

1 HOUSE BILL NO. 508

2 INTRODUCED BY C. YOUNKIN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ZONING LAWS; ESTABLISHING A
5 PROCEDURE TO ABOLISH A PLANNING AND ZONING DISTRICT CREATED UNDER TITLE 76, CHAPTER
6 2, PART 1, MCA; ESTABLISHING A PROCEDURE TO CONVERT A PLANNING AND ZONING DISTRICT TO
7 A ZONING DISTRICT UNDER TITLE 76, CHAPTER 2, PART 2, MCA; REVISING THE PROCEDURE FOR
8 ADOPTING AMENDMENTS TO ZONING REGULATIONS OR REVISIONS TO BOUNDARIES OF ZONING
9 DISTRICTS THAT AFFECT PART OF A ZONING DISTRICT; AND AMENDING SECTIONS 76-2-201 AND
10 76-2-205, MCA."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 NEW SECTION. **Section 1. Conversion to county zoning district.** (1) The board of county
15 commissioners may:

16 (a) abolish a planning and zoning district established pursuant to this part; or

17 (b) convert a planning and zoning district to a zoning district under part 2 of this chapter by
18 abolishing the planning and zoning district, creating a zoning district, and adopting zoning regulations
19 pursuant to part 2 of this chapter, as provided in this section.

20 (2) The process to abolish or convert a planning and zoning district may be initiated by the board
21 of county commissioners or by at least 10 freeholders within the planning and zoning district. A planning
22 board created pursuant to chapter 1 may recommend to the board of county commissioners that a
23 planning and zoning district be abolished or converted.

24 (3) All costs associated with abolishing or converting the planning and zoning district must be paid
25 by the party initiating the process.

26 (4) If a planning board has been established pursuant to chapter 1, the planning board shall make
27 advisory recommendations to the board of county commissioners on the following:

28 (a) whether or not the zoning district conforms to the growth policy if a growth policy has been
29 adopted pursuant to chapter 1;

30 (b) boundaries of the zoning district; and

1 (c) appropriate regulations for the various zoning districts, taking into consideration the criteria and
2 guidelines established in 76-2-203.

3 (5) Notice of a public hearing on the proposal to abolish the planning and zoning district or to
4 convert the planning and zoning district to a zoning district under part 2 of this chapter must be published
5 once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

6 (a) the boundaries of the existing planning and zoning district;

7 (b) the general character of the zoning regulations for the existing planning and zoning district;

8 (c) the action proposed to be taken with respect to the planning and zoning district;

9 (d) the time and place of the public hearing; and

10 (e) that the proposed zoning regulations and zoning district boundaries are on file for public
11 inspection at the office of the county clerk and recorder.

12 (6) At the public hearing, the board of county commissioners shall give the public an opportunity
13 to be heard regarding the proposal to abolish or convert the existing planning and zoning district.

14 (7) After the public hearing, the board of county commissioners shall review the recommendations
15 of the planning board and shall make any changes that it determines to be proper.

16 (8) The board of county commissioners may pass a resolution of intention to:

17 (a) abolish the existing planning and zoning district; or

18 (b) abolish the existing planning and zoning district, create a zoning district under part 2 of this
19 chapter, and adopt zoning regulations for the zoning district under part 2 of this chapter.

20 (9) Notice of adoption of the resolution must be given to the public and to freeholders within the
21 proposed zoning district 30 days prior to a final decision on the proposed action. The board of county
22 commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in
23 a newspaper of general circulation within the county. The notice and a ballot must be mailed to each
24 freeholder within the proposed zoning district. The notice must state:

25 (a) the boundaries of the existing planning and zoning district and the general character of the
26 zoning regulations for the existing planning and zoning district;

27 (b) changes to the boundaries of the district proposed to be adopted under part 2 of this chapter;

28 (c) changes to the general character of the existing zoning regulations that are proposed to be
29 adopted for the zoning district created under part 2 of this chapter;

30 (d) that the proposed zoning district boundaries and zoning regulations are on file for public

1 inspection at the office of the county clerk and recorder; and

2 (e) that for 30 days after first publication of this notice, the board of county commissioners will
3 receive written protests to the abolishment of the planning and zoning district, to the creation of the zoning
4 district, or to the adoption of zoning regulations from persons owning real property within the district
5 whose names appear on the last-completed assessment roll of the county.

6 (10) If 50% of the freeholders or freeholders representing 50% of the property taxed for
7 agricultural purposes or taxed as forest land protest the conversion of the district as indicated on the
8 ballot, the planning and zoning district may not be abolished or converted to a zoning district under part
9 2 of this chapter.

10 (11) The board of county commissioners may pass a resolution to:

11 (a) abolish the existing planning and zoning district;

12 (b) abolish the existing planning and zoning district, create a zoning district, and adopt zoning
13 regulations under part 2 of this chapter.

14

15 **Section 2.** Section 76-2-201, MCA, is amended to read:

16 **"76-2-201. County zoning authorized.** For the purpose of promoting the public health, safety,
17 morals, and general welfare, a board of county commissioners ~~that has adopted a growth policy for the~~
18 ~~entire jurisdictional area pursuant to chapter 1~~ is authorized to adopt zoning regulations for all or parts of
19 the jurisdictional area in accordance with the provisions of this part if:

20 (1) the board of county commissioners has adopted a growth policy for the entire jurisdictional
21 area pursuant to chapter 1; or

22 (2) the board of county commissioners converts a planning and zoning district that was created
23 under part 1 of this chapter to a zoning district subject to the provisions of this part, as provided in
24 [section 1]."

25

26 **Section 3.** Section 76-2-205, MCA, is amended to read:

27 **"76-2-205. Procedure for adoption of regulations and boundaries.** The (1) Except as provided in
28 [section 1] and subsection (2) of this section, the board of county commissioners shall observe the
29 following procedures in the establishment or revision of boundaries for zoning districts and in the adoption
30 or amendment of zoning regulations:

1 ~~(1)~~(a) Notice of a public hearing on the proposed zoning district boundaries and of regulations for
2 the zoning district must be published once a week for 2 weeks in a newspaper of general circulation within
3 the county. The notice must state:

4 ~~(a)~~(i) the boundaries of the proposed district;

5 ~~(b)~~(ii) the general character of the proposed zoning regulations;

6 ~~(c)~~(iii) the time and place of the public hearing; and

7 ~~(d)~~(iv) that the proposed zoning regulations are on file for public inspection at the office of the
8 county clerk and recorder.

9 ~~(2)~~(b) At the public hearing, the board of county commissioners shall give the public an
10 opportunity to be heard regarding the proposed zoning district and regulations.

11 ~~(3)~~(c) After the public hearing, the board of county commissioners shall review the proposals of
12 the planning board and shall make any ~~revisions or amendments~~ changes that it determines to be proper.

13 ~~(4)~~(d) The board of county commissioners may pass a resolution of intention to create a zoning
14 district and to adopt zoning regulations for the district.

15 ~~(5)~~(e) The board of county commissioners shall publish notice of passage of the resolution of
16 intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice
17 must state:

18 ~~(a)~~(i) the boundaries of the proposed district;

19 ~~(b)~~(ii) the general character of the proposed zoning regulations;

20 ~~(c)~~(iii) that the proposed zoning regulations are on file for public inspection at the office of the
21 county clerk and recorder;

22 ~~(d)~~(iv) that for 30 days after first publication of this notice, the board of county commissioners will
23 receive written protests to the creation of the zoning district or to the zoning regulations from persons
24 owning real property within the district whose names appear on the last-completed assessment roll of the
25 county.

26 ~~(6)~~(f) Within 30 days after the expiration of the protest period, the board of county commissioners
27 may, in its discretion, adopt the resolution creating the zoning district or establishing the zoning regulations
28 for the district. However, if 40% of the freeholders within the district whose names appear on the
29 last-completed assessment roll or if freeholders representing 50% of the titled property ownership whose
30 property is taxed for agricultural purposes under 15-7-202 or whose property is taxed as forest land under

1 Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations,
2 the board of county commissioners may not adopt the resolution and a further zoning resolution may not
3 be proposed for the district for a period of 1 year.

4 (2) The board of county commissioners may observe the following procedures in the adoption of
5 amendments to zoning regulations or revisions of boundaries for zoning districts when the amendment or
6 revision applies only to part of a district:

7 (a) Notice of a public hearing on the proposed amendment to zoning regulations or revision of
8 boundaries for a zoning district must be published once a week for 2 weeks in a newspaper of general
9 circulation within the county. The notice must state:

10 (i) the general character of the proposed amendment to zoning regulations or revision of
11 boundaries for a zoning district;

12 (ii) the time and place of the public hearing;

13 (iii) that the proposed amendment to zoning regulations or revision of boundaries for a zoning
14 district is on file for public inspection at the office of the county clerk and recorder; and

15 (iv) that for 30 days after first publication of this notice, the board of county commissioners will
16 receive written protests to the amendment to zoning regulations or revision of boundaries for a zoning
17 district from freeholders of property within the area affected by the change or of property within 150 feet
18 of the property included in the proposed change.

19 (b) At the public hearing, the board of county commissioners shall give the public an opportunity
20 to be heard regarding the proposed amendment to zoning regulations or revision of boundaries for a zoning
21 district.

22 (c) After the public hearing, the board of county commissioners shall review the proposals of the
23 planning board and shall make any changes that it determines to be proper.

24 (d) The board of county commissioners may pass a resolution of intention to adopt the amendment
25 to zoning regulations or revision of boundaries for a zoning district.

26 (e) Within 30 days after the expiration of the protest period, the board of county commissioners
27 may, in its discretion, adopt the resolution adopting the amendment to zoning regulations or revision of
28 boundaries for a zoning district.

29 (f) (i) The board of county commissioners may not adopt the amendment to zoning regulations or
30 revision of boundaries for a zoning district if a written protest is submitted by freeholders representing

- 1 35% or more of the titled property ownership within an area that includes:
2 (A) the property that would be subject to the proposed amendment or revision of boundaries; and
3 (B) property within 150 feet of the property that would be subject to the proposed amendment
4 or revision of boundaries.
5 (ii) A right-of-way does not count in the calculation of the protest area under this subsection."

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7 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
8 integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to
9 [section 1].

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