

State Policymakers' Role in Protecting the Right to Build Housing in Kansas

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Chair Tarwater, Vice Chair Erickson, and members of the Special Committee on Available and Affordable Housing, thank you for allowing me to offer testimony on this important topic. I am Emily Hamilton, a senior research fellow at the Mercatus Center at George Mason University, where I am codirector of the Urbanity Project. The Mercatus Center is dedicated to advancing knowledge relevant to current policy debates. Toward this end, its scholars conduct independent, nonpartisan analyses of legislation, rules, and proposals.

I've had the opportunity to serve on Governor Gianforte's Montana Housing Task Force, and in my role there, I studied tools available to state policymakers to promote housing construction at lower prices. Today, I'll provide testimony on opportunities to cut the red tape that stands in the way of lower-cost housing in Kansas.

Introduction

The availability of workforce housing is essential for both economic growth and individual opportunity. This country's history is a story of people with few financial resources moving to new places to pursue better opportunities for themselves and their children. Low-cost housing options are an essential piece of creating this opportunity. Today, many parts of the country have shut out low-cost housing and, in turn, they have shut out moderate-income people.

Scarce workforce housing stands in the way of broad-based economic growth and innovation.¹ Local land use restrictions and building permitting processes are the key barriers to workforce housing and as a result, affordability in Kansas is trending in the wrong direction. The state and its localities have many opportunities to permit more housing to be built at lower prices. In this testimony, I propose three opportunities for regulatory reform that could be implemented at the state level.

Reducing Regulatory Barriers to Workforce Housing

¹ Emily Hamilton, "Land Use Regulation and Housing Affordability" in *Regulation and Economic Opportunity: Blueprints for Reform*, eds. Adam Hoffer and Todd Nesbit (Center for Growth and Opportunity at Utah State University, 2021), 186–202.

Although local land use restrictions are the key obstacle to workforce housing construction, state policymakers can address this matter of statewide concern by protecting property owners' rights to build housing. I suggest three paths Kansas legislators could pursue to make more workforce housing available.

1. Reduce minimum-lot-size requirements. Local governments often require each new house to sit on a large yard. Minimum-lot-size requirements are one of the most pernicious obstacles to starter-home construction in the United States.²

In 1998, Houston policymakers reduced the minimum-lot-size requirement within the city's I-610 loop to 1,400 square feet, down from 5,000 square feet. The reform has facilitated the construction of 80,000 new houses.³ Following the success of the 1998 reform, policymakers expanded the reform in 2013 to cover the entire city.

In part due to its openness to small-lot construction, Houston is the most affordable large city in the Sunbelt. Houston's median house price is below the national median despite the city's decades of faster growth.⁴ In Kansas, policymakers could prevent localities from requiring lot sizes larger than 1,400 square feet in parts of the state that are served by sewer and water infrastructure.

2. Zone for multifamily housing. Apartments allow multiple households to share the cost of land and offer a way for people of moderate means to compete with higher-income people for housing in desirable locations. Although an increasing supply of multifamily housing is essential to house a growing workforce, most cities in Kansas ban apartment construction on the majority of their land zoned for residential development. And even where local zoning does permit apartment construction, other rules, such as parking requirements, can make building apartments on any given site unfeasible.⁵

State policymakers could establish guardrails on local zoning by requiring localities to allow multifamily construction in areas that are served by transit or in areas where commercial development—such as office or retail—is allowed.⁶ State policymakers could also put limits on parking requirements, such as one parking space per housing unit, or eliminate them entirely, recognizing that developers, rather than policymakers, are in a better position to determine how much parking each site should have.

3. Legalize accessory dwelling units (ADUs). Fourteen states have passed laws allowing homeowners to add second units—such as basement apartments or backyard cottages—to their properties.⁷ ADUs create an opportunity for homeowners to offset a portion of their mortgage payment by renting out part of their space. ADUs also enable intergenerational living by allowing young adults or older adults

² Paul Boudreaux, "Lotting Large: The Phenomenon of Minimum Lot Size Laws," *Maine Law Review* 68, no. 1 (2016): 1–43.

³ Emily Hamilton, "Learning from Houston's Townhouse Reforms" (Mercatus Policy Brief, Mercatus Center at George Mason University, April 11, 2023).

⁴ Hamilton, "Learning from Houston's Townhouse Reforms."

⁵ Emily Hamilton and Sloane Argyle, "Case Studies on Smart Zoning Reforms, Part Four: Removing Parking Requirements in Buffalo, New York," (Expert Commentary, Mercatus Center at George Mason University, February 22, 2022).

⁶ Salim Furth and Eli Kahn, "Office Overhauls and 'God's Backyard': Reforms for Housing in Commercial Zones and Faith Land" (Mercatus Policy Brief, Mercatus Center at George Mason University, May 1, 2024).

⁷ Emily Hamilton and Abigail Houseal, "A Taxonomy of State Accessory Dwelling Unit Laws 2024" (Mercatus Policy Brief, Mercatus Center at George Mason University, August 14, 2024).

to live with family members in spaces that can be built to accommodate any accessibility requirements.

ADUs are also one of the most affordable types of housing; their land cost is zero because they are built on land that is already attached to a single-family home. Survey data show that in areas where homeowners are adding ADUs in large numbers, the ADUs tend to rent for hundreds of dollars less per month than typical apartments in the same neighborhood.⁸

Conclusion

Abundant workforce housing is crucial for Kansas to continue to provide opportunities for its residents and newcomers and to continue to attract business investment. When local restrictions prevent property owners from building workforce housing and contribute to statewide housing affordability problems, state policymakers should step in to carefully assess the problem and set limits on these local obstructions.

⁸ Karen Chapple et al., *Implementing the Backyard Revolution: Perspectives of California's ADU Owners* (UC Berkeley Center for Community Innovation, April 22, 2021); and Zillow Housing Data (database), "ZORI (Smoothed): All Homes Plus Multifamily Time Series (\$)," accessed April 25, 2023, [https:// www.zillow.com/research/data/](https://www.zillow.com/research/data/).