

1 SENATE BILL NO. 245

2 INTRODUCED BY D. ZOLNIKOV, C. FRIEDEL, J. ELLSWORTH, K. BOGNER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN

5 MUNICIPALITIES TO ALLOW MULTIFAMILY HOUSING AND MIXED-USE DEVELOPMENT; PROHIBITING A

6 MUNICIPALITY FROM INCLUDING CERTAIN DENSITY, HEIGHT, LOT COVERAGE, SETBACK, AND

7 PARKING REQUIREMENTS; PROVIDING DEFINITIONS; ~~AND~~ AMENDING SECTIONS 76-2-304 AND 76-2-

8 309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY

9 DATE."

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

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13 **Section 1.** Section 76-2-304, MCA, is amended to read:

14 **"76-2-304. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

- 15 (a) made in accordance with a growth policy; and
  - 16 (b) designed to:
    - 17 (i) secure safety from fire and other dangers;
    - 18 (ii) promote public health, public safety, and the general welfare; and
    - 19 (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other
- 20 public requirements.

21 (2) In the adoption of zoning regulations, the municipal governing body shall consider:

- 22 (a) reasonable provision of adequate light and air;
- 23 (b) the effect on motorized and nonmotorized transportation systems;
- 24 (c) promotion of compatible urban growth;
- 25 (d) the character of the district and its peculiar suitability for particular uses; and
- 26 (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

27 the jurisdictional area.

28 (3) (a) In a municipality that is designated as an urban area by the United States census bureau

1 with a population over 7,000 as of the most recent census, the city council or other legislative body of the

2 municipality shall allow as a permitted use multifamily housing or mixed-use developments that include

3 multifamily housing on a parcel or lot that ~~is~~:

4 (i) ~~currently serviced by~~ has a will-serve letter from both a municipal water system and a municipal  
5 sewer system; and

6 (ii) is located in a zone where office, retail, or parking is a principally permitted use.

7 (b) Zoning regulations in municipalities meeting the requirements of subsection (3)(a) may not, in a  
8 zone where office, retail, or parking is a principally permitted use, include a requirement to:

9 (i) limit the residential density or lot coverage of a multifamily housing or mixed-use development  
10 to lower than the highest residential density or lot coverage allowed in the entire jurisdiction of the municipality;

11 (ii) limit the height of a multifamily housing or mixed-use development to lower than the highest  
12 height allowed in the entire jurisdiction of the municipality or 40 feet, whichever is greater;

13 (iii) impose minimum setback requirements on a multifamily housing or mixed-use development  
14 larger than the smallest minimum residential setback allowed in the municipality; or

15 (iv) impose a predetermined number of offstreet parking spaces.

16 (c) A municipality as provided in subsection (3)(a) may regulate the siting and design of a  
17 multifamily housing or mixed-use development that is required to be permitted under this section provided that  
18 the regulations do not individually or cumulatively discourage the development of other multifamily housing or  
19 mixed-use developments permitted in the area through unreasonable costs or delay.

20 (4) As used in this section:

21 (a) "mixed-use development" means a development consisting of residential and nonresidential  
22 uses in which the nonresidential uses are less than 50% of the total square footage of the development and are  
23 limited to the first floor of buildings that are two or more stories; and

24 (b) "multifamily housing" means a housing accommodation that is designed principally for  
25 residential use and consists of not less than 5 housing units on one lot or parcel."

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27 **Section 2.** Section 76-2-309, MCA, is amended to read:

28 **"76-2-309. Conflict with other laws.** (1) Wherever the regulations made under authority of this part

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Local Government**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

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1 require a greater width or size of yards, courts, or other open spaces; require a lower height of building or less  
2 a fewer number of stories; require a greater percentage of a lot to be left unoccupied; or impose other higher  
3 standards than are required in any other statute or local ordinance or regulation, the provisions of the  
4 regulations made under authority of this part shall govern.

5 (2) Wherever the provisions of any other statute or local ordinance or regulation require a greater  
6 width or size of yards, courts, or other open spaces; require a lower height of building or a ~~less~~ fewer number  
7 of stories; require a greater percentage of a lot to be left unoccupied; or impose other higher standards than  
8 are required by the regulations made under authority of this part, except for restrictions provided in 76-2-304(3),  
9 the provisions of ~~such~~ the other statute or local ordinance or regulation shall govern."

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11 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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13 **NEW SECTION. Section 4. Retroactive applicability.** [This act] applies retroactively, within the  
14 meaning of 1-2-109, to municipal zoning regulations enacted or adopted on or before [the effective date of this  
15 act].

16 - END -