

HOUSE BILL NO. 492

INTRODUCED BY K. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LOCAL GOVERNMENT LAWS; PROVIDING FOR LIMITED PARKING SPACE REQUIREMENTS IN MUNICIPAL ZONING; REQUIRING COMPENSATION TO DEVELOPERS WHO ARE REQUIRED TO PROVIDE ADDITIONAL PARKING SPACES; AND AMENDING SECTIONS 7-14-4501, 76-2-304, AND 76-25-303, MCA."

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

Section 1. Section 7-14-4501, MCA, is amended to read:

"7-14-4501. Acquisition, construction, and maintenance of parking areas. (1) A city or town council may:

~~(1)(a)~~ acquire by lease, gift, purchase, or condemnation pursuant to Title 70, chapter 30, lots or lands for use as parking areas for motor vehicles;

~~(2)(b)~~ construct and maintain on the acquired land or on any premises owned or under lease by the city or town suitable parking facilities for the use of the public and for general traffic control; and

~~(3)(c)~~ charge for the use of parking facilities.

(2) A city or town council that requires more parking spaces than those allowed in 76-2-304(5) or 76-25-303(1)(i) for a new development shall compensate the property owner for the real cost of the construction of the required parking."

Section 2. 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) In a city with a population of at least 5,000 residents, duplex housing must be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning regulations that apply to the development or use of duplex housing may not be more restrictive than zoning regulations that are applicable to single-family residences.

(4) (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 (4)(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 (4)(b)(i) provided through a shared parking agreement.

(5) Except as provided in subsection (6) or to provide accessible parking spaces as required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq., zoning regulations may not include provisions that require:

- 1 (a) more than one parking space for every 5,000 feet of commercial space;
2 (b) more than one parking space for each residential dwelling unit; or
3 (c) any minimum parking requirement for:
4 (i) existing buildings, including vacant buildings, undergoing a change of use;
5 (ii) commercial spaces under 15,000 square feet;
6 (iii) child-care facilities licensed or registered by the department of public health and human
7 services;
8 (iv) residential units under 1,200 square feet;
9 (v) deed-restricted affordable housing; or
10 (vi) assisted living facilities.
11 (6) The city council or other legislative body of a municipality may require more parking spaces
12 than those allowed in subsection (5) if the municipality compensates the developer or project owner for the real
13 cost of the construction of the required additional parking.
14 ~~(5)~~(7) As used in this section, the following definitions apply:
15 (a) "Duplex housing" means a parcel or lot with two dwelling units that are designed for residential
16 occupancy by not more than two family units living independently from each other.
17 (b) "Family unit" means:
18 (i) a single person living or residing in a dwelling or place of residence; or
19 (ii) two or more persons living together or residing in the same dwelling or place of residence.
20 (c) "Mixed-use development" means a development consisting of residential and nonresidential
21 uses in which the nonresidential uses are less than 50% of the total square footage of the development and are
22 limited to the first floor of buildings that are two or more stories.
23 (d) "Multiple-unit dwelling" means a building designed for five or more dwelling units in which the
24 dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between
25 units through an internal doorway, excluding common hallways.
26 (e) "Single-family residence" has the meaning provided in 70-24-103."

27
28 **Section 3.** Section 76-25-303, MCA, is amended to read:

1 **"76-25-303. Limitations on zoning authority.** (1) A local government acting pursuant to this part

2 may not:

3 (a) treat manufactured housing units differently from any other residential units;

4 (b) include in a zoning regulation any requirement to:

5 (i) pay a fee for the purpose of providing housing for specified income levels or at specified sale
6 prices; or

7 (ii) dedicate real property for the purpose of providing housing for specified income levels or at
8 specified sale prices, including a payment or other contribution to a local housing authority or the reservation of
9 real property for future development of housing for specified income levels or specified sale prices;

10 (c) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to
11 accommodate amateur radio service communications by a person who holds an unrevoked and unexpired
12 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
13 communications commission of the United States;

14 (d) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the
15 ground;

16 (e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use,
17 development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except
18 that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;

19 (f) except as provided in subsection (3), treat the following differently from any other residential
20 use of property:

21 (i) a foster home, kinship foster home, youth shelter care facility, or youth group home operated
22 under the provisions of 52-2-621 through 52-2-623, if the home or facility provides care on a 24-hour-a-day
23 basis;

24 (ii) a community residential facility serving eight or fewer persons, if the facility provides care on a
25 24-hour-a-day basis; or

26 (iii) a family day-care home or a group day-care home registered by the department of public
27 health and human services under Title 52, chapter 2, part 7;

28 (g) except as provided in subsection (3), apply any safety or sanitary regulation of the department

1 of public health and human services or any other agency of the state or a political subdivision of the state that is
2 not applicable to residential occupancies in general to a community residential facility serving 8 or fewer
3 persons or to a day-care home serving 12 or fewer children; or

4 (h) prohibit any existing agricultural activities or force the termination of any existing agricultural
5 activities outside the boundaries of an incorporated city, including agricultural activities that were established
6 outside the corporate limits of a municipality and thereafter annexed into the municipality; or

7 (i) except as provided in subsection (4) or to provide accessible parking spaces as required by the
8 Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq., require:

9 (i) more than one parking space for every 5,000 feet of commercial space;

10 (ii) more than one parking space for each residential dwelling unit; or

11 (iii) any minimum parking requirement for:

12 (A) existing buildings, including vacant buildings, undergoing a change of use;

13 (B) commercial spaces under 15,000 square feet;

14 (C) child-care facilities licensed or registered by the department of public health and human
15 services;

16 (D) residential units under 1,200 square feet;

17 (E) deed-restricted affordable housing; or

18 (F) assisted living facilities.

19 (2) Regulations that condition or prohibit uses pursuant to subsection (1)(e) must be in effect prior
20 to the filing of a permit application or at the time a written request is received for a preapplication meeting
21 pursuant to 82-4-432.

22 (3) Except for a day-care home registered by the department of public health and human services,
23 a local government may impose zoning standards and conditions on any type of home or facility identified in
24 subsections (1)(f) and (1)(g) if those zoning standards and conditions do not conflict with the requirements of
25 subsections (1)(f) and (1)(g).

26 (4) A local government may require more parking spaces than those allowed in subsection (1)(i) if
27 the local government compensates the developer or project owner for the real cost of the construction of the
28 required additional parking."

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