

Amendments to Senate Bill No. 173
1st Reading Copy

Requested by Senator Bob Hawks

For the Senate Local Government Committee

Prepared by Joe Kolman
February 10, 2005 (9:11am)

1. Title, page 1, line 8.

Strike: "VARIANCE PERMITS FOR NONCONFORMING USES"

Insert: "VARIANCES"

2. Title, page 1, line 10 through line 11.

Following: "APPLICATIONS;"

Insert: "AND"

Strike: "PERMITS" on line 10 through "DATE" on line 11

Insert: "VARIANCES"

3. Page 1, line 17.

Following: "flooding;"

Insert: "and"

4. Page 1, line 18 through line 24.

Strike: ";" on line 18 through "structure" on line 24

5. Page 1, line 26.

Following: line 25

Insert: "(a) waters flowing within Montana's perennial rivers and streams belong to all the people of the state of Montana, as provided in Article IX, section 3, of the Montana constitution;

(b) Montana's natural rivers and streams and the lands and property immediately adjacent to them are to be protected and preserved in their natural or existing state, as provided in 75-7-102 of The Natural Streambed and Land Preservation Act of 1975;

(c) fish and wildlife that rely on Montana's rivers and streams for habitat likewise belong to all the people of the state of Montana;

(d) impacts of development on Montana's rivers and streams, including increased downstream erosion and diminished water quality, are often manifested across local government jurisdictional boundaries;

(e) the state has a duty and legitimate interest in protecting the integrity of its rivers and streams on behalf of all its citizens, not merely those who live in the local jurisdiction where a particular reach of a river or stream may be located;"

Renumber: subsequent subsections

6. Page 1, line 26.
Strike: "maintaining"
Insert: "maintenance of"
7. Page 1, line 28.
Following: "development"
Strike: "and in many cases"
Insert: " ;"
8. Page 1, line 29.
Following: line 28
Insert: "(h)"
Following: "Montana"
Insert: " in many cases"
Renumber: subsequent subsection
9. Page 2, line 3 through line 16.
Strike: subsections (3) and (4) in their entirety
10. Page 2, line 27.
Strike: "surface"
Insert: "perennial flowing class I"
Following: "lakes"
Strike: "and streams, that:"
Insert: ", as defined in 23-2-301."
11. Page 2, line 28 through page 3, line 6.
Strike: line 28 through line 6 in their entirety
12. Page 3, line 7.
Strike: "has the" through "77-5-302"
Insert: "means perennial flowing class II waters as defined by 23-2-301"
13. Page 3, line 9.
Strike: "activities and"
14. Page 3, line 12.
Strike: "(1)"
15. Page 3, line 14.
Strike: "(a)"
Insert: "(1)"
16. Page 3, line 16.
Strike: "(b)"
Insert: "(2)"
17. Page 3, line 17 through line 19.

Following: "greater" on line 17

Strike: "." on line 17 through "(1)" on line 19

Insert: "; or

(3) an area established through a locally adopted zoning district pursuant to [section 9]"

18. Page 3, line 21.

Strike: "and activities"

19. Page 3, line 22.

Following: "(2)"

Insert: "or (3)"

Strike: "and activities"

20. Page 3, line 25.

Strike: ", barn, shed,"

21. Page 3, line 28 through line 30.

Following: "structure" on line 28

Strike: ";" on line 28 through "river" on line 30

22. Page 4, line 1.

Strike: "or activities"

23. Page 4, line 2 through line 6.

Following: "a"

Strike: "nonconforming" on line 2 through "[sections 7 and 8]." on line 6

Insert: "lawful use of land or buildings that existed on or before [the effective date of this act] even if the use does not conform to the provisions of [sections 1 through 9];

(b) any use conducted on property subject to a hydroelectric project license issued by the federal energy regulatory commission or otherwise located within the licensed project boundary as determined by the federal energy regulatory commission;

(c) agricultural uses; and

(d) structures and equipment used to collect and transport water from a stream or river for agricultural or industrial uses, including diversion and intake structures, pipes, pumps and pumphouses, and related equipment.

(3) The provisions of [sections 1 through 9] do not apply to incorporated cities and towns or zoning districts that have residential densities of at least 1 unit per acre and are served by municipal sewer and water systems."

Renumber: subsequent subsections

24. Page 4, line 16.

Strike: "or activity"

25. Page 4, line 17.

Strike: "or activity prohibited under [section 4]"

Insert: "as provided in [section 4(1)]"

26. Page 4, line 19.

Strike: "prohibited use or activity"

Insert: "use"

27. Page 4, line 23.

Strike: "A"

Insert: "The proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceeding to ensure that a "

Strike: "or activity"

28. Page 4, line 24.

Strike: "nonconforming use permit"

Insert: "variance"

29. Page 4, line 25.

Following: "it."

Insert: "The governing body may appoint enforcing officers to supervise and enforce the provisions of this part."

30. Page 4, line 27.

Strike: "Variance for nonconforming uses"

Insert: "Variances"

31. Page 4, line 28.

Strike: "permits for nonconforming uses"

Insert: "a variance for a use"

32. Page 4, line 29.

Following: "measured by"

Insert: "one or more of"

33. Page 4, line 30.

Strike: "permit"

Insert: "variance"

34. Page 5, line 1 through line 2.

Following: "met" on line 1

Strike: ", " on line 1 through "use" on line 2

35. Page 5, line 3.

Strike: "Permits for nonconforming uses"

Strike: "Variances"

36. Page 5, line 4.

Following: "subdivision."

Strike: remainder of line 4

37. Page 5, line 5.

Strike: "permit"

Insert: "variance"

38. Page 5, line 8.

Strike: "permit for nonconforming use"

Insert: "variance"

39. Page 5, line 9.

Strike: "permit for a nonconforming use"

Insert: "variance"

40. Page 5, line 11 through line 12.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

41. Page 5, line 13.

Following: "the"

Strike: "geometry" through "such that"

42. Page 5, line 14.

Strike: "completely eliminate"

Insert: "unreasonably restrict"

43. Page 5, line 21.

Strike: "permit for a nonconforming use"

Insert: "variance"

44. Page 5, line 23.

Strike: "nonconforming use"

Insert: "use allowed by the variance"

Following: "small as"

Insert: "reasonably "

45. Page 5, line 25.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

46. Page 5, line 26.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

47. Page 5, line 27.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

Following: "not be"

Strike: "detrimental or"

48. Page 5, line 29.

Strike: "of a permit for a nonconforming use"

Insert: "for a variance"

Strike: "presenting sufficient"

Insert: "establishing a preponderance of"

49. Page 5, line 30.

Strike: "permit"

Insert: "variance"

50. Page 6, line 1 through line 3.

Strike: subsection (4) in its entirety

51. Page 6, line 8 through line 14.

Following: "area;" on line 8

Insert: "and"

Strike: line 9 through line 14 in their entirety

Insert: "(b) the political subdivision has adopted a zoning district that includes standards for setting new buildings at least 50 yards from the ordinary high-water mark on rivers and 15 yards from the ordinary high-water mark on streams."

52. Page 6, line 16.

Strike: "activities"

Insert: "uses"

53. Page 7, line 5.

Strike: section 14 in its entirety

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