

HOUSE BILL NO. 748

INTRODUCED BY K. ZOLNIKOV, S. FITZPATRICK, C. FRIEDEL, K. BOGNER, D. ZOLNIKOV, J. TREBAS, F.

MANDEVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS FOR COUNTY AND MUNICIPAL ZONING PURPOSES TO ALLOW FOR SEPARATION OF INCOMPATIBLE USES OF PROPERTY; AND AMENDING SECTIONS 76-1-106, 76-2-201, 76-2-206, AND 76-2-301, MCA."

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

**Section 1.** Section 76-1-106, MCA, is amended to read:

**"76-1-106. Role of planning board.** (1) To ensure the promotion of public health, safety, ~~morals~~ separation of incompatible uses of property, convenience, or order or the general welfare and for the sake of efficiency and economy in the process of community development, if requested by the governing body, the planning board shall prepare a growth policy and shall serve in an advisory capacity to the local governing bodies establishing the planning board.

(2) The planning board may propose policies for:

- (a) subdivision plats;
- (b) the development of public ways, public places, public structures, and public and private utilities;
- (c) the issuance of improvement location permits on platted and unplatted lands; or
- (d) the laying out and development of public ways and services to platted and unplatted lands."

**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~~ separation of incompatible uses of property, and general welfare, a board of county commissioners that has adopted a growth policy 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~~

1 county commissioners that adopted a master plan pursuant to Title 76, chapter 1, before October 1, 1999, may,  
2 until October 1, 2006, adopt or revise zoning regulations that are consistent with the master plan."

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4 **Section 3.** Section 76-2-206, MCA, is amended to read:

5 **"76-2-206. Interim zoning district or regulation.** (1) Except as provided in 76-2-240 and subject to  
6 subsection (3) of this section, the board of county commissioners may establish an interim zoning district or  
7 interim regulation to address an emergency that involves the public health, safety, ~~moral~~ separation of  
8 compatible uses of property, or general welfare if:

9 (a) the purpose of the interim zoning district or interim regulation is to classify those uses and  
10 related matters that must be regulated to mitigate the emergency; and

11 (b) within 30 working days, the county initiates a study or investigation to verify that an emergency  
12 exists and to identify the facts and circumstances that constitute the emergency, the potential options for  
13 mitigating the emergency, and the course of action that the governing body intends to take, if any, during the  
14 term of the interim zoning district or interim regulation to mitigate the emergency.

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

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

20 (a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim  
21 regulation must be published as provided in 7-1-2121. In addition to the requirements of 7-1-2121, the notice  
22 must state:

23 (i) the boundaries of the proposed district;

24 (ii) the specific emergency compelling the establishment of the proposed interim zoning district or  
25 interim regulation;

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

1 (iv) that the proposed interim zoning district or interim regulation is on file for public inspection at  
2 the office of the county clerk and recorder.

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

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

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

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

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

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

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

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

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

21 (5) After the hearing provided for in subsection (4), the board of county commissioners may in its  
22 discretion extend the resolution for the interim zoning district or interim regulation."  
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24 **Section 4.** Section 76-2-301, MCA, is amended to read:

25 **"76-2-301. Municipal zoning authorized.** For the purpose of promoting health, safety, ~~moral~~,  
26 separation of incompatible uses of property, or the general welfare of the community, the city or town council or  
27 other legislative body of cities and incorporated towns is ~~hereby~~ empowered to regulate and restrict the height,  
28 number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the

- 1 size of yards, courts, and other open spaces; the density of population; and the location and use of buildings,
- 2 structures, and land for trade, industry, residence, or other purposes."

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