and restrictions;
- (v) for the installation, maintenance, or removal of utilities; or
- (vi) to abate a nuisance.

## 2025: HOUSE BILL 147, HOUSE BILL 233, HOUSE BILL 325, AND HOUSE BILL 416

*Four bills passed during the 2025 session related to homeowners' associations.*

### HOUSE BILL 147 AND HOUSE BILL 325

*House Bill 147 and House Bill 325 both amended section 70-17-210, MCA. House Bill 147 provided a definition for "enforcement action". House Bill 325 clarified language in the existing statute. After the 2025 amendments, section 70-17-210, MCA, reads:*

**70-17-210. Covenant enforcement and abandonment.** (1) The following persons may initiate a legal action to enforce covenants, conditions, or restrictions:

- (a) a party to an agreement containing real property covenants, conditions, or restrictions or the party's successors in interest;
  - (b) the owner of an interest in real property burdened or benefited by a covenant, condition, or restriction;
- or
- (c) a homeowners' association or other governing body of a real property development subject to covenants, conditions, or restrictions.

(2) The owner of an interest in real property subject to a covenant, condition, or restriction may assert a defense that a covenant, condition, or restriction has been abandoned for purposes of enforcement by offering evidence that no enforcement action has been undertaken for the prescribed period in 27-2-202. Once a covenant, condition, or restriction is abandoned by a court order or agreed to have been abandoned by the approval of the appropriate association or governing body by recording a notice of abandonment or amendment in the office of the county clerk and recorder of the county where the property is situated, all persons are precluded from undertaking a different interpretation or enforcement action of the abandoned covenant, condition, or restriction against a similarly situated owner of an interest in real property subject to the abandoned covenant, condition, or restriction.

(3) (a) Except as provided in subsection (3)(b), an association or governing body of a real property development that has not met for a period of 15 years is prohibited from taking an enforcement action against the owner of an interest in real property subject to a covenant, condition, or restriction whose use of the property is substantially similar to the nature and scope of the use of other properties in the development.

(b) Covenants, conditions, and restrictions are still valid and enforceable under this subsection (3) if they are otherwise necessary:

- (i) to comply with applicable federal, state, and local laws, ordinances, and regulations;
- (ii) for an easement or right-of-way;
- (iii) for the maintenance of infrastructure or improvements serving the real properties burdened or benefited by the covenants, conditions, or restrictions;
- (iv) to comply with a court order or the approval provided by a government on the establishment of the covenants, conditions, and restrictions;
- (v) for the installation, maintenance, or removal of utilities; or
- (vi) to abate a nuisance.

(4) For the purposes of this section and as it pertains to a parcel owner's defense, "enforcement action" related to a covenant means that the covenant was equally and consistently enforced under whatever method an association uses to enforce covenants on all properties subject to the covenant over at least a 2-year period.

## HOUSE BILL 233

*House Bill 233 adds a definition of "homeowners' association" to the general land use planning definition sections [76-3-103](#) and [76-25-103](#), MCA. The bill provides a process for a homeowners' association to acquire legal title to certain open spaces through a petition to the local government governing body after a final subdivision plat has been filed under new section [76-3-308](#), MCA, and new subsection (6) in section [76-25-411](#), MCA. The definition added to sections 76-3-103 and 76-25-103, MCA, reads:*

"Homeowners' association" means an association of all the owners of real property within a geographic area defined by physical boundaries that:

- (a) is formally governed by a declaration of covenants, bylaws, or both;
- (b) may be authorized to impose assessments that, if unpaid, may become a lien on a member's real property; and
- (c) may enact or enforce rules concerning the operation of the community or subdivision.

*New section 76-3-308, MCA, (with the same language appearing in 76-25-411(6)) reads:*

**76-3-308. Transfer of title of open spaces in recorded final plat.** (1) After a final subdivision plat has been filed for record with the county clerk and recorder, a homeowners' association may file a petition with the governing body to transfer title to the homeowners' association of any open spaces, parks, or similar common-use areas set aside in the final plat if the following conditions are met:

- (a) the homeowners' association is organized in accordance with the covenants;
- (b) the covenants require the homeowners' association to maintain, repair, or insure the open spaces, parks, or similar common-use areas;
- (c) the governing body finds that it was the intent of the subdivider that the open spaces, parks, or similar common-use areas be owned by the homeowners' association; and
- (d) the property to be transferred is not owned by a person.

(2) The petition under subsection (1) must be signed by an authorized representative of the homeowners' association.

(3) After a public hearing on the petition, the governing body shall issue written findings of fact and a decision based on the record. If the requirements of subsection (1) have been met, the governing body shall approve the transfer. If the governing body approves the transfer, the approval must be recorded with the clerk and recorder.

## HOUSE BILL 416

*House Bill 416 enacted section 70-16-110, MCA, that provides requirements for representatives of a homeowners' association before entering real property. It provides:*

**70-16-110. Requirements for entry on real property by agent of homeowners' association -- exceptions.** (1) (a) A homeowners' association must receive permission from an owner of real property before an agent of the homeowners' association may enter the property.

(b) When seeking permission for an agent of the homeowners' association to enter the property, the homeowners' association shall:

(i) seek to establish a date and time to enter the property that is convenient to the owner; and

(ii) specify what part of the property the agent of the homeowners' association seeks to access.

(2) An owner of real property may require that the owner or the owner's agent be present when an agent of the homeowners' association enters the property.

(3) This section does not affect any implied license an agent of a homeowners' association has as a member of the public to access the areas of real property generally open to the public, such as sidewalks, front pathways, or the front door of a house.

(4) As used in this section, "homeowners' association" means an association of all the owners of real property within a geographic area defined by physical boundaries that:

(a) is formally governed by a declaration of covenants, bylaws, or both;

(b) may be authorized to impose assessments that, if unpaid, may become a lien on a member's real property; and

(c) may enact or enforce rules concerning the operation of the community or subdivision.

(5) This section does not apply to condominiums where there are common elements that must be accessed by entering the unit and for which the declaration of covenants or bylaws set forth the terms of accessing the unit.

(6) This section does not apply to easements of record that specifically benefit the homeowners' association.