

SENATE BILL NO. 24

INTRODUCED BY M. ROSENDALE

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A SAND AND GRAVEL OPERATION MAY NOT BE PROHIBITED THROUGH ZONING UNDER CERTAIN CIRCUMSTANCES ~~IN AN AREA ZONED AS RESIDENTIAL~~; AND AMENDING SECTION 76-2-209, MCA."

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

Section 1. Section 76-2-209, MCA, is amended to read:

"76-2-209. Effect on natural resources. (1) Except as provided in 82-4-431, 82-4-432, and subsection (2) of this section, a resolution or rule adopted pursuant to the provisions of this part, except 76-2-206, may not prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources by the owner of any mineral, forest, or agricultural resource.

(2) ~~(a) The Except as provided in subsection (2)(b), the~~ THE complete use, development, or recovery of a mineral by an operation that mines sand and gravel or an operation that mixes concrete or batches asphalt may be reasonably conditioned or prohibited on a site that is located within a geographic area zoned as residential, as defined by the board of county commissioners.

~~(b) A resolution or rule adopted pursuant to this part may not prohibit an opencut sand or gravel operation on a site that is located within a geographic area zoned as residential after an application for the operation has been filed SUBMITTED as provided in 82-4-432.~~

(3) Zoning regulations adopted under this chapter may reasonably condition, but not prohibit, the complete use, development, or recovery of a mineral by an operation that mines sand and gravel and may condition an operation that mixes concrete or batches asphalt in all zones other than residential.

(4) IF AN APPLICANT FOR AN OPENCUT SAND OR GRAVEL PERMIT ON A TRACT OF LAND THAT IS NOT ZONED UNDER THE PROVISIONS OF THIS PART HAS BEEN NOTIFIED THAT THE APPLICATION IS COMPLETE UNDER 82-4-432(4)(D), A RESOLUTION OR RULE FOR ZONING UNDER THIS PART MAY NOT PROHIBIT AN OPENCUT SAND OR GRAVEL OPERATION ON THAT TRACT UNLESS THE DATE OF THE NOTICE OF A PUBLIC HEARING ON THE PROPOSED ZONING REGULATIONS UNDER 76-2-205 PRECEDES THE DATE THAT THE APPLICANT WAS NOTIFIED OF THE COMPLETE APPLICATION."

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