

1 HOUSE BILL NO. 914

2 INTRODUCED BY K. ZOLNIKOV

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAWS;
5 REQUIRING A LOCAL GOVERNMENT TO INTERPRET A GROWTH POLICY BY ITS PLAIN LANGUAGE;
6 REQUIRING A LOCAL GOVERNMENT TO ALLOW CERTAIN RESIDENTIAL USES ON LAND ANNEXED
7 INTO A MUNICIPALITY; PROVIDING AN APPROPRIATION; AMENDING SECTION SECTIONS 76-1-605,
8 AND 76-2-302, MCA; AND PROVIDING AN EFFECTIVE DATE."
9

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

11
12 **Section 1.** Section 76-1-605, MCA, is amended to read:

13 **"76-1-605. Use of adopted growth policy.** (1) Subject to subsection (2), after adoption of a growth
14 policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by
15 and give consideration to the general policy and pattern of development set out in the growth policy in the:

16 (a) authorization, construction, alteration, or abandonment of public ways, public places, public
17 structures, or public utilities;

18 (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or
19 utilities; and

20 (c) adoption of zoning ordinances or resolutions.

21 (2) (a) A growth policy is not a regulatory document and does not confer any authority to regulate
22 that is not otherwise specifically authorized by law or regulations adopted pursuant to the law.

23 (b) A governing body may not withhold, deny, or impose conditions on any land use approval or
24 other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.

25 (c) A governing body shall interpret the growth policy according to the growth policy's plain
26 language."

27

1 NEW SECTION. Section 2. Local ordinances and annexed land. ~~A city or town council or other~~
2 ~~legislative body may not adopt IF AN EXISTING RESIDENTIAL USE WAS ALLOWED ON A LOT OR PARCEL PRIOR TO~~
3 ~~ANNEXATION, a zoning ordinance or resolution or a nuisance ordinance that prohibits a residential use on a lot or~~
4 ~~parcel to be annexed into a municipality if the residential use was allowed on the lot or parcel prior to~~
5 ~~annexation~~ APPLYING TO THE LOT OR PARCEL MUST ALLOW THE RESIDENTIAL USE AS A LEGAL NONCONFORMING USE.
6

7 **Section 3.** Section 76-2-302, MCA, is amended to read:

8 **"76-2-302. Zoning districts.** (1) For the purposes of 76-2-301, the local city or town council or other
9 legislative body may divide the municipality into districts of the number, shape, and area as are considered best
10 suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection,
11 construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

12 (2) All regulations must be uniform for each class or kind of buildings throughout each district, but
13 the regulations in one district may differ from those in other districts.

14 (3) In a proceeding for a permit or variance to place manufactured housing within a residential
15 zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely
16 affect property values of conventional housing.

17 (4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a
18 factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in
19 size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations,
20 used on site-built homes, and is in compliance with the applicable prevailing standards of the United States
21 department of housing and urban development at the time of its production. A manufactured home does not
22 include a mobile home or housetrailer, as defined in 15-1-101.

23 (5) This section may not be construed to limit conditions imposed in historic districts, local design
24 review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part
25 2.

26 (6) Zoning regulations may not include a requirement to:

27 (a) pay a fee for the purpose of providing housing for specified income levels or at specified sale

Amendment - 1st Reading/2nd House-blue - Requested by: Daniel Zolnikov - (S) Local Government

- 2023

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Drafter: Toni Henneman, 406-444-3593

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1 prices; ~~or~~

2 (b) dedicate real property for the purpose of providing housing for specified income levels or at
3 specified sale prices; or

4 (c) in incorporated municipalities located within the boundary of a county with a population of at
5 least 100,000 as of the most recent decennial census and in areas zoned to allow multiple-unit dwellings or
6 mixed-use developments that include multiple-unit dwellings as a permitted use:

7 (i) limit the residential density to fewer than 30 residential units an acre;

8 (ii) provide residential setbacks greater than the setbacks of an existing structure on a site, if a
9 residential development retains at least the front and one additional exterior wall of that structure; or

10 (iii) engage in a discretionary or conditional review process or provide specified amenities separate
11 from building code requirements as a condition of building a residential or mixed-use development to the
12 specifications provided in subsections (6)(c)(i) and (6)(c)(ii).

13 (7) A dedication of real property as prohibited in subsection (6)(b) includes a payment or other
14 contribution to a local housing authority or the reservation of real property for future development of housing for
15 specified income levels or specified sale prices.

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

17 (a) "Mixed-use development" means a development consisting of residential and nonresidential
18 uses in which the nonresidential uses are less than 50% of the total square footage of the development and are
19 limited to the first floor of buildings that are two or more stories.

20 (b) "Multi-unit dwelling" means a building designed for five or more dwelling units in which the
21 dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between
22 units through an internal doorway, excluding common hallways."

23
24 NEW SECTION. Section 4. Appropriation. There is appropriated \$500 from the general fund to the
25 department of commerce for the fiscal year beginning July 1, 2023, to notify local governments of the statutory
26 revisions implemented in [this act].

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1 NEW SECTION. **Section 5. Codification instruction.** [Section 2] is intended to be codified as an
2 integral part of Title 76, chapter 2, part 3, and the provisions of Title 76, chapter 2, part 3, apply to [section 2].

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4 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2023.

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- END -

AMENDED