

Housing Reform in the States: A Menu of Options for 2025

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August 2024

At the state and local levels, housing affordability promises to be a bigger issue in the 2024 election than in any we can remember. Rents and home prices rose sharply in 2021 and 2022 amid high general inflation and a unique post-pandemic macroeconomy. That moment has passed, but few cities have found relief from the high cost of housing. Voters are right to expect their elected officials to do something about this persistent problem, because it is the result of rules and regulations put in place by earlier generations of officeholders.

Restrictive local zoning that prevents builders from meeting housing demand is the fundamental cause of America's housing shortage. States can put guardrails around local zoning, fix building codes, and reform the processes that make land-use regulation a source of frustration for so many local officials and citizens.

State legislatures across the nation have begun to rein in local regulatory power with bipartisan bills aimed at loosening zoning restrictions. Here are some accomplishments from the past year:¹

- Iowa legislators preempted local aesthetic requirements for exterior cladding.
- Colorado law now requires cities to allow more multifamily housing near rail stations and major bus corridors, eliminates rules against roommates sharing homes, and allows accessory dwelling units (ADUs) in cities.
- Several states, including Tennessee and Connecticut, began the process of updating their building codes to allow new patterns of multifamily building design that use a single staircase.
- A bipartisan coalition of Arizona legislators enacted bills that make it easier to replace commercial structures with residential ones and to build ADUs, fourplexes, and townhomes in cities of at least 75,000 people.

In this policy brief, we offer a menu of housing policy reform options for lawmakers around the country to consider in the upcoming 2025 legislative sessions. These reforms largely fit into four categories:

- reverse regulatory overreach
- streamline procedures
- improve legal frameworks
- update construction standards

Our first reform recommendation, however, is for states to establish their own entities modeled on Montana’s Housing Task Force, a body formed by that state’s governor to make actionable recommendations in pursuit of affordable, attainable housing.

Option 1: Clear the Path to Reform by Establishing an Effective Housing Task Force

While there is widespread agreement among policymakers that housing is too expensive, prematurely ambitious efforts to improve the situation have led to high-profile failures. A housing task force can help identify the right reform package and mobilize diverse stakeholders.

In Montana, Governor Greg Gianforte’s task force has identified opportunities for reform and has catalyzed action. Four features have helped it succeed:

1. large membership (26 people), leading to widespread ownership of the task force recommendations from important stakeholders to the task force’s work
2. a tight deadline for publishing an actionable report
3. an effective leader who published disagreements in the final report rather than settling for lowest-common-denominator recommendations
4. a transparent and open format²

Housing task forces are especially well suited to identifying choke points in the permit approval process because they provide a platform for identifying particular barriers. These processes vary widely from state to state, making it difficult for policymakers in one state to improve permitting processes by adopting another state’s reforms. In Montana, the task force provided recommendations for streamlining subdivision permitting, which local builders, planners, and elected officials on the task force identified as a bottleneck.

REVERSE REGULATORY OVERREACH

Cities and counties have employed their state-delegated zoning power to outlaw certain housing types or to impose costly mandates for land or parking on builders. States can roll back this regula-

tory overreach with legislation specifically targeting critical local impediments to housing production.³ The following suggested interventions would make more housing possible at a lower cost.

Option 2: Permit Accessory Dwelling Units

Fourteen states have passed laws permitting homeowners to build and rent ADUs, which can take the form of backyard cottages, basement apartments, or garage conversions.⁴ In California, the push to allow ADUs statewide began in 1982, but it took a recent series of laws eliminating remaining barriers to their construction, such as excessive fees, owner-occupancy requirements, and parking minimums, to really open up the market.⁵ Policymakers in other states, including Montana, have learned from California’s trial-and-error process and passed standalone bills that address many of the common barriers to ADU construction.⁶ AARP has published an excellent model ADU law as part of its effort to promote communities that are convenient for people of every age.⁷

Option 3: Limit Parking Mandates

On-site parking spaces, frequently mandated by cities, occupy valuable urban land and can add tens of thousands of dollars to the cost of each dwelling unit. Recognizing these costs, Colorado’s legislature acted in 2024 to abolish parking minimums for most multifamily residential buildings of less than 20 units in areas with regular transit service.⁸ Policymakers in other states can consider going further to eliminate residential parking minimums in larger geographical areas or even eliminating parking requirements entirely for all uses, as cities from Gainesville, Florida, to Corvallis, Oregon, have done.⁹

Option 4: Cap Minimum Lot Size Requirements

Minimum lot size mandates present a major obstacle to entry-level housing construction, since they force builders and buyers to purchase more land than needed for a single home.¹⁰ State policymakers can set a ceiling on local minimum lot sizes, particularly where sewer and water services are available.¹¹ Houston’s successful minimum lot size reform provides one potential model. In 1998, Houston legalized house lots as small as 1,400 square feet, which led to the construction of tens of thousands of small-lot single-family houses.¹² Recently, other cities have joined Houston, with Spokane introducing a minimum lot size of 1,200 square feet and Austin reducing its lot minimum to 1,800 square feet from 5,750 square feet.¹³

Option 5: Allow Residential Uses in Commercial Zones

States can pass legislation allowing residential uses on sites zoned primarily for commercial uses. The COVID pandemic and the normalization of remote work have resulted in long-term office vacancies. Some poorly located retail buildings have equally dim prospects. Most commercial buildings are ill-suited to residential conversion, but many commercial sites—or their parking lots—can easily be redeveloped. Turning this simple idea into a statute turns out to be tricky. In a

2024 policy brief, Salim Furth and Eli Kahn analyze the various approaches states have taken and offer best practices for future statutes.¹⁴

Option 6: Allow Transit-Oriented Development

Many states subsidize transit systems that have excess capacity because local zoning laws block development dense enough to support their operation. Legislatures can allow appropriately dense multifamily development in areas served by state-subsidized transit. Bills introduced in California provide one model for state-led reform to permit transit-oriented development.¹⁵ Colorado's new legislation provides another.¹⁶ But perhaps more can be learned from proven local models of zoning for transit-oriented development, including the Tysons area of Fairfax County, Virginia. In Tysons, transit-oriented planning has led to the construction of tens of thousands of new apartments and condos on land that was formerly limited to offices, big-box stores, and car dealerships.¹⁷

STREAMLINE PROCEDURES

Every builder knows that approval delays can add costs and kill projects. Discretionary review procedures also introduce bias into the approval process and invite corruption. Crafting appropriate reforms to procedural rules requires detailed conversations with city employees, builders, developers, and lawyers who know the formal and informal rules that govern building processes in each state. This variety in approach means that not all the ideas included in this section may be feasible in every state, and they will need to be adapted to fit existing institutions.

The payoff to all this research, however, can be immense. In some cases, state-level procedural reforms have had a significant effect on housing market outcomes without raising controversy.¹⁸

Option 7: Require “Specific and Objective” Approval Criteria

A typical zoning ordinance provides that uses are allowed “by right,” “with conditions,” or by “special permit” in each zone. Conditional uses and special permits are often subject to discretionary votes by a council or board or to discretionary decisions by administrative staff with little or no advance guidance to assist the applicant. This discretionary system of approvals creates uncertainty and is susceptible to corruption.¹⁹

To reduce opportunities for self-dealing, states can require that development approvals be linked to clear, published criteria. If an application satisfies these criteria, approval must be granted. In 2023, Rhode Island passed reforms that require “specific and objective” criteria for a variety of permits.²⁰ Washington and Montana have enacted a similar restriction on the enforcement of design review rules, which can be especially vague and open to abuse.²¹ Legislators in other states should identify confusing or discretionary land use processes and craft bills requiring predictability and clarity.

Option 8: Allow Third-Party Reviews of Building Plans

Developers submit a variety of documents in their applications for permits. Backlogs or understaffing at city permitting departments can result in long delays. Many cities allow developers, at their own expense, to hire third-party reviewers—private companies or other cities—to ease the city’s workload. Third-party reviewers are subject to auditing and licensing requirements.

Some cities do not allow third-party review, however, which contributes to slower permitting processes. In the past two years, Florida, New Jersey, Tennessee, and Texas have passed laws to ensure that builders have recourse to third-party reviewers.²²

Option 9: Reform Protest Petitions

In 20 states, small groups of neighbors can use an obscure state law, the protest petition, to block rezonings.²³ As practiced, protest petitions are unrepresentative and impinge on property rights. In Texas, a judge recently reinterpreted the protest petition statute in a way that jeopardizes any citywide rezoning.²⁴ North Carolina, Wisconsin, and Massachusetts have recently repealed or sharply reformed their protest petition statutes. Other states can follow suit to make rezoning processes fairer and to better protect property rights.

IMPROVE LEGAL FRAMEWORKS

In addition to targeted interventions in zoning policy, state lawmakers have the authority and responsibility to develop an overarching land-use framework that safeguards property rights and recognizes the importance of housing production for all state residents. To this end, state legislation can provide broad protections for all property owners and offer less uncertainty and greater flexibility for builders.

Option 10: Block Zoning That Illegalizes Existing Conditions

In older areas of many cities, zoning has become so restrictive that most existing buildings are noncompliant. Somerville, Massachusetts, audited its own zoning and found that, at most, 22 buildings in the entire city complied with its zoning code.²⁵ Zoning that doesn’t reflect reality can make it infeasible to redevelop vacant sites and replace decayed buildings. To address this problem, states can invalidate restrictions on siting, use, parking, or bulk on blocks where at least a quarter of buildings do not comply.

Option 11: Adopt Protections Against Downzoning

In 2006, Arizona voters passed a ballot initiative that requires municipalities to compensate landowners if a new land-use restriction lowers their property’s value. Restrictions that preserve public health and safety are exempt, as are preexisting restrictions. Landowners bear the burden of demonstrating any property value decrease.²⁶ The initiative places citizens and cities on a more

equal footing before the law without changing any existing regulation. The law has discouraged local policymakers in Arizona from adopting new land use restrictions, such as multifamily bans or historic districts, that could lead to widespread reduction in property values.²⁷ Policymakers in other states should consider similar measures.

Option 12: Limit Objectors' Standing to Sue

Many states have enacted legislation that gives opponents of development special privileges in filing lawsuits. Some such laws, including environmental protection acts and land use appeal statutes, allow objectors to sue to block housing even if they cannot demonstrate an injury to themselves or their property. This greatly expands the pool of potential plaintiffs and increases the likelihood of litigation. Litigation, in turn, can delay the timeline for housing production by many months or even years.

In 2023, concerned about the use of lawsuits to delay needed housing, the Wisconsin State Legislature passed a bill requiring objectors to demonstrate personal damages, as opposed to damages against the public at large, in order to challenge a land use approval in court.²⁸ In 2024, the Connecticut General Assembly introduced a bill to impose a similar standing requirement on lawsuits under a state environmental law.²⁹ With lawsuits of questionable merit capable of tying up housing approvals in years of litigation, states should consider amending rules which grant special legal rights to opponents of new housing.

Option 13: Simplify HOA Laws

Some states have increasingly complex laws authorizing the creation of homeowners' associations (HOAs). Others have no HOA law at all. A better approach is Tennessee's simple and flexible HOA statute,³⁰ which has enabled Nashville to use its longstanding duplex zoning for the construction of tens of thousands of houses representing more than half of the new single-family homes in Davidson County.³¹ By unlocking conventional mortgage financing unavailable to condominiums, and doing so with minimal time and cost, simple HOA laws can promote the construction of duplexes and other "missing middle" housing types.

UPDATE CONSTRUCTION STANDARDS

Where the developer's work ends, the builder's begins. In places where land is inexpensive, construction costs are the key determinant of new home prices. Policymakers should review and update their building codes to ensure that cost-effective types of housing remain available across their states.

Option 14: Allow HUD Code Manufactured Housing

"HUD Code" manufactured homes are those inspected and certified by the US Department of Housing and Urban Development. HUD Code housing is one of the country's most important

sources of housing affordable to low- and moderate-income people without subsidy. But far fewer are shipped today than during the peak of factory-built housing in the 1970s.³² Zoning codes are one factor limiting the use of manufactured housing, because many localities allow them only in mobile home parks or not at all. States can require that HUD Code homes be allowed on any residential lot that allows a single-family home without being subject to additional construction standards or redundant inspections. Making manufactured housing feasible for use on all residential lots will often require preempting local requirements for custom design, which make manufactured housing infeasible.³³

Option 15: Eliminate Aesthetic Mandates and Materials Bans

Neither zoning authority nor building code enforcement should extend to home aesthetics. Materials bans should be justified only by unique climate or health and safety conditions. States can follow the lead of Arkansas, Iowa, and Texas and eliminate aesthetic requirements except in existing historic districts,³⁴ which can continue to require period aesthetics.

Option 16: Allow Single-Stair Multifamily Design

The International Building Code, used across much of the United States, requires that multifamily buildings with more than three stories include two staircases that are accessible from each unit. This requirement leads to multifamily buildings that generally have long corridors with units on each side, known as double-loaded corridors.³⁵ Double-loaded corridor buildings require large sites, and the units in such buildings are usually small since each unit has windows on one side only.³⁶

Like cities in most European and Asian countries, New York City, Seattle, and Honolulu have building codes that permit multifamily buildings up to six stories high with a single staircase if they have other fire-safety features, including sprinklers and materials with slow burn times.³⁷ This creates opportunities for lower-cost construction and apartments large enough to accommodate families.

States that allow local building-code customization can follow Tennessee's model, where local governments now have the authority to adopt single-stair liberalization.³⁸ States with a uniform building code can follow Connecticut and allow taller single-stair buildings statewide.³⁹

Option 17: Allow Lower-Cost Elevators

Installing an elevator costs about three times as much in the United States as in high-income countries in Europe and Asia due to state rules that require excessive cabin size and exclude elevators and components produced for global markets.⁴⁰ State policymakers should revise their building codes to allow smaller elevator cars in multifamily buildings with fewer than 20 units above or below the ground floor.⁴¹ To open the market to more competition, state policymakers should allow elevators that meet standards set by the International Organization for Standardization, which

serves the global market, as well as the latest standards set by the American Society of Mechanical Engineers, which serves the US market.⁴²

Conclusion

As the US economy responds to a rapidly changing world, state legislatures can ensure that their housing markets are a source of economic strength and opportunity. Limiting the scope of local zoning authority preserves local leadership in land use planning and allows cities to creatively address unique local challenges while averting abuses of regulatory power.

About The Authors

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Notes

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