



# GOVERNOR'S HOUSING TASK FORCE

Recommendations and Strategies to Increase the  
Supply of Affordable, Attainable Workforce Housing

OCTOBER 15, 2022

**PRELIMINARY DRAFT – 10/3/22**

**MEASURES THE LEGISLATURE COULD CONSIDER AND  
THE GOVERNOR COULD SIGN INTO LAW**



**A REPORT BY THE MONTANA GOVERNOR'S HOUSING TASK FORCE**



## DECLARATION STATEMENT

I hereby submit this initial report of the Governor's Housing Task Force. My submittal of this report as presiding officer complies with Executive Order No. 5-2022 for the October 15, 2022, submittal deadline. The report identifies measures the Legislature could consider, and the Governor could sign into law.

The report was approved by a majority of the Housing Task Force members.

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Christopher Dorrington, Director

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Date

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## CONTENTS

<b>MESSAGE FROM GOVERNOR GIANFORTE.....</b>	<b>1</b>
<b>ENDORSEMENT .....</b>	<b>2</b>
<b>PURPOSE, SCOPE AND INTENT .....</b>	<b>3</b>
The Governor's Housing Task Force.....	4
Public Participation Process.....	5
<b>LIST OF RECOMMENDATIONS .....</b>	<b>6</b>
Executive Summary .....	6
Economics & Other Subtask Group.....	9
Local Issues Subtask Group.....	23
Regulatory & Permitting Subtask Group.....	35
Construction Subtask Group .....	43
<b>LIST OF TASK FORCE MEMBERS.....</b>	<b>47</b>
Task Force Members and Affiliations .....	47
Subtask Group Co-Chairs .....	49
<b>APPENDICES.....</b>	<b>50</b>
Appendix A: Additional Issues, Changes and Suggestions by Subtask Group .....	50
Appendix B: Resources and Information by Subtask Group.....	56







## PURPOSE, SCOPE AND INTENT

On July 14, 2022, Governor Gianforte signed Executive Order (EO) No. 5-2022 creating the Housing Advisory Council, also known as the Governor's Housing Task Force (Task Force.) The Task Force was charged with providing short- and long-term recommendations and strategies to the Governor for the state of Montana **"to increase the supply of affordable, attainable workforce housing."**

The availability of affordable, attainable housing is critical to the wellbeing of individuals, communities, businesses and organizations of all sizes, and the State's economy at large. However, driven by a shortage of housing supply, Montana faces a crisis that poses substantial challenges for hardworking Montanans seeking to live, work, and raise families in our state.

Many factors are driving housing shortages across the United States, including a lack of available construction labor, land use regulations, zoning restrictions, and a lack of developable land. In recent years, home prices have skyrocketed, newly listed homes were sold within hours of listing, and rental vacancy rates fell, driving up rent prices across Montana. Supply has simply not kept up with demand leading to a record-low housing inventory in early 2022.

The purpose of the Task Force is to find solutions to these complex issues in the interest of Montana citizens and job creators. The EO directed the Task Force to produce two separate written reports, specifically looking at expanding the State's construction workforce, and reforming land



use regulations and zoning restrictions. The first report, due to the Governor by October 15, 2022, shall include measures the Legislature could consider, and the Governor could sign into law. The second report, due to the Governor by December 15, 2022, shall include regulatory changes and best practices that could be adopted by state agencies and local governments.

The scope of the assignment is to provide reports that are broad and variable, recognizing the complexity of the Montana housing conversation. The adopted recommendations are not meant to require immediate Legislative action. Rather, they are intended to further inform the Legislature, Governor, state agencies, local and Tribal governments, and the public.

Furthermore, the Task Force reports are not considered to be final studies on the issues or complete solutions to the multi-faceted housing crisis. Governor Gianforte understands that other sources of information will and should be introduced into the conversation over time. He intends to advance the Montana housing conversation by deliberately focusing the time and attention of many experts on this specific issue. The Task Force was designed to support this endeavor.

## The Governor's Housing Task Force

Task Force members were appointed by the Governor and included state and local elected officials, state agencies, state boards, councils, and commissions,

housing-related professional associations, advisory groups, and researchers, among others. The Director of the Department of Environmental Quality (DEQ) served as the presiding officer and provided the Task Force with administrative support.

In developing these recommendations and strategies, the Task Force sought input from Montana citizens, members of the Montana Legislature, Montana associations whose members are impacted by housing policy, advisory groups and researchers focused on housing policy, and other appropriate stakeholders as determined by the Task Force.

The Task Force identified four main issue areas and developed Subtask Groups to work on these key issues: regulatory and permitting barriers, local issues, construction and supply chain challenges, and economics. Each Subtask Group sequenced their discussions around the following assignments:

1. Identifying the **challenges and barriers, i.e. issues** that inhibit increasing housing supply to meet demand.
2. Identifying **potential solutions** to address the identified challenges and increase the supply of affordable, attainable workforce housing.
3. Prioritizing a handful of actionable **recommendations and key strategies.**

In this report, recommendations and strategies are organized by Subtask Group, beginning with those items prioritized by the Task Force. Additional

issues, changes, and suggestions identified are included and outlined in Appendix A while additional resources and information are included in Appendix B.

## Public Participation Process

All Task Force and Subtask Group activities held open meetings and encouraged the public to share questions, comments, and suggestions. DEQ hosted a Task Force website that identified appointed members and their affiliations to advertise public meetings, publish meeting recordings, and solicit public comment through an interactive comment portal.

The Task Force and Subtask Groups met 16 times in-person and via video conference between July and October. All meetings were noticed to the public via a dedicated website (<https://deq.mt.gov/about/housing-task-force>) and email listserv with more than 600 individual contacts and meetings included dedicated time to hear public comment. Members of the public also provided input to the Task Force and shared relevant information via an online comment portal. To date, the Task Force website collected 63 comments, and comments sent directly to staff totaled 60 comments.

The website comment portal also provided an interactive map viewer to identify where commentators live by zip code and other socio-demographics. The Map Viewer allowed the public to review comments and suggestions submitted via this media to the Task Force.

Of the approximate 120+ comments received, commenters were evenly spread across the more populous counties in the western and central parts of the State. Few individual comments were received from eastern counties.

Of the public comments received, most addressed regulatory and permitting issues, followed by economics and local issues and lastly construction issues.

Specifically, comments received addressed the following issues:

### 1. **Economics & Other:**

Property valuation and taxation review;  
Alternative / innovative financing products.

### 2. **Local Issues:**

Tribal land challenges; Water resource issues; Community infrastructure investment; Rental / Vrbo concerns.

### 3. **Regulatory & Permitting:**

State and local zoning code review;  
Zoning / property ownership  
to protect affordability.

### 4. **Construction:**

Alternative construction  
materials and methods.





# LIST OF RECOMMENDATIONS

## Executive Summary

The Task Force developed 18 recommendations which outline three overarching strategies state policymakers can use to address Montana’s housing shortage:

### 1. Regulatory Reform

Six recommendations suggest the Montana Legislature directly address state and local regulatory barriers to increasing housing supply by streamlining permitting, placing sideboards on local zoning and broadly restoring the rights of landowners throughout Montana cities to build attainable forms of housing, particularly in areas where existing infrastructure can be maximized through infill development.

*Recommendations focusing on this strategy include 2A, 2B, 2C, 3A, 3B, 3C*

### 2. Incentives to Encourage Regulatory Reforms

Four recommendations suggest the Montana Legislature develop incentives to encourage local governments to address regulatory barriers to increasing housing supply. The Task Force contemplates tax credits, grants, trusts, loans or other incentives which would reward local governments that have proactively implemented key regulatory reforms. The Task Force also

suggests prioritizing state funding for local government infrastructure to communities which maximize density with regulatory reforms.

*Recommendations focusing on this strategy include 4A, 4B, 2D, 2E*

### **3. Investments in Improved Government Efficiency; Workforce Development; and Private Sector Home Construction**

Four recommendations suggest the Montana Legislature prioritize targeted investments that improve state and local government efficiencies, elevate trades and incentivize private sector construction.

*Recommendations focusing on this strategy include 4C, 4D, 1A, 2B*

Four other recommendations include encouraging public-private collaboration, requiring reporting for short term rentals, freeing up state-owned urban land for housing and local tax reform.

*Recommendations focusing on this strategy include 4E, 1C, 1D, 3D*

Below is a summary list of recommendations that focus on measures the Legislature could consider and the Governor could sign into law. In the section below there are expanded recommendations with a thorough explanation that includes rationale, barriers addressed, key strategies, dissenting opinions, and supporting graphics where applicable.

<b>1</b>	<b>ECONOMICS &amp; OTHER SUBTASK GROUP</b>	<b>PAGE</b>
1A	Immediate Supplemental Budget Allocations to Three Agencies / Programs	9
1B	Increase the Supply of Housing	17
1C	Create Legislation Directed at Development of Certain Lands	20
1D	Reformation of State Tax Laws May Be Needed to Incentive Housing Development and to Reduce Property Taxes of Residential Homeowners	21



<b>2</b>	<b>LOCAL ISSUES SUBTASK GROUP</b>	<b>PAGE</b>
2A	Prohibit Residential Min. Lot Size Requirements Larger Than 2,500 Sq. Ft.	23
2B	Allow Accessory Dwelling Units (ADUs) on All Single-Family Residential Lots	27
2C	Re-write the Montana Subdivision and Platting Act	28
2D	Enact a State Affordable Housing Tax Credit Tied to Local Zoning Reform	30
2E	Provide for Housing Infrastructure Grant Program	33

<b>3</b>	<b>REGULATORY &amp; PERMITTING SUBTASK GROUP</b>	<b>PAGE</b>
3A	Amend State Law to Streamline Local Permitting	35
3B	Remove Bans on Multifamily Housing	37
3C	Eliminate Regulatory Barriers to Housing Construction within Cities	39
3D	Require Short-term Rental Reporting	41

<b>4</b>	<b>CONSTRUCTION SUBTASK GROUP</b>	<b>PAGE</b>
4A	Maximize Existing Infrastructure and Infill Development Through Incentives	43
4B	Prioritize State Investment In Sewer/Water Infrastructure	44
4C	Expand Investment in Workforce Development	44
4D	Encourage Innovative Methods in Home Construction	44
4E	Encourage Collaborative Relationships Between the Public/Private Sectors	45



## Economics & Other Subtask Group

### 1 ECONOMICS & OTHER: RECOMMENDATIONS, EXPANDED

#### 1A Immediate Supplemental Budget Allocations to Three Agencies / Programs

##### RECOMMENDATION:

The subtask group members reported that there were three barriers to the development of affordable and attainable housing in rural, urban, and tribal communities, in need of **immediate attention**, and would result in moving forward “shovel-ready” projects, already on the ground.

In order to facilitate the approval and immediate construction of already existing housing projects, the subtask group members identified the following **immediate** supplemental budget allocations be made to three agencies/programs:

1. DEQ staffing is needed to process on-time, defensible permitting for subdivision & public water supply applications.
2. Department of Commerce (DOC) staffing is needed to facilitate year-round continuation of Housing Task Force work and mission, as well support implementation and execution of existing recommendations.
3. Accelerate Montana, as administered through the Montana University System, should expand its current statewide ability to provide for additional construction and labor workforce through the Rapid Training and Job Site Ready programs, supporting the private sector need for skilled workers.

Providing an immediate supplemental budget allocation for these three agencies/programs will result in common sense results to immediately address Montana’s housing crisis, prior to the 2023 legislative session.

##### RATIONALE:

All members of the subtask group identified that a supplemental budget allocation would remedy unanimously understood impediments to immediate development of diverse housing needs statewide.

Unless supplemental funding is immediately allocated to remedy the above outlined impediments, the delays in DEQ permitting approval will continue, the Task Force’s existing work will abruptly and unnecessarily discontinue, and status quo will result in a lack of construction workers and labor to build “shovel-ready” housing.

Subtask Group members expressed a strong desire that “shovel-ready” projects no longer be unnecessarily delayed. It was deeply emphasized that Montana should not continue to suffer from housing shortages, when common sense solutions are literally waiting and readily available, but for government delay.

A supplemental funding allocation would remedy identified and urgent statewide needs, and because the housing crisis and labor shortage has been exacerbated by COVID, the task force finds that American Rescue Plan Act (ARPA) State Fiscal Recovery should be used for this supplemental relief.

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#### **BARRIERS ADDRESSED:**

The Subtask Group members ask that the Governor’s Budget Office be directed to request a supplemental budget allocation for these three agencies/programs, prior to the 2023 legislative session.

Further, the Subtask Group members request that Governor’s 2023/2024 budget include additional funding to continue to support these three agencies/program during the next budget cycle, to meet the identified needs outlined above. These requests would have bipartisan support in the 2023 legislative session.

Should legislation be required to support this request, the Subtask Group members are requesting members of the legislature draft and support this request, with the support of the Governor’s Office.

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#### **KEY STRATEGIES:**

Providing the supplemental budget allocation will result in **immediate construction of existing projects prior to the 2023 session**, and provide the necessary statewide labor for construction of the projects, and facilitate the ability for additional and future housing needs to be addressed.

Funding for these priorities will need to be continued through the 2023/2024 biennium in order to meet the number of housing units that will be required to meet existing and growing housing needs.

The Subtask Group members continued to receive feedback that “Montana has been discovered” and Subtask Group members identified that housing needs will not be addressed through the work of the Task Force’s first round of recommendations and housing needs will be ongoing for Montana.

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#### **DISSENTING OPINIONS:**

The Subtask Group members did not hear any objections to a supplemental budget allocation that would address the identified urgent housing needs and would provide

immediate housing relief to communities statewide. This simply needs to be done as soon as possible.

1. When the Governor's Housing Task Force was formed, there were existing DEQ applications for housing and water projects, waiting DEQ permit approval for sometimes 8-12 months. The agency has not been able to hire and retain qualified staff to meet the needs of the public with current funding, which is greatly delaying the approval of qualified housing and water projects.

DEQ must be provided with the tools to be able to provide faster approval to assist developers and communities in meeting the needs of housing. Delays in approval are adding risk to investors and unnecessarily delaying housing projects.

2. Further, the Subtask Group members identified the immediate value in keeping the Governor's Housing Task Force intact, retaining the value of the structure created and supporting the statewide, public-private relationships built.


The Subtask Group members recommend the immediate supplemental funding of a Workforce Housing Program Executive within Montana Housing (through the DOC) to seamlessly transition the work of the Task Force through coordination, communication and execution of Task Force recommendations and goals. This position will coordinate with other Montana Housing and related federal programs to ensure action, alignment and progress reporting to the Governor, Montana legislature, and concerned external entities engage in the collective work to solve the housing crisis.

3. The Subtask Group members are seeking immediate expansion of the Job Site Ready program and related skilled trades training programs to meet the urgent labor and workforce needs, especially in the construction industries.

Job Site Ready program is a Rapid Training Program designed for those who seek skilled, entry-level work in Montana's booming construction trades. Designed in collaboration with the construction industry and tailored to meet their hiring needs, the Job Site Ready Program provides fast and flexible training that enables participants to enter the construction industry in our state upon completion of the program.

The Accelerate Montana Rapid Training program is developing and delivering training in partnership with the two-year colleges and tribal colleges to train skilled workers across four industries (construction, manufacturing, healthcare and technology) and across a diverse community of interests (from rural to urban), and in businesses on micro and global scales.





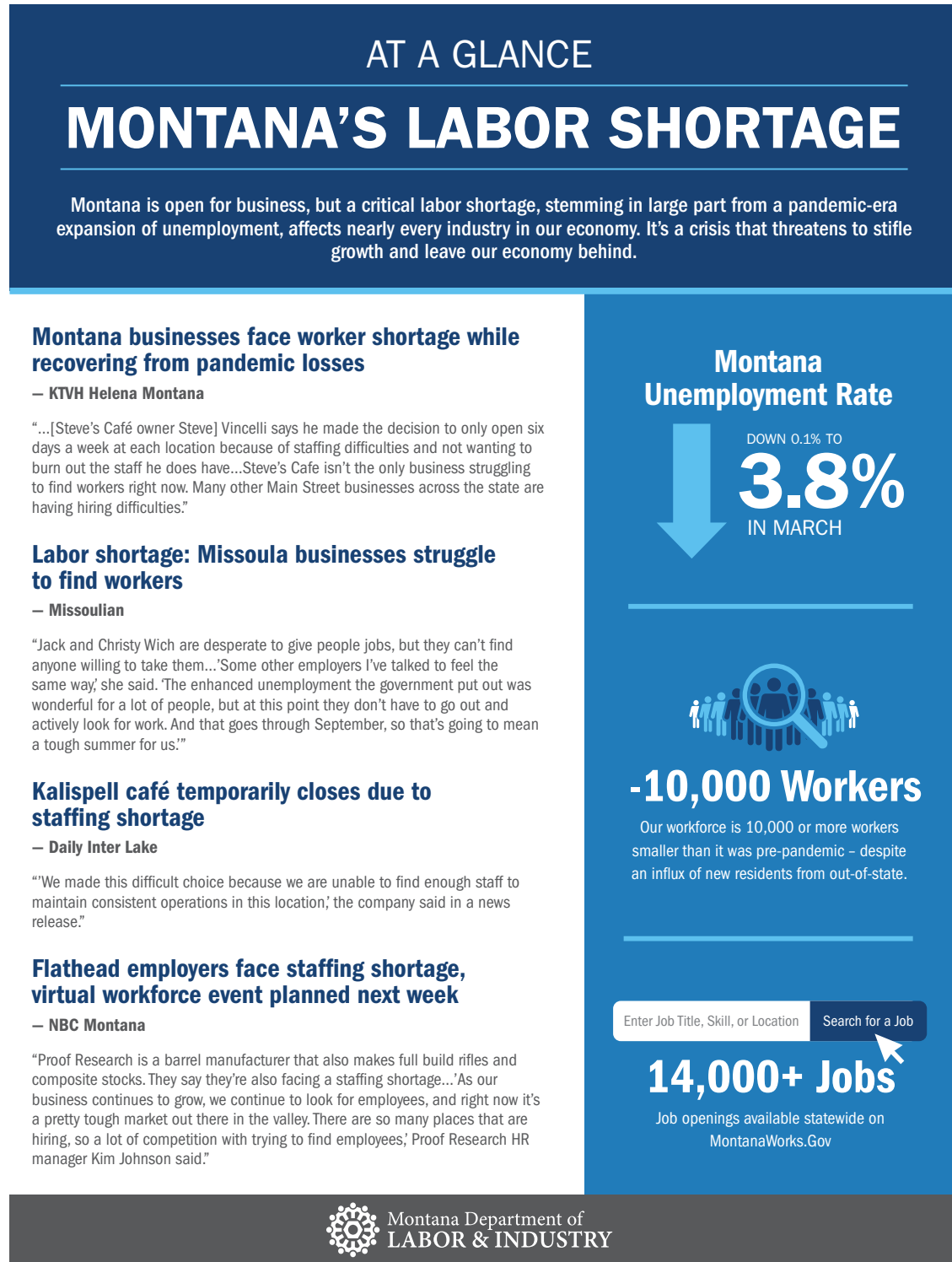
The program, which began in the current biennium, through one-time-only funding allocations, currently projects over 700 trainees in highly in-demand construction and other skilled professions in 2022/23. Ongoing recruitment efforts and additional training programs are anticipated to significantly increase that number.

The program is administered statewide and its success found through its partnership with existing private employers and education and training providers.

The Subtask Group members strongly recommend that this program be immediately expanded to meet immediate workforce and labor needs to address the housing shortage.

## SUPPORTING GRAPHICS:

The Montana Department of Labor & Industry has a one-page graphic that illustrates the immediate need for labor in the State.



# JOIN MONTANA'S BOOMING CONSTRUCTION INDUSTRY



Ready to start your entry-level construction career?

Job Site Ready rapid training is fast, flexible, and designed to meet construction employers' needs.



## \$750

- ✓ 30-Hours of Online Training
- ✓ 15-Hours of On-site Instruction
- ✓ Professional Tool Set
- ✓ Micro-credential certification

**Register:**



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[jobsitereadymt.com](https://jobsitereadymt.com)



[@jobsitereadymt](https://www.instagram.com/jobsitereadymt)



[Katherine.lechman@mso.umt.edu](mailto:Katherine.lechman@mso.umt.edu)





## Information for Trainees **Rapid Training Program**

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### Fast, Flexible, Affordable Training For In-Demand Jobs

#### Who we are:

The Accelerate Montana / Rapid Training Program (AMT/RTP) provides support to trainees across the state to identify RTPs for enrollment. Trainees that AMT/RTP work with range from high school students to established professionals who wish to upskill their knowledge, skills, and abilities. Outreach Coordinators (OC) engage with trainees to identify how AMT can support them in their short-term training needs, as well as engage with current or potential employers who support them while participating in an AMT/RTP program.

#### What we do:

- Provide consultations about compensation and career progression, badging, and other aspects of the employment market.
- Connect trainees to programs offered by colleges and training providers across Montana.
- Show how training can strengthen skills for a new position, to make a professional transition and/or upskilling abilities in a position they already hold.
- Consult AMT/RTP resources about financial aid resources that the advisee can call upon to possibly support them while participating in a training program.

#### Who we serve:

We help Montanans take their careers to new places. We help you get the careers you want by developing and offering the trainings you need. With our partners across key and growing industries like technology, healthcare, manufacturing, and construction, we are developing “must have” and “next level” training programs that will enable them to achieve and earn more. Whether you are looking to advance an existing career or develop a new career, AMT can help!



<https://www.acceleratemt.com>





*Accelerate Montana Rapid Training Program flier (page 2):*

### **What we provide:**

Trainees receive an industry recognized certificate, connection with employers across the state of Montana, and a new job or upskill/promotion in current position on a career path to \$50,000+ in less than six months. Funding for the training program is available for trainees through employers and government programs.



## **Higher PAY for Montanans to STAY!**

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Course offerings



Rapid Training Program



Crystal Little Owl

Indigenous Outreach Coordinator

crystal.littleowl@mso.umt.edu

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## 1B Increase the Supply of Housing

### **RECOMMENDATION:**

Montana needs to increase its supply of housing. Period.

Housing development incentives can improve housing affordability and availability in two ways – a direct approach that provides incentives in exchange for lower rents and a supply approach that increases the supply of rental housing to reduce the demand pressure on existing units.

**Subtask Group members identified an immediate need for the “supply approach,” incentivizing developers to build more diversified housing options.**

A supply approach focuses on increasing the overall supply of housing by reducing the costs of development and making more development feasible. An increased supply can stabilize or reduce rents and decrease the likelihood that existing residents are displaced.

Montana must provide more incentives to the private sector to increase the supply of housing development, especially for rental development, including both affordable and market rate rental development.

Subtask Group members are requesting that ARPA State Fiscal Recovery funds be utilized to incentivize the development of rental housing by subsidizing partial or full waivers of planning, permitting, or impact fees and water/sewer infrastructure costs for large scale development projects that are building affordable or workforce housing units, and/or any type of large-scale rental housing development, market rate to affordable.

The Subtask Group members identified under-utilized and un-utilized opportunities available to incentivize the supply of housing development, including affordable housing and rental housing development, but that are currently not adequately funded, specifically the existing housing programs provided by the DOC. Montana should not be leaving money on the table.

An expansion of uses of the Coal Trust and a deeper investment in the State’s Montana Housing fund and Housing Trust Fund, administered by the DOC, would result in incentives to increase the supply of statewide housing.

Further, Subtask Group members recommend developing a Montana State Tax Credit Program, as well as provide for long-term public and private endowments and loans through new legislation, and to further incentive the private sector to build diverse housing options for communities.

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### **RATIONALE:**

Twenty-nine states, including Montana, have dedicated ARPA State Fiscal Recovery funds for housing needs, including for development of housing supply needs.

Decreasing costs for targeted housing developments results in increasing a housing project's likelihood of being developed. It incentivizes its development.

Thirty-one states have a funded state housing trust fund.

Nineteen states have a state housing tax credit.

The Housing Montana Fund's current fund balance is insufficient to originate a new loan. There is no on-going fund source designated for Housing Montana Fund.

The Housing Trust Fund works. Last year, anticipated outcome measures will include fifty-five rental units to be rehabilitated and ten units of permanent housing.

Through public/private partnerships, Montana seeks to invest in Montana's housing needs.

Montana should create property tax incentives that reduce the tax burden on properties that support a target public policy housing goal.

The specific mechanisms for proposed legislation should fall under three broad categories: tax abatements, tax rebates, or tax exemptions. These incentives should be strategically enacted in different geographies and for different project types, but the primary goal to encourage the private sector to build housing and specifically **rental housing units**.

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### **BARRIERS ADDRESSED:**

Montana will only meet the housing needs of its people if the private sector is willing to build more housing, including rental and affordable housing, and Montana is not offering appropriate private sector incentive to meet housing needs.

Montana's municipal regulations, land costs and infrastructure costs make building affordable, workforce, and rental housing challenging.

Existing public resources are inadequate to make any meaningful or measurable dent in the known shortage of housing, including affordable, workforce, and rental housing attainable for Montana's extremely low-income households and labor market.

Public/private solutions are available.

In addition to recommending a set of implementable solutions to address Montana's

housing supply shortages, it is critical to also consider that Montana may be at the brink of an expanding homelessness crisis and that housing solutions need to be implemented for vulnerable populations: including providing incentives for public/private partnerships in order to build urgently needed crisis beds and transitional housing units. These housing units should target populations providing specialized housing for families with children with accompanying substance use needs, mental illness related supportive housing, previously homeless veterans, and serving our prisoner re-entry population.

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**KEY STRATEGIES:**

The Subtask Group members ask that the Governor's Budget Office be directed to request a supplemental budget allocation for ARPA State Fiscal Recovery funds be utilized to develop housing, including workforce housing, prioritizing rental housing. This supplemental allocation should occur immediately through available ARPA funds, and prior to the 2023 legislative session.

The Subtask Group members request that Governor's 2023/2024 budget include additional funding Montana Housing fund and Housing Trust Fund, administered by the DOC.

The Subtask Group members recommend legislation during the 2023 legislative session that creates a Montana State Tax Credit Program, as well as creates long-term public and private endowments, and loans.

The Subtask Group members are also recommending further expansion of uses of Coal Trust.

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**DISSENTING OPINIONS:**

Directing federal ARPA funds towards fee reductions for large scale housing development would be immediately impactful because developers are already eager, and they are ready to build but development costs are too high in Montana's current market.

By directing the federal ARPA funds to pay the fees to Montana's local communities, it contributes to that community's surrounding infrastructure and improvements, further supporting counties and municipalities and creating needed housing in those communities.

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**SUPPORTING GRAPHICS:**

The DOC has a graphic that provides current data on statewide housing needs.



## Montana's Affordable Housing Need

*Very Low Income (VLI), Extremely Low Income (ELI)*

137,320	Total Number of Renter Households (31%)
56,727	Number of VLI Renters (41%)
67%	VLI Cost Burdened
23%	VLI Severely Cost Burdened
33,598	Number of ELI Renters (24%)
83%	ELI Cost Burdened
64%	ELI Severely Cost Burdened
-18,538	Affordable and Available Renter Households for ELI Renters

*Source: 2022 The DOC*

### 1C Create Legislation Directed at Development of Certain Lands

#### **RECOMMENDATION:**

The Subtask Group members recommend the creation of legislation establishing criteria by which certain eligible entities can select and sell certain parcels of land (e.g. university system land) at below-market prices (or free) in order to improve affordability and increase the density of housing supply. Lands in this context do **not** include state trust lands, Montana Department of Fish, Wildlife and Parks (FWP) lands, federally managed public lands, etc.

This use of certain lands as an incentive may decrease development costs. The reduction in land price mitigates a significant development cost, allowing for lower rents and greater affordability, increasing the housing supply.

Subtask Group members also separately recommend looking at brownfields and state trust land (for example, the state-leased land, north of Kalispell, which is utilized for commercial development) and explore opportunities for housing.

#### **RATIONALE:**

In Montana, “land is more valuable than oil” and to increase housing supply, this will directly create incentives for targeted types of housing development.

Certain lands sold at a below-market price in exchange for affordability lowers the

cost of development and allows for lower rents.

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**BARRIERS ADDRESSED:**

Incentives of this nature can contribute to affordability through both direct and supply approaches. Minimizing a significant cost to development could allow for the creation of more affordably priced units. Certain lands could be utilized for a spectrum of housing types, and specifically to contribute to the overall supply of rental units, which can improve affordability.

---

**KEY STRATEGIES:**

Legislation should be drafted in the 2023 legislative session to support this recommendation.

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**DISSENTING OPINIONS:**

The Subtask Group, as mentioned above, is interested in exploring state trust lands for potential housing opportunities. It is worth noting that the Trust Land Division of the Department of Natural Resources and Conservation (DNRC), through The Land Board, is mandated by the Montana Constitution to receive full market value from state land. This trust principle has been upheld time and time again through the courts. Notably, in a Montana Supreme Court case called MonTrust, DNRC was permanently enjoined from selling commodities at less than full market value. As such, state trust lands could not be sold for a reduced or free price.

Further, care will be taken to educate lawmakers that the proposal is not relating to selling coveted public lands (e.g. FWP lands, federally managed public lands, etc.) in an effort to build housing, but other types of publicly available property, more often associated with density development.

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**1D      Reformation of State Tax Laws May Be Needed to Incentive Housing Development and to Reduce Property Taxes of Residential Homeowners**

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**RECOMMENDATION:**

At its core, America's housing crisis has resulted due to the nation's perennial failure to build enough homes. As of last year, Freddie Mac estimated [freddiemac.com] that the country needs an additional 3.8 million homes to meet demand, and Montana's housing stock is in crisis.

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**RATIONALE:**

The Subtask Group heard from not only housing developers and housing advocates, but also local government leaders, and their message was clear:

Montana's state tax policies may be contributing to overall impediments in meeting the State's urgent need to increase the overall housing supply.

The Subtask Group also heard from statewide county officials and city leaders, representing different political stripes, and hailing from all corners of the state and Tribal Nations, and they uniformly sought reformation to tax policy that is both fair to taxpayers, but also adequate enough to provide the local infrastructure needs that can better incentivize private developers to build housing options in their communities.

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### **BARRIERS ADDRESSED:**

The summary was understood as follows:

Montana does not have a sales tax like most other states, so Montana's local governments and schools rely heavily on property tax for needed revenue. Montana's effective tax rate for property tax is lower than the national average. Montana generates a large portion of its total taxes from property tax (40%), compared to the national average of 31%.

Property taxes paid by residential homeowners comprise almost half of all property taxes in Montana. In fact, Montana homeowners have seen an increase in the share of property taxes they pay compared to other classes of property.

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### **KEY STRATEGIES:**

The state legislature caps the amount local governments can raise from property taxes. When the Legislature cuts the tax rates for some property classes, the total taxable value in the entire local government decreases. When the taxable value goes down, so does the amount of revenue for that local government. To maintain revenue levels to support infrastructure at the local level, the local government raises its mill levies on all property owners, specifically residential property owners.

The increased mill levies are then applied to the remaining property in the local government's jurisdiction, most significantly again, to residential property. As a result, local revenue remains constant, but the obligation to support local government functions shifts to homeowners and other property owners.

Montana's property tax system provides important funding for the development of housing, including to support infrastructure like sidewalks, roads, and bridges, but also for other local services like fire protection and education. Our state legislators have a very important role in deciding how our property tax system works.

The Department of Revenue's (DOR) role to reappraise property in the state ensures a fair system of valuing property for purposes of taxation. More solutions are needed to support local governments' role in providing the infrastructure needed to support housing development.

#### **DISSENTING OPINIONS:**

The Subtask Group heard a number of proposed solutions and while there was not consensus among its members to provide a single recommendation, the Subtask Group was able to agree that issues relating to tax reformation at the state level are needed and must be continued to be explored.

While the Subtask Group felt tackling the state's overall tax policy structure fell out of the purview of their directed work, we are recommending the state legislature continue to craft solutions that can support the infrastructure local governments need in their supportive effort to provide for development of housing in Montana and decrease property taxes for residential property owners.

## **Local Issues Subtask Group**

### **2 LOCAL ISSUES: RECOMMENDATIONS, EXPANDED**

#### **2A Prohibit Residential Min. Lot Size Requirements Larger Than 2,500 Sq. Ft.**

#### **RECOMMENDATION:**

Prohibit residential minimum lot size requirements larger than 2,500 square feet in areas that are served by public sewer and water systems. To make this small lot development feasible to build, we recommend:

- Any density restriction allowing fewer than 18 units per acre can be treated as allowing 18 units per acre.
- Any lot width requirement greater than 25 feet can be treated as requiring 25 feet.
- Any lot depth requirement greater than 100 feet can be treated as requiring 100 feet.
- If a locality does not regulate density, lot size, width, or depth, this does not impose a new requirement.
- Define "small lots" as those less than 4,000 square feet.



- Small lot privileges:
  - o Localities can set small lot setbacks up to 10 feet front and rear, up to five feet side. Localities can also allow attached housing with no side setbacks on small lots.
  - o Localities cannot require more than one parking space per unit and cannot mandate covered parking or off-site parking for small lots.
  - o Localities cannot require more than 40 percent open space or permeable surface on a small lot.
  - o Localities cannot set a height limit below three stories on a small lot.
- In cases where small lot construction would violate historic preservation rules, deed restrictions, or Home Owner Association (HOA) rules, they need not be allowed.

---

**RATIONALE:**


The legislature could consider limiting localities' authority to require large lot sizes for new housing. One way this could be achieved is by amending to §76-2-302 of the Montana Code Annotated (MCA) to set a maximum minimum lot size requirements of 2,500 square feet along with the corresponding limitations listed above. Large minimum lot size requirements are one of the primary zoning tools that drive up housing costs because they set a high floor on the cost of building a new house, particularly in places where land is expensive. Since localities have the authority to regulate land use because the State delegates them this police power for the purpose of protecting health, safety, and the general welfare, the State has a role to set limits on local land use restrictions that exceed this authority.

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**BARRIERS ADDRESSED:**

Minimum lot size requirements mandate sprawling development that prevents walkability and makes transit and bicycle infrastructure difficult to provide. Larger lots require more infrastructure for streets, sidewalks, lighting, sewer, and water for each household, requiring more local government spending and higher taxes as a result. Minimum lot size mandates that match lot sizes on the ground prevent neighborhoods and localities from accommodating more households over time as demand for housing increasing, necessitating that new housing construction eats up agricultural land or open space at the outskirts of cities and that residents of new housing have to drive further to reach job centers and daily necessities.





Setting a limit on local minimum lot size requirements does not mean that new housing on larger lots would be banned, it simply means that property owners and homebuyers have the right to build and live on smaller pieces of land if they choose to. Setting limits on lot size requirements is not a one-size-fits-all solution; on the contrary, it would allow property owners to put their land to higher value uses as market conditions change in their neighborhoods.

---

#### **KEY STRATEGIES:**

Draft legislation that would have bipartisan support to amend §76-2-302, MCA to set a limit on local minimum lot size requirements for residential lots and limit other barriers to construction on small lots.

---

#### **DISSENTING OPINIONS:**

While many members of the task force and the public support recommendations 2A and 2B, some members of the task force and members of the public who provided comments to the task force oppose state limitations on local authority to regulate land use. Some of their concerns are detailed below.

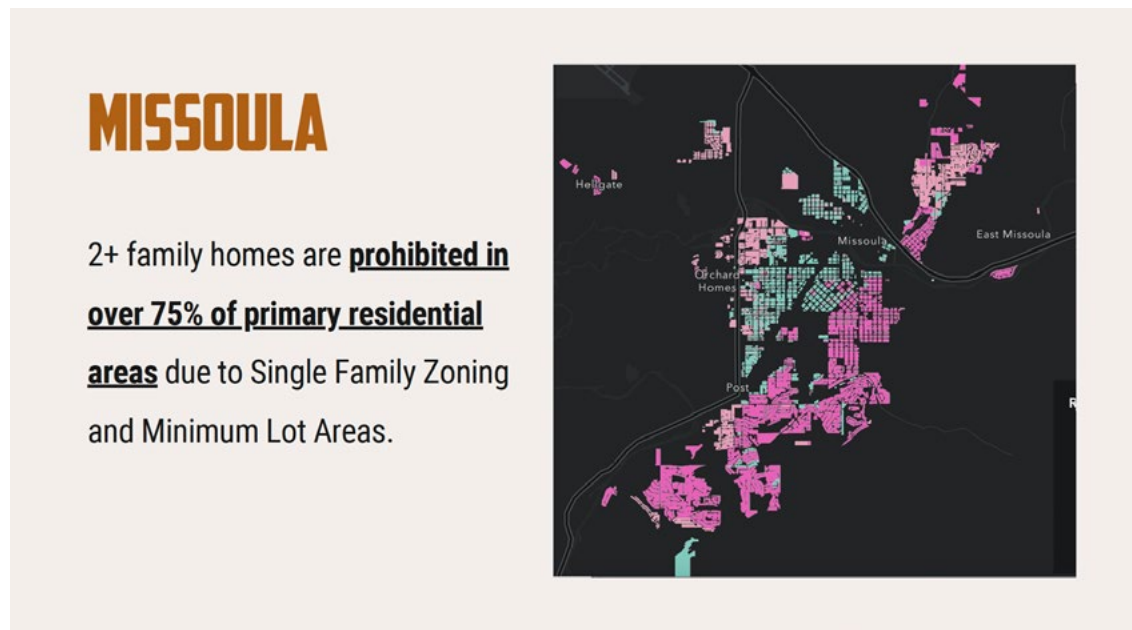
Imposing or limiting zoning requirements infringes on historically, and inherently, local decisions. Montana's city, town, and county elected officials are on front lines of issues in their community including affordable and safe housing and providing services to residences. They are directly responsible for their decisions to their communities. While zoning reform is a worthwhile discussion, it is one that cannot be "one size fits all."

Removing local government's ability to shape where certain development patterns are most appropriate creates uncertainty in the management and delivery of basic public services, such as emergency services, transportation, and utilities. Recommendations 3A and 3B have not been analyzed according to Montana's "criteria and guidelines for zoning regulations" found in §76-2-304, MCA. Those criteria are inherently local.

## SUPPORTING GRAPHICS:



*Note: Small-lot single-family construction and duplex that would be made possible across the State with lot size reform in Missoula. Photo by Adam Hertz.*



*Image by Kendall Cotton and Mark Egge, Frontier Institute.*

## 2B Allow Accessory Dwelling Units (ADUs) on All Single-Family Residential Lots

### **RECOMMENDATION:**

Require localities to allow ADUs on all single-family residential lots that are served by public sewer and water systems. To make ADUs feasible to build, we recommend:

- Localities must allow owners of land where a single-family house is allowed to build an ADU and use it as rental housing.
- Localities must allow ADUs to be built before, after, or concurrently with the primary dwelling.
- Localities may not enact an owner occupancy requirement for property owners who wish to rent out either their ADU or primary dwelling.
- Localities may not require parking for ADUs.
- Localities may not require a minimum lot size for an ADU that is larger than the minimum lot size required for a single-family house in a given district.
- Localities may not require side or rear setbacks for ADUs larger than five feet.
- Localities may not prevent a homeowner from converting an existing structure to an ADU by requiring setbacks larger than the current structure's setbacks.
- Local growth restriction rules or density limitations will not apply to ADUs.
- Local governments may not set limits on the square footage of ADUs other than preventing them from being larger than the primary dwelling unit, provided that other limitations on massing are met.
- Localities may not charge impact fees larger than the American Association of Retired Persons (AARP) suggested limits.
- Local limits on height, front setback requirements, lot coverage, site plan review, and other zoning requirements generally applicable to residential construction for the zone where the ADU would be built will apply to the ADU unless prohibited.
- In cases where an ADU would violate historic preservation rules, deed restrictions, or HOA rules, they need not be allowed.

### **RATIONALE:**

The legislature could consider limiting localities' authority to ban ADUs on lots that include a single-family residential unit. One way this could be achieved is by

amending to §76-2-302, MCA to eliminate local bans on ADUs in single-family zones from localities' authority. In some states where policymakers have legalized ADUs, these units have become an important source of new, relatively low-cost housing supply.

---

**BARRIERS ADDRESSED:**

Legalizing ADUs across Montana would reduce barriers to homeowners using their property to generate income, facilitate a potentially important source of relatively low-cost rental housing, and reduce barriers to intergenerational living. The AARP is one of the most important nationwide advocates for ADUs because of the opportunities they present for retirees to earn income and build accessible housing. This recommendation is largely based on AARP's Model Local Ordinance for ADUs.

---

**KEY STRATEGIES:**

Draft legislation that would have bipartisan support to amend §76-2-302, MCA to establish that localities do not have the authority to ban ADU construction on residential lots with single-family houses.

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**DISSENTING OPINIONS:**

The dissenting opinions detailed under 3A above apply here as well.

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**2C Re-write the Montana Subdivision and Platting Act**

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**RECOMMENDATION:**


Re-write the Montana Subdivision and Platting Act (MSPA) to meet the demands of the 21st Century.

- Front load subdivision planning and public process by requiring a more robust comprehensive planning process to address growth.
- Require the local comprehensive plan to contain an analysis of housing needs and what actions the local government will take so its regulations accommodate housing needs.
- Require local zoning to more closely match the local comprehensive plan.
- Once there has been a robust public process for growth planning through the comprehensive plan, make the subdivision process administrative.

---

**RATIONALE:**

The stated purpose of the MSPA (Title 76, Chapter 3, MCA) is to promote orderly development and protect public health and safety. The MSPA requires local



governments to adopt subdivision regulations that are consistent with state law. Subdivision regulations are one of the three basic legal elements local governments are authorized to use to address growth and development. Comprehensive plans (or growth policies) and zoning regulations are the other two. The MSPA was first enacted in 1973 with minor changes and exemptions being enacted in 49 years that have since passed. The subdivision process prescribed by the MSPA often places an unnecessary burden on local governments while creating significant uncertainty and expense for the development community. In addition, members of the public often find themselves frustrated by the public involvement that comes near the end of the process rather than upfront. From the development community to city planners to the public, there seems to be widespread agreement that the MSPA is in need of a major overhaul to meet the demands of the 21st Century.

---

**BARRIERS ADDRESSED:**

Montana's housing shortage is in large part due to the difficulty of bringing new housing to market. It's not uncommon for the subdivision process, from concept to final plat, to take several years in some Montana communities. Oftentimes, that process ends with a denial, unrealistic conditions that make the subdivision uneconomical or expensive, or time-consuming lawsuits. Local governments incur significant expense and valuable staff time while developers face major uncertainty and expense. A more streamlined process that protects the public health and safety while reducing the administrative burden and uncertainty will allow the development community to work together with local governments and the public to bring more housing to market.

---

**KEY STRATEGIES:**

Draft legislation to re-write the MSPA consistent with the recommendations and work already underway in the Land Use Working Group.

---

**DISSENTING OPINIONS:**

Implementation of a new MSPA will require a major shift in process from re-writing local growth policies into comprehensive plans, followed by implementation of the newly prescribed processes for local government planning offices, private planners, engineers and developers. While this change is an urgent need, it is a significant change that will take several years to implement. Providing some level of state assistance, whether through staff time and/or funding, to help local governments navigate the new comprehensive planning process and MSPA would help speed up implementation.



## 2D Enact a State Affordable Housing Tax Credit Tied to Local Zoning Reform

### **RECOMMENDATION:**


Enact a State Affordable Housing Tax Credit Tied to Local Zoning Reform. In order for the Montana Board of Housing to allocate tax credits to a project in a city or county, 65% of the city or county's residentially zoned areas served by wet utilities must meet the following criteria:

- Allow single family homes, duplexes, triplexes, fourplexes and 5+ unit apartment buildings by right (no conditional use permits, requirements for Planned Unit Development's (PUD), etc.)
- Allowable maximum density of 1,000 square feet of land (or less) per housing unit.
- Allow no less than a four-story height limit.
- Require no more than one parking spaces per unit.
- Require no more than five-foot setbacks.
- Require no more than 2,500 square foot minimum lot sizes.
- Require no more than 11% of the total square footage of land be used for landscaping, activity area or open space.
- Enable accessory dwelling units by right.

In measuring the percentage of a city or county's residentially zoned areas that meet said criteria, the city or county shall divide the residential zoned areas that meet said criteria by the total area of all residential zoning districts. Commercial or industrial districts that meet said criteria shall not be counted towards the required percentage. Unzoned areas that allow for development meeting the criteria shall count towards the required percentage.

### **RATIONALE:**

Montana's supply of rental property is inadequate to meet demand, both at the market rate and subsidized rates for low income and very low-income Montanans. This recommendation meets the needs of both markets by creating opportunity for more subsidized housing, but only in areas where local governments are willing to address the zoning barriers currently limiting the supply of housing. If a city or county wishes to not participate in the type of zoning reforms proven to bring more housing supply to market, the State will not subsidize housing within that jurisdiction. Alternatively, if a city or county does enact zoning reforms proven to



bring more housing supply to market, the State will reward that jurisdiction by making it eligible for tax credit allocations to developments within said jurisdiction.

---

**BARRIERS ADDRESSED:**

Increase the supply of housing, both at market rates and subsidized rates, for rent and for sale and in rural and urban communities.

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**KEY STRATEGIES:**

Draft legislation to enact a state affordable housing tax credit tied to local zoning reform.

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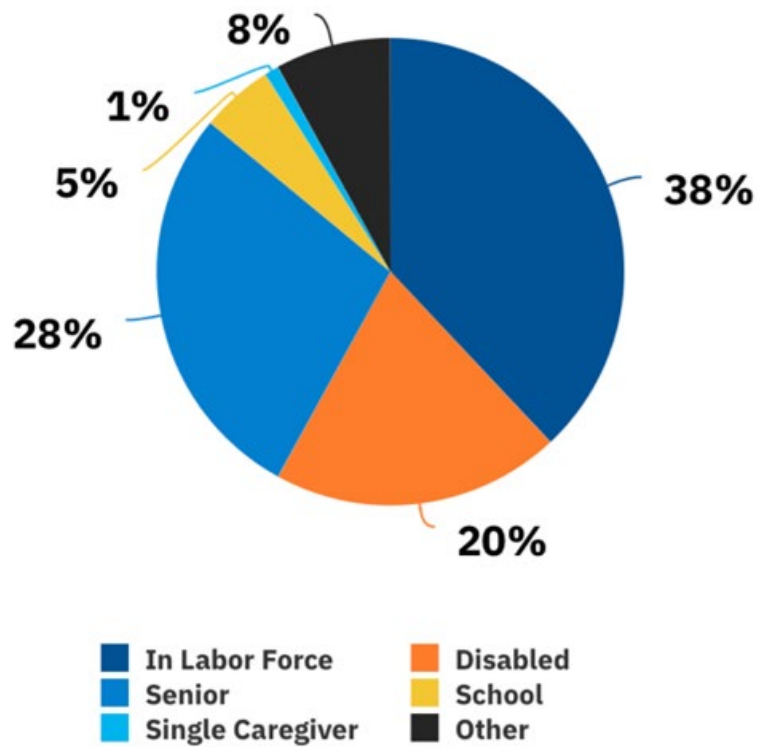
**DISSENTING OPINIONS:**

Our Subtask Group heard from Task Force members and members of the public that had concerns about the State preempting local zoning. In hearing those concerns, we've developed this idea as an incentive for rezoning rather than state preemption of local zoning.

---

SUPPORTING GRAPHICS:

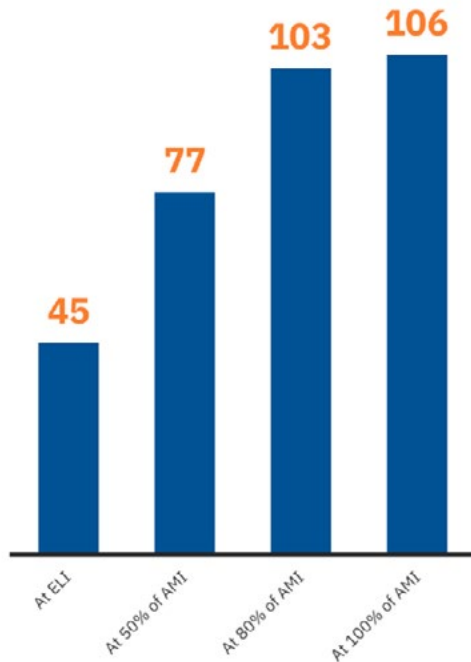
## EXTREMELY LOW INCOME RENTER HOUSEHOLDS



**Note:** Mutually exclusive categories applied in the following order: senior, disabled, in labor force, enrolled in school, single adult caregiver of a child under 7 or a person with a disability, and other. At the national level, 15% percent of extremely low income renter households include a single adult caregiver, more than half of whom usually work more than 20 hours per week. Eleven percent of extremely low-income renter households are enrolled in school, 48% of whom usually work more than 20 hours per week.

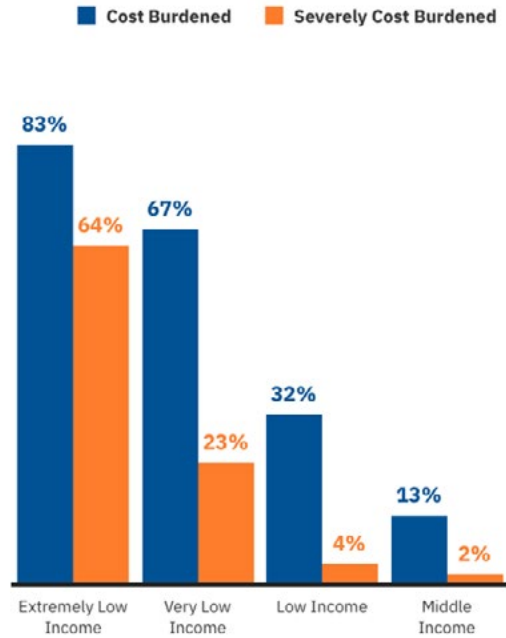
**Source:** 2020 5-Year ACS PUMS

**AFFORDABLE AND AVAILABLE  
HOMES PER 100 RENTER  
HOUSEHOLDS**



Source: NLIHC tabulations of 2020 5-Year ACS PUMS

**HOUSING COST BURDEN BY  
INCOME GROUP**



**Note:** Renter households spending more than 30% of their income on housing costs and utilities are cost burdened; those spending more than half of their income are severely cost burdened.

Source: NLIHC tabulations of 2020 5-Year ACS PUMS

*Graphics from the National Low Income Housing Coalition*

## 2E Provide for Housing Infrastructure Grant Program

### **RECOMMENDATION:**

Enact a housing infrastructure grant program to assist cities and counties with the construction of water, sewer and street extensions to serve the creation of high-density housing. In order for the state to allocate grant funds to a project, 100% of the area served by the new infrastructure must meet the following zoning criteria:

- Allow single family homes, duplexes, triplexes, fourplexes and 5+ unit apartment buildings by right (no conditional use permits, requirements for PUD's, etc.)
- Allowable maximum density of 1,000 square feet of land (or less) per housing unit.
- A minimum density of no less than eight units per acre.
- Allow no less than a four-story height limit.

- Require no more than one parking space per unit.
- Require no more than five-foot setbacks.
- Require no more than 2,500 square foot minimum lot sizes.
- Require no more than 11% of the total square footage of land be used for landscaping, activity area or open space.
- Enable accessory dwelling units by right.

In measuring the percentage of the project area that meet said criteria, unzoned areas that allow for development meeting the criteria shall count towards the required percentage. Nothing in this zoning criteria should be construed as disallowing commercial and/or mixed-use development.

---

**RATIONALE:**

Montana's supply of housing is inadequate to meet demand, leading to price increases that strain Montanans' ability to afford rental housing and put home ownership out of reach for many Montanans. Two of the significant challenges preventing new housing supply are the cost of infrastructure to serve new housing development and zoning regulations that prevent the construction of more affordable housing types. This recommendation addresses both challenges by providing infrastructure funding to incentivize development while also ensuring those dollars are well spent by ensuring fewer dollars are required per unit of housing built.

---

**BARRIERS ADDRESSED:**

Create more housing development opportunities with a variety of housing types in order to increase the supply of housing in both small and large communities.

---

**KEY STRATEGIES:**

Draft legislation to enact a state infrastructure grant program with local zoning reform requirements.

---

**DISSENTING OPINIONS:**

Our Subtask Group heard from Task Force members and members of the public that had concerns about the State preempting local zoning. In hearing those concerns, we've developed this idea as an incentive for rezoning rather than state preemption of local zoning.



## Regulatory & Permitting Subtask Group

### 3 REGULATORY & PERMITTING: RECOMMENDATIONS, EXPANDED

#### 3A Amend State Law to Streamline Local Permitting

##### **RECOMMENDATION:**

Amend state law to enable streamlined local adjudication of development applications, including through removing requirements for redundant public hearings, faster effective dates for zone map amendments, consent approval of unopposed development actions, administrative approval of final plats, and statutory timelines for building permits.

##### **RATIONALE:**

Pending a full rewrite of Montana's Subdivision and Platting Act (see Recommendation 2C), the cumulative impact of these small changes will be a permitting environment in Montana that is faster, more efficient, and more predictable - while moving toward a management approach that is more focused on front-end engagement (when developing and adopting policies) and more administrative in implementing adopted policies.

- Duplicative public hearings on development actions between a local appointed board and the local elected legislative authority extends development timelines and burdens agency staff, the applicant, and participating members of the public with redundant hearings.
- Allowing zone map amendment decisions implementing existing land use policy to be adopted by resolution (rather than ordinance) would eliminate 45 days of procedural waiting (minimum of 15 days for second reading, and 30 days delayed implementation).
- Timelines to obtain a building permit and other common development applications vary significantly between jurisdictions without justification in terms of complexity or quality of review. Establishing a reasonable timeline within which a decision must be rendered will improve predictability and accountability.
- In some cases, the limiting factor on timelines to approve proposed development actions is the availability of time on the agenda of the local elected body. These public hearings are seldom anything other than a rubber stamp review. Allowing these items to be placed on a consent agenda will eliminate instances in which a development application is delayed for a rubber stamp

hearing due to a lack of available time slot on an agenda.

- In most cases reviewing of existing zoning regulations are sufficient to achieve the purposes of Montana's Buildings for Lease or Rent (BLR) statute. Requiring an additional BLR review often adds to the complexity, expense, and duration of a review process without providing additional consumer or environmental protections.

---

#### **BARRIERS ADDRESSED:**


Local adjudication of proposed development actions may take months or years, delaying and adding expense or altogether eliminating projects that would otherwise contribute to Montana's housing stock. Streamlining and expediting local approval of development applications will reduce development costs while improving predictability and transparency in local review processes.

---

#### **KEY STRATEGIES:**

Review the changes suggested below with key stakeholders (such as the Land Use Working Group, the Montana League of Cities and Towns, and Montana Association of Counties) to ensure that the proposed changes correctly target local implementation of permitting processes. Then, draft and introduce a bill to amend Title 76, MCA Land Resources and Use, Chapters 1 – 4 to enable streamlined local adjudication of development applications, including:

1. Allow cities and counties to consolidate required public meetings/hearings for development applications (such as zone map amendments) to a single public meeting (in the same manner of a SB 161 expedited subdivision review.) Local municipalities may still, at their discretion, require hearings with both an appointed board (planning board, zoning commission, or combined planning board and zoning commission) and the local legislative authority.
2. Allow zone map amendments (implementing existing adopted plans and zoning text) to be made by resolution rather than ordinance. (All changes to zoning text or policy would still require establishment by ordinance.)
3. Establish statutory timelines for building permits and other common development applications and clearly define which application elements are necessary for an application to be deemed adequate for review.
4. Allow localities to provide consent approval of preliminary plat, zone map amendment, and conditional use permit applications (subject to procedural requirements of consent agenda items). Allow administrative approval of final plats.

- 
5. Expand exemptions to Buildings For Lease Or Rent (§76-8-103, MCA) to include all areas where zoning regulations exist that address the intent of the statute through removing some provisions of §76-8-107, MCA.

---

**DISSENTING OPINIONS:**

Some might interpret eliminating redundant public hearings as reducing citizens' constitutional right to know and participate. Building on the model of SB 161, these changes would improve the quality of participation opportunities over the quantity to achieve expedited review.

Implementing statutory timelines may result in a "Queen's Gambit" scenario in which agencies rush to find a reason to put the permit back in the applicant's court. Any adopted statutory timeline, if any, should provide a reasonable allowance of time for review.

---

**3B Remove Bans on Multifamily Housing**

**RECOMMENDATION:**

In cities of at least 5,000 residents, allow duplexes where single family-residences are allowed. In cities of at least 50,000 residents, allow duplexes, triplexes, and fourplexes where single-family residences are allowed.

---

**RATIONALE:**

Over 70% of primary residential areas in Montana's most in-demand communities either outright prohibit or penalize affordable multi-family housing development. These strict local zoning regulations exclude low and middle-income residents and worsen Montana's housing shortage. This pro-housing reform will give landowners the option to create new dwelling units where they are needed most, at no additional cost to taxpayers.

---

**BARRIERS ADDRESSED:**

Lack of available infrastructure is a critical barrier to the creation of housing. Allowing modest and gradual additions of housing units (especially through internal divisions, back yard additions, etc.) in areas already served by existing infrastructure is fiscally responsible, fair, and cost effective. Wise and efficient use of existing infrastructure allows for some of Montana's housing needs to be met without the need for building (and financing) additional road, water, and sewer infrastructure.

---

**KEY STRATEGIES:**

Draft and introduce a bill similar to HB 134 from the 67th Legislature with delayed effective date of January 1, 2024.

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**DISSENTING OPINIONS:**

Some Task Force members and the public have expressed that they wish for localities to maintain existing all authority. Local jurisdictions and their representatives may object to the loss of local control to maintain existing ban on multifamily housing.

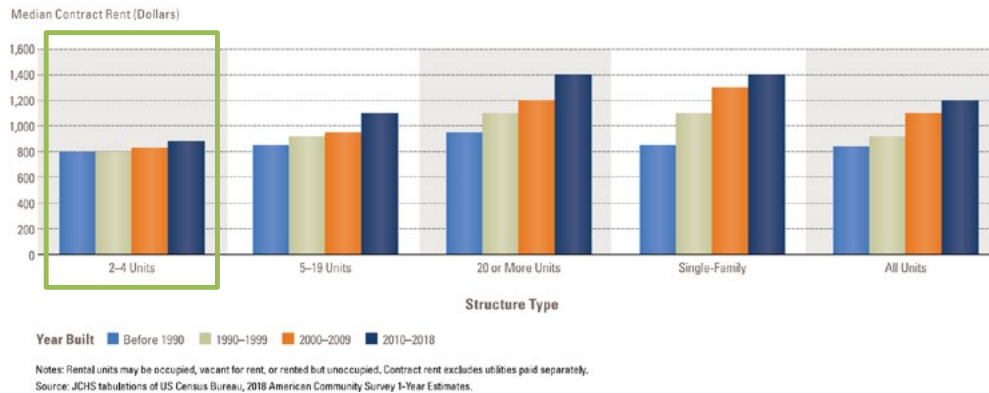
Although the change would mark a return to development norms that prevailed for centuries prior to the introduction of single-family zoning, some property owners will express opposition to other owners exercising property rights in a manner that differs from an expectation established by zoning at the time their property was purchased.

---

**SUPPORTING GRAPHIC(S):**

*Triplexes (like the one pictured) contribute to the character of neighborhoods but are banned from a majority of residential areas already served by existing infrastructure.*

## Small multifamily has most affordable rents, but often prohibited by local zoning



THE PEW CHARITABLE TRUSTS

pewtrusts.org

### 3C Eliminate Regulatory Barriers to Housing Construction within Cities

#### RECOMMENDATION:

Modify municipal zoning laws to establish best-practice limits on local zoning regulations not directly related to public health and safety, such as prescribing building and site design elements (e.g. color or exterior materials), requiring very large parcels, or exaggerated parking requirements. Refer to Appendix A3e and Recommendation 2A for specific suggestions and recommended applicability.

#### RATIONALE:

The State grants cities and counties authority to implement zoning to promote public health, safety, and the general welfare. Some local jurisdictions exercise this authority in ways that directly or indirectly inhibit the creation of housing (especially more affordable types of housing) unrelated to public welfare, such as through requiring costly exterior materials such as brick cladding or dictating design decisions that increase the cost of construction or ability to design in response to specific site constraints. Updating the State's municipal zoning enabling statute (§76-2 Part 3, MCA) to reflect modern best practices of for local zoning will ensure that zoning continues to promote public health and safety without unduly inhibiting the creation of housing.

#### BARRIERS ADDRESSED:

This recommendation limits local regulations that unduly inhibit or increase the cost





of development for reasons unrelated to public health and safety. This both reduces costs and increases the development potential of land already served by municipal infrastructure.

Finally, this lowers total cost of construction by preventing cities from requiring costly aesthetic building and site design elements that the consumer may not desire.

---

#### KEY STRATEGIES:

Draft and introduce a bill, such as the Utah Code 10-9a-534 provisions of 2021 Utah omnibus bill HB1003, to modify §76-2-304 or §76-2-302 (6), MCA to establish sideboards on the requiring building design elements, effective lot size minimums, and minimum parking requirements. Drafting of the bill should consult members of the Housing Task Force and key stakeholders such as the Montana Association of Planners.

---

#### DISSENTING OPINIONS:

Some Task Force members and the public have expressed that they wish for localities to maintain all existing authority, including to prescribe building design elements and to maintain other zoning policies unrelated to public health and safety. As in the case of Utah Code 10-9a-534, targeted exclusions and carve outs may be appropriate where applied to existing neighborhoods.

---

#### SUPPORTING GRAPHIC(S):

## Research consensus: Strict zoning regulations increase costs, reduce growth

In jurisdictions that heavily regulate their housing supply...

- Large minimum lot sizes
- Single unit per lot limits
- Strict parking and floor-area requirements
- Apartment bans
- Long or conditional permitting process



Housing costs are higher



Economic growth is slower



Fewer homes are built



### 3D Require Short-term Rental Reporting

#### **RECOMMENDATION:**

Create a reporting program to publish aggregated short-term rental revenues and the locations of tax-remitting public accommodations. To be clear, this recommendation is that communities and policy makers should have data about where short-term rentals are being operated. That's all. No restrictions or limitations on Short-term Rentals (STRs) are being proposed in this recommendation, except that the location of privately operated short-term rentals be disclosed when the lodging taxes are paid.

#### **RATIONALE:**

Better information about the number and distribution of STRs will disambiguate communities where STRs are significantly contributing to local workforce and community housing shortages versus communities where STRs are merely a politically expedient boogeyman. Available evidence suggests that short term rentals are a substantial issue in many of Montana's gateway communities. Better information will help develop and monitor solutions to balance tourist accommodations with housing for workforce and community members.

The (DOR) currently collects Lodging Facilities Use bed tax for STR stays booked through major STR platforms such as Vrbo and Airbnb. Short-term rental tax revenue data was prepared and provided by the DOR for this report, providing monthly revenue by county and for Montana's seventeen Convention and Visitors Bureau destinations. A snapshot of some of this data is provided in the charts shown below.

Some cities have existing STR ordinances, requiring public health and fire safety inspections, and limiting where full-time STRs may be located. Enforcement is undermined by the limited ability of local governments to identify non-compliant rentals.

#### **BARRIERS ADDRESSED:**

Knowledge gaps in determining the causes and monitoring the impacts of tourist accommodations on local workforce or community housing.

#### **KEY STRATEGIES:**

Work with the DOR to produce and publish a monthly report or dashboard of aggregated Lodging Facility Use Tax revenues and number of remitters by county

and Convention and Visitors Bureau area from sources reported by Airbnb, Vrbo, Hipcamp, and other identified short-term rental platforms.

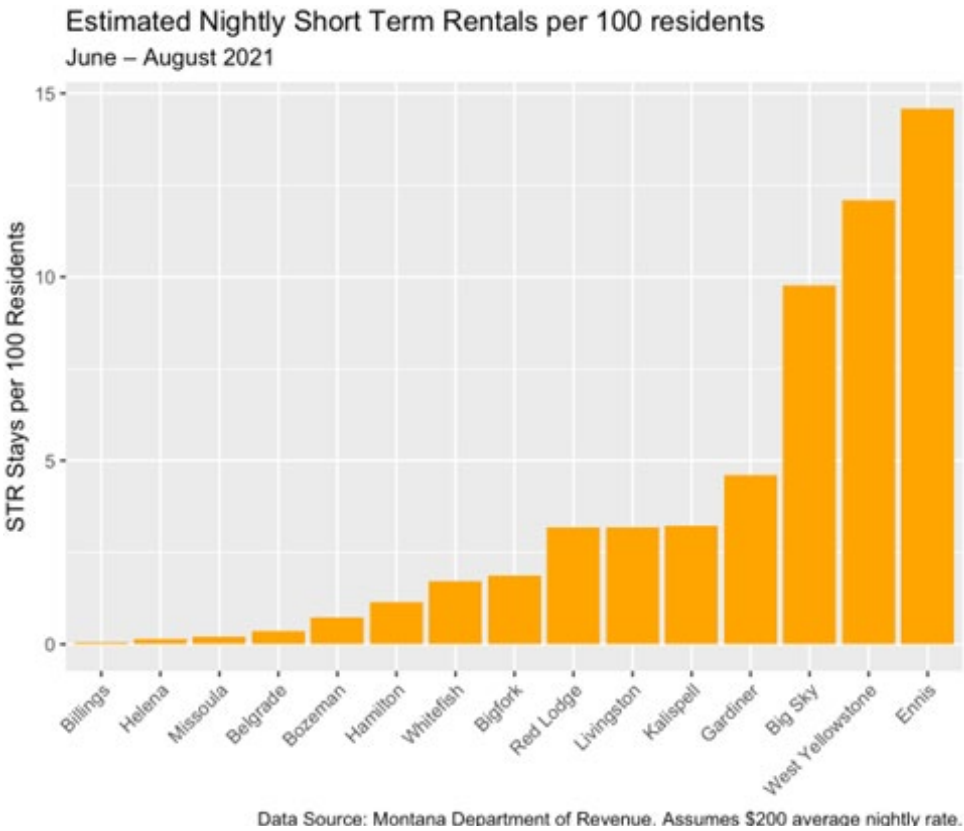
Develop a reporting program to report the physical locations of active public accommodations facilities (including short-term rentals). This reporting program should include quarterly reporting from the DOR of the physical locations associated with Sales and Use Tax Permits remitting Lodging Facility Sales and Use taxes and/or annual reporting from the Department of Health and Human Services (DPHHS) of the Establishment Location Addresses for issued Public Accommodations licenses. Such reporting may require legislative action to amend the MCA to permit such disclosures.

**DISSENTING OPINIONS:**

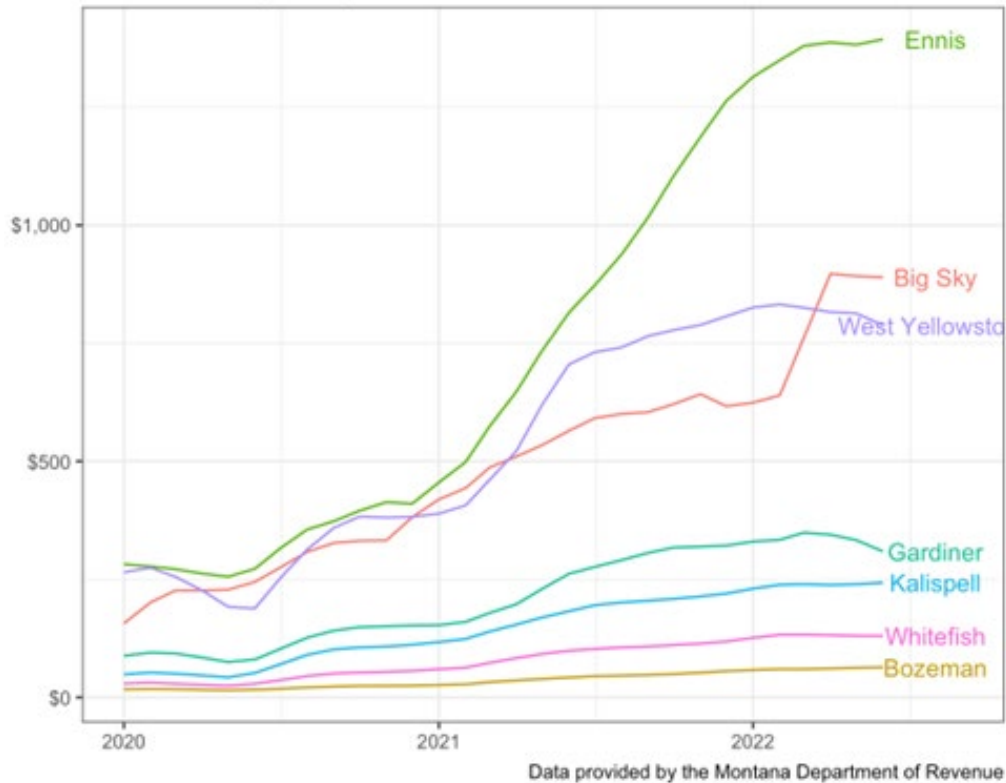
Generalized state reporting on aggregate tax revenues will only provide a relative measure of the extent of operating STRs.

Privacy concerns over the use of tax data to monitor compliance with STR ordinances may generate push back.

**SUPPORTING GRAPHIC(S):**



Short-Term Rental Gross Receipts per Resident  
12-month Rolling Average



## Construction Subtask Group

### 4 CONSTRUCTION: RECOMMENDATIONS, EXPANDED

#### 4A Maximize Existing Infrastructure and Infill Development Through Incentives

##### RECOMMENDATION:

Maximize existing infrastructure and infill development by providing incentives to municipalities to examine existing restrictive zoning and covenants.

##### RATIONALE:

More communities across the State are considering updates to zoning laws which would provide greater densities within municipal boundaries. By addressing lot size minimums, lot coverage, building height, parking requirements to balance livable communities with housing demands, communities can maximize existing infrastructure (sewer/water, roads, fire and police service, electrical grid etc.) to meet

the rising need for homes in Montana.

#### **4B Prioritize State Investment In Sewer/Water Infrastructure**

**RECOMMENDATION:**

State investment in sewer/water infrastructure throughout the State. Investment prioritized to communities which maximize density.

**RATIONALE:**

Montana should consider financial investments in infrastructure as a foundational requirement for prudent development across the State. Communities across the State are in desperate need for sewer/water infrastructure to expand the growing need for housing. Local planners often have little in the toolkit to incentivize development within the urban growth boundaries of towns. This creates unfortunate and contentious relationships between planning professionals and developers. By investing in water/sewer infrastructure the State puts tools in the hands of urban/rural/tribal authorities to meet the needs of their respective communities.

#### **4C Expand Investment in Workforce Development**

**RECOMMENDATION:**

Expanded investment in workforce development, trades programs, high school programs, and marketing campaigns which elevate trades education and career paths throughout the State.

**RATIONALE:**

The State should consider measures to expand trades education throughout the State, including funding for high school house programs and marketing campaigns to elevate trades careers.

#### **4D Encourage Innovative Methods in Home Construction**

**RECOMMENDATION:**

Encourage innovative methods in home construction, including considering incentives to developers who include homes serving incomes <80% Area Median Income (AMI) and home construction methods which provide for more homes which meet higher energy efficiency, incorporate solar, and visitability standards.

**RATIONALE:**

With building material prices on the rise, along with supply line shortages, there is need for expanded innovation in home construction to accelerate home



construction, increase energy efficiency, and expand homes which at minimum meet visitability standards for those with mobility challenges.

#### 4E Encourage Collaborative Relationships Between the Public/Private Sectors

**RECOMMENDATION:**

Encourage collaborative relationships between the public and private sectors in expanding housing opportunities throughout the State.

**RATIONALE:**

There is a contentious relationship which often exists between builders and developers and the planning and code enforcement staff of local municipalities. The success of home building in Montana depends on these entities recognizing each other's unique expertise and position in the development of communities. Planning and code enforcement are essential to the prudent development of communities prioritizing the needs of the whole community in the present and future. At the same time, restrictive zoning, the lack of public infrastructure, increases in materials prices and onerous development standards put challenges in the way of developer's cash flowing development. In the second recommendation we laid out how the State can provide a tool in the toolkit of local planners to better work with for profit developers while incentivizing density and sound development practices which prioritizes density.


**BARRIERS ADDRESSED:**

*(relates to all recommendations above)*

The barriers addressed are the lack of infrastructure across the State, addressing restrictive zoning and covenants which impeded infill development on existing infrastructure, the need to for expanded innovation in home construction methods to address material shortages, increases in energy costs, and the need for more homes which can serve all individuals and families. The trades workforce is in increasing short supply, with the need for the State to continue and expand programs which create opportunities for youth to examine career opportunities in the trades. Finally, it is vital for the building community to improve relationships and collaboration with local planning and building code enforcement staff to increase home production. By placing tools and incentives in the hands of local communities with the priority on expanding infrastructure and density, a key investment may be made in the future of all Montana communities.

By building more homes, we expand opportunities for Montana's workforce.





Finally, there is need to prioritize housing which serves incomes <80% AMI. These are homes which are increasingly difficult to build in Montana by the for profit community due to material increase and land costs. The majority of Montanans have incomes which fall below 80% AMI. There is need for communities to prioritize housing which serves the working population.

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**KEY STRATEGIES:**

*(relates to all recommendations above)*

Long-term: Marketing programs which encourage trades careers, trades programs in schools to create opportunities for youth to consider careers in the trades, infrastructure investment to prioritize density and home construction within the urban growth boundaries is both a short and long term solution to the housing crisis, innovation in home construction is a long term solution.

Short-term: Addressing restrictive zoning and covenants to expand infill development, infrastructure investment to move developments forwards across the State.

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**DISSENTING OPINIONS:**

*(relates to all recommendations above)*

Low unemployment and an aging workforce contributes to a lack of skilled tradespeople and skilled laborers. Liberal arts degree have been prioritized in our culture over trades, leading to a false perception of the skilled trades as “less than” occupation. There is need for Montana to promote trades education and careers.



## LIST OF TASK FORCE MEMBERS

### Task Force Members and Affiliations

NAME	AFFILIATION
Chris Dorrington	Task Force Chair and Director of the Department of Environmental Quality
Senator Ellie Boldman	State Legislator (D, Missoula)
Senator Greg Hertz	State Legislator (R, Polson)
Representative Danny Tenenbaum	State Legislator (D, Missoula)
Representative Sue Vinton	State Legislator (R, Billings)
Patrick Barkey, Ph.D.	Director of the Bureau of Business and Economic Research at the University of Montana
Terry Brockie	CEO of Island Mountain Development Group
Ross Butcher	Commissioner of Fergus County



Kendall Cotton	President and CEO of the Frontier Institute
Nathan Dugan	President and co-founder of Shelter WF
Mark Egge	Affordable housing advocate, data scientist, and former member of the Bozeman Planning Board
Laurie Esau	Commissioner of the Department of Labor & Industry
Jaclyn Giop	President of the Montana Water Well Drillers Association
Eugene Graf	Owner of E.G. Construction
Emily Hamilton, Ph.D.	Senior Research Fellow and Director of the Urbanity Project at the Mercatus Center
Adam Hertz	Secretary of the Montana Board of Housing
Amanda Kaster	Director of the Department of Natural Resources and Conservation
Bob Kelly	Mayor of Great Falls
Jacob Kuntz	Executive Director of the Helena Area Habitat for Humanity
Bill Leininger	President of the Montana Association of Realtors
Todd O'Hair	President and CEO of the Montana Chamber of Commerce
Scott Osterman	Director of the Department of Commerce
Nicole Rolf	Senior Director of Governmental Affairs at the Montana Farm Bureau Federation
Mike Smith	Market President of Glacier Bank
Valerie Stacey	Environmental Health Specialist with Lewis and Clark County
Don Sterhan	Steering Committee member of the Montana Housing Coalition; President and CEO of Mountain Plains Equity Group



## Subtask Group Co-Chairs

### **ECONOMICS & OTHER**

Mike Smith

Senator Ellie Boldman

### **LOCAL ISSUES**

Adam Hertz

Emily Hamilton

### **REGULATORY & PERMITTING**

Amanda Kaster

Mark Egge

### **CONSTRUCTION**

Jacob Kuntz

Representative Sue Vinton





## APPENDICES

### Appendix A: Additional Issues, Changes and Suggestions by Subtask Group

#### **A1 ECONOMICS & OTHER: ADDITIONAL ISSUES, CHANGES AND SUGGESTIONS**

##### **A1a Wastewater Treatment Options**

###### **ISSUE:**

Increase ease and ability for developers to create their own water treatment options, due to infrastructure costs and difficulty working with municipalities, and rural nature of projects, including reservations.

##### **A1b Representative Taxation**

###### **ISSUE:**

Direct taxes on sub-populations of tourists: for example, “empty-bed” taxes, taxing

properties with primarily out-of-state owners.

#### **A1c Adjust Mill Levy Cap to Actual Rate of Inflation**

**ISSUE:**

Adjust the Mill cap from 1/2 the rate of the 3-year average of inflation to the actual rate of inflation. The proposed change would allow counties to continue to provide high quality services in the face of inflation. This adjustment recognizes the connection between the cost of providing services and the marketplace and will not burden taxpayers because with this law/policy in place, and results in tourists now paying into the system and reduce the burden on locals.

### **A2 LOCAL ISSUES: ADDITIONAL ISSUES, CHANGES AND SUGGESTIONS**

#### **A2a Building Permit Review Fees to Hire Planners**

**ISSUE:**

Reform state law that limits localities from using building permit review fees to hire planners.

#### **A2b SB 161**

**ISSUE:**

Add teeth to SB 161 review requirements.

#### **A2c §76-2-302, MCA**

**ISSUE:**

Amend Section §76-2-302, MCA of state statute to not allow localities to treat manufactured housing differently than site-built housing.

#### **A2d Reward Localities for Housing Construction**

**ISSUE:**

Reward localities that are permitting a high rate of housing construction relative to their population with additional infrastructure funding.

#### **A2e Parking**

**ISSUE:**

Prohibit parking requirements.



**A2f Building Permit Timelines**

**ISSUE:**

Statutory time limits for city county building permit review.

**A2g Multifamily Zoning Expansion**

**ISSUE:**

Require 2-4 units to be allowed where single-family houses are currently allowed in areas that are served by public utilities and water systems.

**A2h Zoning Density Expansion**

**ISSUE:**

Require denser development to be allowed in areas close to downtown and other job centers.

**A2i Parkland and Open Space Size**

**ISSUE:**

Require parkland / open space dedication (if any) to be tied to building size, not per dwelling unit.

**A2j Development on Reservations**

**ISSUE:**

Improve opportunities for development on reservations and by Native American-owned development companies.

**A2k Right of Approval**

**ISSUE:**

Provide guidelines for a ministerial approval process.

**A2l Zoning Best Practices**

**ISSUE:**

Develop best practices in zoning based on the ideas under 2A, 2B, 2D, and 2E.

### **A3 REGULATORY & PERMITTING: ADDITIONAL ISSUES, CHANGES AND SUGGESTIONS**

#### **A3a Sunset Zombie Covenants**

**ISSUE:**

Address zombie covenants through requiring periodic (e.g. decennial) affirmation for judicial enforcement.

#### **A3b Statewide Timeline for All Government Actions**

**ISSUE:**

Based on Minnesota's example, establish a 120-day timeline for government agency actions (see Sec. 15.99 MN Statutes.)

#### **A3c Self-Certification**

**ISSUE:**

The Department of Labor & Industry should establish a framework for cities to create self-certification programs for building permits.

#### **A3d Land Value Tax**

**ISSUE:**

Incentivize development on land served by existing utilities by creating an alternative, revenue-neutral, opt-in land value tax available to cities.

#### **A3e Eliminate Regulatory Barriers to Housing Construction within Cities**

**SPECIFIC SUGGESTIONS AND RECOMMENDED APPLICABILITY:**

Establish sideboards on the implementation of municipal zoning to align zoning standards with modern best practices promoting public health, safety, and general welfare. Specific sideboards may include:

Except where exempted (below), municipalities may not:

- impose building design element requirements on dwellings of four or fewer units, to include:
  - o exterior color;
  - o type or style of exterior cladding material;
  - o style, dimensions, or materials of a roof structure, roof pitch, or porch;

- o exterior nonstructural architectural ornamentation;
  - o number, type, location, design, placement, or architectural styling of windows or doors;
  - o location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;
  - o number or type of rooms;
  - o interior layout of a room;
  - o minimum square footage;
  - o rear yard landscaping requirements;
  - o vegetative cover or irrigation requirements;
  - o minimum building dimensions; or
  - o a requirement to install front yard fencing.
- impose minimum lot areas greater than 2,500 square foot;
  - impose lot coverage maximums, accounting for setbacks, to less than 80% of a parcel;
  - impose setback requirements exceeding 10 feet on any side;
  - impose minimum parking requirements greater than one parking space per dwelling;
  - impose parkland dedication requirements on a per-dwelling basis (irrespective of lot size or floor area); or,
  - impose lot open space, lawn, or activity space requirements in excess of lot coverage maximums.

General exceptions to the above shall include:

- a dwelling located within an area designated as a historic district in:
  - o the National Register of Historic Places;
  - o the state register; or
  - o a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2022.

- an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;
- an ordinance enacted to reduce wildfire risk for structures within the Wildland Urban Interface;
- building design elements agreed to under a development agreement;
- an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:
  - o defects in the material of existing cladding; or
  - o consistent defects in the installation of existing cladding; or
- a land use regulation, including a planned unit development or overlay zone, that a property owner requests:
  - o the municipality to apply to the owner's property; and
  - o in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

#### **A4 CONSTRUCTION: ADDITIONAL ISSUES, CHANGES & SUGGESTIONS**

##### **A4a Building Code Enforcement**

###### **ISSUE:**

Building code enforcement working with builders to inspect innovative construction methods.

##### **A4b Lumber Industry**

###### **ISSUE:**

Encourage lumber industry in Montana to grow.

##### **A4c Building Code Application**

###### **ISSUE:**

Consistent application of building codes and local requirements by code enforcement.

##### **A4d Practical Application of Planning Division Requirements**

### ISSUE:

Practical application of planning division requirements, i.e. recognition of differences in urban/suburban/rural developments.

## Appendix B: Resources and Information by Subtask Group

Information links provided are for discussion purposes and should be verified before use.

### **B1 ECONOMICS & OTHER: RESOURCES AND INFORMATION**

#### **B1a Affordable Housing Sector Memo**

Dept. of Commerce, 9-8-22, 10 pages

[housing.mt.gov/\\_shared/Docs/resources/AffordableHousingSector-09082022.pdf](https://housing.mt.gov/_shared/Docs/resources/AffordableHousingSector-09082022.pdf)

### **B2 LOCAL ISSUES: RESOURCES AND INFORMATION**

#### **B2a Creation of Accessory Dwelling Units, AARP**

<https://www.aarp.org/livable-communities/housing/info-2021/adu-model-state-act-and-local-ordinance.html>

#### **B2b Zoning, Land Use, and a Solution to the Nation's Housing Shortage**

<https://www.aei.org/light-touch-density/>

#### **B3c Backdoor Revolution: The Definitive Guide to ADU Development, Paperback**

<https://www.amazon.com/Backdoor-Revolution-Definitive-Guide-Development/dp/0692053514>

#### **B2d Do Minimum-Lot-Size Regulations Limit Housing Supply in Texas?**

<https://www.mercatus.org/publications/urban-economics/do-minimum-lot-size-regulations-limit-housing-supply-texas>

#### **B2e Zoning for Minimum Standards: The Wayne Township Case**

[https://www.jstor.org/stable/1336995?seq=1#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/1336995?seq=1#metadata_info_tab_contents)





<b>B2f</b>	<b>How Strict Zoning Regulations Impact Housing Costs</b>
	Frontier Institute Report <a href="https://frontierinstitute.org/frontier-institute-publishes-montana-zoning-atlas-report/">https://frontierinstitute.org/frontier-institute-publishes-montana-zoning-atlas-report/</a>
<b>B2g</b>	<b>Member Housing Survey Results</b>
	MHA Report, 6-17-22, 10 pages <a href="https://housing.mt.gov/_shared/Docs/resources/member-housing-survey-results.pdf">https://housing.mt.gov/_shared/Docs/resources/member-housing-survey-results.pdf</a>
<b>B2h</b>	<b>The State of Short-Term Rentals in Montana</b>
	UM Inst. For Tourism & Rec Research, 2-2021, 58 pages <a href="https://housing.mt.gov/_shared/Docs/resources/The-State-of-Short-Term-Rentals-in-Montana.pdf">https://housing.mt.gov/_shared/Docs/resources/The-State-of-Short-Term-Rentals-in-Montana.pdf</a>
<b>B2i</b>	<b>Tri-County Housing Needs Assessment</b>
	Broadwater, Jefferson, & L&C Counties, 10-30-18, 80 pages <a href="https://housing.mt.gov/_shared/Docs/resources/Tri-County-Housing-Needs-Assessment.pdf">https://housing.mt.gov/_shared/Docs/resources/Tri-County-Housing-Needs-Assessment.pdf</a>
<b>B2j</b>	<b>2022 Bozeman Housing Summary</b>
	<a href="https://housing.mt.gov/_shared/Docs/resources/2022-Bozeman-Housing-Summary.pdf">https://housing.mt.gov/_shared/Docs/resources/2022-Bozeman-Housing-Summary.pdf</a>
<b>B2k</b>	<b>2022 Butte and Billings Housing Summary</b>
	<a href="https://housing.mt.gov/_shared/Docs/resources/2022-Butte-and-Billings-Housing-Summary.pdf">https://housing.mt.gov/_shared/Docs/resources/2022-Butte-and-Billings-Housing-Summary.pdf</a>
<b>B2l</b>	<b>2022 Helena Housing Strategy_DRAFT</b>
	<a href="https://housing.mt.gov/_shared/Docs/resources/2022-Helena-Housing-Strategy_DRAFT.pdf">https://housing.mt.gov/_shared/Docs/resources/2022-Helena-Housing-Strategy_DRAFT.pdf</a>
<b>B2m</b>	<b>2022 Helena Letter to MTLCT</b>
	<a href="https://housing.mt.gov/_shared/Docs/resources/2022-Helena-Letter-to-MTLCT.pdf">https://housing.mt.gov/_shared/Docs/resources/2022-Helena-Letter-to-MTLCT.pdf</a>
<b>B2n</b>	<b>2022 Missoula Housing Policy Update</b>
	<a href="https://housing.mt.gov/_shared/Docs/resources/2022-Missoula-Housing-Policy-Update.pdf">https://housing.mt.gov/_shared/Docs/resources/2022-Missoula-Housing-Policy-Update.pdf</a>
<b>B2o</b>	<b>2022 Whitefish Housing Efforts</b>
	<a href="https://housing.mt.gov/_shared/Docs/resources/2022-Whitefish-Housing-Efforts.pdf">https://housing.mt.gov/_shared/Docs/resources/2022-Whitefish-Housing-Efforts.pdf</a>





### **B3 REGULATORY & PERMITTING: RESOURCES AND INFORMATION**

#### **B3a Streamlined Local Permitting**

SB 161

<https://leg.mt.gov/bills/2021/billpdf/SB0161.pdf>

#### **B3b Zoning Sideboards**

Utah Code 10-9a-534

<https://le.utah.gov/xcode/Title10/Chapter9A/10-9a-S534.html>

#### **B3c Bozeman Addresses Reg Barriers to Affordability**

City of Bozeman publication, 6 pages

[https://housing.mt.gov/\\_shared/Docs/resources/Bozeman-Addresses-Regulatory-Barriers.pdf](https://housing.mt.gov/_shared/Docs/resources/Bozeman-Addresses-Regulatory-Barriers.pdf)

#### **B3d Eliminating Regulatory Barriers to Affordable Housing**

U.S. HUD Report, 1-2021, 138 pages

[https://housing.mt.gov/\\_shared/Docs/resources/Eliminating-Regulatory-Barriers-to-Affordability.pdf](https://housing.mt.gov/_shared/Docs/resources/Eliminating-Regulatory-Barriers-to-Affordability.pdf)

#### **B3e Recommendations to Housing Task Force**

MEHA memo, 9-2022, 4 pages

[https://housing.mt.gov/\\_shared/Docs/resources/Recommendations-to-Housing-Task-Force.pdf](https://housing.mt.gov/_shared/Docs/resources/Recommendations-to-Housing-Task-Force.pdf)

#### **B3f Government Regulation in the Price of a New Home**

Paul Emrath, Ph.d Special Study, 5-5-21, 15 pages

[https://housing.mt.gov/\\_shared/Docs/resources/government-regulation-in-the-price-of-a-new-home.pdf](https://housing.mt.gov/_shared/Docs/resources/government-regulation-in-the-price-of-a-new-home.pdf)

### **B4 CONSTRUCTION: RESOURCES AND INFORMATION**

#### **B4a Creating Housing for All: Creative Solutions To The Affordability Crisis**

<https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/housing-affordability/nahb-attainable-housing-brochure-2019.pdf>



**B4b National Association of Home Builders: Housing Fuels the Economy in Montana**

<http://nahbhousingportal.org/>

**B4c Visitability Basics in Home Construction**

MT Assoc. of Centers for Indpt. Living, 2 pages

[https://housing.mt.gov/\\_shared/Docs/resources/Visitability-Basics.pdf](https://housing.mt.gov/_shared/Docs/resources/Visitability-Basics.pdf)

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