

HOUSE BILL NO. 489
INTRODUCED BY R. ERICKSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CITY OR TOWN COUNCILS AND BOARDS OF COUNTY COMMISSIONERS TO CONSIDER ADOPTION OF SOLAR ACCESS ZONING REGULATIONS; PROVIDING REQUIREMENTS FOR SOLAR ACCESS ZONING REGULATIONS; DEFINING CERTAIN TERMS; AND AMENDING SECTIONS 76-2-203, 76-2-303, AND 76-2-304, MCA."

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

Section 1. Section 76-2-203, MCA, is amended to read:

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

- (a) made in accordance with the growth policy or a master plan, as provided for in 76-2-201(2); and
- (b) designed to:
 - (i) lessen congestion in the streets;
 - (ii) secure safety from fire, panic, and other dangers;
 - (iii) promote public health and general welfare;
 - (iv) provide adequate light and air;
 - (v) prevent the overcrowding of land;
 - (vi) avoid undue concentration of population; and
 - (vii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) Zoning regulations must be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

(3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of the municipality within the jurisdictional area.

(4) By October 1, 2010, a board of county commissioners shall consider the adoption of zoning regulations designed to protect and encourage the use of solar energy in residential construction by requiring that solar access to passive solar systems be protected from shading by vegetation and structures pursuant to [section 4]. Counties that do not have zoning regulations are exempt from this subsection."

Section 2. Section 76-2-303, MCA, is amended to read:

"76-2-303. Procedure to administer certain annexations and zoning laws -- hearing and notice.

(1) The city or town council or other legislative body of a municipality shall provide for the manner in which regulations and restrictions and the boundaries of districts are determined, established, enforced, and changed, subject to the requirements of subsection (2).

(2) A regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation, provided that the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to part 1 or 2 of this chapter; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to chapter 1 of this title or in a master plan, ~~as provided for in 76-2-304(3)~~, for the annexed property.

(b) A joint hearing authorized under this subsection fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."

Section 3. Section 76-2-304, MCA, is amended to read:

"76-2-304. Purposes of zoning. (1) Zoning regulations must be:

(a) except as provided in subsection (3), made in accordance with a growth policy; and

(b) designed to:

(i) lessen congestion in the streets;

(ii) secure safety from fire, panic, and other dangers;

(iii) promote health and the general welfare;

(iv) provide adequate light and air;

(v) prevent the overcrowding of land;

(vi) avoid undue concentration of population; and

(vii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public

requirements.

(2) Zoning regulations must be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

~~(3) Until October 1, 2006, zoning regulations may be adopted or revised in accordance with a master plan that was adopted pursuant to Title 76, chapter 1, before October 1, 1999.~~

(3) By October 1, 2010, a city or town governing body shall consider the adoption of zoning regulations designed to protect and encourage the use of solar energy in residential construction by requiring that solar access to passive solar systems be protected from shading by vegetation and structures pursuant to [section 4]. A city or town that does not have zoning regulations is exempt from this subsection."

NEW SECTION. Section 4. Regulation of solar energy systems -- definitions. (1) A city or town governing body or a board of county commissioners may adopt and implement solar access zoning regulations. The regulations must provide and protect to the extent feasible solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation, and planned uses and densities. The city or town governing body or board of county commissioners may consider for inclusion in any solar access regulations, without limitation, standards for:

- (a) orientation of new streets, lots, and parcels;
- (b) placement, height, bulk, and orientation of new buildings;
- (c) type and placement of new trees on public street rights-of-way and other public property; and
- (d) planned uses and densities to conserve energy, facilitate the use of passive solar systems, or both.

(2) As used in this section, the following definitions apply:

(a) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

(b) "Solar access" means the ability of sunlight to strike a solar system.

(c) "Solar heating hours" means those hours between three hours before and three hours after the sun is at its highest point above the horizon on December 21.

NEW SECTION. **Section 5. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 76, chapter 2, and the provisions of Title 76, chapter 2, apply to [section 4].

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