

SENATE BILL NO. 407

INTRODUCED BY S. MORIGEAU, G. HERTZ, M. DUNWELL, E. BOLDMAN, C. FRIEDEL, F. MANDEVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MUNICIPAL ZONING LAWS; PROHIBITING A MUNICIPALITY FROM USING AN EXTERNAL BOARD WHEN REVIEWING PERMITS OR VARIANCES; AND AMENDING SECTION 76-2-302, MCA."

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

Section 1. Section 76-2-302, MCA, is amended to read:

"76-2-302. Zoning districts. (1) For the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part

2. LOCAL DESIGN REVIEW STANDARDS IMPOSED BY A LOCAL GOVERNMENT MUST BE CLEAR, OBJECTIVE, AND

1 NECESSARY TO PROTECT PUBLIC HEALTH OR SAFETY OR TO COMPLY WITH FEDERAL LAW.

2 (6) Zoning regulations may not include a requirement to:

3 (a) pay a fee for the purpose of providing housing for specified income levels or at specified sale
4 prices; or

5 (b) dedicate real property for the purpose of providing housing for specified income levels or at
6 specified sale prices.

7 (7) A dedication of real property as prohibited in subsection (6)(b) includes a payment or other
8 contribution to a local housing authority or the reservation of real property for future development of housing for
9 specified income levels or specified sale prices.

10 (8) (A) ~~When~~ EXCEPT AS PROVIDED IN SUBSECTION (8)(B), WHEN reviewing an application for a ZONING
11 permit OR VARIANCE FROM LOCAL DESIGN REVIEW STANDARDS ~~or variance~~, the determination of compliance with
12 local design REVIEW standards as provided in subsection (5) must be conducted ~~solely~~ by employees of the
13 municipality, and the municipality may not require review by an external board.

14 (B) SUBSECTION (8)(A) DOES NOT APPLY TO HISTORIC PRESERVATION BOARDS REVIEWING AN
15 APPLICATION FOR A PERMIT OR VARIANCE ~~DEVELOPMENT REGULATIONS THAT APPLY TO STRUCTURES OR DISTRICTS~~
16 THAT THE LOCAL GOVERNMENT HAS DESIGNATED AS HISTORIC OR THAT ARE LISTED ON THE NATIONAL REGISTER OF
17 HISTORIC PLACES AS DEFINED IN THE NATIONAL HISTORIC PRESERVATION ACT OF 1966 AS IT READ ON [THE EFFECTIVE
18 DATE OF THIS ACT]."

19 - END -