



Virginia  
Housing  
Commission

# Promoting Housing Construction Through Local Zoning Preemption and Development Incentives

A Review of Recent Literature and an Overview of Statewide Initiatives



# Background

## Rising Home Prices, Falling Construction

Most states have been experiencing **increased housing prices and less new construction** in recent years. To deal with this, many **policymakers are promoting land-use regulation changes**, either statewide or at the local level, to incentivize construction and grow affordable housing stock.

## Policy Changes Across the Country

California, Oregon, Maine, Florida, as well as several cities throughout the country have **passed laws that preempt local zoning**. More states, like Minnesota, are trying to do the same.

## Goal of the Review

The review of recent research and analysis of zoning policies throughout the country seeks to **determine whether preemptive zoning led to more affordable housing** in areas where reform was implemented.

# NOTE ON REFERENCES

## Studies

Sources for the literature review were taken from **academic institutions and peer-reviewed journal publications.**

These studies were **not conducted by the Virginia Housing Commission.**

## Analysis

The State **analysis** was based on those same studies as well as information taken from **local news publications, State-managed websites, bipartisan research organizations, and HUD.**

**A complete list of references is included in the paper available on the VHC website.**



# Summary of Findings

- **Stricter Zoning Regulation**

Stricter zoning regulations are associated with less construction and higher housing prices.

- **Upzoning, Relaxing Regulations**

Upzoning does not necessarily produce the reverse results at the desired pace.

- **Improvements**

Improvements to housing stock and affordability occur in limited settings.

- **Implications**

This implies that zoning reform is a partial, potential solution to affordable housing issues.

# Literature Review Key Points

Research shows that areas that have **relaxed land-use regulations** to allow for greater density **may not necessarily experience more housing construction in the short term** but are eventually likely to see growth.

However, there is **no consensus** in the research as to whether these zoning changes **produce changes** to housing stock and affordability that are **statistically significant**.

Even if a **zoning regulatory** change leads to an **increase in housing supply**, **prices may not fall** (or stop rising), in certain rezoned areas.

The **increase in rental housing** supply occurs primarily in rental units with **higher incomes** over the short and medium-term once zoning reforms have passed.

**Units affordable** to those with low and very-low incomes have **not experienced statistically significant increases** in the areas studied

The **benefits** of wide-ranging zoning reforms are often **not as large as expected**, and many times the reforms **do not yield more affordable housing** for low-income households.

However, zoning reforms that impose **increased regulations**, or downzonings, have been proven to **limit construction and worsen affordability**.

The scope of evidence indicates that **upzoning offers mixed success** in terms of **increases in housing production and lower home prices** and outcomes are **widely dependent** on the climate of **local markets**.

**Market demand, local political context, housing types, timing, and other factors** affect whether zoning changes increase housing stock and/or lower costs.

# 1) Zoning Reform Potential Outcomes - Housing Prices

## Upzoning

- Upzoning alone may not produce more affordable rental housing for low to moderate income households
- It has more of an effect on moderating the costs of higher-end rental units.

## Stricter Zoning

- Stricter zoning regulations are correlated with higher rents, although this correlation is not typically seen in areas with low incomes and higher unemployment.

## Skeptics

- Many skeptics of zoning reforms argue that most new supply is aimed at the top of the market. However, in the long term, researchers expect that more construction will eventually reduce housing costs.

## Increasing Supply to lower prices

- Allowing additional housing construction often attracts investment in the creation of additional market-rate units.
- One area of consensus among researchers is that while adding supply to the rental housing market will eventually help moderate housing costs, that moderation is insufficient when it comes to achieving affordability for low-income families.
- New rental buildings increase housing supply *and* are known to be more expensive than existing buildings. As a result, the existing units often maintain, not reduce, rents due to the increased demand that comes with a more attractive market.
- A 2022 study published in the Journal of Economic Geography found that for every 10 percent increase to the housing stock added by new high rises, residential rents for the buildings within a 500-foot radius **decreased** by one percent. The decreases were seen for nearby high-and medium-rent buildings but were not significant in nearby low-rent buildings
- In contrast, two recent studies found that adding supply was associated with **increased** rents in the surrounding neighborhoods.

# 1) Zoning Reform Potential Outcomes - Housing Prices

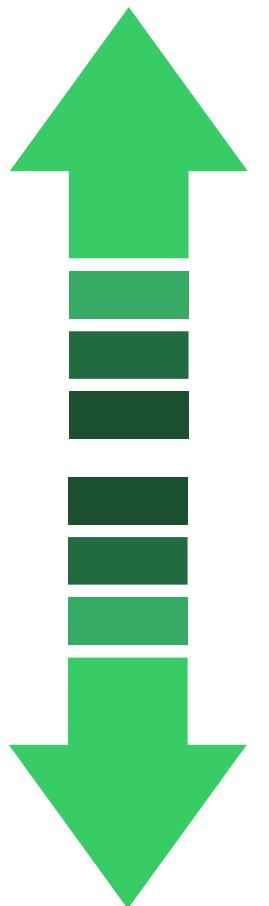


Both **upzoning** and **downzoning** can lead to short and mid-term housing **price inflation or stagnation** depending on **local market factors**.

When looking at rental prices, the effects new construction has on neighborhood rents depends upon the relative impact of two factors;

- 1) the **competitive pressure** that additional supply exerts to **drive rents down**; and,
- 2) any **positive amenity** effect that **increases demand and drives rents up**.

**Amenity effect** is also referred to as demand effect. It is the idea that **new housing** can **attract wealthier households** to neighborhoods, bring **new amenities**, and signal to existing landlords that they **could raise their rents**.



In some cases, **zoning changes** can lead to **increased home prices** by **changing what can be developed** on a parcel and **influencing** what **amenities investors may bring** to a neighborhood.

A **2019 study** focusing on long-term impacts of zoning reform in **Portland, Oregon**, found that **buyers paid more to live in communities with higher-density zoning**. The reduction in lot sizes did not reduce prices. Instead, there was an increased demand for larger, more expensive homes on smaller lots (Dong & Hansz, 2019).

Evidence indicates that **upzoning leads to mixed success** and the outcomes are **dependent on local context and market factors**. While outcomes appear to **trend positively**, the **impacts are often considered minimal**, and more time is needed to evaluate the long-term effect of these policies.

# 1) Zoning Reform Potential Outcomes - Housing Prices



## Different Markets

Different markets may be affected differently by zoning policy changes.

Several studies found that affordability is not a guaranteed outcome following zoning reforms. In those cases, rent significantly increased in upzoned areas.

However, additional studies found that rent decreased in areas near new buildings in large cities (Freemark, 2020) (Asquith, Mast, & Reed, 2020).

## Costs

After rezoning, properties may quickly incorporate future development opportunities into their values.

Builders often convert existing lower cost units into higher cost ones, increasing surrounding housing values.

A 2020 study of Chicago found significant increases in upzoned property values in parcels with a 20% increase in density.

The reform allowed for higher densities and reduced parking, later resulting in raised prices and no notable supply changes.

Upzoning led to a 15 to 23.3 percent increase in sales prices between six months and two years after rezoning.

Property owners benefitted from the reform and buyers were willing to pay more for potential development rights (Freemark, 2020) (Dong & Hansz, 2019) (Liao, 2022) (Jacobus, 2022)

## 2) ZONING REFORM POTENTIAL OUTCOMES: CONSTRUCTION

**Different local markets will likely produce different results when it comes to housing construction.**

A **2021 study** showed that **reform impacts** may **depend** on the characteristics of **where they are implemented**.

Loosening restrictions in **communities** with **high demand, limited supply, and strict pre-existing regulations** could lead to periods of **significantly increased construction**.

A separate study found that while **upzoned sites** in **Chicago** experienced **faster housing construction** than they might have historically, the difference between upzoned areas in the impacted area and the rest of the region was considered small.

The **results** of **Minneapolis's** legalization of **duplexes, triplexes, and fourplexes** are seen as **small** by many. (Dong, 2021) (Zhu, Burinskiy, De la Roca, Green, & Marlon, 2021).

**Increased construction** may occur **following zoning changes** that lessen **restrictions** but those **changes** are likely not **enough** on a regional level to rely on **zoning reforms alone** to increase housing stock.

**Similar reforms** in **communities with weaker economies** could **result in no construction** in the short or mid-term.

Localized housing development has increased after upzoned areas, but **regionally the level of construction** that occurs in **upzoned areas** may **not match the scale of regulatory change**.

## **2) Zoning Reform Potential Outcomes: Construction**

**Increasing housing stock does not guarantee an increase in affordable housing.**

A **2023 study** encompassing data from 1,136 cities from 2009-2019 found that **reforms that loosen zoning restrictions** are associated with an **0.8% increase in rental housing supply**. This is within three to nine years of reform passage – a **statistically significant increase**.

This **increase occurs predominantly for units at the higher end of income distribution**. While the effects are positive, there is **no significant increase of lower or middle-cost units** available in the years following zoning reforms (Stacy, et al., 2023).

# **Overview of Other States Methods to Promote Housing Construction Through Development Incentives and Local Zoning Preemption – With a Focus on Florida's Live Local Act.**

## **Minnesota**



A bill introduced in the 2023 session called for an **override of certain local zoning requirements to spur construction** of smaller lot sizes, but it **failed after heavy opposition from municipalities**.

**Local government leaders argued their own zoning reform efforts haven't** done much to **reduce housing costs**. Advocates in Minnesota say there will be a push to have the bill debated again during the next legislative session.

Minnesota did pass a **housing omnibus bill** with broad **support from both developers and localities** that includes **more than \$1 billion** in spending.

# **Overview of Other States Methods to Promote Housing Construction Through Development Incentives and Local Zoning Preemption – With a Focus on Florida's Live Local Act.**

## **Minnesota - Minneapolis Case Study**

In **2019** Minneapolis became the **first large city** in the country to **end single-family only zoning**. **New housing has not seen a significant uptick** compared to the years prior to 2020, but experienced more growth compared to other midwestern cities in the first six months of 2022.

In September 2023, a county **judge ruled that Minneapolis must cease implementation** of their 2040 housing plan **in response** to a years-long **environmental lawsuit** based on the Minnesota Environmental Rights Act.

The **plaintiffs** successfully **argued** that the **city failed to account for the impacts of authorizing almost 150,000 new residential units**. However, representatives from the city argued that the city anticipates closer to 40,000 new units built by 2040 instead of their initial vision of 150,000.



# Overview of Other States Methods to Promote Housing Construction Through Development Incentives and Local Zoning Preemption – With a Focus on Florida's Live Local Act.

## Oregon



Oregon's 2019 **bipartisan zoning reform law preempted single family zoning** laws. The law **legalized duplexes** on all residential land in small towns and **up to four-unit homes in single-family zoned land** in communities of at least 25,000 people.

In 2020, housing in 2–4-unit buildings made up less than 3% of Oregon's new housing permits. It is too early to know the true success of Oregon's House Bill 2001.

A **statewide law** passed in 2021 **restricts local governments from denying affordable housing applications on land currently zoned for commercial or light industrial use.**

However, many officials have argued that the **biggest hurdle** to getting more affordable housing built is the **funding** needed to subsidize development.

# Overview of Other States Methods to Promote Housing Construction Through Development Incentives and Local Zoning Preemption – With a Focus on Florida's Live Local Act.

Maine became the third state to **end single family only zoning** in **2022**, following Oregon and California.

**Maine**

The bill was met with **considerable pushback from local officials** who said the requirements would **give localities zero control over density**, allowing **development** to potentially **outpace infrastructure and local services**. Not doing so would open them up to lawsuits.



Lawmakers have said the **provisions** of the 2022 legislation **were not enough to address Maine's housing crisis**.

Many are proposing **other solutions** like **eliminating lodging taxes on seniors** as they move into senior living facilities and **boosting assistance for first-time homebuyers** and those with higher rents.

# Overview of Other States Methods to Promote Housing Construction Through Development Incentives and Local Zoning Preemption – With a Focus on Florida's Live Local Act.

## California



In 2021, California passed SB 9 which **legalized duplexes on almost all single-family zoned land**. Progress has been slow.

Activists have started using **lawsuits and legal threats to force local governments to comply** with affordable housing planning quotas – **forcing local governments to permit** has been **challenging**.

In 2022, California passed SB 6, (the Middle-Class Housing Act) and AB 2011 (the Affordable Housing and High Road Jobs Act of 2022). The legislation **permits residential development on sites currently zoned and designated for commercial or retail uses**.

# Florida's Live Local Act



Florida's 2023 "Live Local Act," is the largest investment in affordable housing in Florida's history, **appropriating \$1.5 billion** over the next ten years in various housing programs.

As part of the Act, **local municipalities** are to **permit multifamily and mixed-use residential developments** in areas zoned for commercial, industrial, or mixed use, as long as **at least 40% of the units are affordable** and serve incomes up to 120% of the **AMI**.

- It requires cities and counties to **approve the projects without any hearings or public input**, even if they do not follow existing height and density restrictions.
- It allows developers to build big in **exchange** for setting aside **units at lower rents** and offers **large tax benefits** to incentivize building.

**Main incentives for developers** offered in the Live Local Act include:

- Multifamily and mixed-use projects now permitted in otherwise restricted areas;
- Access to no-to-low interest loans;
- Large tax credits;
- Sales tax refunds; and
- Locality inventory must be publicly available on municipal websites.



# Florida's Live Local Act

- Live Local offers development **incentives outside of the traditional affordable/LIHTC model.**  
The Act also offers significant **property tax exemptions, 75-100%, for multifamily projects** that are considered **charitable**.
- The Act has led to **increased development**, with at least 30 projects moving forward under the Live Local Act, largely **credited to the tax exemptions**.  
Several **smaller scale projects** are being **revised to significantly increase density**, with one 234-unit market rate project now expanding to 400-units with 40% workforce housing.
- According to Florida Housing, **Florida is expecting to be oversubscribed for all multifamily resources**.  
The **incentives offered** in the Act have been recognized as a **key factor** in **developer participation**.

# Florida's Live Local Act

The Live Local Act, while **bipartisan and supported by many**, has prompted **widespread confusion and opposition** from Florida localities.

- It has lead to **legal battles**:
  - Many **localities** are **considering a moratorium on all new development** while they figure the implications—many find the Act ambiguous. **At least two localities have voted to pause development for six months**, despite possibly **being in violation of the Act**. Local property **developers** are **filing lawsuits in return**.
- **Job-poor localities worry** the preemption is **undercutting** their **long-term planning**:
  - It could **jeopardize planned industrial and commercial development projects, replacing them with residential projects**.
  - In DeBary, an **industrial and commercial project was expected to add 300 to 500 jobs and \$50 million to the local tax base. Now, it is likely to be turned into a 372-unit apartment complex** under the Live Local Act.
- The scope of the **tax exemptions concern** localities who say the **lack of tax revenue paired with new construction infrastructure necessities** could put them at a loss.
  - Some worry the **price of industrial land will rise** as **developers see the profit potential** that comes with the various incentives.

# Florida's Live Local Act



The Live Local Act, while **bipartisan and supported by many**, has prompted **widespread confusion and opposition** from Florida **localities**.

- Many advocates worry there is **not enough focus on affordability**:
  - Many advocates worry the measures **will do nothing to combat** Florida's famously **soaring apartment rents** because it **entices homebuilders who typically build market-rate housing**.
  - **Developers already building subsidized housing don't qualify** for the **tax breaks**.
- **Localities** worry the Act will cause **changes to their character**.
  - In one locality, owners of a **popular restaurant proposed converting** their space into a highly **controversial 30-story tower**, located in an "Art Deco" **district** of Miami Beach **where building heights are limited to 50 feet**.
  - Many **similar projects are being proposed** throughout the state.

# Conclusion

Based on findings and analysis it can be **concluded** that **zoning reform is a partial, potential, solution** to affordable housing issues.

It often **produces successful results**, but the **significance and scope** of that success is often **mixed** when looking at **construction and pricing outcomes**.



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