

SENATE BILL NO. 266

INTRODUCED BY J. TREBAS, M. NIKOLAKAKOS, D. ZOLNIKOV, J. KASSMIER, G. LAMMERS, M. REGIER,
S. FITZPATRICK, K. ZOLNIKOV, G. NIKOLAKAKOS, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ZONING LAWS; REQUIRING CERTAIN
CITIES TO PERMIT THE USE OF TRIPLEX AND FOURPLEX HOUSING IN ZONING REGULATIONS;
REQUIRING THAT ZONING REGULATIONS FOR DUPLEX, TRIPLEX, AND FOURPLEX HOUSING ARE
NOT MORE STRINGENT THAN ZONING REGULATIONS FOR SINGLE-FAMILY RESIDENCES; PROVIDING
DEFINITIONS; AND AMENDING SECTIONS 76-2-304, 76-25-302, AND 76-25-303, MCA."

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) In a city with a population of at least 5,000 residents, duplex, triplex, and fourplex housing must

1 be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning
2 regulations that apply to the development or use of duplex, triplex, and fourplex housing may not be more
3 restrictive than zoning regulations that are applicable to single-family residences.

4 (4) (a) In a municipality that is designated as an urban area by the United States census bureau
5 with a population over 5,000 as of the most recent census, the city council or other legislative body of the
6 municipality shall allow as a permitted use multiple-unit dwellings and mixed-use developments that include
7 multiple-unit dwellings on a parcel or lot that:

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

10 (b) Zoning regulations in municipalities meeting the requirements of subsection (4)(a) may not
11 include a requirement to provide more than:

12 (i) one off-street parking space for each unit and accessible parking spaces as required by the
13 Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.; or

14 (ii) an equivalent number of spaces required under subsection (4)(b)(i) provided through a shared
15 parking agreement.

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

17 (a) "Duplex housing" means a parcel or lot with two dwelling units that are designed for residential
18 occupancy by not more than two family units living independently from each other.

19 (b) "Family unit" means:

- 20 (i) a single person living or residing in a dwelling or place of residence; or
- 21 (ii) two or more persons living together or residing in the same dwelling or place of residence.

22 (c) "Fourplex housing" means a parcel or lot with four dwelling units that are designed for
23 residential occupancy by not more than four family units living independently from each other.

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

27 ~~(d)(e)~~ "Multiple-unit dwelling" means a building designed for five or more dwelling units in which the
28 dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between

1 units through an internal doorway, excluding common hallways.

2 ~~(e)~~(f) "Single-family residence" has the meaning provided in 70-24-103.

3 ~~(g)~~ "Triplex housing" means a parcel or lot with three dwelling units that are designed for
4 residential occupancy by not more than three family units living independently from each other."

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6 **Section 2.** Section 76-25-302, MCA, is amended to read:

7 **"76-25-302. Encouragement of development of housing.** (1) The zoning regulations authorized in
8 76-25-301 must include a minimum of five of the following housing strategies, applicable to the majority of the
9 area, where residential development is permitted in the jurisdictional area:

10 ~~(a)~~ — allow, as a permitted use, for at least a duplex where a single-unit dwelling is permitted;

11 ~~(b)~~(a) zone for higher density housing near transit stations, places of employment, higher education
12 facilities, and other appropriate population centers, as determined by the local government;

13 ~~(c)~~(b) eliminate or reduce off-street parking requirements to require no more than one parking space
14 per dwelling unit;

15 ~~(d)~~(c) eliminate impact fees for accessory dwelling units or developments that include multi-unit
16 dwellings or reduce the fees by at least 25%;

17 ~~(e)~~(d) allow, as a permitted use, for at least one internal or detached accessory dwelling unit on a lot
18 with a single-unit dwelling occupied as a primary residence;

19 ~~(f)~~(e) allow for single-room occupancy developments;

20 ~~(g)~~(f) allow, as a permitted use, a triplex or fourplex where a single-unit dwelling is permitted;

21 ~~(h)~~(g) eliminate minimum lot sizes or reduce the existing minimum lot size required by at least 25%;

22 ~~(i)~~(h) eliminate aesthetic, material, shape, bulk, size, floor area, and other massing requirements for
23 multi-unit dwellings or mixed-use developments or remove at least half of those requirements;

24 ~~(j)~~(i) provide for zoning that specifically allows or encourages the development of tiny houses, as
25 defined in Appendix Q of the International Residential Code as it was printed on January 1, 2023;

26 ~~(k)~~(j) eliminate setback requirements or reduce existing setback requirements by at least 25%;

27 ~~(l)~~(k) increase building height limits for dwelling units by at least 25%;

28 ~~(m)~~(l) allow multi-unit dwellings or mixed-use development as a permitted use on all lots where office,

1 retail, or commercial are primary permitted uses; or

2 ~~(n)~~(m) allow multi-unit dwellings as a permitted use on all lots where triplexes or fourplexes are
3 permitted uses.

4 (2) If a local government's existing zoning ordinance adopted pursuant to Title 76, chapter 2,
5 before May 17, 2023, does not contain a zoning regulation that is listed as a regulation to be eliminated or
6 reduced in subsection (1), that strategy is considered adopted by the local government.

7 (3) If the adoption of a housing strategy allowed in subsection (1) subsumes another housing
8 strategy allowed in subsection (1), only one strategy may be considered to have been adopted by the local
9 government."

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

12 **"76-25-303. Limitations on zoning authority.** (1) A local government acting pursuant to this part
13 may not:

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

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

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

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

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

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

27 (e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use,
28 development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except

1 that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;

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

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

7 (ii) a community residential facility serving eight or fewer persons, if the facility provides care on a
8 24-hour-a-day basis; or

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

11 (g) except as provided in subsection (3), apply any safety or sanitary regulation of the department
12 of public health and human services or any other agency of the state or a political subdivision of the state that is
13 not applicable to residential occupancies in general to a community residential facility serving 8 or fewer
14 persons or to a day-care home serving 12 or fewer children; or

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

18 (i) prohibit or deny the use of a duplex, triplex, or fourplex on a lot where a single-unit dwelling is a
19 permitted use; or

20 (j) adopt zoning regulations that apply to the development or use of a duplex, triplex, or fourplex
21 that are more restrictive than zoning regulations that are applicable to a single-dwelling unit.

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

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

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