

1 HOUSE BILL NO. 246

2 INTRODUCED BY S. KERNS, E. BUTTREY, T. MCGILLVRAY, K. REGIER, L. JONES, J. COHENOUR, M.  
3 LANG, D. ZOLNIKOV, J. HINKLE, F. MANDEVILLE, M. NOLAND, D. FERN, R. FITZGERALD, F. ANDERSON,  
4 L. SHELDON-GALLOWAY, J. TREBAS, S. VINTON, T. WELCH, S. MORIGEAU, J. SMALL, K. BOGNER, J.  
5 KASSMIER, B. MERCER, B. LER, L. BREWSTER, K. ZOLNIKOV, B. MITCHELL, A. REGIER, S. GIST, J.  
6 SCHILLINGER, M. STROMSWOLD, C. HINKLE, M. BERTOGLIO, G. FRAZER, R. MARSHALL, C. FRIEDEL,  
7 S. ESSMANN, T. SMITH, R. MINER, G. PARRY, G. OBLANDER, L. DEMING, T. FALK, G. NIKOLAKAKOS, J.  
8 BERGSTROM, G. KMETZ, D. BAUM, W. RUSK, J. KARLEN, Z. WIRTH, C. KNUDSEN, P. GREEN

9  
10 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT COUNTIES AND CITIES MAY CREATE  
11 ZONING DISTRICTS THAT ALLOW FOR TINY DWELLING UNITS; DEFINING "TINY DWELLING UNIT";  
12 REVISING A DEFINITION; AND AMENDING SECTIONS 76-2-202 AND 76-2-302, MCA."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15  
16 **Section 1.** Section 76-2-202, MCA, is amended to read:

17 **"76-2-202. Establishment of zoning districts -- regulations.** (1) (a) Within the unincorporated  
18 portions of a jurisdictional area that has been established under provisions of 76-1-501 through 76-1-503 or 76-  
19 1-504 through 76-1-507 and for the purposes provided in 76-2-201, the board of county commissioners may by  
20 resolution establish zoning regulations for a part or all of the jurisdictional area or divide the county into zoning  
21 districts with zoning regulations that are considered best suited to carry out the purposes of this part. By  
22 establishing zoning regulations, the board may regulate the erection, construction, reconstruction, alteration,  
23 repair, location, or use of buildings or structures or the use of land, including the creation of zoning districts that  
24 allow tiny dwelling units.

25 (b) An action challenging the creation of a zoning district or adoption of zoning regulations must be  
26 commenced within 6 months after the date of the order by the board of county commissioners creating the  
27 district or adopting the regulations.

28 (2) In a proceeding for a permit or variance to place manufactured housing within a residential

1 zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely  
2 affect property values of conventional housing.

3 (3) The regulations in one district may differ from those in other districts.

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

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

11 (b) (i) "Tiny dwelling unit" means a residential dwelling unit that is 350 to 750 square feet, is on a  
12 permanent foundation, and is used as a single-family dwelling for at least 45 days or longer.

13 (ii) Appendix Q, tiny houses, of the International Building Code as it was printed on January 1,  
14 2023, may govern all other requirements of a tiny dwelling unit that is 350 to 750 square feet.

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

18

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

20 **"76-2-302. Zoning districts.** (1) For the purposes of 76-2-301, the local city or town council or other  
21 legislative body may divide the municipality into districts of the number, shape, and area as are considered best  
22 suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection,  
23 construction, reconstruction, alteration, repair, or use of buildings, structures, or land, including the creation of  
24 zoning districts that allow tiny dwelling units.

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

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

1 affect property values of conventional housing.

2 (4) As used in this section, the following definitions apply:

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

9 (b) (i) "Tiny dwelling unit" means a residential dwelling unit that is 350 to 750 square feet, is on a  
10 permanent foundation, and is used as a single-family dwelling for at least 45 days or longer.

11 (ii) Appendix Q, tiny houses, of the International Building Code as it was printed on January 1,  
12 2023, may govern all other requirements of a tiny dwelling unit that is 350 to 750 square feet.

13 (5) This section may not be construed to limit conditions imposed in historic districts, local design  
14 review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part  
15 2.

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

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

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

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

24 - END -