

ALLOWING MISSING MIDDLE DEVELOPMENT WOULD CONTRIBUTE TO HOUSING AFFORDABILITY IN MONTANA

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Chair Custer and members of the committee, thank you for allowing me to comment on the important issues of local zoning restrictions and housing affordability.¹ My name is Emily Hamilton, and I am a senior research fellow at the Mercatus Center at George Mason University, where I study housing affordability and land use regulations in the Mercatus Center’s Urbanity Project. Today, I have three key points to make on the issue of preempting local prohibitions on middle housing in Montana:

1. Restrictions on the right to build housing are responsible for high housing costs.
2. Allowing property owners across the state to build middle housing—duplexes, triplexes, and fourplexes—would be an important step toward permitting a relatively affordable type of housing to be built.
3. State policymakers have an important role to play in setting limits on how much localities can restrict the right to build housing. Across the state, the majority of land where residential development is permitted is zoned exclusively for detached single-family housing. Allowing middle housing to be built is one way the legislature can improve housing affordability.

LAND USE REGULATIONS LIMIT PROPERTY OWNERS’ RIGHT TO BUILD HOUSING, AND THEY DRIVE UP HOUSING COSTS

Land use regulations limit property owners’ right to build housing.² When increasing demand for housing meets a market where zoning rules constrain housing supply—as in Montana localities with quickly rising house prices—the result is that a limited supply of homes becomes more expensive, forcing lower-income families to look elsewhere. This result harms the state’s most vulnerable residents and undermines Montana’s position as a center of economic opportunity.³

1. This testimony has been adapted from Emily Hamilton, “Preempting Bans on Duplexes Can Improve Housing Affordability through Property Rights,” (Testimony before the Virginia House of Delegates, Counties, Cities, and Towns Committee, Land Use Subcommittee, Mercatus Center at George Mason University, Arlington, VA, January 23, 2020).

2. Kevin Erdmann, Salim Furth, and Emily Hamilton, “The Link between Local Zoning Policy and Housing Affordability in America’s Cities” (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, March 2019).

3. Macroeconomists find that land use regulations harm both income mobility and economic growth. Peter Ganong and Daniel W. Shoag, “Why Has Regional Income Convergence in the U.S. Declined?,” *Journal of Urban Economics* 102 (2017): 76–90;

Cities and towns across Montana have many rules that limit the quantity and type of homes that can be built, including minimum-lot-size regulations, height limits, and single-family zoning. In part owing to these rules, many residents across the state are suffering from housing costs rising faster than in other states. For example, from 2010 to 2020, house prices increased 58 percent in the Bozeman region, compared to a national average of 32 percent.⁴

HOUSING AFFORDABILITY AND MIDDLE HOUSING

HB 134 would give many property owners across the state the right to build between two to four housing units where local zoning rules currently allow only one. Land is a key cost of building new homes, particularly in high-cost markets, and allowing more than one home to be built on an existing residential plot is a major step toward reducing housing costs.

In part as a result of current zoning restrictions, nearly three-quarters of the housing units in Montana are single-family units, the most expensive type of housing.⁵ Montana localities suffer from what is known as missing middle housing. Missing middle housing includes any type of home that facilitates population density between that of a detached single-family house and that of a large apartment building. Missing middle housing is cost-effective because it allows multiple households to share the cost of expensive land, and its per-square-foot construction costs are lower than those of large apartment buildings.

Allowing middle housing to be built where currently only single-family homes are permitted is a market-driven approach to improving affordability. This bill would make it feasible for newly constructed homes to be less expensive than they currently are by allowing homebuilders to provide new supply as middle housing rather than detached single-family homes.

THE STATE'S ROLE IN ALLOWING MIDDLE HOUSING TO BE BUILT

Zoning and other land use regulations are generally implemented at the local level, but the state has an important role to play in setting limits on how much localities may stand in the way of new housing being built.⁶

The benefits of new housing are dispersed. When new housing is built, it benefits the people who will live in it. It also frees up some less expensive housing in other parts of the region that residents of the new building are leaving behind, improving housing affordability for others in the area.⁷ Every time a new unit of housing is built, it sets off a chain reaction of households moving, and new vacancies

Chang-Tai Hsieh and Enrico Moretti, "Housing Constraints and Spatial Misallocation," *American Economic Journal: Macroeconomics* 11, no. 2 (2019): 1-39; Edward L. Glaeser and Joseph Gyourko, "The Economic Implications of Housing Supply," *Journal of Economic Perspectives* 32, no. 1 (2018): 3-30.

4. "Housing Data," Zillow, accessed January 22, 2021, <https://www.zillow.com/research/data/>.

5. Census Bureau, "Units in Structure" (dataset), 2019: ACS 5-Year Estimates Data Profiles, accessed January 22, 2021, <https://data.census.gov/cedsci/table?q=units%20in%20structure&tid=ACSDT5Y2019.B25024&hidePreview=false>.

6. Emily Hamilton, "The Case for Preemption in Land-Use Regulation," Mercatus Center at George Mason University, July 20, 2017.

7. When one household moves into a new housing unit, it frees up the unit it left behind. More often than not, it is moving up to a more expensive home from a less expensive home, freeing up a housing unit that's now affordable to households earning less than the original mover. Economists call this process filtering. New research demonstrates empirically that this filtering process in fact improves housing affordability. Xiaodi Li, "Do New Housing Units Raise Rents in Your Backyard?" (working paper, NYU Furman Center for Real Estate and Urban Policy, New York, October 2019); Evan Mast, "The Effect of New Market-Rate Housing Construction on the Low-Income Housing Market" (Upjohn Institute Working Paper No. 19-307, W.E. Upjohn Institute, Kalamazoo, MI, July 2019).

create opportunities for several other households to move into housing that they prefer over where they lived previously.

However, the inconveniences of new housing are felt primarily by those living right next to the new units. Although many people can agree that Montana needs more housing at lower prices, no one wants it to be built near them. This is why local governments tend to allow too little housing to be built.

When a state steps in to limit local land use regulations, it does not ban any type of housing. On the contrary, legalizing duplexes, triplexes, and fourplexes is a restoration of rights to property owners. Setting some limits on the extent to which localities can obstruct housing construction, thereby allowing middle housing to be built where development is currently restricted to single-family housing, is not a move toward statewide planning; it transfers some control over what gets built from local governments to individual property owners, allowing the housing market to better respond to increases in demand for housing and improving affordability with no new subsidies.