

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~~ MULTIPLE-UNIT DWELLINGS AND MIXED-USE  
6 DEVELOPMENT; ~~PROHIBITING A MUNICIPALITY FROM INCLUDING CERTAIN DENSITY, HEIGHT, LOT~~  
7 ~~COVERAGE, SETBACK, AND PARKING REQUIREMENTS~~; PROVIDING DEFINITIONS; AND AMENDING  
8 SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
9 RETROACTIVE APPLICABILITY DATE."

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

12  
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 7,000-5,000 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 MULTIPLE-UNIT DWELLINGS ~~or~~ AND mixed-use  
3 developments that include multifamily housing MULTIPLE-UNIT DWELLINGS 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  
5 municipal sewer system; and

6 (ii) IS located in a COMMERCIAL 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 PROVIDE MORE  
9 THAN:

10 (i) limit the residential density or lot coverage of a multifamily housing or mixed-use development  
11 to lower than the highest residential density or lot coverage allowed in the entire jurisdiction of the municipality  
12 ONE OFF-STREET PARKING SPACE FOR EACH UNIT AND ACCESSIBLE PARKING SPACES AS REQUIRED BY THE AMERICANS  
13 WITH DISABILITIES ACT OF 1990, 42 U.S.C. 12101, ET SEQ.; OR

14 (ii) limit the height of a multifamily housing or mixed-use development to lower than the highest  
15 height allowed in the entire jurisdiction of the municipality or 40 feet, whichever is greater; AN EQUIVALENT  
16 NUMBER OF SPACES REQUIRED UNDER SUBSECTION (3)(B)(I) PROVIDED THROUGH A SHARED PARKING AGREEMENT.

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

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

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

24 (4) As used in this section, THE FOLLOWING DEFINITIONS APPLY:

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

28 (b) "multifamily housing" means a housing accommodation that is designed principally for

1 ~~residential use and consist s of not less than 5 housing units on one lot or parcel~~ "MULTIPLE-UNIT DWELLING"  
2 MEANS A BUILDING DESIGNED FOR FIVE OR MORE DWELLING UNITS IN WHICH THE DWELLING UNITS SHARE A COMMON  
3 SEPARATION LIKE A CEILING OR WALL AND IN WHICH ACCESS CANNOT BE GAINED BETWEEN UNITS THROUGH AN  
4 INTERNAL DOORWAY, EXCLUDING COMMON HALLWAYS."

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

7 **"76-2-309. Conflict with other laws.** (1) Wherever the regulations made under authority of this part  
8 require a greater width or size of yards, courts, or other open spaces; ~~1~~ require a lower height of building or ~~less~~  
9 a fewer number of stories; ~~1~~ require a greater percentage of a lot to be left unoccupied; ~~1~~ or impose other higher  
10 standards than are required in any other statute or local ordinance or regulation, the provisions of the  
11 regulations made under authority of this part ~~shall~~ govern.

12 (2) Wherever the provisions of any other statute or local ordinance or regulation require a greater  
13 width or size of yards, courts, or other open spaces; ~~1~~ require a lower height of building or a ~~less~~ fewer number  
14 of stories; ~~1~~ require a greater percentage of a lot to be left unoccupied; ~~1~~ or impose other higher standards than  
15 are required by the regulations made under authority of this part, except for restrictions provided in 76-2-304(3),  
16 the provisions of ~~such the other~~ statute or local ordinance or regulation ~~shall~~ govern."

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18 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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20 NEW SECTION. SECTION 4. RETROACTIVE APPLICABILITY. [THIS ACT] APPLIES RETROACTIVELY, WITHIN  
21 THE MEANING OF 1-2-109, TO MUNICIPAL ZONING REGULATIONS ENACTED OR ADOPTED ON OR BEFORE [THE EFFECTIVE  
22 DATE OF THIS ACT].

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- END -