

1 HOUSE BILL NO. 470

2 INTRODUCED BY M. MALONE

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING COUNTY ZONING LAWS; ALLOWING
 5 THE RESIDENTS OF AN UNINCORPORATED AREA TO PETITION THE BOARD OF COUNTY
 6 COMMISSIONERS TO CREATE A COUNTY PLANNING BOARD; PROVIDING ADDITIONAL CRITERIA
 7 THAT MUST BE USED TO DEVELOP ZONING REGULATIONS; REQUIRING ADDITIONAL RESOURCES
 8 BE PROVIDED TO THE PUBLIC BEFORE A HEARING ON THE ADOPTION OF ZONING REGULATIONS;
 9 ALLOWING REGISTERED VOTERS TO CALL FOR THE REVOCATION OF ZONING REGULATIONS; AND
 10 AMENDING SECTIONS 76-1-104, 76-2-203, AND 76-2-205, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

- 13
 14 **Section 1.** Section 76-1-104, MCA, is amended to read:
- 15 **"76-1-104. Procedure to establish county planning board -- protest.** (1) Before a county planning
 16 board may be created, the board of county commissioners shall by resolution give public notice of their intent to
 17 create ~~such a~~ a planning board and of a public hearing ~~thereon~~ for it by publication of notice of time and place of
 18 hearing on ~~such the~~ the resolution in each newspaper published in the county not less than 15 or more than 30
 19 days prior to the date of hearing.
- 20 (2) The board of county commissioners shall by resolution give public notice of their intent to create a
 21 planning board as provided in subsection (1) if a majority of the electors that meet the qualifications provided in
 22 subsection (3) sign a petition for the creation of a planning board.
- 23 (3) An elector is eligible to sign a petition as allowed in subsection (2) if the elector resides:
- 24 (a) in the county;
- 25 (b) outside the limits of the jurisdictional area of a city-county planning board established pursuant to
 26 76-1-504 through 76-1-507;
- 27 (c) outside of the incorporated limits of each city and town in the county; and
- 28 (d) in an area that conforms to a reasonably definable geographic or development pattern.

1 ~~(2)~~(4) A resolution creating a county planning board shall may not be adopted by the board of county
 2 commissioners if disapproved in writing, not later than 60 days after ~~such~~ the hearing, by a majority of the
 3 qualified electors of the county residing outside the limits of the jurisdictional area of an existing city-county
 4 planning board established pursuant to 76-1-504 through 76-1-507 and outside the incorporated limits of each
 5 city and town in the county."

6

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

8 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

9 (a) made in accordance with the growth policy; and

10 (b) designed to:

11 (i) secure safety from fire and other dangers;

12 (ii) promote public health, public safety, and general welfare; and

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

15 (2) In the adoption of zoning regulations, the board of county commissioners shall consider:

16 (a) reasonable provision of adequate light and air;

17 (b) the effect on motorized and nonmotorized transportation systems;

18 (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the
 19 areas around municipalities;

20 (d) the character of the district and its peculiar suitability for particular uses;

21 ~~(e)~~ the best evidence available that contemplates various social, economic, and environmental
 22 considerations; and

23 ~~(e)~~(f) conserving the value of buildings and encouraging the most appropriate use of land throughout
 24 the jurisdictional area.

25 (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of
 26 nearby municipalities.

27 (4) As used in this section, "best evidence" means evidence that provides the best empirically based
 28 explanatory power, the most compelling, equitable argument, and the least bias."

1

2 **Section 3.** Section 76-2-205, MCA, is amended to read:

3 **"76-2-205. Procedure for adoption of regulations and boundaries.** (1) The board of county
4 commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning
5 districts and in the adoption or amendment of zoning regulations:

6 ~~(1)~~(2) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the
7 zoning district must:

8 (a) state:

9 (i) the boundaries of the proposed district;

10 (ii) the general character of the proposed zoning regulations;

11 (iii) the time and place of the public hearing;

12 (iv) that the proposed zoning regulations are on file for public inspection at the office of the county clerk
13 and recorder;

14 (b) provide a clear summary of proposed changes and include a reference to the complete proposed
15 plan made available electronically through the use of a website or by written document that is made freely
16 available to the general public;

17 ~~(b)~~(c) be posted not less than 45 days before the public hearing in at least five public places, including
18 but not limited to public buildings and adjacent to public rights-of-way, within the proposed district; ~~and~~

19 ~~(c)~~(d) be published once a week for 2 weeks in a newspaper of general circulation within the ~~county~~
20 county; and

21 (e) be sent by mail to each property owner residing within the boundaries of the proposed zoning
22 district.

23 ~~(2)~~(3) At the public hearing, the board of county commissioners shall give the public an opportunity to
24 be heard regarding the proposed zoning district and regulations.

25 ~~(3)~~(4) After the public hearing, the board of county commissioners shall review the proposals of the
26 planning board and shall make any revisions or amendments that it determines to be proper.

27 ~~(4)~~(5) The board of county commissioners may pass a resolution of intention to create a zoning
28 district and to adopt zoning regulations for the district.

