

## HOUSE BILL NO. 511

INTRODUCED BY EVERETT, BARKUS, BRUEGGEMAN, DEPRATU, KEENAN, LANGE, LEWIS, SALES

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A GOVERNING BODY TO ADOPT OR REVISE CERTAIN ZONING REGULATIONS THAT ARE CONSISTENT WITH A MASTER PLAN THAT WAS ADOPTED BEFORE OCTOBER 1, 1999, AND THAT DOES NOT MEET THE REQUIREMENTS OF A GROWTH POLICY AND SPECIFYING THAT THE ADOPTION OR REVISION MUST BE MADE BEFORE OCTOBER 1, ~~2005~~ 2006; AUTHORIZING THE REPEAL AND REVISION OF A MASTER PLAN FOLLOWING THE PROCEDURES IN LAW FOR REPEAL AND REVISION OF A GROWTH POLICY; AMENDING SECTIONS 76-1-604, 76-2-201, 76-2-203, 76-2-206, 76-2-303, AND 76-2-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 76-1-604, MCA, is amended to read:

**"76-1-604. Adoption, revision, or rejection of growth policy.** (1) The governing bodies shall adopt a resolution of intention to adopt, revise, or reject the proposed growth policy or any of its parts.

(2) If the governing bodies adopt a resolution of intention to adopt the proposed growth policy or any of its parts, they may, in their discretion, submit to the qualified electors of the jurisdictional area covered by the proposed growth policy at the next primary or general election or at a special election the referendum question of whether or not the growth policy should be adopted. A special election must be held in conjunction with a regular or primary election. Except as provided in this section, the provisions of Title 7, chapter 5, part 1, apply to the referendum election.

(3) The governing bodies may adopt, revise, or repeal a growth policy under this section.

(4) The qualified electors of the jurisdictional area included within the growth policy may by initiative or referendum, as provided in 7-5-131 through 7-5-137, adopt, revise, or repeal a growth policy under this section.

(5) A master plan adopted pursuant to this chapter before October 1, 1999, may be repealed following the procedures in this section for repeal of a growth policy.

(6) Until October 1, ~~2005~~ 2006, a master plan that was adopted pursuant to this chapter before October 1, 1999, may be revised following the procedures in this chapter for revision of a growth policy."

**Section 2.** Section 76-2-201, MCA, is amended to read:

**"76-2-201. County zoning authorized.** (1) For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that has adopted a growth policy for the entire jurisdictional area pursuant to chapter 1 is authorized to adopt zoning regulations for all or parts of the jurisdictional area in accordance with the provisions of this part.

(2) For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that adopted a master plan pursuant to Title 76, chapter 1, before October 1, 1999, may, until October 1, 2005 2006, adopt or revise zoning regulations that are consistent with the master plan."

**Section 3.** Section 76-2-203, MCA, is amended to read:

**"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

(a) made in accordance with the growth policy or a master plan, as provided for in 76-2-201(2), and must  
be

(b) designed to:

(i) lessen congestion in the streets; ~~to~~

(ii) secure safety from fire, panic, and other dangers; ~~to~~

(iii) promote public health and general welfare; ~~to~~

(iv) provide adequate light and air; ~~to~~

(v) prevent the overcrowding of land; ~~to~~

(vi) avoid undue concentration of population; and ~~to~~

(vii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) Zoning regulations must be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

(3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of the municipality within the jurisdictional area."

**Section 4.** Section 76-2-206, MCA, is amended to read:

**"76-2-206. Interim zoning map or regulation.** (1) The board of county commissioners may adopt an interim zoning map or regulation as an emergency measure in order to promote the public health, safety, morals, and general welfare if:

(a) the purpose of the interim zoning map or regulation is to classify and regulate those uses and related matters that constitute the emergency; and

(b) the county:

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

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

(A) a growth policy;

(B) zoning regulations; or

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

(2) An interim resolution must be limited to 1 year from the date it becomes effective. The board of county commissioners may extend the interim resolution for 1 year, but not more than one extension may be made."

**Section 5.** Section 76-2-303, MCA, is amended to read:

**"76-2-303. Procedure to administer certain annexations and zoning laws -- hearing and notice.**

(1) The city or town council or other legislative body of a municipality shall provide for the manner in which regulations and restrictions and the boundaries of districts are determined, established, enforced, and changed, subject to the requirements of subsection (2).

(2) A regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation, provided that the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to part 1 or 2 of this chapter; or

(iii) are consistent with zoning requirements recommended in ~~the~~ a growth policy adopted pursuant to chapter 1 of this title or in a master plan, as provided for in 76-2-304(3), for the annexed property.

(b) A joint hearing authorized under this subsection fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."

**Section 6.** Section 76-2-304, MCA, is amended to read:

**"76-2-304. Purposes of zoning.** (1) Zoning regulations must be:

(a) except as provided in subsection (3), made in accordance with a growth policy; and

(b) designed to:

(i) lessen congestion in the streets; ~~to~~

(ii) secure safety from fire, panic, and other dangers; ~~to~~

(iii) promote health and the general welfare; ~~to~~

(iv) provide adequate light and air; ~~to~~

(v) prevent the overcrowding of land; ~~to~~

(vi) avoid undue concentration of population; and ~~to~~

(vii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) Zoning regulations must be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

(3) Until October 1, ~~2005~~ 2006, zoning regulations may be adopted or revised in accordance with a master plan that was adopted pursuant to Title 76, chapter 1, before October 1, 1999."

NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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