

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

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0336.002.001

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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(16) "Short-term rental" means any individually or collectively owned single-family house, multifamily dwelling unit, ~~or other dwelling unit~~, or any unit or group of units in a condominium, cooperative, timeshare, or owner-occupied residential home or portion of a dwelling unit that is offered for a fee for 30 days or less.

(17) "Short-term rental marketplace" means a person that provides a platform through which a seller or the authorized agent of the seller offers a short-term rental to an occupant.

(18) "Timeshare" means any facility for which multiple parties or individuals own a right to use the facility for lodging purposes, and these parties or individuals do not hold claim to ownership of the physical property. (Bracketed language in subsection (11) terminates June 30, 2027--sec. 10, Ch. 758, L. 2023.)"

Section 7. Section 76-2-104, MCA, is amended to read:

"76-2-104. Development pattern. (1) For the purpose of furthering the health, safety, and general welfare of the people of the county, the county planning and zoning commission hereby is empowered and it shall be its duty to make and adopt a development pattern for the physical and economic development of the planning and zoning district.

(2) Such development pattern, with the accompanying maps, plats, charts, and descriptive matter, shall show the planning and zoning commission's recommendations for the development of the districts, within some of which it shall be lawful and within others of which it shall be unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings or within which the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established.

~~(3) If zoning district boundaries or regulations would restrict or prohibit short term rentals as defined in 15-68-101 or long term rentals, a specific analysis of that restriction or prohibition must consider the elements required in this subsection and be part of the documentation provided to the public for the adoption or amendment of zoning regulations. The analysis must include:~~

~~(a) whether the zoning regulation is consistent with the growth policy; and~~

~~(b) documentation that the zoning regulation is designed to:~~

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

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1 ~~(ii) promote public health, public safety, and general welfare; or~~
2 ~~(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other~~
3 ~~public requirements.~~
4 (3) IF ZONING DISTRICT BOUNDARIES OR REGULATIONS WOULD RESTRICT OR PROHIBIT SHORT-TERM
5 RENTALS AS DEFINED IN 15-68-101, THE COUNTY PLANNING AND ZONING COMMISSION SHALL ~~MAKE FINDINGS THAT THE~~
6 ~~ZONING REGULATION WILL~~ demonstrate by clear and convincing evidence that the primary purpose of the zoning
7 district boundary or regulation is the least restrictive means to:
8 (A) SECURE SAFETY FROM FIRE AND OTHER DANGERS;
9 (B) PROMOTE PUBLIC HEALTH, PUBLIC SAFETY, AND GENERAL WELFARE; OR
10 (C) FACILITATE THE ADEQUATE PROVISION OF TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, PARKS,
11 OR OTHER PUBLIC REQUIREMENTS."

12
13 **Section 8.** Section 76-2-203, MCA, is amended to read:

14 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

15 (a) made in accordance with the growth policy; and
16 (b) designed to:
17 (i) secure safety from fire and other dangers;
18 (ii) promote public health, public safety, and general welfare; and
19 (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other
20 public requirements.

21 (2) In the adoption of zoning regulations, the board of county commissioners shall consider:
22 (a) reasonable provision of adequate light and air;
23 (b) the effect on motorized and nonmotorized transportation systems;
24 (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the
25 areas around municipalities;
26 (d) the character of the district and its peculiar suitability for particular uses; and
27 (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

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1 the jurisdictional area.

2 (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning
3 ordinances of nearby municipalities.

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

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

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

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

12 ~~(6) If zoning district boundaries or regulations would prohibit short-term rentals as defined in 15-68-~~
13 ~~101 or long-term rentals, a specific analysis of that restriction or prohibition must consider all the elements in~~
14 ~~subsection (1) and be part of the documentation provided to the public for the adoption or amendment of zoning~~
15 ~~regulations.~~

16 (6) IF ZONING DISTRICT BOUNDARIES OR REGULATIONS WOULD RESTRICT OR PROHIBIT SHORT-TERM
17 RENTALS AS DEFINED IN 15-68-101, THE GOVERNING BODY SHALL ~~MAKE FINDINGS THAT THE ZONING REGULATION WILL~~
18 ~~demonstrate by clear and convincing evidence that the primary purpose of the zoning district boundary or~~
19 ~~regulation is the least restrictive means to:~~

20 (A) SECURE SAFETY FROM FIRE AND OTHER DANGERS;

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

22 (C) FACILITATE THE ADEQUATE PROVISION OF TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, PARKS,
23 AND OTHER PUBLIC REQUIREMENTS."

24

25 **Section 9.** Section 76-2-303, MCA, is amended to read:

26 **"76-2-303. Procedure to administer certain annexations and zoning laws -- hearing and notice.**

27 (1) The city or town council or other legislative body of a municipality shall provide for the manner in which

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regulations and restrictions and the boundaries of districts are determined, established, enforced, and changed, subject to the requirements of subsection (2).

(2) (a) A regulation, restriction, or boundary may not become effective until after a public hearing in 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 demonstrate by clear and convincing evidence that the primary purpose of the zoning district boundary or regulation is the least restrictive means to:~~

(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."