

# TWO TYPES OF HOUSING LEGISLATION: LAND USE REGULATION & INCENTIVES

## BACKGROUND

The Legislature's role in housing comes in two main areas: land use planning and development and financial aid or incentives for certain types of housing.

The 67<sup>th</sup> Legislature introduced many bills, with mixed success, seeking to streamline or reduce the number and complexity of regulations required of land developers with the possible goal to increase the number of approved developments and thus increase housing supply. Land use planning and development spans a wide range of regulatory frameworks including growth policies, zoning regulations, and subdivision regulations on both the state and local levels. Generally, land use development statutes seek to strike a balance between protecting natural resources, like water quality and open spaces, while still allowing for necessary development.

Legislators also proposed incentivizing affordable housing development through programs such as tax credits or state-funded loans. Fewer bills creating housing incentives were introduced during the 2021 session than bills reducing land use planning regulations. However, attempting to create housing incentive programs is a perennial issue.

The Legislature's role in housing development comes in two main areas: land use planning and incentives.

The 2021 session saw legislation attempting both strategies: reducing housing development regulations and incentivizing housing development.

## LAND USE PLANNING & DEVELOPMENT LEGISLATION

### ENACTED LEGISLATION

[HB 259](#) – Prohibits a county or city from adopting zoning regulations that include "inclusionary zoning" requirements for developers to provide housing units at specified income levels or specified sale prices.

[HB 527](#) – Requires that draft documents of proposed zoning regulations be provided to a county before the creation of a citizen initiated zoning district and prohibits zoning regulations from regulating minerals or mineral rights.

[SB 44](#) – Revises multiple definitions related to subdivision review, allows a local entity to establish fees for subdivision review and requires purchasers to be notified when purchasing certain unreviewed lots.

[SB 161](#) – Provides for an expedited review of subdivisions located within an incorporated city or town or a county water and/or sewer district that provides water and sewer to the development and that are subject to a growth policy and zoning regulations.

[SB 174](#) – Provides additional considerations when adopting local subdivision regulations and clarifies that if a subdivision is conditionally approved, each condition required for subsequent approval must be sufficiently identified and related to the primary criteria that forms the basis of the condition.

[SB 269](#) – Requires that mobile home park owners be notified of the opportunities and benefits available when selling a mobile home park to a resident association and exempts from taxation all capital gains realized from the sale of a mobile home park to a resident association.

[SB 294](#) – Provides a process to terminate a zoning district by referendum and provides criteria for adopting zoning regulations that require minimum lot sizes.

#### INTRODUCED LEGISLATION

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[HB 134](#) – Prohibited zoning regulations restricting duplex, triplex, and fourplex housing in certain cities.

- Tabled in House Local Government Committee

[HB 327](#) – Created definitions in Title 70 for "commercial" or "residential" uses of property.

- Tabled in House Judiciary Committee

[HB 470](#) – Allowed citizens in unincorporated areas to petition for the creation of a planning board, allowed registered voters to call for the revocation of zoning regulations, and required the governing body to consider additional information before establishing zoning regulations.

- Tabled in House Local Government Committee

[HB 528](#) & [HB 529](#) – Revised a significant portion of planning, zoning, and subdivision laws, including requiring additional criteria for zoning regulations and growth policy elements, requiring additional public hearings, and providing additional methods to grant variances to zoning and subdivision regulations.

- Both tabled in House Local Government Committee

[SB 268](#) – Allowed residents of a mobile home park to petition the local government to acquire a mobile home park through eminent domain to preserve affordable housing, and allowed residents to organize as a resident-owned

community and secure funding to operate and re-acquire the mobile home park.

- Tabled in Senate Business, Labor, and Economic Affairs Committee

[SB 362](#) – Revised the Montana Residential Mobile Home Lot Rental Act to provide additional protections for mobile home owners.

- Tabled in Senate Business, Labor, and Economic Affairs Committee

[SB 397](#) – Prohibited a local government from enacting regulations prohibiting accessory dwelling units and allowed a local government to charge a fee to license an accessory dwelling unit.

- Tabled in Senate Local Government Committee;
- Blast motion failed on the Senate Floor, 21-29

## HOUSING INCENTIVE LEGISLATION

### ENACTED LEGISLATION

[HB 432](#) – Clarifies that property owned by a nonprofit corporation exempt from taxation and constructed using a home investment partnerships program grant is exempt from property taxation.

### VETOED LEGISLATION

[HB 397](#) – Establish workforce housing tax credits

Summary of [governor's veto](#): HB 397 would unnecessarily burden Montana with long-term fiscal impacts due to the connection of the state's tax credits to federal tax credits. The recent addition of new federal tax credits would expand the state system proposed in HB 397 and the "state credit's high and unconstrained linkage to the federal credit removes state control of the program's cost and poses an unanticipated risk to fiscal stability."

### INTRODUCED LEGISLATION

[HB 21](#) – Authorized funding for the multifamily coal trust home loan program. Requested an additional \$15 million from the permanent coal tax trust fund for the biennium to be used for home loans.

- Passed House Appropriations Committee, 19-5;
- Passed House 2<sup>nd</sup> Reading, 56-44;
- Passed House 3<sup>rd</sup> Reading 57-42;
- Tabled in Senate Finance and Claims Committee

[SB 117](#) – Allowed the Board of Housing to make grants from the Housing Montana Fund. Currently, only loans are allowed.

- Tabled in Senate Business, Labor, and Economic Affairs Committee