

HOUSE BILL NO. 889

INTRODUCED BY J. HINKLE, B. BEARD, S. FITZPATRICK, L. BREWSTER, J. GILLETTE, C. SCHOMER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO LOCAL GOVERNMENT LAND USE REGULATIONS; PROVIDING THAT CERTAIN SENSITIVE LANDS REQUIREMENTS MAY NOT BE INCLUDED IN GROWTH POLICIES FOR LANDS OUTSIDE OF CITY LIMITS; REVISING COUNTY ZONING REQUIREMENTS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 76-1-601, 76-2-203, AND 76-2-212, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 76-1-601, MCA, is amended to read:

"76-1-601. Growth policy -- contents. (1) A growth policy may cover all or part of the jurisdictional area.

(2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) public facilities;

(vii) natural resources;

(viii) sand and gravel resources; and

- 1 (ix) other characteristics and features proposed by the planning board and adopted by the
2 governing bodies;
- 3 (c) projected trends for the life of the growth policy for each of the following elements:
4 (i) land use;
5 (ii) population;
6 (iii) housing needs;
7 (iv) economic conditions;
8 (v) local services;
9 (vi) natural resources; and
10 (vii) other elements proposed by the planning board and adopted by the governing bodies;
- 11 (d) in accordance with subsection (5), a description of policies, regulations, and other measures to
12 be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);
- 13 (e) a strategy for development, maintenance, and replacement of public infrastructure, including
14 drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection
15 facilities, roads, and bridges;
- 16 (f) an implementation strategy that includes:
17 (i) a timetable for implementing the growth policy;
18 (ii) a list of conditions that will lead to a revision of the growth policy; and
19 (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if
20 necessary;
- 21 (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions
22 that explains:
23 (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with
24 the county in which the city or town is located on matters related to the growth policy;
25 (ii) if a governing body is a county, how the governing body will coordinate and cooperate with
26 cities and towns located within the county's boundaries on matters related to the growth policy;
- 27 (h) a statement explaining how the governing bodies will:
28 (i) define the criteria in 76-3-608(3)(a); and

- 1 (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-
2 3-608(3)(a);
- 3 (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted;
4 and
- 5 (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including
6 whether or not there is a need to:
- 7 (i) delineate the wildland-urban interface; and
- 8 (ii) adopt regulations requiring:
- 9 (A) defensible space around structures;
- 10 (B) adequate ingress and egress to and from structures and developments to facilitate fire
11 suppression activities; and
- 12 (C) adequate water supply for fire protection.
- 13 (4) A growth policy may:
- 14 (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the
15 growth policy.
- 16 (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;
- 17 (c) establish an infrastructure plan that, at a minimum, includes:
- 18 (i) projections, in maps and text, of the jurisdiction's growth in population and number of
19 residential, commercial, and industrial units over the next 20 years;
- 20 (ii) for a city, a determination regarding if and how much of the city's growth is likely to take place
21 outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate
22 infrastructure planning with the county or counties where growth is likely to take place;
- 23 (iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the
24 cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20
25 years;
- 26 (iv) for cities, a land use map showing where projected growth will be guided and at what densities
27 within city boundaries;
- 28 (v) for cities and counties, a land use map that designates infrastructure planning areas adjacent

- 1 to cities showing where projected growth will be guided and at what densities;
- 2 (vi) using maps and text, a description of existing and future public facilities necessary to efficiently
3 serve projected development and densities within infrastructure planning areas, including, whenever feasible,
4 extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other
5 municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection
6 (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer
7 systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public
8 access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency
9 services;
- 10 (vii) a description of proposed land use management techniques and incentives that will be adopted
11 to promote development within cities and in an infrastructure planning area, including land use management
12 techniques and incentives that address issues of housing affordability;
- 13 (viii) a description of how and where projected development inside municipal boundaries for cities
14 and inside designated joint infrastructure planning areas for cities and counties could adversely impact:
- 15 (A) ~~threatened or endangered wildlife and critical wildlife habitat and corridors~~ critical habitat and
16 corridors for wildlife designated as threatened or endangered by the federal government;
- 17 (B) water available to agricultural water users and facilities;
- 18 (C) the ability of public facilities, including schools, to safely and efficiently service current residents
19 and future growth;
- 20 (D) a local government's ability to provide adequate local services, including but not limited to
21 emergency, fire, and police protection;
- 22 (E) the safety of people and property due to threats to public health and safety, including but not
23 limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;
- 24 (F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel
25 resources, streams, rivers, lakes, wetlands, and ground water; and
- 26 (G) agricultural lands and agricultural production; and
- 27 (ix) a description of measures, including land use management techniques and incentives, that will
28 be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

1 (d) include any elements required by a federal land management agency in order for the governing
2 body to establish coordination or cooperating agency status as provided in 76-1-607.

3 ~~(5)~~ Except as provided in subsection (6), for land outside the limits of a city or town, a growth
4 policy may not include a description of policies, regulations, and other measures that:

5 (a) include a requirement to regulate land based on WHETHER THE land sensitivity IS CONSIDERED
6 SENSITIVE, including but not limited to appearance, aesthetics, scenic landscapes, sense of place, visibility from
7 roadways, OR desirability of view, ~~or traditional use of land;~~

8 ~~(b)~~ prohibit land in agricultural production or vacant, open land from being developed;

9 ~~(c)~~ (B) consider the protection of land for the purpose of protecting community separation and
10 openness;

11 ~~(d)~~ (C) include a requirement for soil and water regulation that exceeds state standards; and

12 ~~(e)~~ (D) prohibit or mandate changes in land use that are based on the perceived food supply or other
13 economic needs of the state or locality.

14 (6) The requirements of subsection (5) do not apply to:

15 (A) citizen-initiated zoning districts established under Title 76, chapter 2, part 1; AND

16 (B) LAND ZONED FOR COMMERCIAL OR INDUSTRIAL USES.

17 ~~(5)~~(7) The planning board may propose and the governing bodies may adopt additional elements of a
18 growth policy in order to fulfill the purpose of this chapter."

19

20 **Section 2.** Section 76-2-203, MCA, is amended to read:

21 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

22 (a) made in accordance with the growth policy;

23 (b) focused on material aspects rather than aesthetic aspects of property; and

24 ~~(b)~~(c) designed to:

25 (i) secure safety from fire and other dangers;

26 (ii) promote public health, public safety, and general welfare; and

27 (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other
28 public requirements.

- 1 (2) In the adoption of zoning regulations, the board of county commissioners shall consider:
- 2 (a) reasonable provision of adequate light and air;
- 3 (b) the effect on motorized and nonmotorized transportation systems;
- 4 (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the
- 5 areas around municipalities;
- 6 (d) the character of the district and its peculiar suitability for particular uses; and
- 7 (e) conserving the value of buildings and encouraging the most appropriate use of land throughout
- 8 the jurisdictional area.

9 (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning

10 ordinances of nearby municipalities.

11 (4) Zoning regulations may not ~~include a requirement to:~~

12 (a) include a requirement to pay a fee for the purpose of providing housing for specified income

13 levels or at specified sale prices; ~~or~~

14 (b) include a requirement to dedicate real property for the purpose of providing housing for

15 specified income levels or at specified sale prices; or

16 (c) prohibit changes of property use based on visibility from roadways.

17 (5) A dedication of real property as prohibited in subsection (4)(b) includes a payment or other

18 contribution to a local housing authority or the reservation of real property for future development of housing for

19 specified income levels or specified sale prices."

20

21 **Section 3.** Section 76-2-212, MCA, is amended to read:

22 **"76-2-212. Minimum lot size restrictions.** A board of county commissioners may not adopt zoning

23 regulations under this part that require minimum lot sizes in an area zoned for residential use unless:

24 (1) the zoning regulation requiring minimum lot sizes is applied to land that is within 3 miles of the

25 limits of an incorporated municipality; or

26 (2) the county has adopted a land use map in its growth policy pursuant to 76-1-601~~(5)~~(7) that sets

27 forth projected population densities and recommended minimum lot sizes."

28

1 NEW SECTION. **Section 4. Appropriation.** There is appropriated \$300 from the general fund to the
2 department of commerce for the biennium beginning July 1, 2025, to notify local governments of the changes to
3 land use laws under [this act].

4

5 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2025.

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