

HOUSE BILL NO. 375

INTRODUCED BY BRANDEWIE, SCHYE, KENNEDY,
BARTLETT, GRADY

IN THE HOUSE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
FEBRUARY 12, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 15, 1993	ENGROSSING REPORT.
FEBRUARY 16, 1993	THIRD READING, PASSED. AYES, 96; NOES, 2.
FEBRUARY 17, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 42; NOES, 6.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 6, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 12, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 375
 2 INTRODUCED BY B. Lawrence
 3 by Kennedy Bartlett Study
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING ZONING
 5 REGULATIONS THAT DISCRIMINATE BETWEEN MANUFACTURED AND
 6 SITE-BUILT HOUSING; AND AMENDING SECTIONS 76-2-202 AND
 7 76-2-302, MCA."
 8

9 WHEREAS, certain zoning codes in Montana prohibit the
 10 placement of manufactured housing within districts where the
 11 construction of comparable site-built housing is permitted;
 12 and

13 WHEREAS, the reasons for treating manufactured housing
 14 differently from site-built housing have, because of
 15 significant improvements in the quality and regulation of
 16 manufactured housing, lost whatever historical justification
 17 they may once have had.

18 THEREFORE, the Legislature of the State of Montana finds
 19 it desirable and appropriate to prohibit discrimination
 20 within zoning districts between manufactured and site-built
 21 housing.

22
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

25 "76-2-202. Establishment of zoning districts --

1 regulations. (1) (a) Within the unincorporated portions of a
 2 jurisdictional area which has been established under
 3 provisions of 76-1-501 through 76-1-503 or 76-1-504 through
 4 76-1-507, the board of county commissioners may by
 5 resolution establish zoning districts and zoning regulations
 6 for all or part of the jurisdictional area.

7 (b) An action challenging the creation of a zoning
 8 district must be commenced by October 1, 1994, or within 5
 9 years after the date of the order by the board of county
 10 commissioners creating the district, if the district was
 11 created after October 1, 1989.

12 (2) Within some such zoning districts, it ~~shall--be~~ is
 13 lawful and within others it ~~shall--be~~ is unlawful to erect,
 14 construct, alter, or maintain certain buildings or to carry
 15 on certain trades, industries, or callings.

16 (3) In a proceeding for a permit or variance to place
 17 manufactured housing within a residential zoning district,
 18 there is a presumption that placement of a manufactured home
 19 will not adversely affect property values of conventional
 20 housing.

21 ~~(3)(4)~~ Within each district the height and bulk of
 22 future buildings and the area of the yards, courts, and
 23 other open spaces and the future uses of the land or
 24 buildings ~~shall~~ must be limited and future building setback
 25 lines ~~shall~~ must be established.

1 ~~(4)~~(5) All such regulations shall must be uniform for
 2 each class or kind of buildings throughout a district, but
 3 the regulations in one district may differ from those in
 4 other districts.

5 (6) As used in this section, "manufactured housing"
 6 means a single-family dwelling, built offsite in a factory,
 7 that is placed on a permanent foundation, is at least 1,000
 8 square feet in size, has a pitched roof and siding and
 9 roofing materials that are customarily used on site-built
 10 homes, and is in compliance with the applicable prevailing
 11 standards of the United States department of housing and
 12 urban development at the time of its production. A
 13 manufactured home does not include a mobile home, as defined
 14 in 61-4-309, or a housetrailer, as defined in 61-1-501."

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

16 "76-2-302. Zoning districts. (1) For any-or-all-of the
 17 purposes of 76-2-301, the local city or town council or
 18 other legislative body may divide the municipality into
 19 districts of such the number, shape, and area as may--be
 20 deemed are considered best suited to carry out the purposes
 21 of this part. Within such the districts, it may regulate and
 22 restrict the erection, construction, reconstruction,
 23 alteration, repair, or use of buildings, structures, or
 24 land.

25 (2) All such regulations shall must be uniform for each

1 class or kind of buildings throughout each district, but the
 2 regulations in one district may differ from those in other
 3 districts.

4 (3) In a proceeding for a permit or variance to place
 5 manufactured housing within a residential zoning district,
 6 there is a presumption that placement of a manufactured home
 7 will not adversely affect property values of conventional
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9 (4) As used in this section, "manufactured housing"
 10 means a single-family dwelling, built offsite in a factory,
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 12 square feet in size, has a pitched roof and siding and
 13 roofing materials that are customarily used on site-built
 14 homes, and is in compliance with the applicable prevailing
 15 standards of the United States department of housing and
 16 urban development at the time of its production. A
 17 manufactured home does not include a mobile home, as defined
 18 in 61-4-309, or a housetrailer, as defined in 61-1-501."

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 375

INTRODUCED BY BRANDEWIE, SCHYE, KENNEDY,
BARTLETT, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING ZONING REGULATIONS THAT DISCRIMINATE BETWEEN MANUFACTURED AND SITE-BUILT HOUSING; AND AMENDING SECTIONS 76-2-202 AND 76-2-302, MCA."

WHEREAS, certain zoning codes in Montana prohibit the placement of manufactured housing within districts where the construction of comparable site-built housing is permitted; and

WHEREAS, the reasons for treating manufactured housing differently from site-built housing have, because of significant improvements in the quality and regulation of manufactured housing, lost whatever historical justification they may once have had.

THEREFORE, the Legislature of the State of Montana finds it desirable and appropriate to prohibit discrimination within zoning districts between manufactured and site-built housing.

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

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

"76-2-202. Establishment of zoning districts -- regulations. (1) (a) Within the unincorporated portions of a jurisdictional area which has been established under provisions of 76-1-501 through 76-1-503 or 76-1-504 through 76-1-507, the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or part of the jurisdictional area.

(b) An action challenging the creation of a zoning district must be commenced by October 1, 1994, or within 5 years after the date of the order by the board of county commissioners creating the district, if the district was created after October 1, 1989.

(2) Within some such zoning districts, it ~~shall--be~~ is lawful and within others it ~~shall-be~~ is unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings.

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

~~†3†~~(4) Within each district 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~~ must be limited and future building setback

lines shall ~~must~~ be established.

(4)(5) All such regulations shall ~~must~~ be uniform for each class or kind of buildings throughout a district, but the regulations in one district may differ from those in other districts.

(6) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home, as defined in 61-4-309, or a housetrailer, as defined in 61-1-501.

(7) NOTHING CONTAINED IN THIS SECTION MAY BE CONSTRUED TO LIMIT EXISTING COVENANTS OR THE ABILITY TO ENTER INTO COVENANTS PURSUANT TO TITLE 70, CHAPTER 17, PART 2."

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

"76-2-302. Zoning districts. (1) For any-or-all-of the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of such the number, shape, and area as may--be deemed are considered best suited to carry out the purposes of this part. Within such the districts, it may regulate and

restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

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

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

(4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home, as defined in 61-4-309, or a housetrailer, as defined in 61-1-501."

-End-

HOUSE BILL NO. 375

INTRODUCED BY BRANDENIE, SCHYE, KENNEDY,
BARTLETT, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING ZONING
REGULATIONS THAT DISCRIMINATE BETWEEN MANUFACTURED AND
SITE-BUILT HOUSING; AND AMENDING SECTIONS 76-2-202 AND
76-2-302, MCA."

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and

WHEREAS, the reasons for treating manufactured housing
differently from site-built housing have, because of
significant improvements in the quality and regulation of
manufactured housing, lost whatever historical justification
they may once have had.

THEREFORE, the Legislature of the State of Montana finds
it desirable and appropriate to prohibit discrimination
within zoning districts between manufactured and site-built
housing.

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"76-2-202. Establishment of zoning districts --
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jurisdictional area which has been established under
provisions of 76-1-501 through 76-1-503 or 76-1-504 through
76-1-507, the board of county commissioners may by
resolution establish zoning districts and zoning regulations
for all or part of the jurisdictional area.

(b) An action challenging the creation of a zoning
district must be commenced by October 1, 1994, or within 5
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(3) In a proceeding for a permit or variance to place
manufactured housing within a residential zoning district,
there is a presumption that placement of a manufactured home
will not adversely affect property values of conventional
housing.

(4) Within each district 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 must be limited and future building setback

lines shall ~~must~~ be established.

~~(4)~~(5) All such regulations shall ~~must~~ be uniform for each class or kind of buildings throughout a district, but the regulations in one district may differ from those in other districts.

(6) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home, as defined in 61-4-309, or a housetrailer, as defined in 61-1-501.

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

"76-2-302. Zoning districts. (1) For ~~any-or-all~~ of the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of such ~~the~~ number, shape, and area as may--be deemed are considered best suited to carry out the purposes of this part. Within such ~~the~~ districts, it may regulate and

restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

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

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

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-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 26, 1993

Page 2 of 2
March 26, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 375 (third reading copy -- blue), respectfully report that House Bill No. 375 be amended as follows and as so amended be concurred in.

Signed: John Ed Kennedy, Jr.
Senator John "Ed" Kennedy, Jr., Chair

That such amendments read:

1. Title, line 5.
Strike: "PROHIBITING"
Insert: "CREATING A PRESUMPTION WITH RESPECT TO"
2. Title, line 6.
Following: "BETWEEN"
Insert: "CERTAIN"
3. Page 1, line 20.
Strike: "prohibit"
Insert: "discourage"
4. Page 2, line 19.
Following: the first "a"
Insert: "rebuttable"
5. Page 3, line 7.
Following: "factory"
Insert: "on or after January 1, 1990"
6. Page 3, line 10.
Following: "customarily"
Insert: ", as defined by local regulations,"
7. Page 3, line 17.
Following: "LIMIT"
Insert: "conditions imposed in historic districts, local design review standards,"
Following: "COVENANTS"
Insert: ", "
8. Page 4, line 10.
Following: the first "a"
Insert: "rebuttable"

9. Page 4, line 14.
Following: "factory"
Insert: "on or after January 1, 1990"

10. Page 4, line 17.
Following: "customarily"
Insert: ", as defined by local regulations,"

11. Page 4.
Following: line 22
Insert: "(5) Nothing contained in this section may be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2."

-END-

AM Amd. Coord.
TH Sec. of Senate

Ann Arbor Bantlett
Senator Carrying Bill

681617SC.San

SENATE

HB 375

681617SC.San

1 HOUSE BILL NO. 375

2 INTRODUCED BY BRANDEWIE, SCHYE, KENNEDY,
3 BARTLETT, GRADY
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROHIBITING~~ CREATING A
6 PRESUMPTION WITH RESPECT TO ZONING REGULATIONS THAT
7 DISCRIMINATE BETWEEN CERTAIN MANUFACTURED AND SITE-BUILT
8 HOUSING; AND AMENDING SECTIONS 76-2-202 AND 76-2-302, MCA."
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10 WHEREAS, certain zoning codes in Montana prohibit the
11 placement of manufactured housing within districts where the
12 construction of comparable site-built housing is permitted;
13 and

14 WHEREAS, the reasons for treating manufactured housing
15 differently from site-built housing have, because of
16 significant improvements in the quality and regulation of
17 manufactured housing, lost whatever historical justification
18 they may once have had.

19 THEREFORE, the Legislature of the State of Montana finds
20 it desirable and appropriate to ~~prohibit~~ DISCOURAGE
21 discrimination within zoning districts between manufactured
22 and site-built housing.
23

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

25 Section 1. Section 76-2-202, MCA, is amended to read:

1 "76-2-202. Establishment of zoning districts --
2 regulations. (1) (a) Within the unincorporated portions of a
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5 76-1-507, the board of county commissioners may by
6 resolution establish zoning districts and zoning regulations
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9 district must be commenced by October 1, 1994, or within 5
10 years after the date of the order by the board of county
11 commissioners creating the district, if the district was
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14 lawful and within others it ~~shall-be~~ is unlawful to erect,
15 construct, alter, or maintain certain buildings or to carry
16 on certain trades, industries, or callings.

17 (3) In a proceeding for a permit or variance to place
18 manufactured housing within a residential zoning district,
19 there is a REBUTTABLE presumption that placement of a
20 manufactured home will not adversely affect property values
21 of conventional housing.

22 (4) Within each district the height and bulk of
23 future buildings and the area of the yards, courts, and
24 other open spaces and the future uses of the land or
25 buildings ~~shall~~ must be limited and future building setback

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(6) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory ON OR AFTER JANUARY 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, AS DEFINED BY LOCAL REGULATIONS, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home, as defined in 61-4-309, or a housetrailer, as defined in 61-1-501.

(7) NOTHING CONTAINED IN THIS SECTION MAY BE CONSTRUED TO LIMIT CONDITIONS IMPOSED IN HISTORIC DISTRICTS, LOCAL DESIGN REVIEW STANDARDS, EXISTING COVENANTS, OR THE ABILITY TO ENTER INTO COVENANTS PURSUANT TO TITLE 70, CHAPTER 17, PART 2."

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

"76-2-302. Zoning districts. (1) For ~~any-or-all-of~~ the purposes of 76-2-301, the local city or town council or

other legislative body may divide the municipality into districts of such the number, shape, and area as ~~may-be deemed are considered~~ best suited to carry out the purposes of this part. Within such the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

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2 defined in 61-4-309, or a housetrailer, as defined in
3 61-1-501.

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6 DESIGN REVIEW STANDARDS, EXISTING COVENANTS, OR THE ABILITY
7 TO ENTER INTO COVENANTS PURSUANT TO TITLE 70, CHAPTER 17,
8 PART 2."

-End-