

HOUSE BILL NO. 590  
INTRODUCED BY G. EVERETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING GROWTH POLICIES TO INCLUDE CRITERIA TO PROTECT PRIVATE PROPERTY RIGHTS; REQUIRING A GOVERNING BODY TO VERIFY PROPERTY OWNER SUPPORT FOR A PROPOSED NEIGHBORHOOD PLAN BEFORE PROCEEDING; AMENDING SECTIONS 76-1-103 AND 76-1-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 76-1-103, MCA, is amended to read:

**"76-1-103. Definitions.** As used in this chapter, the following definitions apply:

- (1) "City" includes incorporated cities and towns.
- (2) "City council" means the chief legislative body of a city or incorporated town.
- (3) "Governing body" or "governing bodies" means the governing body of any governmental unit represented on a planning board.
- (4) "Growth policy" means a comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or a policy that was adopted pursuant to this chapter on or after October 1, 1999.
- (5) "Mayor" means mayor of a city.
- (6) "Neighborhood plan" means a plan for a geographic area within the boundaries of the jurisdictional area that addresses one or more of the elements of the growth policy in more detail.
- (7) "Person" means any individual, firm, or corporation.
- (8) "Planning board" means a city planning board, a county planning board, or a joint city-county planning board.
- (9) "Plat" means a subdivision of land into lots, streets, and areas, marked on a map or plan, and includes replats or amended plats.
- (10) "Property rights" means protected individual rights associated with property ownership that guarantee a property owner's ability to use property as the owner wishes, as long as the property owner causes no harm.
- ~~(10)~~(11) "Public place" means any tract owned by the state or its subdivisions.

~~(11)~~(12) "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, and all public ways.

~~(12)~~(13) "Utility" means any facility used in rendering service that the public has a right to demand."

**Section 2.** Section 76-1-601, MCA, is amended to read:

**"76-1-601. Growth policy -- contents.** (1) A growth policy may cover all or part of the jurisdictional area.

(2) A growth policy must include the elements listed in subsection (3) ~~by October 1, 2006~~. The extent to which a growth policy addresses the elements of a growth policy that are listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) public facilities;

(vii) natural resources; and

(viii) other characteristics and features proposed by the planning board and adopted by the governing bodies;

(c) projected trends for the life of the growth policy for each of the following elements:

(i) land use;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) natural resources; and

(vii) other elements proposed by the planning board and adopted by the governing bodies;

(d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);

(e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;

(f) an implementation strategy that includes:

(i) a timetable for implementing the growth policy;

(ii) a list of conditions that will lead to a revision of the growth policy; and

(iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;

(g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:

(i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;

(ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;

(h) a statement explaining how the governing bodies will:

(i) define the criteria in 76-3-608(3)(a); and

(ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a); and

(i) a statement explaining how public hearings regarding proposed subdivisions will be conducted;

(j) a statement of how the governing body intends to protect private property rights; and

(k) development of criteria by which local land use regulations will be determined to be supportive of private property rights.

(4) A growth policy may:

(a) include one or more neighborhood plans, pursuant to [section 3]. A neighborhood plan must be consistent with the growth policy.

(b) establish minimum criteria defining the jurisdictional area for a neighborhood plan, pursuant to [section 3];

(c) address the criteria in 76-3-608(3)(a);

(d) evaluate the effect of subdivision on the criteria in 76-3-608(3)(a);

(e) describe zoning regulations that will be implemented to address the criteria in 76-3-608(3)(a); and

(f) identify geographic areas where the governing body intends to authorize an exemption from review

of the criteria in 76-3-608(3)(a) for proposed subdivisions pursuant to 76-3-608.

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter."

**NEW SECTION. Section 3. Neighborhood plan -- requirements.** (1) The proponents of a neighborhood plan shall determine the total number of property owners and the total acreage included in a proposed neighborhood plan boundary area. Prior to a neighborhood plan application being considered by a governing body, the applicants shall circulate a petition among the property owners within the boundary area.

(2) At least 60% of the property owners included in the proposed neighborhood plan boundary area, representing a minimum of 50% of the acreage included within the proposed neighborhood plan boundary area, shall sign the petition stating the property owners' support for development of a plan. The property owners shall list the address or tract of record for the properties owned within the proposed plan boundary.

(3) The signatures, addresses, and tracts of record must be verified by the county clerk and recorder who has jurisdiction within the boundaries of the proposed neighborhood plan boundary area.

(4) If the county clerk and recorder determines that the requirements pursuant to subsection (2) have not been met, the proposed neighborhood plan may not be considered by a governing body. An area included in a proposed neighborhood plan opposed by property owners pursuant to subsection (2) may not be included in a neighborhood plan proposal petition under this section for a period of 1 year.

**NEW SECTION. Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 76, chapter 1, part 6, and the provisions of Title 76, chapter 1, part 6, apply to [section 3].

**NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

**NEW SECTION. Section 6. Applicability.** (1) [Section 3] applies to neighborhood plans proposed after [the effective date of this act].

(2) Growth policies adopted prior to [the effective date of this act] must comply with 76-1-601(3)(j) and (3)(k) by July 1, 2008.

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