

SENATE BILL NO. 23

INTRODUCED BY M. ROSENDALE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND
5 PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE
6 EXISTENCE OF AN EMERGENCY; ~~LIMITING A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR~~
7 ~~INTERIM REGULATION TO 182 DAYS FROM THE DATE IT BECOMES EFFECTIVE;~~ ELIMINATING THE
8 SPECIFICATION OF EXIGENT CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE
9 EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; AND
10 AMENDING SECTION 76-2-206, MCA."

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

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14 **Section 1.** Section 76-2-206, MCA, is amended to read:

15 **"76-2-206. Interim zoning district or regulation.** (1) Subject to subsection (3), the board of county
16 commissioners may establish an interim zoning district or interim regulation ~~as to address~~ an emergency ~~measure~~
17 ~~in order to promote that poses a threat to~~ INVOLVES the public health, safety, morals, and general OR GENERAL
18 welfare if:

19 (a) the purpose of the interim zoning district or interim regulation is to classify ~~and regulate~~ those uses
20 and related matters that ~~constitute~~ must be regulated to mitigate the emergency; and

21 (b) within 30 working days, the county: initiates a study or investigation to verify that an emergency exists
22 and to identify the facts and circumstances that constitute the emergency, THE POTENTIAL OPTIONS FOR MITIGATING
23 THE EMERGENCY, AND THE COURSE OF ACTION THAT THE GOVERNING BODY INTENDS TO TAKE, IF ANY, DURING THE TERM
24 OF THE INTERIM ZONING DISTRICT OR INTERIM REGULATION TO MITIGATE THE EMERGENCY.

25 ~~—— (i) is conducting or in good faith intends to conduct studies within a reasonable time; or~~

26 ~~—— (ii) has held or is holding a hearing for the purpose of considering any of the following:~~

27 ~~—— (A) a growth policy;~~

28 ~~—— (B) zoning regulations; or~~

29 ~~—— (C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or~~
30 ~~to zoning regulations pursuant to this part.~~



1 (2) A resolution for an interim zoning district or interim regulation must be limited to ~~1 year~~ 182 days 1
 2 YEAR from the date it becomes effective. Subject to ~~subsection (3)~~ subsections (4) and (5), the board of county
 3 commissioners may extend the resolution for 1 year, but not more than one extension may be made.

4 (3) The board of county commissioners shall observe the following procedures in the establishment of
 5 an interim zoning district or interim regulation:

6 (a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim
 7 regulation must be published ~~once a week for 2 weeks in a newspaper of general circulation within the county~~
 8 as provided in 7-1-2121. The In addition to the requirements of 7-1-2121, the notice must state:

9 (i) the boundaries of the proposed district;

10 (ii) the specific emergency ~~or exigent circumstance~~ compelling the establishment of the proposed interim
 11 zoning district or interim regulation;

12 (iii) the general character of the proposed interim zoning district or interim regulation, including how those
 13 uses and related matters that must be regulated to mitigate the emergency will be classified and regulated; and

14 ~~(iv) the time and place of the public hearing; and~~

15 ~~——(v)(iv)~~ that the proposed interim zoning district or interim regulation is on file for public inspection at the
 16 office of the county clerk and recorder.

17 (b) At the public hearing, the board of county commissioners shall give the public an opportunity to be
 18 heard regarding the proposed establishment of an interim zoning district or interim regulation.

19 (c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim
 20 zoning district or interim regulation.

21 (4) The board of county commissioners shall observe the following procedures in the extension of a
 22 resolution pursuant to subsection (2):

23 (a) A study or investigation as provided in subsection (1)(b) must be completed prior to the hearing on
 24 the proposed extension of the resolution.

25 (b) Notice of a public hearing on the proposed extension of the resolution must be published as provided
 26 in 7-1-2121. In addition to the requirements of 7-1-2121, the notice must state:

27 (i) the boundaries of the existing interim zoning district;

28 (ii) the specific emergency that compelled the establishment of the existing interim zoning district or
 29 interim regulation and the reason for the proposed extension of the resolution; and

30 (iii) that the proposed extension of the resolution is on file for public inspection at the office of the county

1 clerk and recorder.

2 (c) At the public hearing, which must be held prior to the expiration of the existing interim zoning district
3 or interim zoning regulation, the board of county commissioners shall give the public an opportunity to be heard
4 regarding the proposed extension of the resolution.

5 (5) (a) The AFTER THE HEARING PROVIDED FOR IN SUBSECTION (4), THE board of county commissioners may
6 in its discretion extend the resolution for the interim zoning district or interim regulation by:

7 —— (i)(A) a unanimous affirmative vote of the county commissioners PRESENT AND VOTING in counties with
8 three county commissioners;

9 —— (ii)(B) an affirmative vote of at least four FOUR-FIFTHS OF THE county commissioners PRESENT AND VOTING
10 in counties with five commissioners; or

11 —— (iii)(C) an affirmative vote of at least two-thirds of the county commissioners PRESENT AND VOTING in
12 counties with more than five commissioners.

13 —— (b) A county commissioner may not abstain from voting unless a proven conflict of interest exists as
14 determined by the county attorney."

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16 —— NEW SECTION. SECTION 2. EFFECT ON PENDING APPLICATIONS -- CURRENT REGULATIONS TO APPLY --

17 EXCEPTION. (1) AN APPLICATION FOR A PERMIT OR OTHER AUTHORIZATION FOR A USE OF LAND UNDER THIS CHAPTER
18 MUST BE REVIEWED UNDER THE REGULATIONS THAT ARE IN EFFECT AT THE TIME THAT AN APPLICATION SUBMITTED TO THE
19 REVIEWING AUTHORITY WAS DETERMINED TO BE COMPLETE OR SUFFICIENT UNLESS THE DATE THAT THE GOVERNING BODY
20 PROVIDED NOTICE OF A PUBLIC HEARING UNDER 76-2-205 TO ESTABLISH OR REVISE A ZONING DISTRICT OR ZONING
21 REGULATION PRECEDES THE DATE THAT THE APPLICATION WAS DETERMINED TO BE COMPLETE OR SUFFICIENT.

22 —— (2) IF AN APPLICATION FOR A PERMIT OR OTHER AUTHORIZATION FOR A USE OF LAND UNDER THIS CHAPTER IS
23 SUBMITTED AND DETERMINED TO BE COMPLETE OR SUFFICIENT BEFORE THE DATE THAT THE GOVERNING BODY ISSUES
24 A NOTICE FOR A HEARING ON PROPOSED INTERIM ZONING UNDER 76-2-206, THE APPLICATION MUST BE REVIEWED UNDER
25 THE INTERIM ZONING REGULATIONS THAT ARE ADOPTED SUBSEQUENT TO THE HEARING.

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27 —— NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. [SECTION 2] IS INTENDED TO BE CODIFIED AS AN
28 INTEGRAL PART OF TITLE 76, CHAPTER 2, PART 2, AND THE PROVISIONS OF TITLE 76, CHAPTER 2, PART 2, APPLY TO
29 [SECTION 2].

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