

SENATE BILL NO. 241

INTRODUCED BY J. WELLS, STONINGTON, CLANCY, DALE, HARGROVE, HARRINGTON, WALTERS,
WANZENRIED, C. YOUNKIN

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE COMPOSITION OF THE PLANNING AND ZONING COMMISSION; AUTHORIZING COUNTIES TO ENFORCE THE REGULATIONS AND REQUIREMENTS ADOPTED FOR PLANNING AND ZONING DISTRICTS CREATED UPON CITIZEN PETITION; AND AMENDING SECTIONS 76-2-101 AND 76-2-102, MCA."

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

Section 1. Section 76-2-101, MCA, is amended to read:

"76-2-101. Planning and zoning commission and district. (1) Subject to the provisions of subsection (5), whenever the public interest or convenience may require and upon petition of 60% of the affected freeholders ~~affected thereby~~, the board of county commissioners ~~is hereby authorized and empowered to order and~~ may create a planning and zoning district and ~~to~~ appoint a planning and zoning commission consisting of ~~five~~ seven members.

(2) ~~No such planning or zoning district may~~ A planning and zoning district may not be created in an area ~~which~~ that has been zoned by an incorporated city pursuant to 76-2-310 and 76-2-311.

(3) For the purposes of this part, the word "district" ~~shall mean~~ means any area that consists of not less than 40 acres.

(4) Except as provided in subsection (5), an action challenging the creation of a planning and zoning district must ~~be commenced~~ begin within 5 years after the date of the order by the board of county commissioners creating the district.

(5) If freeholders representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the board of county commissioners may not create the district. An area included in a district protested under this subsection may not be included in a zoning district petition under this section for a period of 1 year."

Section 2. Section 76-2-102, MCA, is amended to read:



1 **"76-2-102. Organization and operation of commission.** (1) The planning and zoning commission
 2 consists of the three county commissioners, the county surveyor, ~~two residents of the~~ CITIZEN MEMBERS,
 3 EACH OF WHOM RESIDES IN A DIFFERENT planning and zoning district, and a county official appointed by the
 4 county commissioners. THE CITIZEN MEMBERS MUST BE APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS TO
 5 2-YEAR STAGGERED TERMS, WITH ONE MEMBER INITIALLY APPOINTED TO A 2-YEAR TERM AND THE REMAINING MEMBER
 6 INITIALLY APPOINTED TO A 1-YEAR TERM. Members of the commission shall serve without compensation other
 7 than reimbursement for authorized expenses and must be residents of the county in which they serve.

8 (2) The commission may appoint necessary employees and fix their compensation with the
 9 approval of the board of county commissioners, select a presiding officer to serve for 1 year, appoint a
 10 secretary to keep permanent and complete records of its proceedings, and adopt rules governing the
 11 transaction of its business.

12 (3) Subject to 15-10-420, the finances necessary for the transaction of the planning and zoning
 13 commission's business and to pay the expenses of the employees and justified expenses of the
 14 commission's members ~~of the board~~ must be paid from a levy of not to exceed 1 mill on the taxable
 15 valuation of the real property within the district."

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17 NEW SECTION. Section 3. Enforcement of zoning provisions. ~~(1)~~ If any building or structure is
 18 erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building,
 19 structure, or land is used in violation of this part or of any resolution adopted under this part, the county,
 20 in addition to other remedies, may take any appropriate action or begin proceedings to:

21 ~~(a)~~(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion,
 22 maintenance, or use;

23 ~~(b)~~(2) restrain, correct, or abate a violation;

24 ~~(c)~~(3) prevent the occupancy of a building, structure, or land; or

25 ~~(d)~~(4) prevent any illegal act, conduct, business, or use in or near the premises.

26 ~~(2) The board of county commissioners may appoint enforcing officers to supervise and enforce~~
 27 ~~the provisions of the zoning resolutions.~~

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29 NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an
 30 integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to

1 [section 3].

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3 NEW SECTION. **Section 5. Transition.** On or before October 1, 2002, the county board of
4 commissioners shall appoint new members to the planning and zoning commission, as provided in [sections
5 1 and 2], for each planning and zoning district that exists as of [the effective date of this act].

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