



## Office Overhauls and “God’s Backyard”: Reforms for Housing in Commercial Zones and Faith Land

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Dad’s Place began to offer overnight stays last March, partly in response to the housing shortage in Bryan . . . Soon, the church also faced zoning code violations because it is in a district that prohibits residential use on the first floor of any building.

—Juliana Kim, NPR<sup>1</sup>

In the small Ohio town of Bryan, Pastor Chris Avell fell afoul of the hair-splitting legalism that divides American cities. To shut down Avell’s shelter, the city of Bryan threw the book at him, alleging (among other things) that Avell’s church was in a mixed-use zoning district that allows residences, but only on upper stories.<sup>2</sup> By allowing residents on the first floor of a nonresidential building, the church was—ironically—violating a law intended to increase mixing of residential and nonresidential uses.

This legalistic upper-story restriction is not unique to Bryan; we also found it in the zoning codes of Richmond, Virginia, and Upper Providence Township, Pennsylvania, among others. In their zeal to make commercial areas vibrant, planners have too often forced out residences, which are not only essential to human well-being but have been vital to the resilience of commercial areas in the post-COVID era.<sup>3</sup> In this policy brief, we offer a road map for enacting effective mixed-use zoning and affirming the right of churches and other charitable organizations to offer housing to those who need it.

This brief covers two policies that state and local lawmakers might pursue for distinct reasons:

1. Allowing residential use in commercial zones to revitalize depressed business districts
2. Allowing charitable groups to build affordable housing on their property as a practical expression of faith

We treat these two together because they pose the same technical challenge with regard to existing land-use policy: enabling housing in places where existing regulations preclude it.

## **Background**

From small-town Bryan, Ohio, to the high-rise apartments of Austin, Texas, Americans face an unprecedented housing crunch: home prices are high, and apartment vacancies are low. Cities and states are reevaluating old land-use policies that were primarily intended to restrict housing development. At the same time, community leaders like Chris Avell are reorienting their services to help people squeezed out of the tight housing market.

Avell's struggle with local zoning exemplifies two aspects of land-use law that state policymakers are eager to reform. On one hand, lawmakers are increasingly skeptical of zoning policies like Bryan's, which make it difficult to build housing of all types in commercial areas. At the same time, legislators in several states have taken steps to ease housing development on land owned by religious, nonprofit, and educational institutions, regardless of the local zoning.

These types of reforms—allowing housing in new places—offer both promise and peril. They create opportunities for growth in struggling commercial areas, and they offer a back door for multifamily housing in towns where residential neighborhoods don't welcome properties with multiple housing units. But these reforms can also be problematic; some run the risk of incentivizing residential development in places that are ill-suited for it. That's an especially large risk in cities that maintain strict zoning rules in areas that would serve residents best: allowing apartments in industrial zones while keeping them illegal in centrally located residential areas is likely to foster an inefficient and unhealthy development pattern.

In the policy framework below, we propose a “base plus context plus planning” approach that can be widely applied via state legislation. The *base* aspect ensures that moderate-cost residential uses are broadly allowed. The *context* aspect allows residential development above the base level where it fits the existing built environment. And the *planning* part draws on local planners' knowledge of areas unsuitable for housing, incentivizing cities to work constructively with a state statute.

## **Problems with Previous Approaches to Reform**

Several states have proposed or enacted legislation to allow residential housing in commercial zones (RICZ) or housing on land owned by religious and charitable organizations (often called “Yes in God's Backyard,” or YIGBY). A full list and summary of the bills can be found in the appendix. For our approach, we borrowed the best aspects of these statutes. But before we talk about

what works, we first outline several problems that have undermined the effectiveness of previous statutory approaches:

- *Vagueness*. Many of the RICZ bills we reviewed were unclear. One example is New Hampshire’s proposed HB 1053 (2024), which allows residential-density regulations that are “no more restrictive than those required for residential dwellings,” a circular reference that might be a drafting error.
- *Industrial inclusion*. Florida’s Live Local Act, SB 102 (2023), the best-known RICZ statute, allows high-density residential uses in industrial zones as well as commercial ones, which is bad politics and potentially bad policy.<sup>4</sup>
- *Reverse planning*. Similarly, Virginia’s SB 430 (2024) allows maximally dense housing, but only in districts that previously did not allow any housing at all. This reverses the judgment of local planners and concentrates new housing opportunities in the least-appropriate locations.
- *Incentive to downzone*. Florida’s Live Local Act allows development up to the height and density allowed elsewhere in a city, creating a strong incentive for cities to downzone to retake control of local planning.
- *Adversariality*. The hostility of local planning staff can dissuade builders from attempting developments that rely on state preemption that is not written into local ordinances. California’s accessory dwelling-unit preemption statutes have been most effective when integrated into local ordinances, as in Los Angeles.<sup>5</sup>
- *Disconnection from zoning as practiced*. Montana’s RICZ statute, SB 245 (2023), has not had a discernible effect because Montana cities already allowed residential uses in almost all zones. Instead, legislators could have focused on increasing the density allowed in those zones.

The “base plus context plus planning” approach we outline below is designed to avoid, or at least mitigate, these problems.

### **Sweating the Details—the Wide Variety of Zoning Codes**

To ensure that our approach is connected to existing zoning practices, we gathered data on commercial zoning districts and religious buildings in 62 jurisdictions across five states representative of American zoning norms.<sup>6</sup> The zoning codes were incredibly diverse—some jurisdictions regulate residential density by limiting the number of units per acre, others by regulating height or floor-area ratio, and others by some combination of all these. This diversity implies that adopting legislation merely to limit specific regulatory parameters is likely to miss the mark; rather, state-wide RICZ or YIGBY legislation needs to create an affirmative baseline standard of permission that can be expanded within the existing context.

Looking at specific buildings in specific zones also provides examples of real-world needs. In Bristol Township, Pennsylvania, declining enrollment forced St. Thomas Aquinas parish to close its school. The building was demolished, but the site—on a side street located one block from Croydon commuter rail station—was ideal for housing. The parish partnered with Habitat for Humanity of Bucks County to reuse the site.<sup>7</sup> Although the school building was as large as a 20-unit apartment complex, low-density local zoning only allowed for three single-family homes. If a better-designed YIGBY policy had been in effect, the site might have provided well-located homes for several more families while still generating less traffic and noise than the defunct school.

In the appendix, we describe our research process and results.

### **Base Plus Context Plus Planning**

We propose state-level YIGBY and RICZ policies that are harmonized and specify a base building intensity permissible on any site. These policies would also allow developers, by right, to exceed that intensity in ways that would match the site’s immediate context. And cities should be able to limit the application of the RICZ policy in good faith, as some commercial locations are genuinely inferior locations for residences.

Our approach, detailed in table 1, envisions broad but not universal application. We recommend exempting land in proximity to industrial uses, military bases, and airports, all of which are sensitive and potentially harmful to neighbors.<sup>8</sup> For YIGBY, we recommend including broadly defined charitable nonprofit organizations, since charitable motives are not exclusive to religious communities.

We recommend a **base** building intensity that allows several common, economically feasible housing types, including detached houses, townhouses, and low-rise apartment buildings. But the base density must be allowed almost everywhere, so the parameters are chosen to be appropriate in low-density, auto-oriented contexts. In other places, the contextual rules will allow buildings closer together and with less parking.

Where they do not specify a constraint, our base rules specifically preempt any restriction.<sup>9</sup> We redirect regulation toward tools, such as setbacks and lot coverage, with stronger connections to legitimate objects of regulation, such as the impact on neighbors’ property. Unit counts, by contrast, are a poorly conceived regulatory concept largely detached from potential spillovers. In applying our framework, reformers can dial the base building intensity standards up or down; the concept will work with any reasonable parameters.

**Context**, the middle term in our “base plus context plus planning” approach, is the most complex, but it is central to ensuring that a RICZ or YIGBY policy allows housing that fits appropriately into its surroundings and builds on each location’s strengths. Housing on a site should, at mini-

mum, be able to match the predevelopment intensity of the site and the intensity and dimensions of neighboring buildings. In the case of building height, which varies more than setbacks from parcel to parcel, we recommend allowing a new building to match the highest existing building within one-quarter mile.

**TABLE 1.** Proposed approach to RICZ and YIGBY policies

	RICZ	YIGBY
<b>APPLICABILITY</b>	RICZ is applicable to buildings or land in a zone that allows and is predominantly occupied by office or retail uses and does not allow heavy industrial uses; and not within a quarter mile of an existing heavy industrial-use site, airport, or military base.	YIGBY is applicable to buildings or land owned by a religious or charitable 501(c)3 for at least three years; and not within a quarter mile of an existing heavy industrial-use site, airport, or military base.
<b>BASE BUILDING REGULATIONS</b>	<ul style="list-style-type: none"> <li>• Detached, attached, and multifamily housing units allowed</li> <li>• Height up to 38 feet and three full stories</li> <li>• Front, side, and rear setbacks of 15 feet</li> <li>• Lot coverage up to 60%</li> <li>• No floor-area ratio, unit-size, unit-density, or other dimensional constraint</li> <li>• Parking minimums of, at most, one space per housing unit</li> </ul>	
<b>CONTEXTUAL BUILDING REGULATIONS</b>	<p>In place of one or more of the base regulations, residential development on an eligible site may, by right, treat any of the following as the relevant legal limit:</p> <ul style="list-style-type: none"> <li>• A characteristic of an existing building on the site, even if the building is demolished and replaced</li> <li>• A characteristic of a neighboring or facing parcel</li> <li>• A restriction applied to retail, office, or mixed-use development on the site</li> <li>• The height of the tallest existing building within a quarter mile</li> </ul>	
<b>PROCESS</b>	Such housing developments shall be administratively approved. Cities may require procedures such as site-plan review, environmental review, or historic review, provided that they are administrative, do not include public hearings, and are required of comparable projects allowed under the city’s ordinances.	
<b>UTILITIES AND IMPROVEMENTS</b>	The developer must abide by standard rules for sewer and water access. In the case of new construction, a city can require site improvements, such as sidewalks or stormwater treatments, that are required of similarly situated residential developments allowed by right in the city. But if at least 95% of the residential use is within existing structures, the city cannot require such improvements.	
<b>OTHER USES</b>	Supportive housing and group homes are also allowed. They require no additional off-street parking spaces.	
<b>PLANNING FOR NONRESIDENTIAL AREAS</b>	A city that enacts a zoning code otherwise fully embodying this law can more strictly limit or prohibit residential uses within up to 25% of land primarily intended for commercial uses, including zones that allowed residential uses prior to the passage of this law. The areas thus reserved for nonresidential use must be those less fit for habitation.	

Note: RICZ stands for residential in commercial zones. YIGBY stands for “Yes in God’s Back Yard.”

Our procedural recommendations in table 1 are redundant in some states, which already have similar rules in place. But in others, such as Virginia, public hearings are held not only on political matters but also on technical standards.<sup>10</sup> This practice does a disservice to both the developer and the public by blurring the lines between political and technical decisions.

For utilities and improvements, we offer a sketch of reasonable parameters. The overarching principle is that development under a RICZ or YIGBY statute should abide by the rules for improvements and fees that apply elsewhere. We recommend an exception for the adaptive reuse of existing buildings.

To fulfill the religious-freedom aspect of its intent, a YIGBY policy should allow supportive housing and group homes as well as conventional residential uses.

**Planning**, the final piece of our “base plus context plus planning” approach, applies only to RICZ policies: cities that fully integrate a state RICZ statute into their own zoning codes can exempt up to 25 percent of commercial and mixed-use land if the land is poorly suited to residential uses.

Such a partial opt-out via local planning would strengthen a RICZ statute in two ways. First, it would allow cities to separate residences from heavy traffic, which may be as much nuisance and risk as living in an industrial zone. Several of the best-written zoning codes we reviewed included a “highway commercial” zone, or similar, that bans housing and is intended for large-scale commercial uses along major roads. In cities with otherwise permissive housing regulations, preempting those purposefully constructed zones does not, in fact, promote RICZ policy goals.

Second, and more subtly, partial opt-out encourages city buy-in, which is valuable to the success of any zoning preemption statute. The best way to get cities on board is to induce them to fully adopt the state-mandated policy. The partial opt-out is a potentially valuable incentive to city planners; states might also consider offering technical assistance or grants to smaller cities interested in complying.

## **Conclusion**

Local and state policymakers can create new housing opportunities and revitalize vacant commercial areas by enabling residential uses in commercial districts and on land owned by faith-based organizations. We encourage reformers to take our approach in their own jurisdictions, comparing prospective approaches with current zoning regulations. Policymakers can even go beyond our work by identifying nonzoning housing barriers such as design review, high fees, parking requirements, or duplicative public hearings.

YIGBY policies also raise questions outside of what land use laws normally address. State and local policymakers can choose, for example, whether to allow occupancy restrictions or preferences,

such as affordability or affiliation.<sup>11</sup> If the legislators' goal is to make it easier for nonprofits to house people, they have options other than YIGBY laws: for instance, they could follow South Carolina H 4544 in offering a full property-tax abatement to deed-restricted affordable low-income housing on nonprofit-owned land. In cases where religious organizations intend to manage housing developments themselves, questions of tenants' rights may become questions of religious liberty: what can a religiously affiliated landlord require of a tenant? Since many houses of worship would likely prefer to sell part of their land to be developed and managed by separate entities, these questions may remain hypothetical, but the risk of conflict along these lines underscores our final argument: that cities and states should not rely on RICZ and YIGBY policies as the principal pathways to housing abundance.

RICZ and YIGBY policies promise significant benefits, but neither should be the centerpiece of a state's or municipality's housing-supply strategy. More is needed to generate enough buildable land to significantly lower today's steep housing prices. Other measures policymakers can follow alongside RICZ and YIGBY policies are discussed in the Mercatus policy brief "Housing Reform in the States: A Menu of Options for 2024," and include solutions such as removing parking requirements, streamlining permitting processes, and eliminating minimum lot sizes.<sup>12</sup>

## Notes

1. Juliana Kim, "Charges Dropped against Ohio Pastor Who Housed Homeless People at His Church," NPR, February 9, 2024.
2. Codified Ordinances of Bryan, Ohio, 1155.03.
3. Center City District, *Downtowns Rebound: The Data Driven Path to Recovery* (Philadelphia, PA, 2023).
4. We are unaware of any developer using the statute to build housing near heavy industry.
5. M. Nolan Gray, *California ADU Reform: A Retrospective* (California YIMBY Education Fund, 2024).
6. The selection process was nonrandom and is explained in the appendix.
7. Dino Ciliberti, "Single-Family Homes Coming To Former St. Thomas Aquinas School," *Patch*, August 10, 2023.
8. The military can be a powerful and unnecessary opponent to land-use reform. Military opposition influenced Governor Katie Hobbs's veto of starter-home legislation in Arizona. And in Florida, the Live Local Act was amended a year after its enactment to exempt land within one-quarter mile of a military base or airport. See Jerusalem Demsas, "Why Did the US Navy Kill Arizona's Housing Bill?," *The Atlantic*, March 29, 2024, and Florida CS/CS/SB 328.
9. This is informed by the experience of Florida legislators, who found that floor-area ratios, which they had not contemplated, were blocking the intent of the Live Local Act. The same follow-up bill that exempted land near military bases preempted floor-area ratios. See Florida CS/CS/SB 328.
10. Salim Furth, Lyle Solla-Yates, and Charles Gardner, "How to Streamline Housing Permitting in Virginia" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, January 2024).
11. For example, a new CBG apartment building, Terwilliger Place, built on American Legion-owned land in Arlington, Virginia, is 100 percent affordable and gives preference to veterans. See "Terwilliger Place," CBG, accessed April 15, 2024, <https://www.cbgbuildingcompany.com/projects/terwilliger-place/>.
12. Emily Hamilton, Salim Furth, and Charles Gardner, "Housing Reform in the States: A Menu of Options for 2024" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, August 2023).



**DATA AND METHODS APPENDIX TO  
Salim Furth and Eli Kahn, “Office Overhauls and ‘God’s Backyard’: Reforms for  
Housing in Commercial Zones and Faith Land,” April 2024.**

This appendix presents additional data and methods used for the companion policy brief on housing reform in commercial zones and faith land, in which we propose a framework for effective state laws enabling residential uses in commercial districts and on land owned by faith-based organizations.

In section 1 of this appendix, we review bills introduced and passed by state legislators. In section 2 we describe our analysis of a representative sample of commercial zones and religious buildings by discussing

- how we selected our sample of jurisdictions,
- the local commercial zoning in those jurisdictions, and
- the zoning applied to religious buildings in those jurisdictions.

### **1. Reviewing Previous Bills**

We identified state bills on residential in commercial zones (RICZ) and Yes in God’s Backyard (YIGBY) from 2021 through the first quarter of 2024. Tables A1 and A2 summarize the bills’ key points. At the time of writing in April 2024, many remain under active consideration in their legislatures.

### **2. Selecting and Analyzing Specific Local Commercial Zones and Religious Buildings**

Our research aims to identify the range of zoning as applied to commercial districts and religious buildings, and not to measure the frequency of different types of zoning. Consequently, our samples of states, cities, and religious buildings are broadly representative of the United States, but nonrandom. We encourage advocates or lawmakers in any city or state considering these policies to conduct a similar survey to ensure their proposed approach addresses the relevant land use constraints.



**TABLE A1. RICZ bills**

STATE	BILL(S)	STATUS	ELIGIBLE SITE(S)	MAIN EFFECT(S)
CA	AB 2011, Affordable Housing and High Road Jobs Act (2022)	Enacted	Land zoned primarily for office, retail, or parking, but with extensive exceptions	Allows mixed income housing up to 30 to 80 units per acre, depending on context; development projects must pay union wages
FL	SB 102, Live Local Act (2023) and SB 328, Affordable Housing (2024)	Enacted	Any area zoned for commercial, industrial, or mixed use; exceptions near airports, military bases, and within single-family neighborhoods	Allows multifamily housing up to highest unit-per-acre density allowed in the jurisdiction, to highest height allowed within one mile (or three stories) and to 150% of highest floor-area ratio allowed; moderate income set-aside required
MT	SB 245, Revising Municipal Zoning Laws (2023)	Enacted	Land in a commercial zone with water and sewer access in cities with a population over 5,000	Allows multifamily housing and mixed use but does not specify density or other parameters
NC	HB 537, To address critical housing needs by decreasing regulatory burdens on certain development (2023)	Dead	Areas with zoning classifications of highway business, business office, and general business, or similar classifications	Would have allowed multifamily housing but did not specify density or other parameters
OR	HB 2984, Relating to housing (2023)	Enacted	Existing commercial buildings within the urban growth boundary in cities with a population over 10,000	Allows conversion of existing buildings to residences
RI	S 1035, Zoning Ordinances (2023)	Enacted	Existing commercial, religious, and similar buildings	Allows conversion of existing buildings to multifamily or mixed use at a density of up to 15 units per acre
AZ	HB 2297, Commercial buildings; adaptive reuse (2024)	Enacted	Sites of 1 to 20 acres in the nine largest cities; unclear applicability; city may opt out 10% of commercial buildings	Allows multifamily homes with a height of up to two stories within 100 feet of single-family homes and five stories elsewhere
AZ	SB 1506, Municipalities; housing; commercial redevelopment; zoning (2024)	Dead	In the nine largest cities	Would have required cities to rezone 75% of commercially zoned land for residential or mixed use with a height of at least two stories
HI	SB 2948, HB 2090, Relating to housing (2024)	Live	Any area zoned for commercial use	Would allow residential uses, although locality may limit them to upper floors

**TABLE A1** (continued)

STATE	BILL(S)	STATUS	ELIGIBLE SITE(S)	MAIN EFFECT(S)
MD	HB 538, Housing Expansion and Affordability Act (2024)	Enacted	Sites within three-quarters mile of rail transit that are zoned mixed use or nonresidential, subject to a public-health assessment; (other provisions include YIGBY)	If residential use is already allowed, there is a 30% density bonus. Otherwise, it allows multifamily housing up to “density limits that do not exceed the highest allowable” in the jurisdiction; must be 15% low-income designated
MN	SF 3980, Relating to Local Government (2024)	Live	Land not zoned as industrial or agricultural, with minor exceptions; appears to cover all residential as well as commercial zones, and may be limited to cities	Would allow multifamily and mixed-use development up to highest existing height within one-quarter mile and smallest setbacks required within one-quarter mile; no specific densities; density or height bonuses for affordable housing
NH	HB 1053, Relative to permissible residential uses in a commercial zone (2024)	Dead	Any commercial lot	Would have allowed residential uses as of right, but the specifics are unclear
NJ	A 2757, Authorizes conversion of certain office parks and retail centers to residential development (2024)	Live	Large office developments (at least 40,000 square feet) or retail developments (at least 15,000 square feet) with at least 40% vacancy rate within specified planning areas	Would allow mixed uses within the existing built density or at higher density if site improvements are provided
PA	HB 1976, Amending the Pennsylvania Municipalities Planning Code (2024)	Live	Land in commercial zones in municipalities with a population over 5,000, with access to municipal water and sewer	Would allow multifamily and mixed use but does not specify density or other parameters
VA	SB 430, Residential development in certain areas; affordable housing (2024)	Dead	Land in zones that allow no residential use and are not for conservation or agriculture	Would have allowed “any type of residential use that is permitted in a locality”

Note: RICZ = residential in commercial zones.

**TABLE A2. YIGBY bills**

STATE	BILL(S)	STATUS	ELIGIBLE SITE(S)	MAIN EFFECT(S)	AFFORDABILITY REQUIREMENT
OR	SB 8, Relating to land use planning for housing (2021)	Enacted	Faith and public land	Grants a density bonus 125–200% of base density	100% at 60% AMI*
CA	SB 4, Planning and zoning; housing development; higher education and religious institutions (2023)	Enacted	Faith & higher education land	Allows 10 to 30 units per acre in residential zones; 40 units per acre in nonresidential zones; one-story height bonus; union wages and “qualified developer” status required	80% at 60% AMI, 20% at 80% AMI
AZ	HB 2815, Relating to zoning (2024)	Dead	Faith land, including subsidiaries	Would have allowed multifamily housing with a one-story height bonus and 20 units per acre in residential zones, 30 units per acre in nonresidential	50% at 50% AMI 50% at 80% AMI
CT	HB 5174, Concerning temporary shelter units for persons experiencing homelessness or refugees located on real property owned by religious organizations (2024)	Live	Faith land	Would allow up to eight temporary shelter units per site	Intended for homeless people
CT	HB 5390, Concerning transit-oriented communities (2024)	Live	Faith, nonprofit, and public land	To qualify for additional infrastructure funds, towns would have to meet several criteria, including allowing undefined “developments” on applicable land.	50% at 60% AMI
HI	HB 2007, SB 3227, HB 2212, Relating to affordable housing (2024)	Live	Faith, education, and medical land zoned for at least one unit per acre	Would allow housing and homeless services at up to 10 units per acre and would require the institution to retain ownership permanently	None
MD	HB 538, Housing Expansion and Affordability Act (2024)	Enacted	501c(3) nonprofit land	Grants 30% density bonus to multifamily or mixed-use developments; in nonresidential areas, allows developments up to jurisdiction’s highest density; (other provisions include RICZ)	25% at 60% AMI

**TABLE A2** (continued)

STATE	BILL(S)	STATUS	ELIGIBLE SITE(S)	MAIN EFFECT(S)	AFFORDABILITY REQUIREMENT
NY	A 8386, S 7791, Faith-Based Affordable Housing Act (2024)	Live	Faith land	Would allow multifamily housing at a sliding density scale: in places with up to 50,000 people, the parameters would be a height of 35 feet or height of the tallest building on site, and a density of 30 units per acre; in larger cities, a height of 55 feet and a density of 50 units per acre and within 800 feet of a zoning districts that allows greater height or density	20% at 80% AMI, in NYC 30% at 80% AMI
SC	H 4544, Religious Institutions Affordable Housing Act (2024)	Live	Faith land	Would allow tax exemption for affordable housing on religious land; no zoning change	50% at 60% AMI
VA	SB 233, Faith in Housing for the Commonwealth Act (2024)	Delayed to 2025	Faith land	Would allow developments up to 150% of maximum density allowed by the locality	80% at 60% AMI, 20% at 80% AMI

Note: Affordability requirements are reported as the share of units that must be restricted by deed to households earning less than the given percentage of the area median income (AMI), which is calculated on the basis of household size and varies by metropolitan area. Qualified low- or moderate-income residents then pay no more than 30% of household income in rent. YIGBY = Yes in God’s Backyard.

\* AMI = area median income.

### Sample selection

We investigated states in response to requests for information from policy advocates interested in either RICZ or YIGBY policies. We generally used a mix of random and nonrandom jurisdiction selection within each state and included the largest cities in most states.

We performed our research in Texas before conceiving of the larger project. As a result (and because Texas is a much larger state than most), we studied 20 jurisdictions there, compared to 10 or 12 in the other states. In Montana, we focused on cities above 5,000 in population, the threshold at which SB 245 applies.

In each selected jurisdiction, we used the published zoning code to identify the standard commercial and mixed-use zones. We usually skipped highly localized zones in large jurisdictions (e.g., those with a place name in their title). Several jurisdictions have two overlapping zoning concepts—one for use, the other for intensity. We focused on the use zones and drew intensity numbers, where necessary, from what appeared to be the most common intensity levels.

Given the many overlapping restrictions beyond base zoning, such as historical districts, we likely overstated the density allowed by right in some places.

To select houses of worship, we used Google Maps searches for terms such as “synagogue” and “church” to identify the many options. We then selected five religious buildings from each jurisdiction, varying their physical context. In a typical case, we would pick one downtown religious building, and one roughly in each cardinal direction from downtown. Among those, we would consider whether the building was on a side street, the main road, or a surface highway. This nonrandom procedure reliably identified buildings in a variety of local zones.

A few small towns contained fewer than five religious buildings. Two places—Center Township, Ohio, and Roanoke County, Virginia—did not have an online zoning map at the time of our research, so we were unable to identify the zoning districts of the religious buildings there.

For each commercial or mixed-use zoning district and each religious building, we calculated the approximate housing density that would be possible if our proposed RICZ and YIGBY policies were implemented and compared it to the approximate baseline housing density allowed.

#### Local commercial and mixed-use zones

For each jurisdiction we noted the type and density of new housing allowed in each commercial or mixed-use zoning district. We recorded only the densest type of housing. However, readers should not assume that mixed-use zoning is additive: we noticed many commercial zoning districts that allow multifamily but not single-family housing.

We identified as best we could whether special discretionary permission was required for such housing. In practice, a city that allows residential units in a commercial zone by special permit may be more restrictive than one that does not allow them at all. In the latter case, a developer interested in building housing on a commercially zoned site would request a rezoning. The rezoning process in the second city might be more—or less—onerous than the special-permit process in the first. Dallas (see figure A1) is an example of permissive rezoning alongside a restrictive zoning code.

One gratifying regularity we found is that downtown zoning districts usually allow dense residential uses by right. Thus, state RICZ policies will yield few new downtown living opportunities.

Table A3 categorizes the approach of the 62 jurisdictions to residential uses in commercial space. The first category—“inclusive”—encompasses places that allow multifamily housing in most commercial zones. Billings, Montana, exemplifies this approach. Here, the two neighborhood commercial zones allow up to four- and eight-unit multifamily buildings, respectively. Two mixed-use zones and a downtown zone allow larger-scale multifamily buildings. Only one zone, called “heavy commercial,” excludes housing. The zone is mapped along highways and is adjacent to industrial zones.

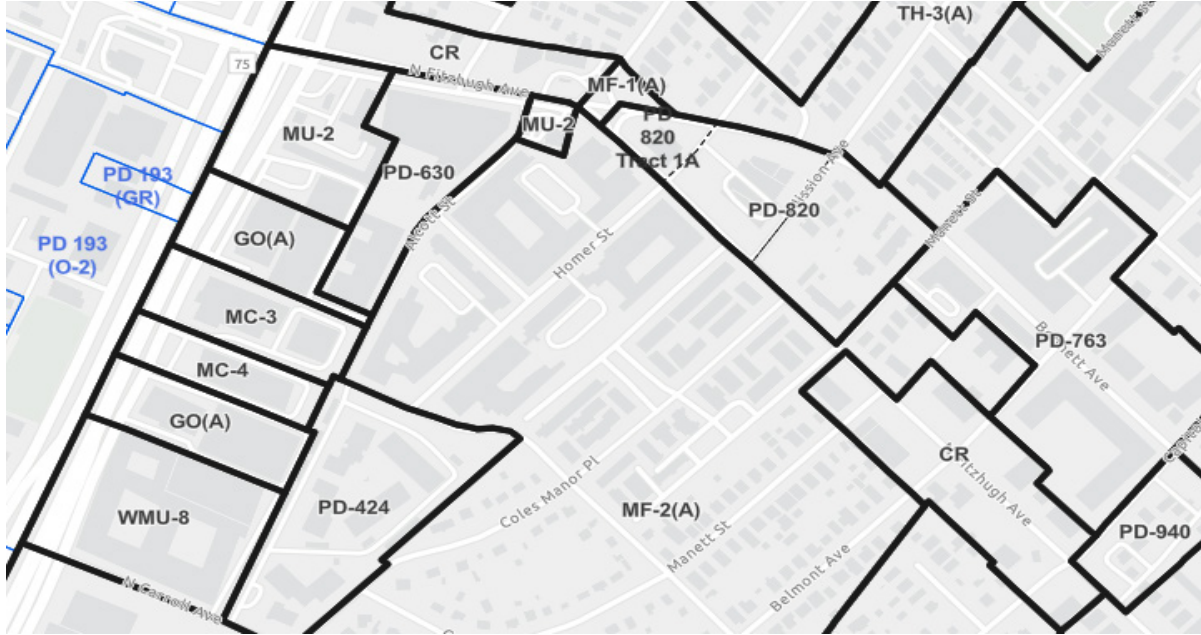
**TABLE A3.** Approaches to housing in commercial and mixed-use zones

ZONING APPROACH	JURISDICTIONS
Inclusive	Montana: Billings, Butte, Great Falls, Lewis and Clark County, Missoula Ohio: Cincinnati, Cleveland, Youngstown Pennsylvania: Altoona, Erie, Londonderry Township (Dauphin), Peters Township (Washington) Texas: Alamo Heights, El Paso Virginia: Roanoke County
Mixed	Montana: Belgrade, Bozeman Pennsylvania: Philadelphia Texas: Dallas, Fort Worth, Tyler
Capricious	Montana: Anaconda, Kalispell, Whitefish Pennsylvania: Pittsburgh Texas: Bryan, Denton, Plano Virginia: Arlington County, Henry County, Richmond
Cutesy	Ohio: Columbus, Orange Township (Delaware), Pleasant Township (Fairfield) Pennsylvania: Smithfield Township (Monroe) Texas: Austin, Round Rock
Very restrictive	Ohio: Center Township (Wood), Copley Township (Summit), Euclid, Huber Heights, Lorain, Williamsburg Township (Clermont) Pennsylvania: Bristol Township (Bucks), Upper Providence Township (Montgomery), Warwick Township (Lancaster) Texas: Arlington, Brownsville, Hedwig Village, Midland, Pearland, San Antonio, Southlake, Sunnyvale, West Lake Hills Virginia: Chesapeake, Danville, Henrico County, Loudoun County, Prince William County, Spotsylvania County

The second category, “mixed,” includes cities that are more permissive than average but nonetheless place barriers to housing in multiple zoning districts where housing should probably be allowed. Dallas is emblematic. We recorded 23 primarily commercial districts, some of which have distinct subdistricts. Of these, eight allowed multifamily housing at varying densities. The narrow distinctions among zones—*neighborhood service* is distinct from *neighborhood office*—do not result in the segregation of uses as much as the patchwork intermingling of zones on a parcel-by-parcel basis. Even with dozens of base zones, Dallas has created multiple site-specific “planned developments.” The result is a mockery of spatial planning, as shown in the snapshot of a mixed-use area along the North Central Expressway (figure A1).

We have provocatively called the third category “capricious.” Jurisdictions in this category allow local planners to approve or reject housing in many commercial districts on a discretionary basis, using a range of tools, such as design review and special permits. Arlington County, Virginia, exemplifies this approach: it allows multifamily housing in most of its commercial zones, but only “under appropriate conditions,” which the county, not the property owner or buyer, determines after a minimum 120-day delay and a public hearing.<sup>1</sup>

**FIGURE A1.** The patchwork of zoning districts and planned developments in Dallas



Source: City of Dallas, <https://developmentweb.dallascityhall.com/publiczoningweb>.

The fourth category includes places that have been zoned only for “cutesy” housing—usually apartments above stores—in many commercial districts. Columbus is the most extreme example, allowing only upper-story residential uses in five of its seven commercial districts. We certainly agree that apartments above stores are a desirable urban land use, but the economics of finding both commercial and residential tenants for the same structure can be challenging.<sup>2</sup> These requirements are likely self-defeating: they are intended to encourage mixed-use areas, but they probably reduce housing in commercial areas.

Finally, the largest single category covers places that severely limit housing in commercial districts. Many suburban cities and townships fall into this category. Southlake, Texas, is typical, barring housing from eight of its ten commercial zoning districts. The remaining two allow townhouses, in one case by special permit only.

#### Local zoning of religious buildings

Churches, temples, schools, and other religious buildings can be found surrounded by skyscrapers, cornfields, and everything in between. We identified the zoning of 296 religious buildings in 60 jurisdictions. As table A4 shows, we most commonly chose churches that were in low-density residential zones, but we also found churches in moderate- to high-density zones of all kinds and in nonresidential zones that allow no residential uses by right.



**TABLE A4.** Types of zoning for religious buildings

DISTRICT TYPE	NO RESIDENTIAL USE BY RIGHT	UP TO 10 UNITS PER ACRE	ABOVE 10 UNITS PER ACRE
Residential	0	139	49
Commercial or mixed use	25	8	35
Industrial	10	0	2
Civic, institutional, or other	22	0	5

Proposed YIGBY laws that apply only in areas that allow no residential uses, such as the initial draft of Virginia’s SB 233, would impact only a fraction of religious sites.<sup>3</sup> Conversely, statutes such as Oregon’s SB 8 that offer a density bonus for affordable housing on land owned by religious groups would not have raised the allowed density in low-density residential districts enough to allow economical use of multifamily construction techniques.

In contrast to the St. Thomas Aquinas School site that was ideal for housing, we found other religious sites that were poorly suited for residences. The Al Razzaq Islamic Center in Dallas, for example, is in an industrial-research zone that permits noxious uses, such as waste incineration. A church we looked at was just over a mile from the Three Mile Island nuclear power plant. Although the plant is now in the process of being decommissioned, restricting housing in the area would have been a reasonable policy choice during its years of operation.<sup>4</sup>

California’s SB 4 handles the question of nearby noxious uses carefully, exempting its YIGBY upzoning from parcels adjacent to light-industrial uses or 1,200 to 3,200 feet from industrial uses of varying intensities. However, the law includes detailed restrictions on so many other dimensions—for example, limiting its use to “qualified developers”—that it may be ineffective.<sup>5</sup>

### **About the Authors**

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## Notes

1. Arlington County, Virginia, Zoning Ordinance, 2023, pp. 7-34 and 15-19, last accessed April 15, 2024, [https://www.arlingtonva.us/files/sharedassets/public/v/1/building/documents/codes-and-ordinances/aczo\\_effective\\_12.16.2023.pdf](https://www.arlingtonva.us/files/sharedassets/public/v/1/building/documents/codes-and-ordinances/aczo_effective_12.16.2023.pdf).
2. Although we do not endorse this approach, we believe that less harm would be done by offering tax incentives for buildings that mix uses vertically on key commercial strips.
3. The initial draft of SB 233 would have applied to seven of the 45 religious buildings we analyzed in Virginia.
4. Geyer United Methodist Church is in a Londonderry Township, Pennsylvania, zoning district that allows one house per acre. Three Mile Island stopped producing nuclear power in 2019. Brett Sholtis, "Three Mile Island Nuclear Power Plant Shuts Down," NPR, September 22, 2019.
5. We were unable to identify a specific development in process that uses SB 4. However, the law has only been in effect for a few months as of this writing. Researchers at the University of California's Turner Center identified 171,000 sites where the law could conceivably be used. David Garcia et al., "The Housing Potential for Land Owned by Faith-Based Organizations and Colleges" (Turner Center Report, Turner Center for Housing Innovation at UC Berkeley, Oakland, CA, August 2023).