

HOUSE BILL NO. 553

INTRODUCED BY A. BUCKLEY, M. HOPKINS, R. LYNCH, G. HERTZ, K. ABBOTT, J. KARLEN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR ACCESSORY DWELLING UNITS IN LOCAL GOVERNMENT HOUSING REGULATIONS; REVISING COUNTY AND MUNICIPAL ZONING LAWS; ESTABLISHING REQUIREMENTS AND PROHIBITIONS RELATED TO ACCESSORY DWELLING UNITS; PROHIBITING LOCAL ORDINANCES, RESOLUTIONS, AND GROWTH POLICIES FROM PROHIBITING ACCESSORY DWELLING UNITS; REQUIRING THAT MANUFACTURED HOUSING BE CONSIDERED THE SAME AS CONVENTIONAL HOUSING IN RELATION TO ZONING; PROHIBITING A LOCAL GOVERNMENT FROM ENACTING CERTAIN PARKING REQUIREMENTS OR IMPOSING IMPACT FEES RELATED TO ACCESSORY DWELLING UNITS; PROVIDING AND AMENDING DEFINITIONS; AND AMENDING SECTIONS 7-5-103, 7-5-121, 7-6-1602, 7-6-1-601, 7-6-2-114, 7-6-2-203, 7-6-2-212, 7-6-2-216, 7-6-2-302, 7-6-2-304, AND 7-6-2-309, MCA."

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

Section 1. Section 7-5-103, MCA, is amended to read:

"7-5-103. Ordinance requirements. (1) All ordinances must be submitted in writing in the form prescribed by resolution of the governing body.

(2) An ordinance passed may not:

(a) contain more than one comprehensive subject, which must be clearly expressed in its title, except ordinances for codification and revision of ordinances;

(b) compel a private business to deny a customer of the private business access to the premises or access to goods or services;

(c) deny a customer of a private business the ability to access goods or services provided by the private business; or

(d) include any of the following actions for noncompliance with a resolution or ordinance that includes actions described in subsections (2)(b) and (2)(c):

- 1 (i) allow for the assessment of a fee or fine;
- 2 (ii) require the revocation of a license required for the operation of a private business;
- 3 (iii) find a private business owner guilty of a misdemeanor; or
- 4 (iv) bring any other retributive action against a private business owner, including but not limited to
- 5 criminal charges; or
- 6 (e) restrict the construction or usage of accessory dwelling units as defined in 76-2-304 in
- 7 residential zoning districts or in mixed commercial and residential zones.

8 (3) The prohibition provided in subsection (2)(c) does not apply to persons confirmed to have a
 9 communicable disease and who are currently under a public quarantine order.

10 (4) The prohibitions provided in subsections (2)(b) through (2)(d) do not apply to the adoption of an
 11 ordinance allowed in 75-7-411.

12 (5) An ordinance must be read and adopted by a majority vote of members present at two
 13 meetings of the governing body not less than 12 days apart. After the first adoption and reading, it must be
 14 posted and copies must be made available to the public.

15 (6) After passage and approval, all ordinances must be signed by the presiding officer of the
 16 governing body and filed with the official or employee designated by ordinance to keep the register of
 17 ordinances.

18 (7) As used in this section, "private business" means an individual or entity that is not principally a
 19 part of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit
 20 entity, a corporation, a sole proprietorship, or a limited liability company."

21

22 **Section 2.** Section 7-5-121, MCA, is amended to read:

23 **"7-5-121. Resolution requirements.** (1) All resolutions must be submitted in the form prescribed by
 24 resolution of the governing body.

25 (2) Resolutions may not:

26 (a) compel a private business to deny a customer of the private business access to the premises
 27 or access to goods or services;

28 (b) deny a customer of a private business the ability to access goods or services provided by the

1 private business; or

2 (c) include any of the following actions for noncompliance with a resolution or ordinance that
3 includes actions described in subsections (2)(a) and (2)(b):

4 (i) allow for the assessment of a fee or fine;

5 (ii) require the revocation of a license required for the operation of a private business;

6 (iii) find a private business owner guilty of a misdemeanor; or

7 (iv) bring any other retributive action against a private business owner, including but not limited to
8 criminal charges; or

9 (d) restrict the construction or usage of accessory dwelling units as defined in 76-2-304 in
10 residential zoning districts or in mixed commercial and residential zones.

11 (3) The prohibition provided for in subsection (2)(b) does not apply to persons confirmed to have a
12 communicable disease and who are currently under a public quarantine order.

13 (4) Resolutions may be submitted and adopted at a single meeting of the governing body.

14 (5) After passage and approval, all resolutions must be entered into the minutes and signed by the
15 chairperson of the governing body.

16 (6) As used in this section, "private business" means an individual or entity that is not principally a
17 part of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit
18 entity, a corporation, a sole proprietorship, or a limited liability company."
19

20 **Section 3.** Section 7-6-1602, MCA, is amended to read:

21 **"7-6-1602. Calculation of impact fees -- documentation required -- ordinance or resolution --**
22 **requirements for impact fees.** (1) For each public facility for which an impact fee is imposed, the
23 governmental entity shall prepare and approve a service area report.

24 (2) The service area report is a written analysis that must:

25 (a) describe existing conditions of the facility;

26 (b) establish level-of-service standards;

27 (c) forecast future additional needs for service for a defined period of time;

28 (d) identify capital improvements necessary to meet future needs for service;

- 1 (e) identify those capital improvements needed for continued operation and maintenance of the
2 facility;
- 3 (f) make a determination as to whether one service area or more than one service area is
4 necessary to establish a correlation between impact fees and benefits;
- 5 (g) make a determination as to whether one service area or more than one service area for
6 transportation facilities is needed to establish a correlation between impact fees and benefits;
- 7 (h) establish the methodology and time period over which the governmental entity will assign the
8 proportionate share of capital costs for expansion of the facility to provide service to new development within
9 each service area;
- 10 (i) establish the methodology that the governmental entity will use to exclude operations and
11 maintenance costs and correction of existing deficiencies from the impact fee;
- 12 (j) establish the amount of the impact fee that will be imposed for each unit of increased service
13 demand; and
- 14 (k) have a component of the budget of the governmental entity that:
- 15 (i) schedules construction of public facility capital improvements to serve projected growth;
- 16 (ii) projects costs of the capital improvements;
- 17 (iii) allocates collected impact fees for construction of the capital improvements; and
- 18 (iv) covers at least a 5-year period and is reviewed and updated at least every 5 years.
- 19 (3) The service area report is a written analysis that must contain documentation of sources and
20 methodology used for purposes of subsection (2) and must document how each impact fee meets the
21 requirements of subsection (7).
- 22 (4) The service area report that supports adoption and calculation of an impact fee must be
23 available to the public upon request.
- 24 (5) The amount of each impact fee imposed must be based upon the actual cost of public facility
25 expansion or improvements or reasonable estimates of the cost to be incurred by the governmental entity as a
26 result of new development. The calculation of each impact fee must be in accordance with generally accepted
27 accounting principles.
- 28 (6) The ordinance or resolution adopting the impact fee must include a time schedule for

1 periodically updating the documentation required under subsection (2).

2 (7) An impact fee must meet the following requirements:

3 (a) The amount of the impact fee must be reasonably related to and reasonably attributable to the
4 development's share of the cost of infrastructure improvements made necessary by the new development.

5 (b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be
6 incurred by the governmental entity in accommodating the development. The following factors must be
7 considered in determining a proportionate share of public facilities capital improvements costs:

8 (i) the need for public facilities capital improvements required to serve new development; and

9 (ii) consideration of payments for system improvements reasonably anticipated to be made by or
10 as a result of the development in the form of user fees, debt service payments, taxes, and other available
11 sources of funding the system improvements.

12 (c) Costs for correction of existing deficiencies in a public facility may not be included in the impact
13 fee.

14 (d) New development may not be held to a higher level of service than existing users unless there
15 is a mechanism in place for the existing users to make improvements to the existing system to match the higher
16 level of service.

17 (e) Impact fees may not:

18 (i) include expenses for operations and maintenance of the facility; or

19 (ii) be imposed on the development of an accessory dwelling unit as defined in 76-2-304 that is
20 less than 1,000 square feet."

21

22 **Section 4.** Section 76-1-601, MCA, is amended to read:

23 **"76-1-601. Growth policy -- contents.** (1) A growth policy may cover all or part of the jurisdictional
24 area.

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

27 (3) A growth policy must include:

28 (a) community goals and objectives;

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

- 3 (i) land uses;
- 4 (ii) population;
- 5 (iii) housing needs;
- 6 (iv) economic conditions;
- 7 (v) local services;
- 8 (vi) public facilities;
- 9 (vii) natural resources;
- 10 (viii) sand and gravel resources; and

11 (ix) other characteristics and features proposed by the planning board and adopted by the
12 governing bodies;

13 (c) projected trends for the life of the growth policy for each of the following elements:

- 14 (i) land use;
- 15 (ii) population;
- 16 (iii) housing needs;
- 17 (iv) economic conditions;
- 18 (v) local services;
- 19 (vi) natural resources; and
- 20 (vii) other elements proposed by the planning board and adopted by the governing bodies;

21 (d) a description of policies, regulations, and other measures to be implemented in order to
22 achieve the goals and objectives established pursuant to subsection (3)(a);

23 (e) a strategy for development, maintenance, and replacement of public infrastructure, including
24 drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection
25 facilities, roads, and bridges;

26 (f) an implementation strategy that includes:

- 27 (i) a timetable for implementing the growth policy;
- 28 (ii) a list of conditions that will lead to a revision of the growth policy; and

- 1 (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if
2 necessary;
- 3 (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions
4 that explains:
- 5 (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with
6 the county in which the city or town is located on matters related to the growth policy;
- 7 (ii) if a governing body is a county, how the governing body will coordinate and cooperate with
8 cities and towns located within the county's boundaries on matters related to the growth policy;
- 9 (h) a statement explaining how the governing bodies will:
- 10 (i) define the criteria in 76-3-608(3)(a); and
11 (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-
12 3-608(3)(a);
- 13 (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted;
14 and
- 15 (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including
16 whether or not there is a need to:
- 17 (i) delineate the wildland-urban interface; and
18 (ii) adopt regulations requiring:
- 19 (A) defensible space around structures;
20 (B) adequate ingress and egress to and from structures and developments to facilitate fire
21 suppression activities; and
- 22 (C) adequate water supply for fire protection.
- 23 (4) A growth policy may:
- 24 (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the
25 growth policy.
- 26 (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;
27 (c) establish an infrastructure plan that, at a minimum, includes:
28 (i) projections, in maps and text, of the jurisdiction's growth in population and number of

1 residential, commercial, and industrial units over the next 20 years;

2 (ii) for a city, a determination regarding if and how much of the city's growth is likely to take place
3 outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate
4 infrastructure planning with the county or counties where growth is likely to take place;

5 (iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the
6 cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20
7 years;

8 (iv) for cities, a land use map showing where projected growth will be guided and at what densities
9 within city boundaries;

10 (v) for cities and counties, a land use map that designates infrastructure planning areas adjacent
11 to cities showing where projected growth will be guided and at what densities;

12 (vi) using maps and text, a description of existing and future public facilities necessary to efficiently
13 serve projected development and densities within infrastructure planning areas, including, whenever feasible,
14 extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other
15 municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection
16 (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer
17 systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public
18 access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency
19 services;

20 (vii) a description of proposed land use management techniques and incentives that will be adopted
21 to promote development within cities and in an infrastructure planning area, including land use management
22 techniques and incentives that address issues of housing affordability;

23 (viii) a description of how and where projected development inside municipal boundaries for cities
24 and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

25 (A) threatened or endangered wildlife and critical wildlife habitat and corridors;

26 (B) water available to agricultural water users and facilities;

27 (C) the ability of public facilities, including schools, to safely and efficiently service current residents
28 and future growth;

1 (D) a local government's ability to provide adequate local services, including but not limited to
2 emergency, fire, and police protection;

3 (E) the safety of people and property due to threats to public health and safety, including but not
4 limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

5 (F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel
6 resources, streams, rivers, lakes, wetlands, and ground water; and

7 (G) agricultural lands and agricultural production; and

8 (ix) a description of measures, including land use management techniques and incentives, that will
9 be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

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

12 (5) A growth policy may not restrict the construction or use of accessory dwelling units as defined
13 in 76-2-304 in residential zoning districts or in mixed commercial and residential zones.

14 ~~(5)(6)~~ The planning board may propose and the governing bodies may adopt additional elements of a
15 growth policy in order to fulfill the purpose of this chapter."

16

17 **Section 5.** Section 76-2-114, MCA, is amended to read:

18 **"76-2-114. ~~Housing fees and dedication of real property prohibited~~ Zoning resolution**

19 **guidelines -- prohibitions.** (1) A local governing body may not adopt a resolution under this part that includes
20 a requirement to:

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

23 (b) dedicate real property for the purpose of providing housing for specified income levels or at
24 specified sale prices;

25 (c) except to provide for accessible parking spaces pursuant to 49-4-302, provide minimum
26 parking space requirements for accessory dwelling units;

27 (d) implement a minimum lot size for a parcel or lot with an accessory dwelling unit that is larger
28 than the minimum lot size for other single-family dwellings or townhouses in the same zoning district;

1 (e) implement setback requirements:

2 (i) that are in addition to existing setback requirements for an accessory dwelling unit that utilizes
3 an existing structure or that is constructed in the same location and with the same dimensions as an existing
4 structure; or

5 (ii) of more than 4 feet from the side and rear lot lines for a newly constructed accessory dwelling
6 unit that is not constructed in the same location and with the same dimensions as an existing structure; or

7 (f) establish owner occupancy requirements for any dwelling on a lot or parcel that contains one or
8 more accessory dwelling units.

9 (2) A resolution adopted under this part must:

10 (a) allow for at least one accessory dwelling unit as a permitted use on a lot or parcel zoned for
11 residential use; and

12 (b) ensure manufactured housing as defined in 76-2-302 is treated the same as other types of
13 conventional housing allowed in a zoning district.

14 (3) An accessory dwelling unit:

15 (a) may be any size provided that the square footage of the accessory dwelling unit is less than
16 the square footage of the primary dwelling located on the lot or parcel and that all other requirements of this
17 section are met;

18 (b) may not be considered to exceed the allowable density for the lot or parcel where it is located;
19 and

20 (c) must be considered a residential use consistent with the existing growth policy and zoning
21 regulations for the lot or parcel.

22 ~~(2)~~(4) A dedication of real property as prohibited in subsection (1)(b) includes a payment or other
23 contribution to a local housing authority or the reservation of real property for future development of housing for
24 specified income levels or specified sale prices.

25 (5) As used in this section, "accessory dwelling unit" has the meaning provided in 76-2-304."

26

27 **Section 6.** Section 76-2-203, MCA, is amended to read:

28 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

- 1 (a) made in accordance with the growth policy; and
- 2 (b) designed to:
 - 3 (i) secure safety from fire and other dangers;
 - 4 (ii) promote public health, public safety, and general welfare; and
 - 5 (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other
 - 6 public requirements.

7 (2) In the adoption of zoning regulations, the board of county commissioners shall consider:

- 8 (a) reasonable provision of adequate light and air;
- 9 (b) the effect on motorized and nonmotorized transportation systems;
- 10 (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the
- 11 areas around municipalities;
- 12 (d) the character of the district and its peculiar suitability for particular uses; and
- 13 (e) conserving the value of buildings and encouraging the most appropriate use of land throughout
- 14 the jurisdictional area.

15 (3) Zoning regulations must:

16 (a) as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities;

17 (b) allow for at least one accessory dwelling unit as a permitted use on a lot or parcel zoned for
18 residential use; and

19 (c) ensure manufactured housing as defined in 76-2-302 is treated the same as other types of
20 conventional housing allowed in a zoning district.

21 (4) An accessory dwelling unit:

22 (a) may be any size provided that the square footage of the accessory dwelling unit is less than
23 the square footage of the primary dwelling located on the lot or parcel and that all other requirements of this
24 section are met;

25 (b) may not be considered to exceed the allowable density for the lot or parcel where it is located;
26 and

27 (c) must be considered a residential use consistent with the existing growth policy and zoning
28 regulations for the lot or parcel.

1 ~~(4)~~(5) Zoning regulations may not include a requirement to:

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

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

6 (c) except to provide for accessible parking spaces pursuant to 49-4-302, provide minimum
7 parking space requirements for accessory dwelling units;

8 (d) implement a minimum lot size for a parcel or lot with an accessory dwelling unit that is larger
9 than the minimum lot size for other single-family dwellings or townhouses in the same zoning district;

10 (e) implement setback requirements:

11 (i) that are in addition to existing setback requirements for an accessory dwelling unit that utilizes
12 an existing structure or that is constructed in the same location and with the same dimensions as an existing
13 structure; or

14 (ii) of more than 4 feet from the side and rear lot lines for a newly constructed accessory dwelling
15 unit that is not constructed in the same location and with the same dimensions as an existing structure; or

16 (f) establish owner occupancy requirements for any dwelling on a lot or parcel that contains one or
17 more accessory dwelling units.

18 ~~(5)~~(6) A dedication of real property as prohibited in subsection ~~(4)(b)~~ (5)(b) includes a payment or
19 other contribution to a local housing authority or the reservation of real property for future development of
20 housing for specified income levels or specified sale prices.

21 (7) As used in this section, "accessory dwelling unit" has the meaning provided in 76-2-304."

22

23 **Section 7.** Section 76-2-212, MCA, is amended to read:

24 **"76-2-212. Minimum lot size restrictions.** A board of county commissioners may not adopt zoning
25 regulations under this part that require minimum lot sizes in an area zoned for residential use unless:

26 (1) the zoning regulation requiring minimum lot sizes is applied to land that is within 3 miles of the
27 limits of an incorporated municipality; or

28 (2) the county has adopted a land use map in its growth policy pursuant to 76-1-601~~(5)~~(6) that sets

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

2

3 **Section 8.** Section 76-2-216, MCA, is amended to read:

4 **"76-2-216. Wholly surrounded county property -- change of use -- hearing.** (1) If a county parcel
5 for which zoning regulations have been adopted is wholly surrounded by municipal property and a change of an
6 allowed use in the county zoning district occurs, the county governing body shall notify the municipality and all
7 owners of municipal property within 300 feet of the county property of the change of use.

8 (2) Upon request of either the municipality or at least 10% of the property owners in the
9 municipality who have received the notice, the county governing body shall hold a hearing on the change of
10 use.

11 (3) If the county governing body determines, based on testimony provided at the hearing, that the
12 regulations in the county district are no longer as compatible as possible with the municipal zoning ordinances
13 as provided in ~~76-2-203(3)~~ 76-2-203(3)(a), the county governing body may initiate a revision to the zoning
14 district or amendments to the regulations as provided in this part."

15

16 **Section 9.** Section 76-2-302, MCA, is amended to read:

17 **"76-2-302. Zoning districts.** (1) For the purposes of 76-2-301, the local city or town council or other
18 legislative body may divide the municipality into districts of the number, shape, and area as are considered best
19 suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection,
20 construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

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

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

26 (4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a
27 factory on or after January 1, 1990, that is placed on a permanent foundation, ~~is at least 1,000 square feet in~~
28 ~~size,~~ has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations,

1 used on site-built homes, and is in compliance with the applicable prevailing standards of the United States
 2 department of housing and urban development at the time of its production. A manufactured home does not
 3 include a mobile home or housetrailer, as defined in 15-1-101.

4 (5) This section may not be construed to limit conditions imposed in historic districts, local design
 5 review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part
 6 2.

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

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

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

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

15

16 **Section 10.** Section 76-2-304, MCA, is amended to read:

17 **"76-2-304. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must ~~be~~:

18 (a) be made in accordance with a growth policy; ~~and~~

19 (b) be designed to:

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

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

22 (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other
 23 public requirements;

24 (c) allow for at least one accessory dwelling unit as a permitted use on a lot or parcel zoned for
 25 residential use; and

26 (d) ensure manufactured housing as defined in 76-2-302 is treated the same as other types of
 27 conventional housing allowed in a zoning district.

28 (2) An accessory dwelling unit:

1 (a) may be any size provided that the square footage of the accessory dwelling unit is less than
2 the square footage of the primary dwelling located on the lot or parcel and that all other requirements of this
3 section are met;

4 (b) may not be considered to exceed the allowable density for the lot or parcel where it is located;
5 and

6 (c) must be considered a residential use consistent with the existing growth policy and zoning
7 regulations for the lot or parcel.

8 ~~(2)~~(3) In the adoption of zoning regulations, the municipal governing body shall consider:

9 (a) reasonable provision of adequate light and air;

10 (b) the effect on motorized and nonmotorized transportation systems;

11 (c) promotion of compatible urban growth;

12 (d) the character of the district and its peculiar suitability for particular uses; and

13 (e) conserving the value of buildings and encouraging the most appropriate use of land throughout
14 the jurisdictional area.

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

16 (a) except to provide for accessible parking spaces pursuant to 49-4-302, provide minimum
17 parking space requirements for accessory dwelling units;

18 (b) implement a minimum lot size for a parcel or lot with an accessory dwelling unit that is larger
19 than the minimum lot size for other single-family dwellings or townhouses in the same zoning district;

20 (c) implement setback requirements:

21 (i) that are in addition to existing setback requirements for an accessory dwelling unit that utilizes
22 an existing structure or that is constructed in the same location and with the same dimensions as an existing
23 structure; or

24 (ii) of more than 4 feet from the side and rear lot lines for a newly constructed accessory dwelling
25 unit that is not constructed in the same location and with the same dimensions as an existing structure; or

26 (d) establish owner occupancy requirements for any dwelling on a lot or parcel that contains one or
27 more accessory dwelling units.

28 (5) As used in this section, "accessory dwelling unit" means a residential living unit on the same

- 1 parcel as a single-family dwelling or a multifamily structure that provides complete independent living facilities
- 2 for one or more persons and whose location may include but is not limited to:
- 3 (a) an accessory structure on a parcel or lot;
- 4 (b) a detached garage;
- 5 (c) a unit that is part of an expanded or remodeled single-family unit; or
- 6 (d) a unit in a multifamily dwelling."

7

8 **Section 11.** Section 76-2-309, MCA, is amended to read:

9 **"76-2-309. Conflict with other laws.** (1) Wherever the regulations made under authority of this part
 10 require a greater width or size of yards, courts, or other open spaces; require a lower height of building or less
 11 number of stories; require a greater percentage of lot to be left unoccupied; or impose other higher standards
 12 than are required in any other statute or local ordinance or regulation, the provisions of the regulations made
 13 under authority of this part shall govern.

14 (2) Wherever the provisions of any other statute or local ordinance or regulation require a greater
 15 width or size of yards, courts, or other open spaces; require a lower height of building or a less number of
 16 stories; require a greater percentage of lot to be left unoccupied; or impose other higher standards than are
 17 required by the regulations made under authority of this part, except for the requirements provided in 76-2-
 18 304(3) and (4), the provisions of such statute or local ordinance or regulation shall govern."

19

- END -