

HOUSE BILL NO. 575

INTRODUCED BY KITSELMAN

IN THE HOUSE

January 30, 1981	Introduced and referred to Committee on Local Government.
February 12, 1981	Committee recommend bill do pass as amended. Report adopted.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading, do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading, passed. Ayes, 96; Noes, 4. Transmitted to Senate.

IN THE SENATE

February 18, 1981	Introduced and referred to Committee on Local Government.
March 30, 1981	Committee recommend bill be not concurred in. Report adopted.

IN THE HOUSE

March 31, 1981	Returned from Senate not concurred in.
	On motion that HB 575 be returned at the request of Senate. Motion adopted.

IN THE SENATE

March 31, 1981

On motion Senate requests return of House Bill No. 575 from House for further consideration.

Returned from House.

On motion Senate reconsider its action taken on adverse committee report. Motion adopted.

On motion placed on second reading.

Second reading, concurred in as amended.

On motion rules suspended. Bill placed on calendar for third reading this day and allowed to be transmitted on 71st legislative day. Motion adopted.

Third reading, concurred in as amended. Ayes, 47; Noes, 3.

IN THE HOUSE

April 1, 1981

Returned from Senate with amendments.

April 8, 1981

Second reading, amendments concurred in.

April 9, 1981

Third reading, amendments concurred in. Ayes, 93; Noes, 4. Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE BILL NO. 575

2    INTRODUCED BY Kibbe, MNR

3

4    A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY  
5    THE POWERS OF COUNTY COMMISSIONERS RELATING TO PLANNING AND  
6    ZONING AND TO CREATE A CITIZEN ADVISORY COMMITTEE TO ADVISE  
7    THE COUNTY COMMISSIONERS ON PROPOSED AMENDMENTS TO ZONING  
8    REGULATIONS; AMENDING SECTIONS 76-2-202, 76-2-203, AND  
9    76-2-205, MCA."

10

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

12    Section 1. Section 76-2-202, MCA, is amended to read:

13    "76-2-202. Establishment of zoning districts --  
14    regulations for land use -- scope -- uniformity. (1) Within  
15    the unincorporated portions of a jurisdictional area which  
16    has been established under provisions of 76-1-501 through  
17    76-1-503 or 76-1-504 through 76-1-507, the board of county  
18    commissioners may by resolution establish zoning districts  
19    and zoning regulations for all or part of the jurisdictional  
20    area.

21    (2) Within some such zoning districts there shall be established zone classifications such that within some classifications it shall be lawful and within others other classifications it shall be unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain

1    trades, industries, or callings.

2    (3) Within each district the height and bulk of future  
3    buildings -- and the area of the yards, courts, and other open  
4    spaces and the future uses of the land or buildings shall be  
5    limited -- and -- future -- building -- setback -- times -- shall -- be  
6    established. Within each zone classification the county may  
7    by zoning regulation regulate the height, number of stories  
8    and size of buildings and other structures, the percentage  
9    of lot that may be occupied, the size of yards, courts, and  
10   other open spaces, automobile parking and storage, the  
11   density of population, and the location and use of  
12   buildings, structures, and land for trade, industry,  
13   residence, or other purposes.

14    (4) All such regulations shall be uniform for each  
15    class or kind of buildings throughout a district zone  
16    classification, but the regulations in one district zone  
17    classification may differ from those in other districts  
18    other zone classifications."

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

20    "76-2-203. Criteria -- and -- guidelines -- for zoning purpose  
21    of regulations -- factors considered. The zoning regulations  
22    shall be made in accordance with a comprehensive development  
23    plan and shall be designed to lessen -- congestion -- in -- the  
24    streets -- to -- secure -- safety -- from -- fire, -- panic, -- and -- other  
25    dangers -- to promote health and general welfare -- to -- provide

INTRODUCED BILL

1 adequate-light-and-air-to-prevent-the-overcrowding-of-lands  
 2 to--avoid---undue---concentration--of--population and to  
 3 facilitate the adequate provision of transportation, water,  
 4 sewerage, schools, parks, and other public requirements.  
 5 Such zoning regulations shall be made with reasonable  
 6 consideration, among other things, to the character of the  
 7 district and its peculiar suitability for particular uses  
 8 and with a view to conserving the value of buildings and  
 9 encouraging the most appropriate use of land throughout such  
 10 jurisdictional area. The zoning regulations shall, as nearly  
 11 as possible, be made compatible with the zoning ordinances  
 12 of the municipality within the jurisdictional area."

13 Section 3. Section 76-2-205, MCA, is amended to read:  
 14 "76-2-205. Procedure for adoption of regulations and  
 15 boundaries. The board of county commissioners shall observe  
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 18 amendment of zoning regulations:

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 21 district shall be published once a week for 2 weeks in a  
 22 newspaper of general circulation within the county. The  
 23 notice shall state:

24 (a) the boundaries of the proposed district;  
 25 (b) the general character of the proposed zoning

1 regulations;  
 2 (c) the time and place of the public hearing;  
 3 (d) that the proposed zoning regulations are on file  
 4 for public inspection at the office of the county clerk and  
 5 recorder.  
 6 (2) At the public hearing, the board of county  
 7 commissioners shall give the public an opportunity to be  
 8 heard regarding the proposed zoning district and  
 9 regulations.  
 10 (3) After the public hearing, the board of county  
 11 commissioners shall review the proposals of the planning  
 12 board and shall make such revisions or amendments as it may  
 13 deem proper.  
 14 (4) The board of county commissioners may pass a  
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 17 (5) The board of county commissioners shall publish  
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 7 assessment roll of the county.

8 (6) Within 30 days after the expiration of the protest  
 9 period, the board of county commissioners may in its  
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18 NEW SECTION. Section 4. Method of amendment of zoning  
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 22 may be amended. However, no amendment of the regulations or  
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1 time and place of the hearing must be published in the  
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 3 of general circulation in the county.

4 NEW SECTION. Section 5. Zoning commission --  
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 7 established under [section 4], the county commissioners may  
 8 appoint a zoning commission to recommend amendments to the  
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 10 commission must be composed of five citizen members  
 11 appointed at large from the zoning district. The county  
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 13 pertaining to the qualifications of the members and such  
 14 other matters as the commissioners consider necessary.

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24 Section 6. Codification instruction. Sections 4 and 5  
 25 are intended to be codified as an integral part of Title 76,

LC 0877/01

1 chapter 2, part 2, and the provisions of Title 76, chapter  
2, apply to sections 4 and 5.

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Approved by Comm.  
on Local Government

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 21 (h) The board of county commissioners shall publish  
 22 notice of passage of the resolution of intention once a week  
 23 for 2 weeks in a newspaper of general circulation within the  
 24 county. The notice shall state:  
 25 (a) the boundaries of the proposed district

1       fb)--the--general--character--of--the--proposed--zoning  
 2 regulations;

3       fc)--that--the--proposed-zoning-regulations-are-on-file  
 4 for-public-inspection-at-the-office-of-the-county-clerk--and  
 5 recordert

6       fd)--that--for--30-days-after-first-publication-of-this  
 7 notice, the--board--of--county--commissioners--will--receive  
 8 written--protests--to-the-creation-of-the-zoning-district-or  
 9 to-the-zoning-regulations-from-persons-owning-real--property  
 10 within-the-district--whose-names-appear-on-the-last-completed  
 11 assessment-roll--of-the-county;

12       f6)--Within-30-days-after-the-expiration-of-the-protest  
 13 period,--the--board--of--county--commissioners--may--in--its  
 14 discretion--adopt-the-resolution-creating-the-zoning-district  
 15 and/or-establishing-the-zoning-regulations--for-the-districts  
 16 but-if-40%--of-the-freeholders--within--such--district--whose  
 17 names--appear--on--the--last-completed-assessment-roll--shall  
 18 have--protested--the-establishment--of-the-district--or--adoption  
 19 of--the-regulations,--the-board--of--county--commissioners--shall  
 20 not--adopt--the--resolution--and--no--further--zoning--resolution  
 21 shall--be--proposed--for--the--district--for--a--period--of--1--years;

22       NEW SECTION Section 4--Method-of-amendment-of-zoning  
 23 regulations--The--county--commissioners--shall--provide--in--the  
 24 resolution--adopting--the--zoning--regulations--for--the--procedure  
 25 by--which--the--regulations--and--zone--classification--boundaries

1       may--be--amended--However--no--amendment--of--the--regulations--or  
 2 classification--boundaries--may--become--effective--until--after--a  
 3 public--hearing--at--which--interested--persons--have--an  
 4 opportunity--to--be--heard--At--least--15--days'--notice--of--the  
 5 time--and--place--of--the--hearing--must--be--published--in--the  
 6 contracted--newspaper--provided--for--in--7-5-2411--or--a--newspaper  
 7 of--general--circulation--in--the--county;

8       NEW SECTION Section 1. Zoning commission --  
 9 appointment -- duties. (1) Before FOR THE PURPOSE OF  
 10 PROVIDING AN OPTIONAL METHOD OF amending any zoning  
 11 regulations or zoning classification under--the--procedure  
 12 established--under-[section-4], the county commissioners may  
 13 appoint a zoning commission to recommend amendments to the  
 14 zoning regulations and classifications. Such a zoning  
 15 commission must be composed of AT LEAST five citizen members  
 16 appointed at large from the zoning district. The county  
 17 commissioners may adopt bylaws for the zoning commission  
 18 pertaining to the qualifications of the members and such  
 19 other matters as the commissioners consider necessary.

20       (2) If a commission is appointed, it shall hold a  
 21 public hearing to receive relevant testimony. The hearing,  
 22 which may be held jointly with the hearing by the county  
 23 commissioners, must be upon at least 15 days' notice of the  
 24 time and place of the hearing and must be published in the  
 25 contracted newspaper provided for in 7-5-2411 or a newspaper

1 of general circulation in the county. Recommendations of  
2 the zoning commission must be submitted to the county  
3 commissioners.

4 Section 6---Codification instruction---Sections 4 and 5  
5 are intended to be codified as an integral part of Title 76,  
6 Chapter 2, Part 2, and the provisions of Title 76, Chapter  
7 2 apply to sections 4 and 5.

8 SECTION 2. CODIFICATION INSTRUCTION. SECTION 1 IS  
9 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 76,  
10 CHAPTER 2, PART 2, AND THE PROVISIONS OF TITLE 76, CHAPTER  
11 2, APPLY TO SECTION 1.

-End-

March 31, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 575, third reading copy, as follows:

1. Title, line 4.

Following: "TO"

Strike: "GENERALLY CLARIFY"

Insert: "AUTHORIZE"

2. Title, line 5.

Following: "THE"

Strike: "POWERS OF"

3. Title, lines 5 and 6.

Following: "COMMISSIONERS"

Strike: "RELATING TO PLANNING AND ZONING AND"

4. Title, lines 8 and 9.

Following: "REGULATIONS"

Strike: the remainder of the title.

5. Page 1, line 12 through page 6, line 7.

Strike: sections 1 through 4 in their entirety.

Renumber: subsequent sections

6. Page 6, line 9.

Following: "(1)"

Strike: "Before"

Insert: "For the purpose of providing an optional method of"

7. Page 6, lines 10 and 11.

Following: "classification"

Strike: "under the procedure established under [section 4],"

8. Page 7, lines 3 through 6.

Strike: section 6.

Insert: "Section 2. Codification instruction.

Section 1 is intended to be codified as an integral part of Title 76, chapter 2, part 2, and the provisions of Title 76, chapter 2, apply to section 1."