

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:

13
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 the public health, safety, morals, and ~~general~~ welfare if:

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

20 (b) within 30 working days, the county: initiates a study or investigation to verify that an emergency exists
21 and to identify the facts and circumstances that constitute the emergency.

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

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

24 ~~— (A) a growth policy;~~

25 ~~— (B) zoning regulations; or~~

26 ~~— (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~~
27 ~~to zoning regulations pursuant to this part.~~

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

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

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

6 (i) the boundaries of the proposed district;

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

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

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

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

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

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

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

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

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

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

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

27 (iii) that the proposed extension of the resolution is on file for public inspection at the office of the county
28 clerk and recorder.

29 (c) At the public hearing, which must be held prior to the expiration of the existing interim zoning district
30 or interim zoning regulation, the board of county commissioners shall give the public an opportunity to be heard

1 regarding the proposed extension of the resolution.

2 (5) (a) The board of county commissioners may in its discretion extend the resolution for the interim
3 zoning district or interim regulation by:

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

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

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

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

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13 **NEW SECTION. SECTION 2. EFFECT ON PENDING APPLICATIONS -- CURRENT REGULATIONS TO APPLY --**

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

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

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24 **NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. [SECTION 2] IS INTENDED TO BE CODIFIED AS AN**
25 **INTEGRAL PART OF TITLE 76, CHAPTER 2, PART 2, AND THE PROVISIONS OF TITLE 76, CHAPTER 2, PART 2, APPLY TO**
26 **[SECTION 2].**

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