

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.
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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 Kitselman

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."

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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  
22    established zone classifications such that within some  
23    classifications it shall be lawful and within ~~others~~ other  
24    classifications it shall be unlawful to erect, construct,  
25    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 lines 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    ~~damages; to promote health and general welfare; to provide~~

INTRODUCED BILL  
-2-            HB 575

1 ~~adequate light and air, to prevent the overcrowding of land;~~  
 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  
 16 the following procedures in the establishment or revision of  
 17 boundaries for zoning districts and in the adoption or  
 18 amendment of zoning regulations:

19 (1) Notice of a public hearing on the proposed zoning  
 20 district boundaries and of regulations for the zoning  
 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  
 15 resolution of intention to create a zoning district and to  
 16 adopt zoning regulations for the district.

17 (5) The board of county commissioners shall publish  
 18 notice of passage of the resolution of intention once a week  
 19 for 2 weeks in a newspaper of general circulation within the  
 20 county. The notice shall state:

- 21 (a) the boundaries of the proposed district;  
 22 (b) the general character of the proposed zoning  
 23 regulations;  
 24 (c) that the proposed zoning regulations are on file  
 25 for public inspection at the office of the county clerk and

1 recorder;

2 (d) that for 30 days after first publication of this  
3 notice, the board of county commissioners will receive  
4 written protests to the creation of the zoning district or  
5 to the zoning regulations from persons owning real property  
6 within the district whose names appear on the last completed  
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  
10 discretion adopt the resolution creating the zoning district  
11 and/or establishing the zoning regulations for the district;  
12 but if 40% of the freeholders within such district whose  
13 names appear on the last completed assessment roll shall  
14 have protested the establishment of the district or adoption  
15 of the regulations, the board of county commissioners shall  
16 not adopt the resolution and no further zoning resolution  
17 shall be proposed for the district for a period of 1 year."

18 NEW SECTION. Section 4. Method of amendment of zoning  
19 regulations. The county commissioners shall provide in the  
20 resolution adopting the zoning regulations for the procedure  
21 by which the regulations and zone classification boundaries  
22 may be amended. However, no amendment of the regulations or  
23 classification boundaries may become effective until after a  
24 public hearing at which interested persons have an  
25 opportunity to be heard. At least 15 days' notice of the

1 time and place of the hearing must be published in the  
2 contracted newspaper provided for in 7-5-2411 or a newspaper  
3 of general circulation in the county.

4 NEW SECTION. Section 5. Zoning commission --  
5 appointment -- duties. (1) Before amending any zoning  
6 regulations or zoning classification under the procedure  
7 established under [section 4], the county commissioners may  
8 appoint a zoning commission to recommend amendments to the  
9 zoning regulations and classifications. Such a zoning  
10 commission must be composed of five citizen members  
11 appointed at large from the zoning district. The county  
12 commissioners may adopt bylaws for the zoning commission  
13 pertaining to the qualifications of the members and such  
14 other matters as the commissioners consider necessary.

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

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 2, apply to sections 4 and 5.

-End-

Approved by Comm.  
on Local Government

HOUSE BILL NO. 575

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

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

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

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

(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

trades, industries, or callings.

~~(3) Within each district the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established.~~ Within each zone classification the county may by zoning regulation regulate the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, automobile parking and storage, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

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

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

~~"76-2-203. Criteria and guidelines for zoning Purpose of regulations -- factors considered.~~ The zoning regulations shall be made in accordance with a comprehensive development plan and shall be designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to LESSEN CONGESTION IN THE STREETS; TO SECURE

1 SAFETY FROM FIRE, PANIC, AND OTHER DANGERS; TO promote  
 2 health and general welfare; ~~to provide adequate light and~~  
 3 ~~air; to prevent the overcrowding of land; to avoid undue~~  
 4 ~~concentration of population; and; TO PROVIDE ADEQUATE LIGHT~~  
 5 ~~AND AIR; TO PREVENT THE OVERCROWDING OF LAND; TO AVOID UNDUE~~  
 6 ~~CONCENTRATION OF POPULATION; AND~~ to facilitate the adequate  
 7 provision of transportation, water, sewerage, schools,  
 8 parks, and other public requirements. Such zoning  
 9 regulations shall be made with reasonable consideration,  
 10 among other things, to the character of the district and its  
 11 peculiar suitability for particular uses and with a view to  
 12 conserving the value of buildings and encouraging the most  
 13 appropriate use of land throughout such jurisdictional area.  
 14 The zoning regulations shall, as nearly as possible, be made  
 15 compatible with the zoning ordinances of the municipality  
 16 within the jurisdictional area."

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

18 "76-2-205. Procedure for adoption of regulations and  
 19 boundaries. The board of county commissioners shall observe  
 20 the following procedures in the establishment or revision of  
 21 boundaries for zoning districts and in the adoption or  
 22 amendment of zoning regulations:

23 (1) Notice of a public hearing on the proposed zoning  
 24 district boundaries and of regulations for the zoning  
 25 district shall be published once a week for 2 weeks in a

1 newspaper of general circulation within the county. The  
 2 notice shall state:

- 3 (a) the boundaries of the proposed district;
- 4 (b) the general character of the proposed zoning  
5 regulations;
- 6 (c) the time and place of the public hearing;
- 7 (d) that the proposed zoning regulations are on file  
8 for public inspection at the office of the county clerk and  
9 recorder.

10 (2) At the public hearing, the board of county  
11 commissioners shall give the public an opportunity to be  
12 heard regarding the proposed zoning district and  
13 regulations.

14 (3) After the public hearing, the board of county  
15 commissioners shall review the proposals of the planning  
16 board and shall make such revisions or amendments as it may  
17 deem proper.

18 (4) The board of county commissioners may pass a  
19 resolution of intention to create a zoning district and to  
20 adopt zoning regulations for the district.

21 (5) 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;



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3 (c) that the proposed zoning regulations are on file  
4 for public inspection at the office of the county clerk and  
5 recorder;

6 (d) 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 (6) 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  
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16 but if 40% of the freeholders within such district whose  
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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 year."

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  
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HB 0575/02

1 the zoning commission must be submitted to the county  
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3 Section 6. Codification instruction. Sections 4 and 5  
4 are intended to be codified as an integral part of Title 76,  
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17 Section 3. Section 76-2-205, MCA, is amended to read:

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 11 commissioners shall give the public an opportunity to be  
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1 the zoning commission must be submitted to the county  
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4 are intended to be codified as an integral part of Title 76,  
5 chapter 2, part 2, and the provisions of Title 76, chapter  
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(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

trades, industries or callings.

(3) Within each district the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established. Within each zone classification the county may by zoning regulation regulate the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, automobile parking and storage, the density of population, and the location and use of buildings, structures, and land for trade, industry, residency or other purposes.

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76-2-203. Criteria and guidelines for zoning PURPOSE OF regulations. FACTORS CONSIDERED. The zoning regulations shall be made in accordance with a comprehensive development plan and shall be designed to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to LESSEN CONGESTION IN THE STREETS, TO SECURE

1 ~~SAFETY FROM FIRE, PANIC, AND OTHER DANGERS, TO~~ promote  
 2 health and general welfare; to provide adequate light and  
 3 air; to prevent the overcrowding of land; to avoid undue  
 4 concentration of population; and ~~TO PROVIDE ADEQUATE LIGHT~~  
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 12 heard regarding the proposed zoning district and  
 13 regulations.

14 (3) After the public hearing the board of county  
 15 commissioners shall review the proposals of the planning  
 16 board and shall make such revisions or amendments as it may  
 17 deem proper.

18 (4) The board of county commissioners may pass a  
 19 resolution of intention to create a zoning district and to  
 20 adopt zoning regulations for the district.

21 (5) 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 (b) the general character of the proposed zoning  
2 regulations;

3 (c) that the proposed zoning regulations are on file  
4 for public inspection at the office of the county clerk and  
5 recorder;

6 (d) 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 (e) Within 30 days after the expiration of the protest  
13 periods, 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 district  
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 year.

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.  
Re-number: 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."