

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (H) Local Government

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0336.002.002

SENATE BILL NO. 336

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SHORT-TERM RENTAL LAWS; ESTABLISHING THAT A SHORT-TERM RENTAL IS A RESIDENTIAL USE OF PROPERTY; ESTABLISHING THAT SHORT-TERM RENTALS ARE PERMISSIBLE UNLESS PROHIBITED THROUGHOUT A ZONING DISTRICT; REQUIRING ADDITIONAL ANALYSIS WHEN SHORT TERM RENTALS ARE RESTRICTED OR PROHIBITED; AMENDING A DEFINITION; AMENDING SECTIONS 15-68-101, 76-2-104, 76-2-203, 76-2-303, AND 76-25-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Short-term rentals. (1) Unless the clear and express terms of a covenant provide otherwise, a short-term rental is a residential use of property and is not a commercial, business, or other use.

(2) As used in this section, "short-term rental" has the same meaning as provided in 15-68-101.

NEW SECTION. Section 2. Short-term rentals. (1) Unless the clear and express terms of a homeowners' association's bylaws or other governing instrument provide otherwise, a short-term rental is a residential use of property and is not a commercial, business, or other use.

(2) As used in this section, "short-term rental" has the same meaning as provided in 15-68-101.

NEW SECTION. Section 3. Short-term rentals -- residential and permissible use. (1) A short-term rental is a residential use of property and is not a commercial, business, or other use AND MAY ONLY BE RESTRICTED OR PROHIBITED AS SET FORTH IN SUBSECTION (2).

(2) (a) Unless expressly prohibited in the entirety of a jurisdictional area or a zoning district, if the

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jurisdictional area is divided into zoning districts, short-term rentals are permissible in any zoned area where residential use is allowed, including but not limited to areas where the use of single-family dwelling units, multifamily dwelling units, other dwelling units, or units or a group of units in a condominium, cooperative, timeshare, or owner-occupied residential home is allowed, but may be restricted by zoning regulations.

(b) An express prohibition on short-term rentals may not preclude the short-term rental of all or part of a property owner's primary residence and:

(i) a single, separate residence on the same parcel as a property owner's primary residence; or

(ii) a single residence on a separate property from the property owner's primary residence that shares a boundary with the ~~property described in subsection (2)(b)~~ PROPERTY OWNER'S PRIMARY RESIDENCE, inclusive of properties that are separated by a public right-of-way but would otherwise share a boundary.

~~(3) IF THE JURISDICTION RESTRICTS OR PROHIBITS SHORT-TERM RENTALS AS AUTHORIZED IN THIS SECTION, ANY~~ Any SHORT-TERM RENTAL IN COMPLIANCE WITH APPLICABLE STATE LICENSING AND TAXING REQUIREMENTS AT THE TIME ON OR BEFORE THE DATE THAT THE REGULATION RESTRICTING OR PROHIBITING SHORT-TERM RENTALS IS ADOPTED IS CONSIDERED A LEGAL NONCONFORMING USE.

~~(3)(4)~~ As used in this section:

(a) "primary residence" means a dwelling in which the property owner can demonstrate the owner's occupancy at least ~~183 days~~ 7 MONTHS of the year; and

(b) "short-term rental" has the same meaning as provided in 15-68-101.

NEW SECTION. Section 4. Short term rentals -- residential and permissible use. (1) A short-term rental is a residential use of property and is not a commercial, business, or other use AND MAY ONLY BE RESTRICTED OR PROHIBITED AS SET FORTH IN SUBSECTION (2).

(2) (a) Unless expressly prohibited in the entirety of a jurisdictional area or a zoning district, if the jurisdictional area is divided into zoning districts, short-term rentals are permissible in any zoned area where residential use is allowed, including but not limited to areas where the use of single-family dwelling units, multifamily dwelling units, other dwelling units, or units or a group of units in a condominium, cooperative, timeshare, or owner-occupied residential home is allowed, but may be restricted by zoning regulations.

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(b) An express prohibition on short-term rentals may not preclude the short-term rental of all or part of a property owner's primary residence and:

(i) a single, separate residence on the same parcel as a property owner's primary residence; or

(ii) a single residence on a separate property from the property owner's primary residence that shares a boundary with the ~~property described in subsection (2)(b)~~ PROPERTY OWNER'S PRIMARY RESIDENCE, inclusive of properties that are separated by a public right-of-way but would otherwise share a boundary.

~~(3) IF THE JURISDICTION RESTRICTS OR PROHIBITS SHORT-TERM RENTALS AS AUTHORIZED IN THIS SECTION, ANY~~ Any SHORT-TERM RENTAL IN COMPLIANCE WITH APPLICABLE STATE LICENSING AND TAXING REQUIREMENTS ~~AT THE TIME ON OR BEFORE THE DATE THAT~~ THE REGULATION RESTRICTING OR PROHIBITING SHORT-TERM RENTALS IS ADOPTED IS CONSIDERED A LEGAL NONCONFORMING USE.

~~(3)(4)~~ As used in this section:

(a) "primary residence" means a dwelling in which the property owner can demonstrate the owner's occupancy at least ~~183 days~~ 7 MONTHS of the year; and

(b) "short-term rental" has the same meaning as provided in 15-68-101.

NEW SECTION. Section 5. Short-term rentals -- residential and permissible use. (1) A short-term rental is a residential use of property and is not a commercial, business, or other use AND MAY ONLY BE RESTRICTED OR PROHIBITED AS SET FORTH IN SUBSECTION (2).

(2) (a) Unless expressly prohibited in the entirety of a municipality or a zoning district, if the municipality is divided into zoning districts, short-term rentals are permissible in any zoned area where residential use is allowed, including but not limited to areas where the use of single-family dwelling units, multifamily dwelling units, other dwelling units, or units or a group of units in a condominium, cooperative, timeshare, or owner-occupied residential home is allowed, but may be restricted by zoning regulations.

(b) An express prohibition on short-term rentals may not preclude the short-term rental of all or part of a property owner's primary residence and:

(i) a single, separate residence on the same parcel as a property owner's primary residence; or

(ii) a single residence on a separate property from the property owner's primary residence that

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shares a boundary with the ~~property described in subsection (2)(b)~~ PROPERTY OWNER'S PRIMARY RESIDENCE, inclusive of properties that are separated by a public right-of-way but are otherwise adjacent.

~~(3) IF THE JURISDICTION RESTRICTS OR PROHIBITS SHORT-TERM RENTALS AS AUTHORIZED IN THIS SECTION, ANY~~ Any SHORT-TERM RENTAL IN COMPLIANCE WITH APPLICABLE STATE LICENSING AND TAXING REQUIREMENTS ~~AT THE TIME ON OR BEFORE THE DATE THAT~~ THE REGULATION RESTRICTING OR PROHIBITING SHORT-TERM RENTALS IS ADOPTED IS CONSIDERED A LEGAL NONCONFORMING USE.

~~(3)(4)~~ As used in this section:

(a) "primary residence" means a dwelling in which the property owner can demonstrate the owner's occupancy at least ~~483 days~~ 7 MONTHS of the year; and

(b) "short-term rental" has the same meaning as provided in 15-68-101.

Section 6. Section 15-68-101, MCA, is amended to read:

"15-68-101. Definitions. For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Accommodations" means short-term rentals or individual sleeping rooms, suites, camping spaces, or other units offered for overnight lodging periods of less than 30 days to the general public for compensation.

(b) Accommodations include units located in property represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, bed and breakfast facility, vacation home, home, apartment, timeshare, room, or rooms rented by or on behalf of the owner or seller.

(c) The term does not include:

(i) a health care facility, as defined in 50-5-101;

(ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3;

(iii) a facility that is used primarily by persons under 18 years of age for camping purposes; or

(iv) rooms or spaces offered separately to the general public for nonlodging purposes, including meeting, conference, or banquet spaces.

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relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.

~~(b) Notice of a regulation, restriction, or boundary that would restrict or prohibit the use of short-term rentals as defined in 15-68-101 must demonstrate how the restriction or prohibition furthers the criteria and guidelines provided in 76-2-304(1) and (2).~~

(B) IF ZONING DISTRICT BOUNDARIES OR REGULATIONS WOULD RESTRICT OR PROHIBIT SHORT-TERM RENTALS AS DEFINED IN 15-68-101, THE GOVERNING BODY SHALL MAKE FINDINGS THAT THE ZONING REGULATION WILL:

(I) SECURE SAFETY FROM FIRE AND OTHER DANGERS;

(II) PROMOTE PUBLIC HEALTH, PUBLIC SAFETY, AND GENERAL WELFARE; OR

(III) FACILITATE THE ADEQUATE PROVISION OF TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, PARKS, AND OTHER PUBLIC REQUIREMENTS.

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation if the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, for the annexed property.

(b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."

Section 10. Section 76-25-303, MCA, is amended to read:

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

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

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- 1 (b) include in a zoning regulation any requirement to:
- 2 (i) pay a fee for the purpose of providing housing for specified income levels or at specified sale
- 3 prices; or
- 4 (ii) dedicate real property for the purpose of providing housing for specified income levels or at
- 5 specified sale prices, including a payment or other contribution to a local housing authority or the reservation of
- 6 real property for future development of housing for specified income levels or specified sale prices;
- 7 (c) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to
- 8 accommodate amateur radio service communications by a person who holds an unrevoked and unexpired
- 9 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
- 10 communications commission of the United States;
- 11 (d) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the
- 12 ground;
- 13 (e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use,
- 14 development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except
- 15 that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;
- 16 (f) except as provided in subsection (3), treat the following differently from any other residential
- 17 use of property:
- 18 (i) a foster home, kinship foster home, youth shelter care facility, or youth group home operated
- 19 under the provisions of 52-2-621 through 52-2-623, if the home or facility provides care on a 24-hour-a-day
- 20 basis;
- 21 (ii) a community residential facility serving eight or fewer persons, if the facility provides care on a
- 22 24-hour-a-day basis; or
- 23 (iii) a family day-care home or a group day-care home registered by the department of public
- 24 health and human services under Title 52, chapter 2, part 7;
- 25 (g) except as provided in subsection (3), apply any safety or sanitary regulation of the department
- 26 of public health and human services or any other agency of the state or a political subdivision of the state that is
- 27 not applicable to residential occupancies in general to a community residential facility serving 8 or fewer

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1 persons or to a day-care home serving 12 or fewer children; or

2 (h) prohibit any existing agricultural activities or force the termination of any existing agricultural
3 activities outside the boundaries of an incorporated city, including agricultural activities that were established
4 outside the corporate limits of a municipality and thereafter annexed into the municipality.

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

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

12 (4) (a) A short-term rental is a residential use of property and is not a commercial, business, or
13 other use and may only be restricted or prohibited as set forth in subsection (2).

14 (b) Unless expressly prohibited in the entirety of a municipality JURISDICTION or a zoning district, if
15 the municipality JURISDICTION is divided into zoning districts, short-term rentals as defined in 15-68-101 are
16 considered a residential use of property and are permissible in any area-zoned to allow area where residential
17 use is allowed, including but not limited to areas where the use of single-family dwelling units, multifamily
18 dwelling units, other dwelling units, or units or a group of units in a condominium, cooperative, timeshare, or
19 owner-occupied residential home is allowed, but may be restricted by zoning regulations.

20 (b)(c) An express prohibition on short-term rentals may not preclude the short-term rental of all or part
21 of a property owner's primary residence and:

22 (i) a single, separate residence on the same parcel as a property owner's primary residence; or

23 (ii) a single residence on a separate property from the property owner's primary residence that
24 shares a boundary with the property described in subsection (4)(b) PROPERTY OWNER'S PRIMARY RESIDENCE,
25 inclusive of properties that are separated by a public right-of-way but are otherwise adjacent share a boundary.

26 (5) IF THE JURISDICTION RESTRICTS OR PROHIBITS SHORT-TERM RENTALS AS AUTHORIZED IN THIS
27 SECTION, ANY Any SHORT-TERM RENTAL IN COMPLIANCE WITH APPLICABLE STATE LICENSING AND TAXING

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1 REQUIREMENTS ~~AT THE TIME on or before the date that~~ THE REGULATION RESTRICTING OR PROHIBITING SHORT-TERM
2 RENTALS IS ADOPTED IS CONSIDERED A LEGAL NONCONFORMING USE.

3 (5)(6) As used in this section, "primary residence" means a dwelling in which the property owner can
4 demonstrate the owner's occupancy at least ~~183 days~~ 7 MONTHS of the year."

5
6 NEW SECTION. Section 11. ~~Application for existing short-term rentals.~~ A short-term rental that
7 was in existence on or before [the effective date of this act] may not be prohibited or further restricted by
8 regulations adopted pursuant to [sections 3, 4, or 5] or any additional regulation that was not in existence as of
9 [the effective date of this act].

10
11 NEW SECTION. Section 11. Codification instruction. (1) [Section 1] is intended to be codified as
12 an integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to [section
13 1].

14 (2) [Section 2] is intended to be codified as an integral part of Title 70, chapter 17, part 9, and the
15 provisions of Title 70, chapter 17, part 9, apply to [section 2].

16 (3) [Section 3] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the
17 provisions of Title 76, chapter 2, part 1, apply to [section 3].

18 (4) [Section 4] is intended to be codified as an integral part of Title 76, chapter 2, part 2, and the
19 provisions of Title 76, chapter 2, part 2, apply to [section 4].

20 (5) [Section 5] is intended to be codified as an integral part of Title 76, chapter 2, part 3, and the
21 provisions of Title 76, chapter 2, part 3, apply to [section 5].

22
23 NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval.

24
25 NEW SECTION. Section 13. Retroactive applicability. [Sections 1 and 2] apply retroactively, within
26 the meaning of 1-2-109, to covenants on residential property and homeowners' association bylaws or other
27 governing instruments that do not clearly and expressly address short-term rentals.