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Date: January 5, 2025

SENT VIA EMAIL

To: City of Helena, MT

From: Houseal Lavigne Associates

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Re: Legislative Research and Compliance

This memo evaluates the extent to which the City of Helena's existing zoning code and subdivision regulations comply with the Montana Land Use Planning Act, and identifies areas where amendments are needed. Where required amendments are identified, recommendations are provided to bring the zoning code into full compliance with current state requirements.

The Montana Land Use Planning Act (MLUPA) also includes requirements related to subdivision regulations. Helena's existing subdivision regulations are currently compliant with these provisions. Updates to the subdivision regulations will be addressed as part of the overall zoning code and subdivision regulations rewrite. Revisions to ensure references to Montana State legislation are current and consistent are outlined in this memo.

The following sections of MLUPA are specifically addressed in this evaluation, with a focus on areas where amendments are needed. Sections of the code that are already compliant may not be included.

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Targeted Zoning Code Amendment Recommendations

The table below summarizes relevant sections of the MLUPA and identifies corresponding updates recommended for the City's zoning code. The first column outlines the applicable Montana law, while the following columns highlight the relevant zoning code sections, level of compliance, and the specific updates needed to align with State law. Some recommendations may require further refinement throughout the update process to determine appropriate development types and standards.

These recommendations do not encompass all the changes that will be made as part of the targeted regulations amendments. Additional updates, including minor corrections, new definitions, and clarifications, will also be incorporated to ensure consistency and usability.

LUPA Section	Zoning Code / Section	Compliant Notes	Recommended Zoning Code Update
<i>§76-25-104 Planning Commission</i>			
(3)(a) The planning commission shall review and make recommendations to the local governing body regarding the development, adoption, amendment, review, and approval or denial of the following documents: <ul style="list-style-type: none">• Land use plan and future land use map,• Zoning regulations and map,• Subdivision regulations, and• Any other legislative land use planning document the local governing body designates.	Chapter 10	Compliant. The City has established a Planning Commission.	<p>Incorporate the Planning Commission as a Decision-Making Body and list which application types they review, consistent with Resolution No. 20886.</p> <p>Strike references to the Zoning Commission, Board of Adjustment, and Consolidated Planning Board throughout the Code.</p>

§76-25-302 Encouragement of Development of Housing

(1) Requires zoning regulations to include at least five strategies to encourage housing development:

(a) allow, as a permitted use, for at least a duplex where a single-unit dwelling is permitted.	Section 11-2-3 Land Use Table for Zoning District	Compliant. Duplexes allowed by-right, in all districts where a single-unit dwelling is permitted.	No recommended changes.
(b) zone for higher density housing near transit stations, places of employment, higher education facilities, and other appropriate population centers, as determined by the local government.	Section 11-2-3 Land Use Table for Zoning District	Compliant. Mixed-Use and Multiple Dwelling Units are currently allowed in these areas.	No recommended changes.
(c) eliminate or reduce off-street parking requirements to require no more than one parking space per dwelling unit.	Section 11-22-3 Minimum Number of Off-Street Parking Spaces	Not Compliant. Only Multiple Dwelling Units require one space per dwelling unit. Single-dwelling units, two-dwelling units, and mobile home parks require two spaces per dwelling unit.	Reduce the minimum parking space requirements for single-dwelling units, two-dwelling units, and mobile home parks to one parking space per dwelling unit.
(d) eliminate impact fees for accessory dwelling units (ADUs) or developments that include multi-unit dwellings or reduce the fees by at least 25%;	N/A	Compliant. The City does not have impact fees for ADUs or developments that include multi-unit dwellings.	No recommended changes.
(e) allow, as a permitted use, for at least one internal or detached accessory dwelling unit on a lot with a single-unit dwelling occupied as a primary residence;	Section 11-2-3 Land Use Table for Zoning District	Partially Compliant. The City allows ADUs by allowing two-dwelling units as a permitted use in all districts that allow single-dwelling units.	Establish ADUs as a use in the use table. Allow an attached, detached, or internal accessory dwelling unit on lots with single-dwelling units.
(f) allow for single-room occupancy developments;	Chapter 2 Land Uses	Compliant. The City allows for Boarding Houses.	Modernize the Boarding House definition and use standards.
(g) allow, as a permitted use, a triplex or fourplex where a single-unit dwelling is permitted;	Section 11-2-3 Land Use Table for Zoning District	Partially Compliant. Multiple-Dwelling Units are allowed as permitted uses in all districts where a single-unit dwelling is permitted, except the OSR, R-U, R-1/R-2, and CLM.	No recommended changes.

<p>(h) eliminate minimum lot sizes or reduce the existing minimum lot size required by at least 25%;</p>	<p>Chapter 4 District Dimensional Standards</p>	<p>Compliant. The City only regulates minimum lot size standards for the OSR district for cluster development and the B-1 district for Multiple-Dwelling Units. The City does not regulate minimum lot widths.</p>	<p>No recommended changes.</p>
<p>(i) eliminate aesthetic, material, shape, bulk, size, floor area, and other massing requirements for multi-unit dwellings or mixed-use developments or remove at least half of those requirements</p>	<p>Chapter 9 Downtown District and Transitional Residential District</p>	<p>Partially Compliant. The City only regulates aesthetic and material for the DT and TR districts.</p>	<p>No recommended changes.</p>
<p>(j) provide for zoning that specifically allows or encourages the development of tiny houses, as defined in Appendix Q of the International Residential Code as it was printed on January 1, 2023;</p>	<p>N/A</p>	<p>Compliant. The City does not regulate minimum dwelling unit size.</p>	<p>No recommended changes.</p>
<p>(k) eliminate setback requirements or reduce existing setback requirements by at least 25%;</p>	<p>Chapter 4 District Dimensional Standards Chapter 9 Downtown District and Transitional Residential District</p>	<p>Complaint. The City has reduced or eliminated setback requirements.</p>	<p>No recommended changes.</p>
<p>(l) increase building height limits for dwelling units by at least 25%;</p>	<p>Chapter 4 District Dimensional Standards Chapter 9 Downtown District and Transitional Residential District</p>	<p>Complaint. The City has increased building height limits.</p>	<p>No recommended changes.</p>

<p>(m) allow multi-unit dwellings or mixed-use development as a permitted use on all lots where office, retail, or commercial are primary permitted uses; or</p>	<p>Section 11-2-5(C)</p>	<p>Partially Compliant. Current Code allows residential uses in the B-2, B-3, DT, CLM, and M-I in a story above a retail or commercial use.</p>	<p>Allow residential uses in the B-1 and TR districts in a story above retail or commercial use.</p>
<p>(n) allow multi-unit dwellings as a permitted use on all lots where triplexes or fourplexes are permitted uses.</p>	<p>Section 11-2-3 Land Use Table for Zoning District</p>	<p>Compliant. The Multiple-Dwelling Units use currently includes triplexes and fourplexes.</p>	<p>No recommended change.</p>
<p><i>§76-25-303 Limitations on Zoning Authority</i></p>			
<p>(1)(a) Prohibits local government from treating manufactured housing differently than single-family dwellings</p>	<p>Section 11-2-4 Land Use Definitions for Zoning Districts</p>	<p>Compliant. The City includes manufactured housing in the definition for single-family dwellings.</p>	<p>No recommended changes.</p>
<p>(1)(c) Prohibits preventing the erection of an amateur radio antenna that meets FCC licensing standards.</p>	<p>N/A</p>	<p>Compliant. The City does not include restrictions for amateur radio antennas.</p>	<p>No recommended changes.</p>
<p>(1)(d) Prohibits establishing a maximum height limit for an amateur radio antenna of less than 100 feet above the ground</p>			
<p>(1)(e) Prohibits preventing the full use, development, or recovery of minerals, forest, or agricultural resources identified in the land use plan, except that reasonable conditions or restrictions can apply in residential zones.</p>	<p>N/A</p>	<p>Compliant. The City does not include restrictions for recovery of minerals, forest, or agricultural resources.</p>	<p>No recommended changes.</p>

<p>(1)(f-g) Prohibits treating foster homes, kinship foster homes, youth shelters, youth group homes, community residential facilities for less than eight people, and registered day-care homes differently from other residential uses.</p>	<p>Section 11-2-3 Land Use Table for Zoning District</p>	<p>Compliant. The City allows these uses in all districts where single-dwelling units are allowed, without additional restrictions.</p>	<p>No recommended changes.</p>
<p><i>§76-25-401 through -413 Subdivision Regulations</i></p>			
<p>Part 4 of MLUPA outlines Montana's requirements and procedures for how local governments regulate the subdivision of land.</p>	<p>Proposed changes to be made throughout Title 12</p>	<p>Partially Compliant. Existing subdivision regulations are currently compliant with these provisions. However, updates to references will need to be made.</p>	<p>Replace references to the Montana Subdivision and Platting Act with Title 76, Chapter 25, Part 4.</p>
			<p>Replace references to the Planning Board with the Planning Commission</p>
			<p>Update preliminary and final plat procedures to more closely align with MLUPA requirements, including minor clarifications and timing adjustments.</p>