AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN MUNICIPALITIES TO ALLOW MULTIPLE-UNIT DWELLINGS AND MIXED-USE DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

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

"76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:
(a) made in accordance with a growth policy; and
(b) designed to:
(i) secure safety from fire and other dangers;
(ii) promote public health, public safety, and the general welfare; and
(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
(2) In the adoption of zoning regulations, the municipal governing body shall consider:
(a) reasonable provision of adequate light and air;
(b) the effect on motorized and nonmotorized transportation systems;
(c) promotion of compatible urban growth;
(d) the character of the district and its peculiar suitability for particular uses; and
(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.
(3) (a) In a municipality that is designated as an urban area by the United States census bureau with a population over 5,000 as of the most recent census, the city council or other legislative body of the
municipality shall allow as a permitted use multiple-unit dwellings and mixed-use developments that include multiple-unit dwellings on a parcel or lot that:

(i) has a will-serve letter from both a municipal water system and a municipal sewer system; and
(ii) is located in a commercial zone .

(b) Zoning regulations in municipalities meeting the requirements of subsection (3)(a) may not include a requirement to provide more than:

(i) one off-street parking space for each unit and accessible parking spaces as required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.; or
(ii) an equivalent number of spaces required under subsection (3)(b)(i) provided through a shared parking agreement.

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

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

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

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

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

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

Section 3. Effective date. [This act] is effective on passage and approval.

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

- END -
I hereby certify that the within bill,

SB 245, originated in the Senate.

___________________________________________
Secretary of the Senate

___________________________________________
President of the Senate

Signed this _______________________________day
of____________________________________, 2023.

___________________________________________
Speaker of the House

Signed this _______________________________day
of____________________________________, 2023.
AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN MUNICIPALITIES TO ALLOW MULTIPLE-UNIT DWELLINGS AND MIXED-USE DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.