

SENATE BILL NO. 470

INTRODUCED BY J. O'NEIL

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE AUTHORITY OF MUNICIPALITIES TO REGULATE LAND USE THROUGH SUBDIVISION OR ZONING REGULATIONS OUTSIDE OF THE CORPORATE LIMITS OF A CITY OR TOWN; AMENDING SECTIONS 7-3-4444, 76-2-101, 76-2-306, AND 76-3-601, MCA; REPEALING SECTIONS ~~76-2-112~~, 76-2-310, 76-2-311, AND 76-2-312, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 7-3-4444, MCA, is amended to read:

**"7-3-4444. Supervision of plats.** (1) The director of public service ~~shall be the supervisor of plats of the municipality. He shall see~~ ensure:

(a) that the regulations governing the platting of all lands within the municipality require all streets and alleys to be of proper width and to be coterminous with the adjoining streets and alleys; and

(b) that all other regulations are conformed with.

(2) ~~Whenever he shall deem~~ The director of public service shall indicate the director's written approval on a plat when it is in accordance with the regulations prescribed for plats and when:

(a) the director considers it expedient to plat any portion of the territory within the corporate limits in which the necessary or convenient streets and alleys have not already been accepted by the municipality ~~so as to~~ that the streets and alleys become public streets or alleys; or

(b) when any person plats proposes to plat any land within the corporate limits, ~~or within 3 miles thereof, the supervisor of plats shall, if such plats are in accordance with the regulations prescribed therefor, endorse his written approval thereon.~~

(2)(3) ~~No~~ A plat subdividing lands within the corporate limits ~~or within 3 miles thereof shall be entitled to record~~ may only be recorded in the clerk and recorder's office of the county ~~without such~~ upon written approval ~~so endorsed thereon~~ as provided in subsection (2)."

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



1           **"76-2-101. Planning and zoning commission and district.** (1) Subject to the provisions of  
 2 subsection ~~(5)~~ (4), whenever the public interest or convenience may require and upon petition of 60% of  
 3 the affected freeholders ~~affected thereby~~, the board of county commissioners ~~is hereby authorized and~~  
 4 ~~empowered to order and~~ may create a planning and zoning district and ~~to~~ appoint a planning and zoning  
 5 commission consisting of five members.

6           ~~(2) No such planning or zoning district may be created in an area which has been zoned by an~~  
 7 ~~incorporated city pursuant to 76-2-310 and 76-2-311.~~

8           ~~(3)~~(2) For the purposes of this part, the word "district" ~~shall mean~~ means any area that consists  
 9 of not less than 40 acres.

10           ~~(4)~~(3) Except as provided in subsection ~~(5)~~ (4), an action challenging the creation of a planning  
 11 and zoning district must ~~be commenced~~ begin within 5 years after the date of the order by the board of  
 12 county commissioners creating the district.

13           ~~(5)~~(4) If freeholders representing 50% of the titled property ownership in the district protest the  
 14 establishment of the district within 30 days of its creation, the board of county commissioners may not  
 15 create the district. An area included in a district protested under this subsection may not be included in  
 16 a zoning district petition under this section for a period of 1 year."

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18           **Section 3.** Section 76-2-306, MCA, is amended to read:

19           **"76-2-306. Interim zoning ordinances.** (1) The city or town council or other legislative body of  
 20 ~~such a municipality, to protect the public safety, health, and welfare and without following the procedures~~  
 21 ~~otherwise required preliminary to the adoption of a zoning ordinance,~~ may adopt as an urgency measure  
 22 an interim ordinance to:

23           (a) ~~prohibiting~~ prohibit any uses ~~which that~~ that may be in conflict with a contemplated zoning proposal  
 24 ~~which that~~ that the legislative body is considering or studying or intends to study within a reasonable time; and

25           (b) protect the public health, safety, and welfare.

26           (2) ~~Such~~ A hearing must be held before passage of an interim ordinance, ~~shall only be applicable~~  
 27 ~~within the city limits and up to 1 mile beyond the corporate boundaries of the city or town and shall take~~  
 28 ~~effect upon passage; provided, however, a hearing is first held upon notice~~ Notice of the hearing must  
 29 be given that is reasonably designed to inform all affected parties, ~~and in no event shall notice be less than~~  
 30 ~~publication~~ The minimum notice required is publication in a newspaper of general circulation at least 7 days

1 before the hearing.

2 ~~(3) The interim ordinance must be effective upon passage.~~

3 ~~(3)(4) (a) Such~~ Except as provided in subsection (4)(b), the interim ordinance shall be of no further  
4 force and effect may only be effective for up to 6 months from the date of adoption thereof of the  
5 ordinance.

6 ~~(b) However, after notice pursuant to 76-2-303 and pursuant to public hearing, the legislative~~  
7 ~~body may extend such~~ The interim ordinance may be extended by the legislative body for 1 year after  
8 public notice pursuant to 76-2-303 and after a public hearing. ~~Any such extension shall require~~ subject  
9 to the following:

10 (i) a two-thirds vote of the legislative body is required for passage; ~~and shall~~

11 (ii) the resolution must become effective upon passage; ~~and~~

12 (iii) Not not more than two such extensions may be adopted."

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14 **Section 4.** Section 76-3-601, MCA, is amended to read:

15 **"76-3-601. Submission of preliminary plat for review.** (1) Except when a plat is eligible for  
16 expedited review pursuant to 76-3-505, the subdivider shall present to the governing body or to the agent  
17 or agency designated by the governing body the preliminary plat of the proposed subdivision for local  
18 review. The preliminary plat must show all pertinent features of the proposed subdivision and all proposed  
19 improvements.

20 (2) (a) When the proposed subdivision lies within the boundaries of an incorporated city or town,  
21 the preliminary plat must be submitted to and approved by the city or town governing body.

22 (b) When the proposed subdivision is situated entirely in an unincorporated area, the preliminary  
23 plat must be submitted to and approved by the governing body of the county. ~~However, if the proposed~~  
24 ~~subdivision lies within 1 mile of a third-class city or town, within 2 miles of a second-class city, or within~~  
25 ~~3 miles of a first-class city, the county governing body shall submit the preliminary plat to the city or town~~  
26 ~~governing body or its designated agent for review and comment.~~ If the proposed subdivision is situated  
27 within a rural school district, as described in 20-9-615, the county governing body shall provide an  
28 informational copy of the preliminary plat to school district trustees.

29 (c) If the proposed subdivision lies partly within an incorporated city or town, the proposed plat  
30 must be submitted to and approved by both the city or town and the county governing bodies.

1 (d) When a proposed subdivision is also proposed to be annexed to a municipality, the governing  
2 body of the municipality shall coordinate the subdivision review and annexation procedures to minimize  
3 duplication of hearings, reports, and other requirements whenever possible.

4 ~~(3) The provisions of 76-3-604, 76-3-605, 76-3-608 through 76-3-610, and this section do not~~  
5 ~~limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant~~  
6 ~~to 7-3-4444."~~

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8 NEW SECTION. **Section 5. Repealer.** Sections ~~76-2-112~~, 76-2-310, 76-2-311, and 76-2-312,  
9 MCA, are repealed.

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11 NEW SECTION. **Section 6. Applicability.** [This act] applies to plats or land uses proposed after  
12 [the effective date of this act].

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