

1 SENATE BILL NO. 268
2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SHORT-TERM RENTAL LAWS;
5 ESTABLISHING THAT A SHORT-TERM RENTAL IS A RESIDENTIAL USE OF PROPERTY; ESTABLISHING
6 THAT SHORT-TERM RENTALS ARE PERMISSIBLE UNLESS PROHIBITED THROUGHOUT A ZONING
7 DISTRICT; AMENDING SECTIONS 7-1-111, 70-24-104, ~~76-2-203, 76-2-205~~, AND 76-2-303, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND AN
9 APPLICABILITY DATE."

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

12
13 NEW SECTION. Section 1. Short-term rentals. (1) Unless the clear and express terms of a
14 covenant provide otherwise, a short-term rental is a residential use of property.

15 (2) As used in this section, "short-term rental" has the meaning provided in 15-68-101.
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17 NEW SECTION. Section 2. Short-term rentals. (1) Unless the clear and express terms of a
18 homeowners' association's bylaws or other governing instrument provide otherwise, a short-term rental is a
19 residential use of property.

20 (2) As used in this section, "short-term rental" has the meaning provided in 15-68-101.
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22 NEW SECTION. Section 3. Short-term rentals. (1) A short-term rental is a residential use of
23 property.

24 (2) (a) Unless expressly prohibited in the entirety of a jurisdictional area or a zoning district, if the
25 jurisdictional area is divided into zoning districts, short-term rentals are permissible in areas zoned for
26 residential use.

27 (b) An express prohibition on short-term rentals may not preclude the short-term rental of all or part
28 of:

1 (26) any power to prohibit short-term rentals of residential property, except as provided in [section 3]
2 or [section 4]."

3

4 **Section 6.** Section 70-24-104, MCA, is amended to read:

5 **"70-24-104. Exclusions from application of chapter.** Unless created to avoid the application of this
6 chapter, the following arrangements are not governed by this chapter:

7 (1) residence at a public or private institution if incidental to detention or the provision of medical,
8 geriatric, educational, counseling, religious, or similar service, including all housing provided by the Montana
9 university system and other postsecondary institutions;

10 (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the
11 occupant is the purchaser or a person who succeeds to the purchaser's interest;

12 (3) occupancy by a member of a fraternal or social organization in the portion of a structure
13 operated for the benefit of the organization;

14 (4) transient occupancy in a hotel or motel;

15 (5) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a
16 cooperative;

17 (6) occupancy under a rental agreement covering premises used by the occupant primarily for
18 commercial or agricultural purposes;

19 (7) occupancy by an employee of a landlord whose right to occupancy is conditional upon
20 employment in and about the premises; ~~and~~

21 (8) occupancy outside a municipality under a rental agreement that includes hunting, fishing, or
22 agricultural privileges, along with the use of the dwelling unit.; and

23 (9) occupancy of a short-term rental as defined in 15-68-101."

24

25 **Section 7.** Section 76-2-203, MCA, is amended to read:

26 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

27 (a) made in accordance with the growth policy; and

28 (b) designed to:

- 1 (i) secure safety from fire and other dangers;
- 2 (ii) promote public health, public safety, and general welfare; and
- 3 (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other
- 4 public requirements.

5 (2) In the adoption of zoning regulations, the board of county commissioners shall consider:

- 6 (a) reasonable provision of adequate light and air;
- 7 (b) the effect on motorized and nonmotorized transportation systems;
- 8 (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the
- 9 areas around municipalities;

10 (d) the character of the district and its peculiar suitability for particular uses; and

11 (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

12 the jurisdictional area.

13 (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning

14 ordinances of nearby municipalities.

15 (4) Zoning regulations may not include a requirement to:

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

17 prices; or

18 (b) dedicate real property for the purpose of providing housing for specified income levels or at

19 specified sale prices.

20 (5) A dedication of real property as prohibited in subsection (4)(b) includes a payment or other

21 contribution to a local housing authority or the reservation of real property for future development of housing for

22 specified income levels or specified sale prices.

23 (6) If zoning district boundaries or regulations would prohibit short-term rentals, a specific analysis

24 of that prohibition must consider all of the elements in subsection (1) and be part of the documentation provided

25 to the public for the adoption or amendment of zoning regulations."

26

27 **Section 7. Section 76-2-205, MCA, is amended to read:**

28 **~~"76-2-205. Procedure for adoption of regulations and boundaries. The board of county~~**

1 ~~commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning~~
2 ~~districts and in the adoption or amendment of zoning regulations:~~

3 ~~(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the~~
4 ~~zoning district must:~~

5 ~~(a) state:~~

6 ~~(i) the boundaries of the proposed district;~~

7 ~~(ii) (A) the general character of the proposed zoning regulations; and~~

8 ~~(B) if the proposed zoning district boundaries or regulations would prohibit short-term rentals, how~~
9 ~~the prohibition furthers the criteria and guidelines provided in 76-2-203;~~

10 ~~(iii) the time and place of the public hearing;~~

11 ~~(iv) that the proposed zoning regulations are on file for public inspection at the office of the county~~
12 ~~clerk and recorder;~~

13 ~~(b) be posted not less than 45 days before the public hearing in at least five public places,~~
14 ~~including but not limited to public buildings and adjacent to public rights of way, within the proposed district; and~~

15 ~~(c) be published once a week for 2 weeks in a newspaper of general circulation within the county.~~

16 ~~(2) At the public hearing, the board of county commissioners shall give the public an opportunity to~~
17 ~~be heard regarding the proposed zoning district and regulations.~~

18 ~~(3) After the public hearing, the board of county commissioners shall review the proposals of the~~
19 ~~planning board and shall make any revisions or amendments that it determines to be proper.~~

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

22 ~~(5) The board of county commissioners shall publish notice of passage of the resolution of~~
23 ~~intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must~~
24 ~~state:~~

25 ~~(a) the boundaries of the proposed district;~~

26 ~~(b) the general character of the proposed zoning regulations;~~

27 ~~(c) that the proposed zoning regulations are on file for public inspection at the office of the county~~
28 ~~clerk and recorder;~~

~~(d) — that for 30 days after first publication of this notice, the board of county commissioners will receive written comments on the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last completed assessment roll of the county.~~

~~(6) — Within 30 days after the expiration of the comment period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district."~~

Section 8. 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) 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.

(b) Notice of a regulation, restriction, or boundary that would prohibit short-term rentals must demonstrate how the prohibition furthers the criteria and guidelines provided in 76-2-304.

(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 if 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 Title 76, chapter 2, part 1 or 2; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, for the annexed property.

(b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."